

Civil Liberties: Protecting Individual Rights

SECTION 1

DUE PROCESS OF LAW

TEXT SUMMARY

The 5th Amendment says that the government cannot deprive a person of “life, liberty, or property, without due process of law.” The 14th Amendment extends this restriction to the States. **Due process** means the government must act fairly and in accord with established rules—it must use fair procedures. Fair procedures, however, mean little if used to administer unfair laws. **Procedural due process** refers to the fair methods government must use; **substantive due process** refers to the fair policies under which government must operate.

The States have the power to protect and promote the public health, safety, morals, and general well-being of all the people. This power is called the **police**

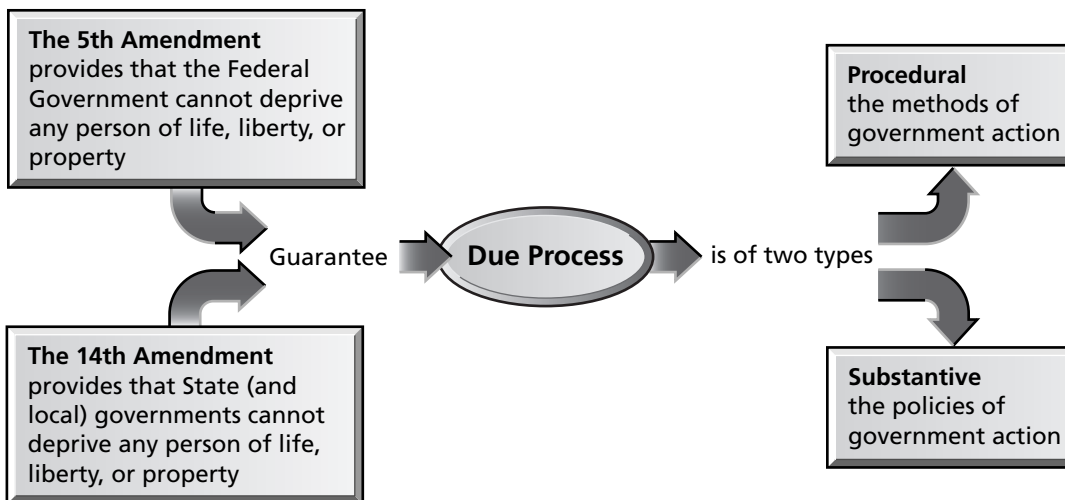
power, and the States may not use it in violation of due process. When its use conflicts with civil rights protections, the courts must balance the needs of society against individual rights. In a key case of this type, the Supreme Court supported a police officer who ordered a blood test for a suspected drunk driver even though the officer had no **search warrant**, or court order authorizing a search.

The constitutional guarantees of due process create “the right to be free . . . from unwanted governmental intrusions into one’s privacy.” The most controversial applications of this right have come in abortion cases.

THE BIG IDEA

In observing due process of law, the government must act fairly and in accord with established rules.

GRAPHIC SUMMARY: Due Process



The 5th and 14th amendments ensure that government cannot deprive any person of “life, liberty, or property, without due process of law.”

REVIEW QUESTIONS

1. Explain what is meant by due process.
2. **Diagram Skills** In what way do procedural due process and substantive due process differ?