

## 5th Amendment - The Grand Jury Clause

The 5th Amendment opens with the **Grand Jury Clause**. It reads like this,

**"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury."**

The **Grand Jury Clause** guarantees that Americans cannot be charged with serious federal crimes unless with an indictment by a grand jury. This is generally considered to be a protection from corrupt government officials who might try to prosecute people unfairly, because a group of fellow citizens is required to look over the evidence first.

Many people believe that the way grand juries are used today are inherently unfair to the suspect and unconstitutional. They think the protections intended by the Founding Fathers in writing this clause have been nearly lost and they lay the blame at the foot of the Supreme Court.

[You can learn more about the Grand Jury Clause here.](#)

## 5th Amendment - The Grand Jury Exception Clause

The **Grand Jury Clause** guarantees the right to have serious federal criminal charges reviewed by a grand jury to all Americans *except* military personnel. The **Grand Jury Exception Clause** reads like this, in bold:

**"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger."**

Why did the First Congress leave the military out of this guarantee? The simplest answer is that they did not want the judiciary meddling at all with control of the military. The Constitution strictly gives authority to regulate the military to the Congress. [Find out more about the Grand Jury Exception Clause here.](#)

## 5th Amendment - Double Jeopardy Clause

The 5th Amendment's **Double Jeopardy Clause** guarantees that Americans cannot be tried twice or punished twice for the same crime. The **Double Jeopardy Clause** reads like this:

**"nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb."**

Modern courts apply this to all cases in which a defendant could be punished, not just in cases where the defendant's life is in jeopardy. There are some cases in which a case can be retried, such as if the first case was found to have been fraudulent in some way.

[You can read more about the Double Jeopardy Clause here.](#)

## 5th Amendment - Self-Incrimination Clause

Have you ever heard the phrases "pleading the fifth" or "You have the right to remain silent. Anything you say can and will be used against you in a court of law?" If you have, you probably know that these phrases are based on the 5th Amendment's **Self-Incrimination Clause**, which guarantees that you do not have to testify against yourself in criminal proceedings.

At one time in English history, people could be tortured for not confessing to crimes they were accused of. English citizens began to claim that they had a God given right not to testify under such circumstances. This became the basis for what we know as the right to refrain from testifying against oneself, which was formalized by America's Founding Fathers as the 5th Amendment's **Self-Incrimination Clause**.

The Self-Incrimination Clause reads like this:

**"No person... shall be compelled in any criminal case to be a witness against himself."**

[You can read more about the Self-Incrimination Clause here.](#)

## **5th Amendment - Due Process Clause**

The 5th Amendment **Due Process Clause** guarantees that the government cannot take your "life, liberty, or property" without following a "due" process. The **Due Process Clause** reads like this:

**"No person shall... be deprived of life, liberty, or property, without due process of law."**

But what does "life, liberty, or property" mean? Some people think they refer to the generally understood meanings of these terms. Others interpret them very broadly to find all kinds of "rights" that are not listed in the Constitution or anywhere else in the Founding Fathers' writings.

Due process also means that the government must obey written laws whenever it deals with people. Officials cannot make up their own rules on a whim. You must be treated fairly and be informed of the issues at stake any time the government deals with you in a criminal or administrative matter.

Through its interpretation of the **Due Process Clauses**, both of the 5th and 14th Amendments, the Supreme Court has gained an enormous amount of power in Americans' daily lives. It has also wrested much power away from the both the state legislatures and the Congress. [You can read more about the Due Process Clause here.](#)

## **5th Amendment - Eminent Domain Clause**

The **Eminent Domain Clause** promises that if the government ever needs to take your property for a public use, such as building a highway, that it must pay you a reasonable amount for the property. The **Eminent Domain Clause** reads like this:

**"...nor shall private property be taken for public use, without just compensation."**

In modern times, the Supreme Court has even extended this right to compensation if a government activity has somehow damaged your property or lowered its property value. For example, if an airport was built next to your house and the loud noise caused the property value to plummet.

A recent Supreme Court Eminent Domain Clause case was very controversial because it allowed a local city to confiscate homes in good condition for an economic development project. The city wanted to give the properties to another private developer. The Court ruled this was OK because the economic development would benefit the public. What do you think? [You can read more about the Eminent Domain Clause here.](#)

"The 5th Amendment." *Revolutionary War, Declaration of Independence, US Constitution, Bill of Rights*. Web. 21 Dec. 2010. <<http://www.revolutionary-war-and-beyond.com/5th-amendment.html>>.