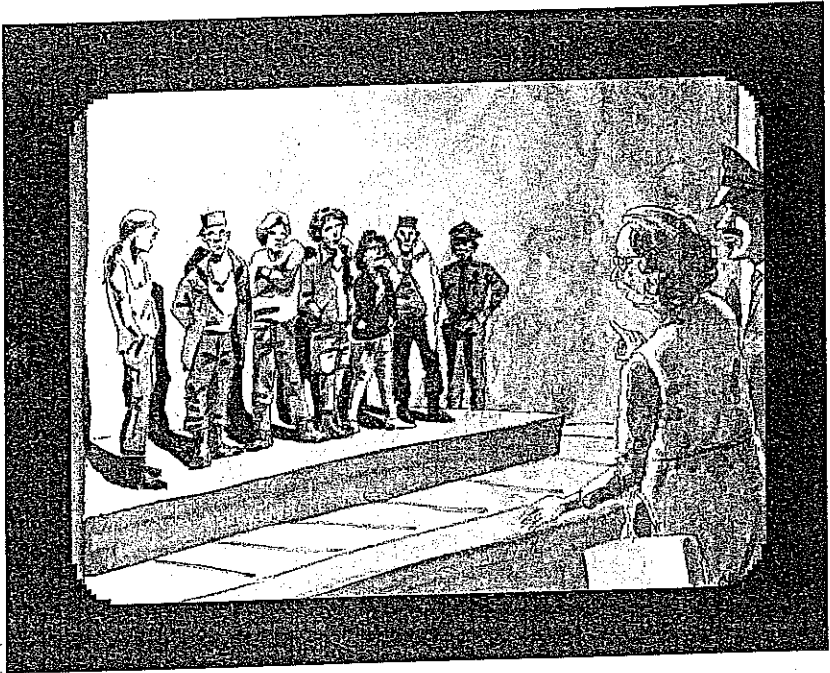


# Your Lawyer and You

Ken W. and a friend, Don, were arrested for shooting and killing someone. Ken W. called his lawyer. His lawyer told the police not to question Ken unless she was there. They questioned him anyway. When witnesses were not able to identify or pick out Ken as the guilty person in a lineup, he was set free. But Don was convicted. Three years later, the police got a tape recording of Ken that tied him to the murder. Ken had not known that the tape was being made. The tape was made by Don who wanted to work with the police in order to get a reduced sentence. This evidence finally helped to convict Ken W. in court.



CHECK vocabulary words in bold.  
LOOK UP word meanings in the glossary beginning on page 92.

Ken W.'s lawyer appealed his case. She said that she had told the police not to question him unless she was with him. She said that Don's plan to tape Ken was just like having the police question him. She said that, just as in the beginning, the police should have called her first. The state court of appeals agreed that Ken's rights had not been protected, and a new trial was ordered.

In this chapter, you will learn about why every person who is arrested needs a lawyer at all times. Things may not be finally decided at the point of arrest or of conviction and sentencing. You will find out what a lawyer does and how you can best work with your lawyer.



### CRITICAL THINKING

The arguments attorneys make, based on the evidence, often use a kind of thinking or reasoning called *logic*. Other ingredients that form part of an argument might be: custom, right, duty, fault, cause, ownership, and common sense. Why do you think it helps to use more than one kind of argument to win a case?

### What Lawyers Do

A lawyer has gone to law school and knows about both federal law and state law. All lawyers have to take exams about the laws of their home state. If you are not a lawyer, you cannot know about all the different laws. Think of the criminal justice system as being a foreign country: The lawyer becomes your guide in this country because she speaks and understands the legal language.

When do you need a lawyer? You need a lawyer to represent you as soon as you are under arrest. Research shows that people who use lawyers before they go to court have a better idea of what will happen. They can have everything explained to them and are better able to make choices when necessary.



Attorney Jameson says: "In 1873, the U.S. Supreme Court said that Myra Bradwell could not practice law because she was a woman. Instead, she started a legal news-

paper and spent quarter of a century fighting for equal rights for women. I became a lawyer, knowing that there is still more to be done to create true equality for everyone in the criminal justice system — from the treatment of suspects to the appointment of Supreme Court judges."



### CRITICAL THINKING

Because a person has to be proven guilty beyond reasonable doubt, it is a lawyer's job to defend a suspect to the best of his ability, even though he may not be sure of his client's innocence. Can you explain why this is important in reaching a fair verdict?

In the movies and on TV, lawyers always seem to be either in court or chasing suspects. In real life, lawyers do a lot of important paperwork in their offices. Many of them do not go to court. Every lawyer is an expert in a special part of the law. A lawyer who helps people understand laws about taxes would not be of much help to someone accused of a crime. The criminal lawyer knows a lot about criminal law and helps people who have been accused of crimes.

What can a lawyer do to help you? He can:

- try to have the charges changed or dropped
- try to have the bail changed according to what you can pay
- try to have illegal evidence suppressed or not used
- talk to witnesses and to police to help build a good case
- find out whether the prosecution has a strong or a weak case
- attend all of the hearings and act and speak for you
- help choose a fair jury
- represent** you at the trial
- arrange plea bargain if necessary
- help you prepare for sentencing
- decide whether or not to appeal your case
- make an appeal, if necessary

**DID YOU KNOW?** The first job of an attorney is to make sure the state proves a suspect guilty beyond any reasonable doubt. The second job of an attorney is to try and get a less harsh punishment or sentence.

What are other ways in which a lawyer can help you? Your lawyer can assist you in:

- getting a lower bail. The lawyer will ask you about your home, family, school, or job. This information will help the judge decide that you probably will not skip bail. The lawyer can tell the judge all the reasons why you should have a certain amount of bail or no bail at all.
- talking to witnesses and to the police. The lawyer will meet with witnesses and the police to discover more facts that will help your case. These facts will be told by the lawyer at the trial.
- choosing a fair jury. Your lawyer and the prosecution lawyer both want jurors who will be fair. The law says that if your lawyer does not think a juror will be fair, she can refuse to let the person serve on the jury. The prosecution can do the same for his side.
- helping you to prepare for sentencing.
- deciding when to appeal.

Choosing members of a jury can take a long time. For example, if a person being considered as a juror has been accused of shoplifting or works in a store that has problems with shoplifters, then your lawyer could not allow the juror to serve.

In helping you to prepare for sentencing, the lawyer works hard to win the case. Suppose a person is arrested for possession of drugs. Even if the evidence is enough to convict the suspect, the lawyer can talk with

**EYE OPENER** The United States has more lawyers than any other country. It has more than twice the number of lawyers as England and more than ten times the number as Japan.

the suspect about entering a drug program. She could also ask people who know the suspect to write letters to the court. These letters might say why the suspect is a person who is able to change his behavior. All of this could help the judge decide to give the person a sentence that is a chance for him to change his ways rather than just a punishment.

After the trial, if a lawyer thinks that the prosecution made a lot of mistakes, then the lawyer will want to appeal. Many cases are overturned after they are appealed. This means that the suspect are granted new trials.

### Finding a Lawyer

If you need a lawyer, the best way to find one is to ask your friends. If they have used a good lawyer, they will tell you. Another way is to call the **bar association**. This is an organization to which all qualified lawyers belong. It can send you a list of lawyers.

What if you cannot find a lawyer right away? Ask the police at the police station. They must find you a lawyer. There is usually a **public defender** or legal aid lawyer to help you. That lawyer can help you until you get one of your own choice. If you cannot afford a lawyer, then the public defender or legal aid lawyer will still defend you.

What should you tell your lawyer? You should tell your lawyer everything you know about the crime. Your lawyer has to have information to defend you. Anything you say to your lawyer is **privileged** or private, information. The lawyer cannot tell anyone else what you say. Yet, your lawyer has to know the truth to be able to build a good case for you. The lawyer is working for you. You and your lawyer are a team not only before the trial, but also during the trial and sentencing and after the sentencing.



#### CRITICAL THINKING

Why would a lawyer represent a suspect whom she thought was guilty? Why is this necessary in order for the criminal justice system to work?

**DID YOU KNOW?** According to the federal Administrative Office of the United States Courts, African Americans have the highest overall percentage among minority groups on the federal bench. The higher percentage of Hispanics serve as district court judges. Individuals reported as having physical challenges serve as judicial officers at all levels.

### Understanding Chapter 10

1. Why do you need a lawyer in a criminal case?
2. What can a lawyer do that you cannot do for yourself?
3. How can you finding a qualified lawyer?



Workbook

Self-Check p.22

Reality-Check p.23



TO LEARN MORE

*The Peoples Guide to Government:  
Guides to the Judicial Branch, pp. 34-37*

Chapter 10 Margin Questions:

1. What are the arguments attorneys make called? \_\_\_\_\_
2. Logic is based on what? \_\_\_\_\_
3. What other ingredients form part of an argument? \_\_\_\_\_  
\_\_\_\_\_
4. Why did the Supreme Court say that Myra Bradwell could not practice law? \_\_\_\_\_
5. What did she do instead? \_\_\_\_\_  
\_\_\_\_\_
6. Why did she become a lawyer? \_\_\_\_\_  
\_\_\_\_\_
7. A person must be proven guilty beyond what? \_\_\_\_\_
8. What is a lawyer's job? \_\_\_\_\_
9. Must a lawyer be sure of his client's innocence? \_\_\_\_\_
10. What is the second job of an attorney? \_\_\_\_\_
11. What country has more lawyers than any other? \_\_\_\_\_
12. How many more lawyers does the U.S. have than England? \_\_\_\_\_
13. What minority group has the highest overall percentage on the federal bench? \_\_\_\_\_  
\_\_\_\_\_
14. Hispanics have a high percentage serving as what? \_\_\_\_\_
15. Where do individuals with physical challenges serve? \_\_\_\_\_
16. Why do you need a lawyer in a criminal case? \_\_\_\_\_
17. What can a lawyer do that you cannot do for yourself? \_\_\_\_\_  
\_\_\_\_\_
18. How can you find a qualified lawyer? \_\_\_\_\_
19. Why would a lawyer represent a guilty suspect? \_\_\_\_\_
20. Why is this necessary for the criminal justice system to work? \_\_\_\_\_  
\_\_\_\_\_

Define:

1. Logic: \_\_\_\_\_

2. Glossary: \_\_\_\_\_

3. Custom: \_\_\_\_\_

4. Sense: \_\_\_\_\_

5. Defend: \_\_\_\_\_

6. Client: \_\_\_\_\_

7. Represent: \_\_\_\_\_

8. Necessary: \_\_\_\_\_

9. Percentage: \_\_\_\_\_

10. Qualified: \_\_\_\_\_

11. Unless: \_\_\_\_\_

12. Decide: \_\_\_\_\_

13. Exam: \_\_\_\_\_

14. Choice: \_\_\_\_\_

15. Research: \_\_\_\_\_

16. Expert: \_\_\_\_\_

17. Arrange: \_\_\_\_\_

18. Facts: \_\_\_\_\_

19. Prepare: \_\_\_\_\_

20. Discover: \_\_\_\_\_