

***SOCA Undergraduate Symposium 2021***  
*Department of Sociology and Anthropology*  
*West Virginia University*

**Presentation 13**

The Fifth Amendment and the Right to Remain Silent

**Jared Rapoport**  
*Criminology*

**ABSTRACT**

The fifth amendment and its right to remain silent is a deeply flawed part of the constitution in the U.S. criminal justice system. The right to remain silent is both a blessing and a curse and often times the fate of the user is determined by several factors. These factors include race, attitudes, motives, and the court system. There are many supreme court cases that have involved the right to remain silent, to name a few; *Bram v. United States*, *Salinas v. Texas*, *Malloy v. Hogan*, and *Spevack v. Klein*. In some cases, the Supreme Court held firm in their decisions of earlier court cases, while in others they paved a way to a new future of fifth amendment interpretation. My paper is all about how the fifth amendment and its right to remain silent protects and harms the accused. It is a very important constitution and its consequences are involved pre-arrest, post-arrest, pre-trial and during a trial. The fifth amendment is interpreted differently by certain circuit courts, state laws, and judges which is why it is such a blessing and a curse. New Jersey law does not require suspects to invoke their right to silence clearly and in the 1st, 6th, 7th, and 10th circuit courts, substantive use of pre-arrest silence is prohibited. Lastly, with a conservative shift in fifth amendment interpretation, staying mute when questioned is now evidence of supposed guilt.