

## TOPIC

## 8

## LESSON 5

## Lesson Summary

## DUE PROCESS OF LAW

The 5th Amendment states 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 *how* of governmental action, or methods the government must use. **Substantive due process** refers to the *what* of governmental action, or policies under which the 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.

Another aspect of due process relates to the right of **eminent domain**, that is, the power of the government to take private property for public use. However, the government must provide just compensation for any property it takes. This means that the property's owners must get fair market value for the property.

### Lesson Vocabulary

**due process** concept that holds that the government must act fairly and in accord with established rules in all that it does

**procedural due process** concept that holds that the government must employ fair procedures and methods

**substantive due process** concept that holds that the government must create fair policies and laws

**police power** authority of each State to act to protect and promote the public health, safety, morals, and general welfare of its people

**search warrant** court order authorizing a search

**eminent domain** power of a government to take private property for public use

## MODIFIED CORNELL NOTES