

# A

## Constitutional Provisions Related to Due Process and Fair Trials

**Directions:** Working with a partner or two, review and paraphrase each of the following passages from the U.S. Constitution. Then answer the questions at the bottom of the page.

### Article I, Section 8, Clause 11

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

### Article I, Section 8, Clause 14

To make rules for the government and regulation of the land and naval forces;

### Article I, Section 9, Clause 2

The privilege of the writ of *Habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

### Article III, Section 2, Clause 3

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

### Amendment V

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; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

### Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

## Critical Thinking Questions

1. What is the privilege of the writ of *habeas corpus*, and why is it an important part of due process for people who are arrested?
2. According to Article III, Section 2, Clause 3, where should a trial be held if a crime is committed outside of any state?
3. What elements of a fair trial are guaranteed by the Fifth Amendment?
4. What elements of a fair trial are guaranteed by the Sixth Amendment?
5. To what extent should suspected terrorists, unlawful enemy combatants, and non-resident aliens be protected by the due process rights guaranteed in the U.S. Constitution?