

# 8.6 Freedom and Security of the Person

*Government and Politics*

Essential question for this unit

*How much power should the government have?*

# Review Due Process of Law

Due process = fair procedures, follow the rules established

procedural = **how** government acted

substantive = **what** government created

14th amendment incorporate due process to the states

Individual rights balance with public good

search warrant

eminent domain - just compensation

# Limited Government

Many of the restrictions (limited government) placed on the government are intended to protect the right of every American to be free.

to be secure in their persons and  
secure in their homes

This has not always been the case

# Slavery and Involuntary Servitude

## 13th Amendment

free from forced labor and discrimination

Historically these rights were not always protected.

Today, the Court has several times held that the 13th amendment gives Congress significant power to abolish “incidents of slavery”

# Right to Keep and Bear Arms

## 2nd amendment

Does it protect *only* the right of each State to keep a militia?

Or, does it *also* give to individuals a right to keep and bear arms?

The Court continues to hear cases challenging laws that limit an individual's right to keep and bear arms

# Security of Home and Person

## 4th amendment

basic rule that law enforcement have no general right to search for evidence or seize property without a proper search warrant.

A warrant can be obtained only with **probable cause**  
**- suspicion of a crime**

Police do not always need a warrant

Ex. evidence in plain view

# Security of Home and Person

4th Amendment cases are complicated due to various circumstances

## Supreme Court at a Glance

TITLE OF CASE	ISSUE	DECISION
<i>Mapp v. Ohio</i> , 1961	States' use of illegally obtained evidence	Evidence seized illegally cannot be used in either federal or State courts.
<i>Minnesota v. Carter</i> , 1998	Seizure of evidence "in plain view"	Police do not need a warrant for a search and seizure when evidence is in plain view.
<i>Illinois v. Wardlow</i> , 2000	Arrest of an individual without a warrant	Flight can be an important factor in determining whether police have "reasonable suspicion" to stop a suspect.
<i>California v. Acevedo</i> , 1991	Warrantless search of a container in an automobile	Whenever police lawfully stop a car, they do not need a warrant to search anything in the vehicle that they have reason to believe holds evidence of a crime.

SOURCE: Legal Information Institute, Cornell University Law School



# Exclusionary Rule

The heart of the guarantee against unreasonable searches and seizures lies in this question:

If an unlawful search or seizure does occur, can that “tainted evidence” be used in court?

In response, the Court adopted the **exclusionary rule = evidence gained as a result of an illegal act by police cannot be used at the trial**

# Exclusionary Rule

Patriot Act

violation of privacy in the name of security

Balancing security and liberty

## EXCEPTIONS TO THE EXCLUSIONARY RULE

### INEVITABLE DISCOVERY

**Tainted evidence** can be used in court if it "inevitably would have been discovered by lawful means."



### KNOCK-AND-ANNOUNCE

The centuries-old "knock-and-announce" rule requires that police **announce their presence** before serving a warrant.



### GOOD FAITH

An officer obtaining a **legal search warrant** is acting in "good faith," even if the warrant is later shown to be faulty.



### HONEST MISTAKES

If officers provided with **incorrect information** find evidence while attempting to carry out their duties, the discovery is due to an honest mistake.



**EVIDENCE IS ADMISSIBLE**

The Supreme Court has narrowed the scope of the exclusionary rule by allowing evidence to be admissible in cases that it previously had not. What is the purpose of that rule?

# Right to Privacy

The constitutional guarantees of due process create a right of privacy (“the right to be left alone”)

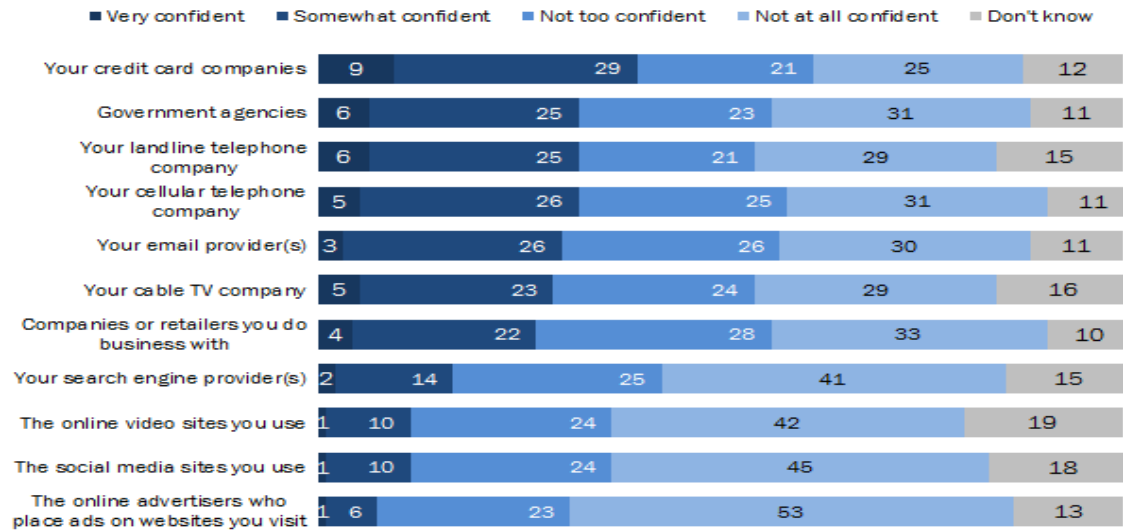
Challenging scenarios

abortion - a woman’s right to privacy

Research shows most Americans favor additional legal protections against abuses of their data

### Few express confidence that their records will remain private and secure

% of adults who express varying levels of confidence that the records of their activity maintained by various companies and organizations will remain private and secure

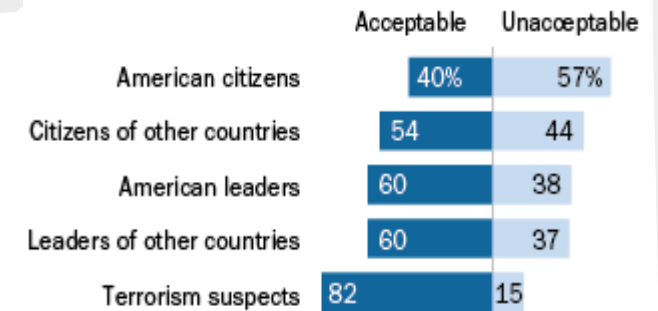


Source: Survey conducted August 5, 2014-September 2, 2014. Refused responses are not shown.

PEW RESEARCH CENTER

### Most Americans believe it is acceptable to monitor others, except U.S. citizens

% of U.S. adults who say it is acceptable or unacceptable for the American government to monitor communications from ...



Source: Survey conducted Nov. 26, 2014-Jan. 3, 2015.

PEW RESEARCH CENTER

<http://www.pewresearch.org/fact-tank/2016/01/20/the-state-of-privacy-in-america/>

# Review/Reflection

Review Freedom and Security of the Person