

# LAW ENFORCEMENT AND CRIMINAL JUSTICE



Utah State Board of Education 250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Sydnee Dickson, Ed.D., State Superintendent of Public Instruction



Photos: Hemera, Moodboard, Ron Chappel Studios, iStock/ Thinkstock Collection

**LAW ENFORCEMENT  
AND CRIMINAL JUSTICE  
CAREER AND TECHNICAL EDUCATION  
STUDENT MANUAL**

**UTAH STATE BOARD OF EDUCATION**

**Aaron Bodell**

**Specialist**

**Skilled & Technical Sciences Education**

**In cooperation with**

**UNIFIED POLICE OF GREATER SALT LAKE**

**James M. Winder, Sheriff**

**Salt Lake City, Utah**

**Revised 2016**

## **ACKNOWLEDGMENTS**

It is with great appreciation that we thank the many people who have participated in the production of this Career and Technical Education Law Enforcement and Criminal Justice Student Manual. The original text was compiled by Captain Paul Cunningham, Salt Lake County Sheriff's Office (Retired). The original manuscript was typed by Cheryl A. Zimmerman. Many hours have been put into this living document by members of the Salt Lake County Sheriff's Office, along with members of the educational community. Their time and dedication are a great example to others within our profession. The 2015 edition was revised by the following members:

Officer Kyle Wilkins

Officer Scott Lauritzen

Officer Makaloni Perscott

Officer Roger Hunt

Officer Scott Henrie

Special thanks to current Salt Lake County Sheriff, James M. Winder and former Salt Lake County Sheriffs', N.D. "Pete" Hayward and Aaron D. Kennard, for their commitment to the youth in our community. Also, a special thanks to other members of the Sheriff's Assisting Youth Unit, past and present, who have participated in putting this curriculum together.

## TABLE OF CONTENTS

Chapter 1: The History of Law Enforcement	1
Chapter 2: Crime Awareness	2
Chapter 3: Causes of Crime	3
Chapter 4: The Law	4
Chapter 5: The Criminal Justice System	5
Chapter 6: Trials	6
Chapter 7: Corrections	7
Chapter 8: Juvenile Justice	8
Chapter 9: Laws of Arrest and Search and Seizure	9
Chapter 10: Agency Policies and Professional Ethics	10
Chapter 11: Basic Law Enforcement Activities	11
Chapter 12: Traffic Investigations	12
Chapter 13: Evidence Handling	13
Chapter 14: Patrol Tactics	14
Chapter 15: Investigations	15
Chapter 16: Specialized Units	16
Chapter 17: Law Enforcement as an Occupation	17

Appendix A: Glossary A

Appendix B: Supreme Court Cases B

Appendix C: Websites C



VERSION 2016

# THE HISTORY OF LAW ENFORCEMENT

## CHAPTER 1

UTAH STATE BOARD OF EDUCATION  
CAREER AND TECHNICAL EDUCATION

# CHAPTER ONE:THE HISTORY OF LAW ENFORCEMENT

## INTRODUCTION

It is essential that law enforcement be understood in its proper perspective. The action and excitement normally associated with police work is overemphasized. It is only a small part of this occupation, and law enforcement is only one component of the criminal justice system. The reality of law enforcement differs from its portrayal on television and in the movies. Basic police skills are not limited to firearms, nightsticks, and high-speed pursuits. An officer should also be skilled in psychology, human relations, and the use of basic English, math, and speech skills. In addition, advancement or promotion may require the development of specialized or advanced police science skills. The law enforcement officer of tomorrow must be able to conform to high standards physically, intellectually, psychologically, socially, and ethically.

A law enforcement officer does not function in a vacuum, but must interact with numerous individuals within the criminal justice system. Knowing and understanding the responsibilities of others is essential. This manual has been written to provide the student with a comprehensive look at the entire criminal justice system. This course will provide a general educational overview of the criminal justice system and specific vocational training for those who may enter a law enforcement-related occupation.

List 12 police activities:

---

---

---

---

---

---

## THE EARLY PHILOSOPHY OF LAW ENFORCEMENT

Several ideas must be discussed in order to understand the philosophy of law enforcement in America, and the beliefs on which our system of criminal justice is based. Such beliefs are based on what we as Americans believe is just and fair. Most people believe that individuals deserve to be treated in a way that is commensurate with their behavior.

The criminal justice system is the means by which our society chooses to encourage people to obey the law, and to deal with those who violate the law. We are trying to create justice when we utilize our particular system. *Justice* can be defined as doing what is right and fair. But how can we tell if we are really doing what is right and fair?

Many people believe that some Supreme Being or force exists, and that this God or law or eternal truth can be used to know what is right. Such beliefs are often helpful to individuals and religious groups in governing their activities. However, since there are many different ideas about a Supreme Being or force, a government must often use another method for deciding what is right and fair.

As people grow, they develop feelings that certain actions are right or wrong. These feelings are created by parents, school, religion, country, friends, and others. These ideas about duties and ethics

we will refer to as *morality*, although many refer to the feelings themselves as a conscience. When enough people with political power within the government agree that an action should be labeled right or wrong, and that everyone should be made to follow their decision, a law is created. Once a law has been created, violating the law becomes a crime. When a law is created, there must also be a penalty designated in order to punish someone who breaks that particular law.

Generally, when there is considerable agreement or consensus in a free society regarding moral standards, laws are created to standardize behavior. But this relationship may also work in reverse. If a large number of citizens begin to feel that a law is wrong or unfair, the law may be rescinded, or the criminal justice system may not enforce the law. Judges, prosecutors, and especially police have always had a great deal of discretion to decide whether and how laws are to be enforced. The criminal justice system would grind to a stop if this were not true. Law and policy simply do not cover all of the situations an officer may encounter in the field. Therefore, an officer must be able to make an educated decision based on experience, logic, and other factors.

“It is often said that the job of policemen, prosecutors, and judges is to enforce the laws on the books, and not decide whether a law is unjust, unwise or obsolete. If it were otherwise, we are told, we would have a government of men rather than a government of law. The problems of law enforcement are much more complicated than this simple distinction would suggest. As every public official—from policemen on the beat to the Justices of the Supreme Court—well knows, the laws are so vast in their coverage and often so complex and confusing that *a great deal of individual judgment and discretion must be applied* in deciding how and whether to apply the law in particular cases” (Joseph L. Sax, *Law and Justice*) [emphasis added].

List three laws that are not widely enforced:

---

---

---

Why aren't they enforced?

---

---

---

## **A BRIEF HISTORY OF LAW ENFORCEMENT**

The beginning of law enforcement is obscured by the lack of written records of ancient civilizations. From historical clues, it is reasonable to assume that even during the dawn of man, the existence of rules and rule-breakers required some type of police activity. Early tribes and clans, although not having formal written laws, did enforce numerous group rules or norms. The earliest human groupings were extended families. As such, justice was the responsibility of all of the members of the group. This can be viewed as a kin police system. It is quite probable that the earliest law enforcement groups were selected warriors detailed from the ranks of tribal members to uphold early tribal laws.

The Code of Hammurabi, an elaborate and detailed set of written laws inscribed on stone, is the first set of codified laws known to have been used in a society. Dating back to 2000 B.C.E., these laws dictated everyday life in Babylon. The laws were enforced by “messengers,” the equivalent of law enforcement officers. The Code entrusted the messengers with the detection of violations, both civil and criminal, as well as the punishment of individuals found guilty of violating the Code. These penalties included branding, public whipping, and capital punishment.

Later civilizations developed similar laws and law enforcers. The Assyrian Empire, centered in Nineveh (c. 1200 B.C.), developed a court system for dealing with theft and murder, requiring police

activity. Egypt (c. 700 B.C.) developed marine and customs police due to the importance of shipping to the country. The Persian Empire (c. 400 B.C.) had a military police force entrusted with protecting the empire's widespread roads and postal system.

It is believed that the word *police* originated in Greece. Several words, such as *polis* and *politeia*, were used to describe or relate to a civil force that was organized in the Greek city-states to protect the citizens and their property. The Old Testament contains a history of the Jewish Mosaic Law and its administration by kings, high priests, and elders. Two New Testament incidents discuss the Jews utilizing police-type powers. Christ was arrested, according to the Bible, by representatives of the Jewish leaders, and according to Acts 22:4, Paul the Apostle was granted arrest powers by local Jewish administrators.

Originally, the Roman Empire maintained order through a military force. In approximately 27 B.C., the Emperor Augustus created the urban cohort. A *cohort* means one tenth of a Roman legion, and consisted of 300-600 men. These soldiers were assigned to serve as a fire brigade and maintain peace in the city of Rome and the surrounding area during the daylight hours.

The first non-military and non-mercenary police force was established in Rome. They were known as the *vigils* and augmented the daytime force of the urban cohort. This force consisted of several thousand men who patrolled the city at night, fighting fires and investigating crimes. Many of them were themselves ex-slaves or former soldiers. They lived together in stations that were a combination of jails, offices, and living quarters. These stations were located geographically throughout Rome in order to provide coverage to the entire city. Their weapons were staves (wooden clubs) and short swords, but they relied on physical strength in most of their activities.

After the collapse of the Roman Empire, the Dark Ages left Europe in a state of lawlessness. The only law was the sword, and the sole protection for the local nobleman were his serfs and any hired mercenaries. It was not until approximately 700 A.D. that any form of police began to reappear in Western Europe.

In the ninth century, King Alfred of England recognized that his people needed some form of security within their communities. He established what became known as the tithing system. The local villages were organized into groups of ten families. A group of ten families was known as a *tithing*, and its leader was the *tithingman*. It was the responsibility of the tithingman to raise the "hue and cry" to the rest of the tithing when he needed assistance, but anyone, whether it be victim or member of the tithing, was allowed to make notification of a crime that had occurred. All able-bodied freemen who had reached the age of 12 were required to be in a tithing. As the rural population grew, ten tithings were grouped together to form a hundred under the authority of a *hundredman*.

After the Norman invasion of England in 1066, a similar philosophy of communal law enforcement was instituted. The Normans put into effect the frankpledge system, which was a modification of the tithing system. In addition to all of the requirements placed on an individual to guard his own community or tithing, he also had to pledge his loyalty to the crown. The designated leader was granted police power and also served as a judge. A crime was now viewed as being committed against the state, as opposed to being committed only against the individual who was the actual victim. The villages, which were located in shires or counties, were controlled by a reeve, appointed by the king, as the chief law enforcement officer. This individual later became known as the *shire-reeve*, and was able to enlist the aid of all able-bodied men in the shire in order to form a *posse comitatus* (posse of the county) to deal with any violation of the law. The word "shire-reeve" was modified over time into *sheriff*.

During the twelfth century, a large number of officers were utilized for the purpose of game or wildlife preservation. Most of the police of this time period were foresters and rangers who were assigned to guard the king's forests. This was the era of Robin Hood, whose mythical actions were indicative of the general public discontent with such law enforcement in the face of widespread poverty and hunger.

In 1215, the English nobles forced King John to sign the Magna Carta, or Great Charter, reducing the power of the king. The signing of the Magna Carta was a significant change in the direction of law enforcement. Community-based law enforcement was again to make up the major part of the law enforcement activity. As an example of the changes, Article 45 of the Magna Carta states,

“We will not make men justices, constables, sheriffs, or bailiffs unless they are such as know the law of the realm, and are minded to observe it rightly.”

Although the sheriffs were responsible for law enforcement in England, detection and arrest were still the responsibility of the citizenry. The patrol function within a community became known as the watch and ward system. Any male between the ages of fifteen and sixty could be called and appointed to serve such duty. The “watch” was the nighttime patrol, while the “ward” was daytime patrol. This particular system was inefficient and quite ineffective at deterring crime. Sir Robert Peel, who is discussed later in this chapter, called it the “shiver and shake watch,” commenting that they spent half the night shivering from the cold and the other half of the night shaking from fear.

The Statute of Winchester, created in 1285, was the first English attempt at a systematic police system. Requirements were issued for what must be guarded and who must serve as police. This act also created bailiffs, who were required to “make Inquiry of all Persons being lodged in the Suburbs, or in foreign Places of the Towns.” The office of sergeant was also created to supervise these bailiffs. In addition, the Statute formalized the requirement of all freemen to serve within their respective communities as part of the watch and ward patrol.

During the eighteenth century, the Industrial Revolution and the urbanization that followed forced the end of traditional unpaid civilian police activity. As business districts grew in size, local businessmen could no longer rely on protection by citizens. As an alternative, commercial police took over many security activities. At the same time, citizens also began to pay others to fill in for their police service obligations. Various private organizations took to policing the merchant districts, the docks, the river, and the markets.

In 1737, the king of England allowed cities to begin taxing to pay for police services and protection. Henry Fielding, serving as magistrate of the Bow Street Court, became quite frustrated with the ineptness of the watchmen and constables who were responsible for patrolling of the Bow Street area. He took it upon himself to form the Bow Street Runners, a small contingent of officers who worked directly for the judge. Also working alongside Judge Fielding was his blind step-brother, Sir John Fielding, who took over the administration of the Bow Street Runners after Henry retired. Over several years, they initiated foot patrols, mounted patrols, police courts, and special detectives to investigate crimes. The brothers were also responsible for implementing a system for rapid communication and the issuance of descriptions of wanted persons and stolen property.

These improvements demonstrated what could be done in policing, but were limited in their scope. The Industrial Revolution continued to bring more and more individuals to the burgeoning cities, leading to enormous social and economic problems. Unemployment, economic depression, and starvation combined to bring about an incredible increase in crime. Juvenile delinquency also became a significant new social problem that would not be addressed for several more decades.

In 1829, reacting to this state of lawlessness, Sir Robert Peel, Home Secretary of England and later Prime Minister, introduced the Metropolitan Police Improvement Bill. This was arguably the most important event in the history of police reform. Peel outlined various principles designed to direct and improve the police of his day. In response to the new legislation, Peel was given eight superintendents, 20 inspectors, 88 sergeants, and 895 constables. A year later, the department numbered 17 superintendents, 68 inspectors, 323 sergeants, and 2,906 constables. During the first three years, there were 5,000 dismissals and 6,000 required resignations, a testimonial to the seriousness with which the reform was approached. The public initially opposed the new police, whom they called “peelers,” and the abuse was not limited to verbal name calling. It took almost a decade of bloodshed before the public accepted the new concept of police. The violence against the police culminated in the death of an officer in the Cold Bath Fields riot of 1833. When a jury found the killer not guilty, a public outcry against the decision finally swayed public opinion toward support of the police. Today, English police are nicknamed “bobbies” after Peel’s first name, a sign of respect and acceptance.

American law enforcement followed similar patterns of development. Many early colonial settlements used a watch and ward system patterned after England’s system. The American watchmen proved to be just as inefficient. Later, a “rattle watch” was utilized in many communities. The watchman would walk through the community shaking his rattle as he walked, notifying everyone, including the criminals, that he was coming.

Because of citizen distrust for central authority, which many Americans had fled Europe to escape, most of the law enforcement officers, such as constables and sheriffs, were elected officials. They usually stayed in office for only a short time before stepping down. This was one of the major differences between the developing American and English systems. England's system became a national agency controlled by a central headquarters, while America's focused on numerous agencies featuring federal, state, and local departments, all separately managed and controlled.

A review of the early history of law enforcement in New York City is instructive, as New York City was one of the most innovative cities in America. New York City, originally known as New Amsterdam, utilized a basic watch and ward system. As early as 1658, New York City disbanded the watch and ward system and initiated a paid rattle watch to patrol the city. Later, these watchmen started ringing bells on the hour. These watchmen wore the first American police uniforms, "a coat of ye city livery, with a badge of ye city arms, shoes, and stockings..." These watchmen became civilian rather than military police in 1700, and the first semblance of a police department consisted of one high constable and twelve subconstables.

The watch system was used in most American cities until the 1830s. Then, stimulated by Peelian reform in London, more modern police methods came into effect. Representatives from New York City were sent to London to learn of the new Metropolitan Police Department and, upon returning, helped to initiate New York City's first official police department in 1844. It appears that the first American police chief was appointed in New York in 1844, when the city created an 800-man department.

Because of the American public's continuing dislike for central authority, the police had stopped wearing uniforms and patrolled wearing a badge pinned to civilian clothes. Not until 1853 did uniforms reappear. This was based on a belief that uniforms invoked moral authority. One writer stated that, "It appeals to the love of order, of propriety, of rank and degree, which is doubtless innate in the human breast."

Philadelphia became the first city to create a merit system for police advancement and job security, a necessary step toward professionalism. Political favor had created the spoils system, but the federal Pendleton Act of 1883, enacted by Congress after the assassination of President Garfield by a disgruntled office-seeker, did much to improve police systems by the use of merit systems.

Formal training of police officers did not begin until 1853. In 1849, a riot had taken place at the Astor Theater in New York. Three hundred and twenty policemen were assigned to protect a British actor performing there. A mob of thousands stormed the theater, and thirty-one people were killed in the riot that followed. This and several other bloody riots led to the inauguration of formal training procedures for police officers.

Besides municipal city police and county sheriffs, all fifty states have some form of state police or highway patrol. The first state police agency organized in the country was the Texas Rangers, created in 1835. It became a necessity to form the Rangers due to the jurisdictional problems of small, locally based police. The Rangers dealt with cattle rustlers, Indian uprisings, Mexican bandits, and outlaws.

In 1865, Massachusetts established a state police to deal with vice that had corrupted local police departments. Connecticut followed suit in 1902, and the Pennsylvania State Police was organized in 1905 to deal with striking coal miners. Some state police are limited in their police authority, while others, such as the Utah Highway Patrol, have full police powers. The Utah Highway Patrol, commanded by a superintendent, has numerous duties. However, its primary duty is to regulate traffic and enforce state laws and regulations on state highways.

The Federal Government also employs numerous law enforcement agencies. The first federal agency was the **U.S. Marshals Office**, begun in 1789 to oversee law enforcement in the western territories of the growing United States. In 1829, postal inspectors were given limited police powers to investigate any violations involving the U.S. Mail. The Secret Service was created in 1865, with the responsibility of eliminating the counterfeiting of U.S. currency. They were later given the additional responsibility of guarding the President of the United States and other political figures.

The Federal Bureau of Investigation had its beginnings in 1870. Several investigators were hired by the U.S. Attorney General to look into the transportation of women across state lines for

immoral purposes. They were instituted as a separate department by President Theodore Roosevelt in 1908, originally called the Bureau of Investigation until the name was changed to the FBI in 1935.

**Three basic functions** are performed by police agencies in this country:

1. Combating criminal law violations
2. Enforcing temporary convenience laws, such as traffic control, health, etc.
3. Providing miscellaneous service functions (ambulance, civil process, jails, guards, etc.)

In addition to these functions, authoritarian-type governments frequently use police to maintain the power of the head of state or ruling party and to suppress political activity of the opposition. Often, political behavior not advantageous to the government in power is directly or indirectly treated by police as criminal action. This is called a “police state.”

### **WHY THE NICKNAME “COP”?**

There are two commonly suggested explanations offered by historians for why American police are called “cops” or “coppers.” See if you can discover those reasons with a little research.

(1) \_\_\_\_\_

(2) \_\_\_\_\_

### **SIR ROBERT PEEL**

Sir Robert Peel, an English aristocrat, was educated at Harrow and Oxford and, as soon as he came of age, became involved in English political life. In 1809, he became a Member of Parliament (MP), and one year later was appointed Undersecretary for War and the Colonies. Two years later, he was appointed to be Chief Secretary to Ireland. While serving in this position, he established the Irish Constabulary, who became known as “peelers.” This initial introduction to the new field of law enforcement gave him time to consider and contemplate the strengths and weaknesses of law enforcement as it was functioning at the time.

In 1822, he was named Home Secretary of England, and formed a committee to study the policing situation in the city of London. The study reviewed the working relationships involving the constables, watchmen, and Bow Street Patrols, with the goal of some sort of centralization of control. As Home Secretary, he was also responsible for the drafting and passage of the Metropolitan Police Improvement Bill, which became known as the Metropolitan Police Act. Upon passage of the legislation, he appointed Colonel Charles Rowan and Sir Richard Mayne to organize the new police department to control the criminal element within the metropolitan area of the capital city of London.

Sir Robert later served two separate terms as Prime Minister of England, 1834-35 and 1841-46. He was one of the most prominent politicians in England during the nineteenth century, being instrumental in the Catholic Emancipation movement, the passage of the Corn Laws, and the Tamworth Manifesto.

Sir Robert felt that the primary responsibility of a police officer was to serve the public. His reform movement and the principles and tenets that he developed make it clear that the officers were to be servants of the citizenry, and he would not accept anything less from his officers. He truly believed that “the police are the public and the public are the police.”

### **SIR ROBERT PEEL’S TENETS AND BELIEFS REGARDING LAW ENFORCEMENT**

1. The police must be stable, efficient, and organized along military lines.
2. The police must be under government control.

3. The absence of crime will best prove the efficiency of police.
4. The distribution of crime news is essential.
5. The deployment of police strength both by time and area is essential.
6. No quality is more indispensable to a policeman than a perfect command of temper. A quiet, determined manner has more effect than violent action.
7. Good appearance commands respect.
8. The selection and training of proper persons is at the root of efficient law enforcement.
9. Public security demands that every police officer be given an identifying number.
10. Police headquarters should be centrally located and easily accessible to the people.
11. Policemen should be hired on a probationary basis before permanent assignment.
12. Police crime records are necessary to the best distribution of police strength.

### **SIR ROBERT PEEL'S NINE PRINCIPLES OF POLICING**

1. The basic mission for which the police exist is to prevent crime and disorder.
2. The ability of the police to perform their duties is dependent upon public approval of police actions.
3. Police must secure the willing cooperation of the public in voluntary observance of the law to be able to secure and maintain the respect of the public.
4. The degree of cooperation of the public that can be secured diminishes proportionately with the necessity of the use of physical force.
5. Police seek and preserve public favor not by catering to public opinion, but by constantly demonstrating absolutely impartial service to the law.
6. Police use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of persuasion, advice and warning is found to be insufficient.
7. Police, at all times, should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police—the police being the only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen, in interests of community welfare and existence.
8. Police should always direct their action strictly towards their functions and should never appear to usurp the powers of the judiciary.
9. The test of police efficiency is the absence of crime and disorder, not the visible evidence of police action in dealing with it.

Sir Robert Peel's principles are still valid and widely used today.

## **PEACE OFFICER AUTHORITY IN THE UNITED STATES**

### Federal

(Federal law enforcement power is usually limited to the function of the employing agency.)

Department of Justice:

- 1) Federal Bureau of Investigation (FBI)
- 2) Drug Enforcement Administration (DEA)
- 3) Immigration (includes Border Patrol)
- 4) U.S. Marshals Service

U.S. Capitol Police

Supreme Court Police

Department of the Interior:

- 1) Park Service
- 2) Indian Police

Department of the Transportation:

- 1) Sky Marshals
- 2) U.S. Coast Guard

Department of the Treasury:

- 1) Secret Service
- 2) Bureau of Alcohol, Tobacco, and Firearms (ATF)
- 3) Internal Revenue Service (IRS)
- 4) U.S. Customs Service

General Services Administration (Federal Protective Service)

U.S. Postal Service

### State and Local (Utah)

Department of Public Safety (Highway Patrol, etc.)

County sheriffs

Municipal police

Town marshals

Constables

Correctional officers, Department of Corrections and county jail officers

Security departments, state institutions of higher education

State Bureau of Criminal Identification

Adult probation and parole agents, district agents

Designated Department of Natural Resources employees

School district security officers

Reserve and auxiliary officers

County/district attorney investigators

Airport security officers

Motor Vehicle Business Administration Investigators

Attorney general investigators

State Military Police

## **THE HISTORY OF THE BILL OF RIGHTS**

“When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another... We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.”

These words from the Declaration of Independence, signed on July 4, 1776, explain why the United States of America and the United States Constitution came into being. During the American Revolution, a congressional committee met, wrote, and proposed the Articles of Confederation to the Congress. This document, which was a precursor to the United States Constitution, was ratified on March 1, 1781. When the Articles of Confederation proved to be too weak, a Constitutional Convention was called for May 14, 1787 in Philadelphia, Pennsylvania in an attempt to improve and shore up the weaknesses in the Articles.

As the summer progressed, it became apparent to many of the representatives involved that the Articles of Confederation had to be replaced with a stronger document. The delegates to the Constitutional Convention finally hammered out a Constitution, to include the **Connecticut Compromise**, known as the Great Compromise. This compromise involves representation in the House of Representatives and the Senate. However, many of the delegates were uncomfortable taking the Constitution, as it was then drawn up, back to their respective states for ratification. The document was comprised of the Preamble and the seven Articles that explained how the government would be structured.

The weakness that concerned many of the delegates was that there was nothing in the Constitution that guaranteed the rights of individuals. The Declaration of Independence had used the lack of individual rights as one of the major reasons for explaining the need for independence from England. Many of the states had already prepared State Constitutions, which included Bills of Rights. In addition, England had produced a Bill of Rights in 1689 with which many Americans were familiar. When the Convention concluded, the draft of the new Constitution was sent to the States for ratification.

When New Hampshire became the ninth state to ratify, the Constitution went into effect. Despite a desire by many for a national Bill of Rights, the first Congress delayed action. Only after James Madison’s continual attempts to bring it up for discussion did the members of Congress begin debate. All amendments that had come out of the various State conventions were considered, a total of 124 proposed amendments. Only about 90 amendments were actually introduced, and of those, twelve

proposed amendments were submitted to the States for ratification. The States finally ratified ten of the proposed amendments, and those ten amendments became known as the Bill of Rights.

## **REASONS FOR THE BILL OF RIGHTS**

The people of the newly formed United States of America were concerned for their individual rights, which had been neglected or usurped under the auspices of the king of England and his representatives. One of the great philosophers of the time, John Locke, had written of the “rights of the natural man,” meaning that every individual had certain rights as a human. He also wrote that a government should be required to protect those natural rights. This became a rallying cry among many when discussion began over the need for a guarantee of an individual’s rights. The people wanted to ensure that there was some form of protection from their newly formed government. This desire to have some protection written into the Constitution led to the drafting and ratification of the Bill of Rights. The ten amendments that comprise the Bill of Rights have proven to be invaluable over time in the protection of every American’s individual rights.

## **THE BILL OF RIGHTS**

### Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

### Amendment II

A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

### Amendment III

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of War, but in a manner to be prescribed by law.

### Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but on probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

### 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 witness against him; to have compulsory process for obtaining Witnesses in his favor and to have the Assistance of Counsel for his defense.

### Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, then according to the rules of the common law.

### Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments imposed.

### Amendment IX

The enumeration in the constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

### Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.

At this point in American history, the people were concerned with the power of the federal government. Due to this philosophy, the Bill of Rights was specifically written to guarantee individual rights in dealing with the federal government, but did not pertain to the individual states. Only after ratification of the Fourteenth Amendment did the Bill of Rights also relate to the states.

### Amendment XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States; nor shall the State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws...

## **RIGHTS FOR CITIZENS AND POLICE**

It is important to remember that all constitutional issues are resolved by the courts and not by the police. The sole responsibility of law enforcement within the criminal justice system is to enforce the law; all other aspects of the law are the responsibility of another component of the system.

1. Police cannot:
  - a) Act to promote the establishment of religion or prohibit the free exercise of religion.
  - b) Limit most freedom of speech or of the press.
  - c) Absolutely prohibit public assembly or petitioning of the government.

Police can:

- a) Prevent religious practices held to be illegal, such as polygamy, drug use, etc.
  - b) Arrest for speech that incites to violence, treason, slander or libel; constitutes an illegal threat; constitutes a conspiracy to commit a crime; is foul and abusive or constitutes "fighting words," etc.
  - c) Place reasonable limits, in the interest of public safety, on the time, place, size or conduct of assembled groups.
2. Police cannot:
  - a) Take away the right to keep and bear firearms.

Police can:

- a) Enforce laws prohibiting carrying concealed weapons; discharging firearms at certain places, times, and circumstances; or prohibiting their use in a crime or by certain people such as convicted felons, drug users, aliens, etc.
- b) Enforce laws controlling the sale, transfer or alteration of firearms and ammunition, and prohibit certain weapons to all but police and military use.
- c) Enforce laws restricting circumstances under which deadly force can be used by both law enforcement officers and private citizens.

3. Police cannot:

- a) Without proper authorization, use the belongings of citizens.

Police can:

- a) In emergency circumstances, commandeer vehicles, weapons, and other items belonging to private citizens as needed. The police do remain liable for such actions, however.

4. Police cannot:

- a) Make unreasonable searches or seizures of persons or property.
- b) Obtain a search warrant without probable cause.
- c) Obtain a search warrant that does not specify the items being looked for and the place to be searched.

Police can:

- a) Make reasonable searches, such as frisks, based on reasonable suspicion and searches required by public safety.
- b) Obtain a warrant based on the testimony of unnamed but reliable informants.
  - c) Pick the time and circumstances under which a warrant is to be served.

5. Police cannot:

- a) Charge a suspect with a felony offense without a preliminary hearing or a grand jury indictment.
- b) Charge a person for the same offense twice.
- c) Require a person to testify against himself/herself during questioning or in court (*Miranda v. Arizona*).
- d) Deprive a person of life, liberty, or property without due process of law.

Police can:

- a) Delay making an arrest while continuing to gather evidence.
- b) Advise a suspect that he or she can give up the right of not having to testify against himself/herself if he/she wishes.
- c) Make arrests and other seizures based on probable cause.

6. Police cannot:

- a) Prevent an accused person from having a speedy and public trial.
- b) Stop an accused person from demanding a jury trial.
- c) Refuse to advise an accused person of the nature and basis for a criminal charge.
- d) Decline to produce witnesses for the defense.
- e) Refuse to allow assistance of counsel at either questioning, line—ups, or trial.

Police can:

- a) Take the reasonable amount of time necessary to prepare a case for trial.
- b) Stop an accused person from delaying blood-alcohol and similar tests while waiting for an attorney.

- c) Exercise discretion as to the charge or charges made against an accused person.
  - d) Advise an accused person that the suspect can give up his or her right to a lawyer during questioning (*Miranda v. Arizona*).
7. The Seventh Amendment reaffirms the right of citizens to use civil court procedures, to have a jury in most civil trials, and to have decisions based on common law.
8. Police cannot:
- a) Request and be granted excessive bail.
  - b) Request and be granted excessive fines or cruel and unusual punishment for offenders.
- Police can:
- a) Suggest no bail on capital offenses.
  - b) Suggest bail they feel is high enough to ensure court appearance.
  - c) Suggest punishments that fit the crime, such as highway clean-up for littering offenses.
9. Police cannot infringe on citizens' rights, except as allowed by the Constitution.
10. States, and the people, retain all rights not delegated to the Federal Government or prohibited to the States by the Constitution.
11. The 14th Amendment extends the freedoms guaranteed under the Bill of Rights to all dealings with State, county, and local law enforcement agencies. Originally, these had only been interpreted as applying to situations covered under federal law or involving federal officers.