

SECTION

3

Rights of the Accused

As you read, think about the answers to these questions:

- Which amendments protect the rights of the accused?
- Why is it important that people accused of committing crimes be presumed innocent?
- What are the two kinds of due process?
- How has the Supreme Court redefined the rights of the accused?

Three of the amendments in the Bill of Rights are intended to protect people accused of crimes from unfair treatment by the government. In applying these amendments, the Supreme Court has had to maintain a delicate balance between the accused person's right to be treated fairly and the majority's right to be protected from criminals.

Protecting the Rights of the Accused

The Fifth, Sixth, and Eighth Amendments were written to protect the rights of individuals accused of breaking society's laws. They seek to guarantee that the government does not abuse its power to administer justice. These amendments are based on an English tradition referred to as **presumption of innocence**, the idea that a person is presumed to be innocent unless and until he or she is proven guilty.

Reasoning Behind the Presumption. When an individual is accused of a crime, the accused and the accuser are not equal. The government (accuser) has police officers, **prosecutors**, and other members of the criminal justice system on its side. Against these powerful forces stands the accused individual.

When a person is presumed innocent, the government must assume the burden of proof. That is, the government must convince a jury that the accused person actually committed the crime. The individual is not required to prove innocence, only to show that the government's evidence is faulty or insufficient. In order to convict, the jury must be convinced that not even a "reasonable doubt" remains about the accused person's guilt.

Problems With the Presumption. Presumption of innocence means that sometimes the government is unable to punish a person who really did break a law. If the government knows that it lacks convincing

presumption of innocence
assumption that someone is innocent until proven guilty of a crime

prosecutor *government official who seeks to prove the guilt of an accused person*

PRIMARY SOURCES

"It is better to risk saving a guilty person than to condemn an innocent one."

—Voltaire

plea bargain *process by which an accused person agrees to plead guilty to a less serious crime*

probable cause *valid reason for a police search or arrest*

grand jury *group of people selected to hear evidence and decide whether a person should be charged with a crime*

evidence against an accused person, it may simply release the person. The government may also **plea bargain** in order to obtain a conviction on a less serious charge.

Expanding Due Process

The Fifth Amendment guarantees “due process of law” to the accused. Originally this requirement applied only to rules that the national government had to follow. In the 20th century, the Supreme Court has used the 14th Amendment to rule that states must also follow the rules of due process.

Procedural and Substantive Due Process. There are two kinds of due process:

- Procedural due process means that the government follows the rules by which it has agreed to treat accused individuals.
- Substantive due process means that the laws themselves are fair and constitutional.

Due Process Procedures. Procedural due process protects the rights of persons accused of crimes from the time they are arrested through the time they are found guilty or not guilty. Due process includes the following:

- The arrest must be based on **probable cause** (such as a police officer witnessing a crime) or on a warrant issued by a judge.
- The arrested person must be informed of his or her right to remain silent and to have the assistance of a lawyer. The accused individual cannot be forced to confess.
- A **grand jury** or prosecutor must determine that enough evidence exists to bring the alleged criminal to trial.
- The accused person is entitled to be informed of the charge and to receive a speedy and public trial by jury.
- During the trial, the prosecution must prove to an unbiased jury that the defendant is guilty, beyond a reasonable doubt.
- The defendant can refuse to answer questions that would imply his or her own guilt.
- The defendant has the right to question his or her accusers and to demand the testimony of witnesses in his or her favor.
- If the jury finds the defendant not guilty, the accused individual cannot be tried again on the same charge.
- If the jury finds the person guilty, he or she may appeal the verdict to a higher court for review.

Redefining the Rights of the Accused

The amendments dealing with the rights of the accused have been redefined by the Supreme Court. In several very important cases, the Court has decided that accused individuals should have the same constitutional protections in state courts that they have in federal courts.

Mapp v. Ohio. In this famous 1961 decision, the Court declared that evidence that the police obtained illegally could not be used in a state court against the person from whom it was taken. In this case, the police had entered a woman's home—without a warrant and without her permission—looking for gambling materials. Instead, the police found obscene books, for which the woman was arrested and convicted. The Supreme Court said that the police had violated the Fourth Amendment's protection against illegal searches and seizures. Therefore, the books found during the search could not be used against the woman.

Gideon v. Wainwright. Similarly, a 1963 decision extended the Sixth Amendment's guarantee of an attorney to poor people who had committed relatively minor crimes. This case concerned a Florida man, Clarence Earl Gideon, who was too poor to hire a lawyer. The judge denied his request for a lawyer. Forced to represent himself, Gideon was convicted of breaking into a poolroom and was sentenced to five years in prison.

From his prison cell, Gideon asked the Supreme Court to review his case. The Court agreed to hear him and, using the 14th Amendment as its guide, unanimously decided in Gideon's favor. As a result, every accused person now enjoys the right to a lawyer even if the government must pay the lawyer's fee.

Miranda v. Arizona. In 1966 the Supreme Court ruled that since the Fifth Amendment gives an accused person the right not to incriminate himself or herself, confessions obtained by the police are not valid if the accused person is not aware of this right. In the *Miranda* case, the police had questioned a man named Ernesto Miranda without informing him of his rights, and Miranda confessed to kidnapping and rape. His confession was later used in court to help convict him. However, the Supreme Court reversed Miranda's conviction and established guidelines that police must follow before they can question suspects. According to the "Miranda Rule," suspects must be told

- That they have a right to refuse to answer questions;
- That what they tell the police can be used against them in court;
- That they have a right to an attorney even if they cannot afford to hire one; and
- That even if they have answered some questions, they may refuse to answer any more at any time.

Some Americans believe that the judicial balance has swung in favor of the lawbreakers and against the society's right to protection from criminals. As the history of the Court shows, the task of redefining the Constitution is a job that is never finished.

Because the American system of justice is based on the presumption of innocence, the Constitution provides measures to protect rights of the accused.

