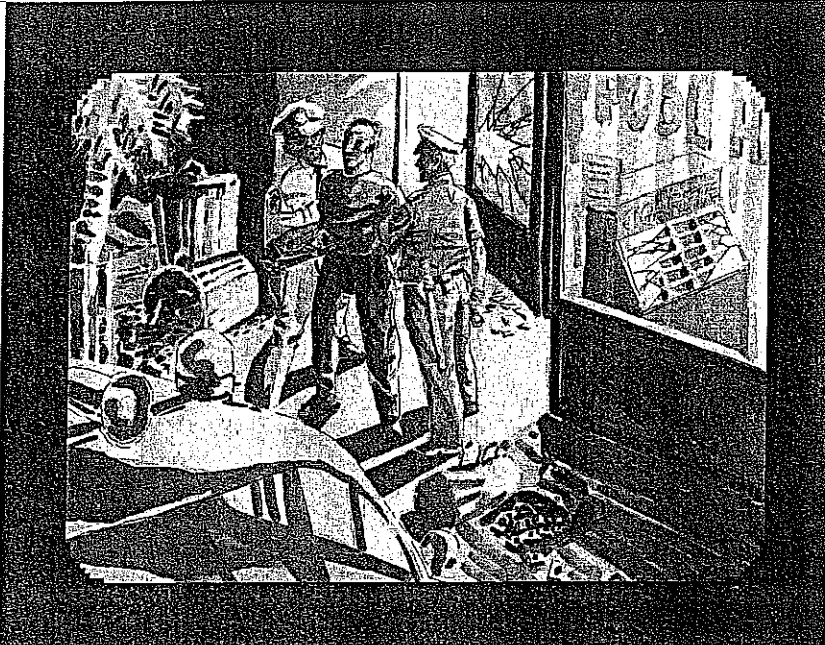


Chapter 7

Caution: Not Knowing Your Rights May Be Dangerous to Your Health


In 1961, Clarence G. was arrested and charged with breaking into and entering a pool hall. He had broken in to steal cash from the cigarette machine. In Florida, this is a felony. Not having the money to hire one himself, Clarence G. asked the judge for a lawyer. But the Supreme Court has said that only people accused of more serious crime—for which they could get the death penalty—have the right to a lawyer. Clarence G. had no choice but to defend himself in court. This meant he had to act as his own lawyer. Clarence G. was convicted and sent to prison for five years. However, he wrote to the Supreme Court asking it to review his case. The Supreme Court did so and changed its own ruling in 1963, two years later.



The Supreme Court agreed that the Constitution promises everyone the right to a fair trial, even if they have no money to hire a lawyer on their own. So Clarence G. was set free and given a new trial. This time, Clarence G. had a lawyer and was justly acquitted.

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

In this chapter, you will learn about the rights that are given to everyone in the Bill of Rights, rights that cannot be taken away. These rights help protect people even when they are accused of crimes. These rights are what make the criminal justice system fair and equal.

 **CRITICAL THINKING**
Do you agree that school officials should have the right to set rules and to punish students? How do some of the rules in your school help make your school safer?

Your Rights Under the Law

The Right to Due Process of the Law: The Fifth Amendment of the Constitution gives the accused person the right to due process. This means that you cannot be put in jail or fined without enough reason. This also means you have to go through steps in the law or the legal process. The Fourteenth Amendment to the Constitution says that no state shall take away a person's life, liberty (freedom), or property without due process.

The Right to an Indictment: The Fifth Amendment also says that if you are accused of a felony, you have a right to have a grand jury look at the evidence in your case. The grand jury's job is to indict you, or charge you with the crime, or to drop the case. This means that you cannot be kept in jail if there is no evidence against you to suggest you may be guilty.

Protection Against Double Jeopardy: The Fifth Amendment protects you from double jeopardy. The right against double jeopardy



Attorney Simon says: "There was a time when African Americans were not allowed to serve on a jury. There can be no right to a fair trial if there is no right to a fair jury. Today, the criminal justice system is still questioning what a balanced jury means. You and your lawyer need to be aware of the idea or concept. It can affect the outcome of your trial."



CRITICAL THINKING

The Second Amendment to the Constitution says that the United States needs a good army. It says that people have a right to have guns. Those who support gun control say it means that only people who are in the army should bear arms. Those who are against gun control say it means that everyone has a right to be armed. The courts have said that there can be gun controls, or laws that make sure guns are used properly and only by the correct people. What is your opinion?

DID YOU KNOW? The mother of the Bill of Rights was born in 1728 in Barnstable, Massachusetts. Mercy Otis Warren, mother of five children, helped to persuade the founding fathers to create the Bill of Rights. The Bill of Rights guarantees or promises to every citizen free speech-freedom of religion, assembly, and the press; the right to a jury trial and more.

means the right not to be tried a second time for the same crime once you have been **acquitted**, or cleared, of the crime the first time.

The Right to Remain Silent: The Fifth Amendment also gives you the right to say nothing in court that could be used against you. If you do testify and the prosecutor asks a question that could hurt your case or make you seem guilty, you can say that you will not answer it. This can mean that you do not have to testify at your trial.

When you do testify in court, you do so under **oath**. This means that you have promised you will tell the truth, the whole truth, and nothing but the truth. Not telling the truth in court is the crime of **perjury**.

The Right Against Unreasonable Search and Seizure: The Fourth Amendment gives you the right to be searched only if the police have a very good reason to do so. Also, you have the right to be searched only equal in amount to how serious the crime is. If you are suspected of a very serious crime, the police may search you and your property very completely.

Sometimes, lawyers try to show the court how evidence was seized illegally. Any evidence that is searched for or not taken legally cannot be used in court. (See Chapter 8 for more on search and seizure.)

The Right to a Fair Trial: The Sixth Amendment gives an accused person the right to a speedy and public trial. This means that the trial cannot be held in secret. It has to be out in the open to be fair. The trial also must happen as soon as possible, even though the courts usually are very busy.

The Right to a Jury Trial and an Impartial Jury: The Sixth Amendment gives the accused person the right to be judged by a jury that is **impartial**. This means the jury members are not involved in the case and do not have an opinion before the case is heard. For example, if you are accused of robbing someone, a relative of the person who was robbed could not be a member of the jury. Your lawyer can ask not to have a person on the jury if he has a good reason to believe that person could not be fair. Your lawyer may decide that anyone who has even been robbed could not be an impartial juror.

The Constitution says that you have the right to a jury trial in cases that involve more than \$20. Yet, the Constitution was written a long time ago. Remember that \$20 was a lot of money 200 years ago! Today, a \$20 case could be a misdemeanor. Today, you only have the right to a jury trial in cases where you could go to jail as punishment for the crime.

The Right to Counsel: The Sixth Amendment gives an accused person the right to counsel. This means the right to use a lawyer. Another word for a *lawyer* is a *counselor*.

The Right Against Excessive Bail: The Eighth Amendment gives the accused person the right not to have too high a bail. **Bail** is money or property that you give the court in order to stay free after your arrest and until your trial. If you do not show up for the trial, you lose that bail money or property. A suspect does not always have the right to bail because the judge may think that he will appear at the trial.

EYE OPENER Each year, about one-and-a-half-million students miss a day or more of school as a result of having been suspended or expelled. School officials have the right to forbid violent or criminal behavior in school.

Chapter 7. Pages: 35 and 36

1. Why did Clarence G. not have a right to a lawyer in 1961? _____

2. What felony was Clarence G. accused? _____
3. How did Clarence G. help in getting the Supreme Court to review his case? _____

4. What rights make the criminal justice system fair and equal? _____
5. What amendment gives the accused person the right to due process? _____
6. What does the 14th amendment state? _____

7. What is a grand jury's job? _____

8. What must there be before you can be kept in jail? _____
9. What is double jeopardy? _____
10. What does it mean to be acquitted? _____
11. If a question makes you seem guilty, you can do what? _____
12. This means you do not have to _____ at your trial.
13. When you testify under oath, you promise to do what? _____

14. Not telling the truth in court is what? _____
15. What must the police have in order to search you? _____
16. In a serious crime the police can search you how? _____
17. When can evidence not be used in court? _____
18. What does the 6th amendment give an accused person? _____
19. What is an impartial jury? _____

20. What is bail? _____

Critical Thinking

(pages: 35 &36)

1. Do you agree that school officials have the right to set rules and to punish students? Why?

2. How do school rules make you safe?

3. What is the Right to Due Process of Law?

4. The courts have said that there can be laws that make sure guns are used properly. What is your opinion?

5. What could happen if school officials did not forbid violent behavior in school?

6. Why do you have the right to remain silent when accused of a crime or in court?

7. What can allow a person to have a fair trial?