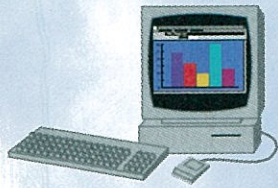


# Multimedia Activities



## Surfing the "Net"

### E-Mail Your Government Official

The most important role the representatives we send to Congress have is carrying the message of the people back to the government. With the Internet, constituents can communicate with their representatives very rapidly, and can usually expect an immediate response. To find out how you can e-mail your state's representatives follow the instructions below.

### Getting There

Find out the name of your representative in Congress. Think of any issues, concerns or questions that you might like to discuss with them.

1. Go to your favorite search engine.
2. Type in the word *Congress*. Following the word *Congress*, enter words like those below to focus your search:

e-mail address  
your representative's name

The search engine should provide you with a number of links to follow. Links are pointers to different sites on the Internet and commonly appear as blue underlined words.

### What to Do When You Are There

1. Click on the links to navigate through the pages until you find your representative's e-mail address.
2. Using your e-mail service, write a letter about your concerns or interests to your representative.
3. When you receive your response, share your news with your class.



## Focus on Government

### The Federal System

Our federal system of government reserves many powers for the states. The states, in turn, give power to towns and cities within their boundaries. The **Focus on Government** programs referenced below help explain this sharing of power.

### Setting Up the Video

Using a bar code reader or an electronic keypad, work with a group of your classmates to view these video segments of the videodisc **Focus on Government**:



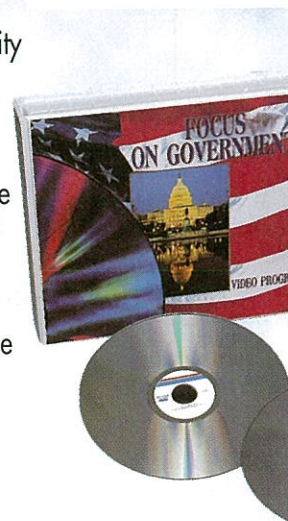
Side 3, Chapter 46  
Lecture Launcher:  
Organization of State  
Government



Side 3, Chapter 47  
Lecture Launcher:  
State Government in Action

### Hands-On Activity

Use ideas from the video segments and resources in your community to learn about the organization of your state government or of your local government. Use this information to create a flow chart showing how governmental power is distributed among the three branches of government. Use the charts on pages 327, 331, 343, and 344 as guides.





# Law and the Individual

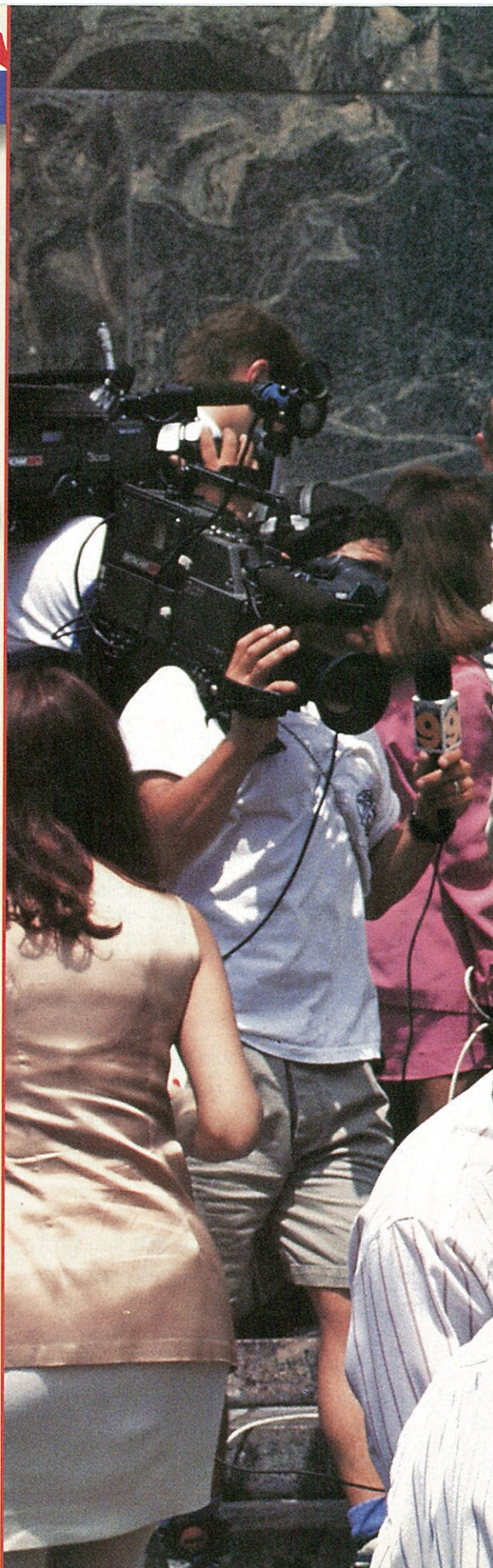
## YOUR ROLE AS A CITIZEN

**T**he United States is a nation of laws. These laws are very important to the nation and its citizens. Our system of laws brings order into our lives and allows people to live together peacefully. It also protects our individual rights. Laws are only effective, however, if people respect and obey them.

In Unit 6 you will study the nation's legal system and learn about its importance in our lives. ■

### CHAPTERS IN THIS UNIT

- 16** Legal Rights and Responsibilities
- 17** Civil and Criminal Law









# Legal Rights and Responsibilities

## CIVIC PARTICIPATION

**T**he Constitution and Bill of Rights contain important provisions safeguarding the legal rights of Americans. In return, our system of laws gives American citizens a number of responsibilities, including the duty to serve on a jury. Contact your local county court to find out how it selects the names of people for jury duty. Ask when it sends out jury notices,

how frequently a person may be called for jury duty, and under what circumstances a person may be excused.

### Working in Your Community

After you have obtained the information, interview neighbors and family friends who have been called for jury duty. Find out whether they actually served on a jury and how they feel about jury duty. ■

### Your Civics Journal

As you study this chapter, think about the legal rights and responsibilities we have as American citizens. Keep a list of these in your civics journal. Next to each entry, explain why the right or responsibility is important and how it affects our lives.









# The Source of Our Laws

## FOCUS

### TERMS TO KNOW

jurisprudence, *stare decisis*

### OBJECTIVES

- Identify and describe two **early systems of law**.
- Identify three systems of law based on **Roman law**.
- Explain how **English law** has influenced American law.
- Explain the role of the executive, legislative, and judicial branches in **the American legal system**.

Laws are rules that are binding on all the people living in a particular community, state, or nation. Laws help bring order into our lives. They provide penalties to discourage people from committing crimes. They enable people to settle disagreements peacefully through a fair system of justice. They protect our rights as citizens against abuses by other people, organizations, and the government. They also promote the welfare of society as a whole by protecting it against certain dangers.

Although not all laws are good, good laws share certain characteristics. Good laws are fair. People in similar circumstances will be treated equally under the law. Good laws are also reasonable. In

England in the 1700s, a person who stole a loaf of bread might have been hanged. Today such harsh punishment for a similar crime would be considered unreasonable. Good laws must be understandable. If laws are too complicated, people may break them without meaning to or realizing it. Finally, good laws are enforceable. The government's ability to enforce a law often depends on the people's willingness to obey it.

When the writers of the Constitution created a new government, they based the nation's system of laws on ideas, traditions, customs, and laws passed down from generation to generation. Some of these ideas date back thousands of years.

## Early Systems of Law

The earliest laws were probably passed from one generation to the next by word of mouth. Then, after people learned to write, they began to write down their laws.

**Code of Hammurabi** An ancient tablet depicts King Hammurabi handing down his code of laws. *How long ago was the Code of Hammurabi written?*





About 4,000 years ago, King Hammurabi of ancient Babylon had a series of laws compiled into a list, or code of laws. This Code of Hammurabi is one of the earliest written codes of law. The code not only listed Babylon's laws but also included the punishments for breaking them. Although some of the punishments were very harsh, the code was a great benefit to the people. It ensured that the law would be followed and everyone would be treated in the same way.

Another early set of written laws was the Ten Commandments found in the Bible. The Ten Commandments are a set of moral rules about how people should behave toward one another. Many of these rules still govern our behavior today. The commandments "thou shalt not steal" and "thou shalt not kill" are reflected in our laws prohibiting theft and murder.

Religion was an important source for many of these early laws. Leaders believed that their authority and their laws came from God or from gods. One reason people obeyed the laws was because they feared the anger of their gods.

## Roman Law

The ancient Romans developed an elaborate legal system that they took to all the lands they conquered in Europe, Africa, and Asia. The Romans made a science of the law, which they called **jurisprudence**, a word we still use to mean the study of the law. Over the centuries, Roman law became very complex. In the sixth century, the Emperor Justinian I produced a simplified system of laws called the Justinian Code.

More than 1,000 years after the Justinian Code was written, its ideas were taken over by the French Emperor Napoleon. Napoleon updated the Justinian



**English Law** By tradition these English lawyers, called barristers, wear wigs for court appearances. *What two principles of American law came from English law?*

Code and called it the Napoleonic Code. Like the ancient Romans, Napoleon carried his laws to all the lands he controlled. One of those lands was Louisiana, which France sold to the United States in 1803. The laws of the state of Louisiana are still based on the Napoleonic Code.

## English Law

The most important source of American laws is English law. Perhaps the greatest contribution is the English system of common law, or law based on court decisions rather than on a legal code. Beginning in the 1100s, English monarchs sent judges throughout the English countryside to hold trials and administer the law. The decisions of these judges set precedents that became part of the common law. A second significant contribution is the idea of citizens' rights. As the power of English monarchs decreased and the power of Parliament increased, the English people began to acquire certain rights of citizenship (see Chapter 2).





**Stare Decisis** Judges' rulings have the force of law. What two factors do judges use in making their rulings?

When English settlers came to the American colonies in the 1600s and 1700s, they brought their traditions of common law and rights of citizenship with them. Today these ideas are an important part of our legal system. This is true on the federal level and in all states except Louisiana.

## The American Legal System

While ideas and traditions from the past have influenced our legal system, today's laws come from the authority of the Constitution. As you know, the Constitution is the basic law of the land. It is the most important source of our nation's laws. The Constitution gives each branch of government a role in making, enforcing, and interpreting the law.

The legislative branches of government—Congress, state legislatures, and city and town councils—make most laws. While the main role of the execu-

tive branch is to carry out these laws, in doing so it sometimes makes laws as well. For example, the President has the power to issue executive orders, which have the force of law. Executive departments and agencies also make rules and regulations to carry out the law. These, too, have the force of law.

Many laws come from the judicial branch as well. Although the courts do not pass laws or regulations, they do interpret them. They base their rulings on written laws and on the precedents of previous cases. These rulings are then used to build decisions about similar cases in the future. This process is called *stare decisis*, which is Latin for “let the decision stand.” Such judicial rulings have the force of law unless a higher court overturns them. As you learned in Chapter 12, the Supreme Court has a special duty to make sure local, state, and federal laws agree with the Constitution and to strike down conflicting laws.

### ★ SECTION 1 REVIEW ★

#### UNDERSTANDING VOCABULARY

Define jurisprudence, *stare decisis*.

#### REVIEWING OBJECTIVES

- 1 What were two early systems of law, and what did they contain?
- 2 What three systems of law were based on Roman law?
- 3 In what two ways has English law influenced American law?
- 4 What roles do the executive, legislative, and judicial branches have in the American legal system?



# Great American Documents

## The Emancipation Proclamation

When the Civil War began in 1861, many Northerners believed that the purpose of the war was to reunite the nation. By the summer of 1862, however, many people were pressuring President Lincoln to take a stand against slavery. In September Lincoln acted, warning the Confeder-

### Think About It

As you read the following excerpt, think about the role of the President in making the nation's laws.

ate states to abandon their rebellion by the first day of 1863. After that, he would declare the enslaved people in all rebellious states free. True to his word, Lincoln signed the Emancipation Proclamation on January 1, 1863.

### Presidential Authority

The proclamation was an executive order that freed enslaved African Americans in the Confederate states. Some questioned whether the President had the authority to issue an order overruling state laws. Lincoln based his order on military necessity. As commander in chief, he felt he had authority to take any action to reunite the nation.

### Excerpt From the Proclamation

**W**hereas on the 22d day of September, A.D. 1862, a proclamation was issued by the President of the United States, containing among other things, the following, to wit:

*That on the 1st day of January, in the year of our Lord 1863, all persons held as slaves within any state or designated part of a state, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever free; and the executive government of the United States, including the military and naval authority thereof, will recognize and maintain the freedom of such persons and will do no act or acts to repress such persons, or any of them, in any efforts they may make for their actual freedom. . . .*

*And upon this act, sincerely believed to be an act of justice, warranted [authorized] by the Constitution upon military necessity, I invoke [ask for] the considerate [thoughtful] judgement of mankind and the gracious favor of Almighty God.*

The rest of the enslaved persons in the United States were officially freed after the war. On December 18, 1865, the Northern states ratified the Thirteenth Amendment, which abolished slavery.

## INTERPRETING SOURCES

- 1 Why do you think Lincoln asked for “the considerate judgement of mankind” in the proclamation?
- 2 The proclamation had little effect on the lives of most enslaved African Americans in 1863. Why, then, do you think it is considered such an important document?





# Legal Rights and Responsibilities

## FOCUS

### TERMS TO KNOW

writ of habeas corpus, bill of attainder, ex post facto law, grand jury, contempt of court, petit jury, bench trial

### OBJECTIVES

- Identify and explain three **basic legal rights** of all citizens.
- Identify and explain several specific **rights of persons accused of a crime**.
- Explain the legal rights of individuals concerning **punishments and fines**.
- Identify the basic **legal responsibilities** of all citizens.

In some countries people can be jailed for very little reason. They may be accused of actions—such as demonstrating or criticizing the government—that would not even be considered crimes in the United States. These people may never be told the charges against them or be given the opportunity to defend themselves. Instead, they may be kept in prison for years or even executed without ever having a trial. Their families and friends may not be told where they are or even if they are alive.

In the United States, we have legal rights that protect us from these kinds of abuses. The Constitution outlines these rights, stating how we are to be treated if we are accused of a crime. These rights are an important safeguard of the freedom we cherish in our system of democracy.

## Basic Legal Rights

The Constitution guarantees our basic legal rights. One of these rights concerns what is called a writ of habeas corpus. A **writ of habeas corpus** is a court order that guarantees a person who is arrested the right to appear before a judge in a court of law. The officials holding the person must show good reasons why the prisoner should not be released. If they cannot give good reasons, the person must be set free. A writ of habeas corpus is an important legal right because it prevents people from being arrested and put in prison without cause. Article I,

**Legal Rights** A person accused of a crime has the right to a trial in a court of law. *What is a writ of habeas corpus?*





## Paralegal Aide

**P**aralegal aides perform much of the routine work involved in preparing lawsuits, contracts, wills, and other legal documents. They do research in law books and public records, interview clients, trace the ownership of properties, fill out tax returns, write reports, and do many other jobs.

### Employment

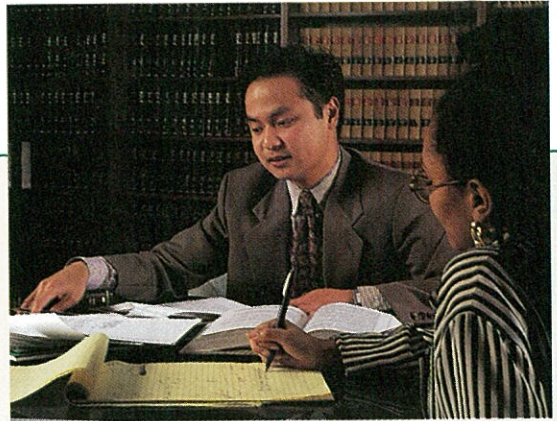
Most paralegals work for private law firms. Some are employed by the government or by large corporations. Paralegals who work for corporations are called corporate legal assistants. They are often involved in labor negotiations, contracts, and financial matters.

### Education

Paralegals need a high school diploma plus two to four years of instruction in a paralegal training program. Many private schools, as well as some colleges and law schools, offer paralegal training.

Paralegals can become very knowledgeable about legal procedures and cases.

They work primarily in the law office or in public record offices. Sometimes they assist an attorney



**Paralegal aide**

in court during a criminal or civil trial. Paralegals must have a keen eye for detail and the ability to analyze data. They must also be discreet and mature because they are involved in handling many confidential matters.

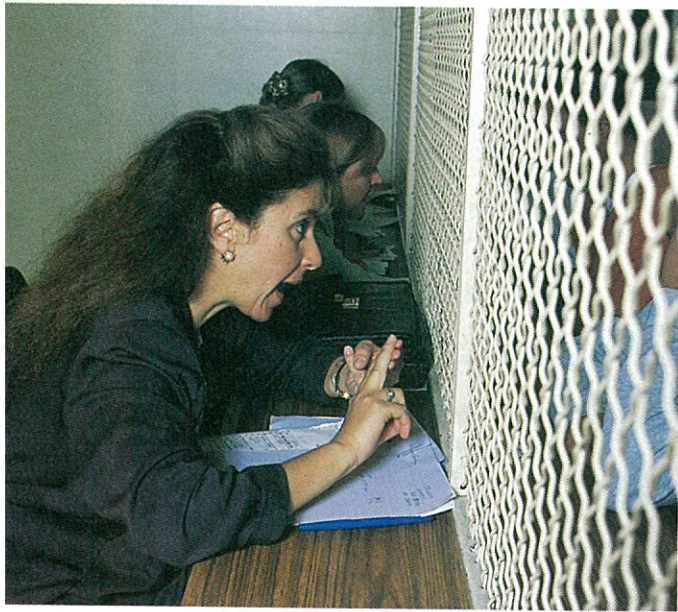


**C**ontact the local office of the American Bar Association or an attorney's office to find information on the training that paralegals in your community must have. If possible, interview a paralegal to learn more about this career and share your findings with the class.

Section 9, of the Constitution guarantees this right by stating that "the privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it." Habeas corpus has been suspended only twice in the nation's history—during the Civil War and in Hawaii after the Japanese attack on Pearl Harbor in 1941. In both instances the Supreme Court later held that the suspensions were unconstitutional.

Article I of the Constitution states that "no bill of attainder or ex post facto law shall be passed." A **bill of attainder** is a law that punishes a person accused of a crime without a trial or a fair hearing in court. An **ex post facto law** is a law that would allow a person to be punished for an action that was not against the law when it was committed. For example, an ex post facto law making it a crime to buy lottery tickets could be applied to someone who bought tickets





**Right to Counsel** An attorney confers with an accused person. *What Supreme Court decision requires states to provide an attorney to people too poor to hire their own?*

before the law was passed. By banning ex post facto laws, the Constitution guarantees that people cannot be punished unfairly if the laws are changed later.

Two other important legal rights the Constitution guarantees are the rights of due process and equal protection of the laws. In Chapter 4 you learned that due process requires the government to follow certain procedures in enforcing the law. The right of due process helps guarantee that an accused person will receive a fair trial and will be granted all of his or her constitutional rights before being convicted of a crime. Equal protection of the laws helps guarantee that a person accused of a crime will not be treated differently from others because of race, religion, sex, or other factors. For example, judges will not let lawyers ask any questions or make comments during a trial that appear to be prejudiced or unfairly biased.

One special legal safeguard included in the Constitution concerns the crime of treason, which is the only crime the Constitution defines. Article III states that people can be convicted of treason only if they wage war against the United States, join its enemies, or give aid and comfort to the enemy. Moreover, no one can be convicted of treason without proof. Treason is defined so that the government cannot misuse the law to punish people for political activities. In some countries, criticizing the government is considered treason. The Constitution prevents this from happening in the United States.

## Rights of Persons Accused of a Crime

The Constitution includes several specific rights that protect citizens accused of crimes. These rights ensure that accused persons are treated fairly and receive every chance to defend themselves. Each of these rights is based on a time-honored principle of English and American law—a person is presumed innocent unless and until proven guilty in a court of law.

Under the principle of “innocent until proven guilty,” the prosecutor, the government’s lawyer, must prove that an accused person is guilty. The accused does not have to prove his or her own innocence. Furthermore, only a judge or jury can decide that a person is in fact guilty of a crime. Until convicted, or found guilty, of a crime, a person can only be considered a suspect.

The following are specific legal rights the Constitution guarantees. Each one protects people accused of a crime and ensures that they will be treated fairly.



## Grand Jury

The Fifth Amendment provides that no person can be held for a serious crime unless evidence of it is presented to a grand jury. A **grand jury** is a group of from 16 to 23 citizens that hears evidence a prosecutor presents. The grand jury decides whether there is enough evidence to indicate that a crime has been committed. If there is sufficient evidence, the grand jury issues an indictment, or formal charge, that names the suspect and states the charge(s) against the suspect.

## Self-Incrimination

The Fifth Amendment also states that “no person . . . shall be compelled in any criminal case to be a witness against himself.” This means that a person does not have to answer questions that may incriminate that person, or show his or her involvement in a crime. Sometimes when being questioned by a prosecutor, a person may say, “I decline to answer on the grounds that it may tend to incriminate me.” This is known as “taking the Fifth,” or exercising the right to remain silent. If this right against self-incrimination is misused—to protect others, for example—the judge may hold the person in contempt of court. **Contempt of court** means that the judge believes the person is obstructing or interfering with the judicial process. A person charged with contempt of court may be jailed.

## Adequate Defense

Every person accused of a crime has the right to an adequate defense during a trial. The Sixth Amendment lists several specific rights to help ensure this. First, people accused of crimes have the right

to be informed of the nature and cause of the accusations against them. They also have the right to hear and question the witnesses who testify against them and to subpoena witnesses who can testify on their behalf. A subpoena is a court order requiring a person to appear in court.

Finally, they have the right to counsel, which means they have a right to be represented by an attorney, or lawyer. This right to an attorney applies to every step in the legal process, from the moment a person is formally charged with a crime to the end of the appeals process.

Before 1963 people charged with crimes in some state courts had to face trial without an attorney if they were too poor to hire one. In that year, however, the Court in *Gideon v. Wainwright* ruled that states had to provide attorneys to people who were too poor to afford their own. (See page 416.)



### CHART STUDY

**Legal Rights** Anyone accused of a crime has certain rights. *What is the right of habeas corpus?*

- to be granted habeas corpus (suspect cannot be held without a hearing)
- to be told what the accusation is
- to be represented by a lawyer
- to refuse to answer any questions that may be incriminating
- to have a grand jury hearing
- to have a speedy and public trial
- to have a trial by an impartial jury
- to hear and question opposing witnesses during trial
- to subpoena their own witnesses
- to be protected from double jeopardy
- to appeal a verdict or sentence to a higher court
- to have equal protection of the laws





**Bench Trial** A person accused of a crime can choose to be tried by a judge rather than by a jury. *How many people usually are on a jury?*

## Speedy and Public Trial

The Sixth Amendment also guarantees accused people the right to a speedy, public trial. This guarantee prevents them from being forced to spend long periods in jail while awaiting trial. A federal criminal trial must begin within 100 days of a person's arrest, unless there are good reasons to delay it. Some states have also set specific time limits for the prosecution to bring a case to court. The suspect can ask for delays for certain reasons, but if the prosecutor delays for too long, the state must dismiss the charges.

## Trial by Jury

A person accused of a crime also has the right to a trial by an impartial jury. Impartial means that the jury members will be people who do not know anyone involved in the case and have not already made up their minds about the

case. Jury members must be drawn from the area where the crime was committed.

The juries that hear trials are called trial juries or **petit juries** to distinguish them from grand juries. A trial jury is usually composed of 12 citizens, although some states permit juries of as few as 6 people. The jury is usually required to reach a unanimous verdict.

An accused person can waive, or give up, the right to a jury trial and be tried by a judge instead. This kind of trial is called a **bench trial**. A person might request a bench trial to avoid the long drawn-out process and expense of a jury trial.

## Double Jeopardy

The Fifth Amendment protects an accused person from double jeopardy. You should remember from Chapter 4 that double jeopardy means a person cannot be tried twice for the same crime. Suppose, however, that a person breaks both federal and state law while committing a crime. In that case the person can be tried for the federal crime in a federal court and for the state crime in a state court. A person can also be retried for the same crime if the first trial ends in a hung jury, a jury that cannot reach a verdict. In addition, people may be tried again for the same crime if a higher court finds that the first trial was in any way unfair.

## Appeals

Anyone convicted of a crime always has the right to appeal an unfavorable verdict or sentence. The person may feel that the judge or prosecutor made errors in conducting the trial, that there was not enough evidence for the jury to reach its verdict, or that new evidence would result in a different verdict.



## Punishments and Fines

The Constitution also has provisions concerning punishments. The Eighth Amendment bars the government from imposing excessive bail or fines or from using cruel and unusual punishment. These provisions ensure that courts must follow reasonable standards in setting bail and for determining fines or other punishments for people convicted of crimes.

### Setting Bail

When a person is arrested and brought before a judge, the judge determines the amount of bail. This amount must be reasonable in relation to the crime. A judge could not reasonably set bail at \$100,000 for a motorist accused of running a red light, for example.

The main purpose of bail is to ensure that the accused person will appear in court for trial. After the trial, the person gets back the money. If a judge is convinced that the person will show up for trial and is unlikely to harm anyone, the judge may set a low bail or release the person without bail.

The prohibition against cruel and unusual punishment was originally meant to prevent such things as branding or burning a person at the stake. It has come to mean that the punishment should be in proportion to the crime. For example, it would be considered cruel and unusual punishment to sentence a person to life in prison for writing a bad check.

### Capital Punishment

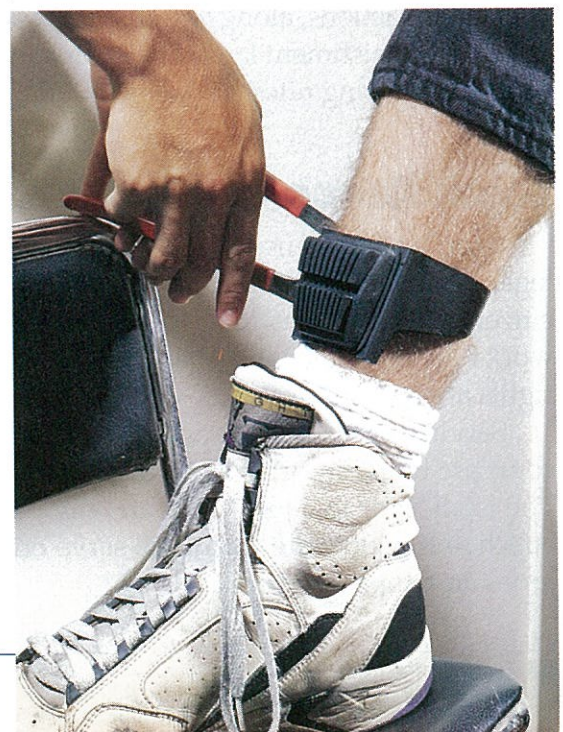
In recent years the Supreme Court has considered whether capital punishment (the death penalty) is cruel and unusual punishment. In 1972 the Court

struck down all state capital punishment laws, although not because it found the death penalty cruel and unusual. Instead, it found that the death penalty was being applied unfairly and was used primarily on poor or African American people.

Since 1972 many states have passed new capital punishment laws, which have also been brought before the Supreme Court. State laws that made the death penalty mandatory for certain crimes, such as killing someone while committing another crime, were ruled unconstitutional. The Court ruled that these laws were too harsh because they did not allow judges to consider the individual circumstances of each case. Other state laws have established a two-stage process in capital punishment cases. First, a jury trial determines guilt or innocence. Then a separate hearing determines the degree of punishment. The Court has upheld these laws.

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**House Arrest** In some cases people convicted of a crime are placed under house arrest rather than sent to prison. *Is house arrest a punishment or a fine?*







**Responsibilities** An important civic responsibility is to assist police in their investigations. *Why should citizens help the police?*

Two other actions have had a further impact on capital punishment laws. In 1991 the Supreme Court ruled that the number of appeals by death-row prisoners could be limited. In the past such appeals restricted the actual use of the death penalty by postponing executions for many years. Also, a crime bill Congress passed in 1994 expanded the death penalty to include about 60 offenses, including terrorism and drive-by shootings. These actions, along with the spread of capital punishment laws, have come in response to rising rates of violent crime.

## Legal Responsibilities

American citizens have a number of legal responsibilities. By fulfilling them, citizens ensure that the legal system works as it should and that their legal rights are protected.

Serving on a jury and testifying in court are both important responsibilities. The legal right to a jury trial can only be effective if people are willing to serve on juries and appear in court.

Other responsibilities include obeying the laws and cooperating with police and other law enforcement officials. Earlier you learned that the government's ability to enforce a law depends to a great extent on people's willingness to obey it. Similarly, the ability of law enforcement officials to arrest and prosecute criminals depends on people's willingness to become involved and tell what they know about a crime.

Another responsibility of citizens is to work peacefully to change unfair, outdated laws. This might involve gathering voters' signatures on petitions to place an issue on the ballot for a vote or contacting legislators and asking them to change the law. For our legal system to be effective, people must care enough to participate in it.

## ★ SECTION 2 REVIEW ★

### UNDERSTANDING VOCABULARY

*Define* writ of habeas corpus, bill of attainder, ex post facto law, grand jury, contempt of court, petit jury, bench trial.

### REVIEWING OBJECTIVES

- 1 What are three basic legal rights of all citizens, and what do these rights mean?
- 2 What are five specific rights of persons accused of a crime, and how do these rights work?
- 3 What are people's legal rights concerning punishments and fines?
- 4 What are the basic legal responsibilities of all citizens?



# SUPREME COURT CASE STUDIES

## *Miranda v. Arizona*

**U**nder federal law, anyone arrested for a crime must be informed of certain rights:

- The right to remain silent; any statements made can be used against you in court.
- The right to have an attorney present during any questioning.
- The right to have a court-appointed attorney if you cannot afford one.
- The right to stop answering questions at any time.

### The Case

Informing suspects of their rights is now routine. It was only in 1966, however, in the case of *Miranda v. Arizona*, that the Supreme Court ruled that this procedure must be followed. These rights are known as the “Miranda rights.”

Ernesto Miranda was tried and convicted of kidnapping and raping an 18-year-old woman in Arizona. After his arrest Miranda was questioned by the police and made an oral and written confession. At his trial the police testified they had warned him that a written statement could be used against him, but they had not warned him about oral statements. Nor had they told him he had the right to have an attorney present during the questioning.

### The Ruling

The Supreme Court overturned Miranda’s conviction, stating that it violated his Fifth Amendment right to remain silent and his Sixth Amendment right to counsel.

Since 1966 the Court has continued to uphold the basic principles of the case. In 1984 it stated that the “Miranda rules” apply to any case in which a person is taken into custody. Yet the Court has also ruled that the right to have an attorney present applies only after formal charges are made, not from the time of arrest.



**Ernesto Miranda** (right)

### REVIEWING THE CASE

- 1 What are the four Miranda rights?
- 2 Why is it important for a suspect to have his or her attorney present when being questioned by the police?





## Types of Laws

### FOCUS

#### TERMS TO KNOW

civil law, lawsuit, plaintiff, defendant, contract

#### OBJECTIVES

- Explain the difference between **criminal law and civil law**.
- Identify and describe three **other types of law**.

**O**ur legal rights and responsibilities are important because we are a nation of laws. The United States has many laws. There are laws against drunk driving, robbing a store, selling drugs, harming another person, and so on. These laws can be divided into several categories—criminal law, civil law, constitutional law, administrative law, and international law.

## Criminal Law and Civil Law

Two types of law affect Americans most directly—criminal law and civil law. These laws help maintain a peaceful and orderly society. People who break these laws generally find themselves in the courtroom.

### Criminal Law

Whenever people commit a crime, such as murder, they are not only harming their victims, they are also harming

the victims' families, friends, coworkers, employees, and neighbors. Criminal laws are laws that seek to prevent people from deliberately or recklessly harming each other or each other's property.

Law enforcement officers enforce criminal laws, and the courts impose penalties for breaking these laws. The safety and well-being of the entire community is affected whenever someone breaks a criminal law.

### Civil Law

**Civil law** is concerned with disputes between people (or groups of people) or between the government and its citizens. Suppose, for example, that you slip on ice on your neighbor's sidewalk and break a leg. According to your local law, property owners are responsible for keeping their

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**Personal Injury** Someone who falls and is injured on an icy sidewalk may sue the property owner or business responsible for cleaning the walks. *Is this a civil or a criminal matter?*





sidewalks clear of ice. If your neighbor does not do this and you are injured as a result, you have a right to sue your neighbor to recover the costs of your medical treatment and other damages.

When one person wrongs or injures another in any way, the injured person may decide to bring a lawsuit. A **lawsuit** is a legal action in which a person or group sues to collect damages for some harm that is done. The party (person, group, or organization) who files the lawsuit is the **plaintiff**. The party being sued, in this case the neighbor, is the **defendant**.

Many civil cases involve breach of contract. A **contract** is an agreement between two or more parties. It may be a written agreement or an oral one. Breach of contract means the failure to fulfill the terms of a contract. The terms of any contract are enforceable by law. Suppose, for example, that you order something from a mail-order catalog and charge it to your credit card. The mail-order company has, in effect, made a contract with you. If you do not receive the merchandise, the mail-order company has broken the contract. If the company fails to return your money, you can take it to court.

Another type of civil law involves family issues and problems. Family law deals with such things as divorce, child custody, adoption, alimony, child support, and spouse and child abuse.

## Other Types of Law

Although Americans are most familiar with criminal law and civil law, some other types of law also exist. These laws affect our daily lives less directly than criminal and civil law, but they are still very important.

## Constitutional Law

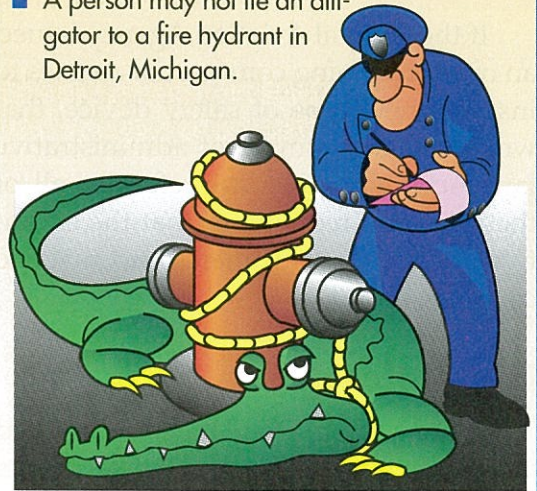
The Eighth Amendment prohibits excessive fines and cruel and unusual punishment. This constitutional law serves as the guiding light for our courts and legislatures whenever they deal with punishments and fines. Constitutional laws are those laws found in the United

### DID YOU KNOW?

#### It's the Law

**D**id you know that it is illegal to fish for whales on Sunday in Ohio or to put pennies in your ear in Hawaii? Over the course of the nation's history, thousands of odd laws like these have been passed. Some have been repealed. Many are still in effect. The following are some unusual laws from around the nation.

- Farmers in North Carolina may not use elephants to plow their fields.
- It is illegal to lasso fish in Knoxville, Tennessee.
- In Florida a person may not sleep under a hair dryer.
- Residents of Amarillo, Texas, cannot take a bath on the main street during business hours.
- A person may not tie an alligator to a fire hydrant in Detroit, Michigan.



Enforcing the law





**Types of Law** The Coast Guard patrols the territorial waters of the United States to ensure that no vessels from other countries are fishing illegally. *Under what type of law does this action fall?*

States Constitution. As the highest laws in the land and the laws that dictate how the government works, constitutional laws have enormous influence on our lives.

### **Administrative Law**

If the Federal Aviation Agency issued an order requiring commercial airlines to install a new type of safety device, that would be an example of administrative law. Administrative law refers to all of the rules and regulations that the executive branch of government must make to carry out its job.

### **International Law**

If Canada and the United States had a dispute over fishing in the territorial waters of either nation, that would be a matter of international law. International

law refers to any laws that affect the United States and other nations. These laws might involve military and diplomatic treaties, trade regulations, international agreements concerning fishing rights, and so on.

## ★ SECTION 3 REVIEW ★

### **UNDERSTANDING VOCABULARY**

*Define* civil law, lawsuit, plaintiff, defendant, contract.

### **REVIEWING OBJECTIVES**

- 1 What is the difference between criminal law and civil law?
- 2 What are three other types of law, and how would you describe them?





## How to Serve on a Jury

**W**hen you reach 18 years of age, you will be eligible to serve on a jury. Jury duty is one of the primary responsibilities of United States citizenship. Procedures for jury selection vary from state to state, but jurors are always chosen at random. Prospective jurors receive a notice to appear in court at a specific date and time. Failure to obey the notice is a punishable offense.

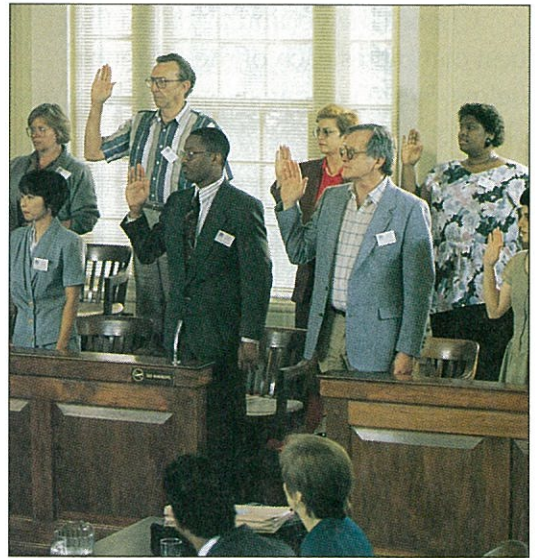
Receiving a jury notice does not mean you will automatically serve on a jury. More people are called than are needed. You may be on standby or not needed at all. You may be selected for a case and then dismissed because the case is settled before going to trial.

### Selecting a Jury

The lawyers in a case select jurors and alternates. Prospective jurors are questioned to determine whether they can be fair and impartial. Lawyers can reject a certain number of jurors who they believe will not be favorable to their clients. After jury selection is complete, the judge administers an oath to the jurors and instructs them on court procedures and rules of evidence.

### Reaching a Verdict

After lawyers present all their arguments and evidence, the judge instructs the jury on the laws that apply to the case. The jury goes to a private room to discuss the evidence and decide on a verdict. In a criminal trial, the verdict is “guilty” or “not guilty” and must be unanimous. In civil cases the verdict is



**Jurors taking their oath**

“for the plaintiff” or “for the defendant.” After reaching its verdict, the jury returns to the courtroom to announce its decision.

In reaching a verdict, jurors must determine the truth by considering only the evidence presented. They must not be influenced by a person’s personality or appearance, by speculation, by information in the media, or by public opinion. They must set aside personal emotions and prejudices and never discuss the case outside the courtroom. They must also uphold the principles of the Constitution.

### CITIZENSHIP IN ACTION

- 1 On what basis are jurors selected?
- 2 What are a juror’s responsibilities?
- 3 Why is jury duty an important obligation of citizens?



## Identifying Key Terms

Choose the vocabulary term that best completes each of the sentences below. Write your answers on a separate sheet of paper.

contempt of court writ of habeas corpus  
bench trial grand jury plaintiff  
contract double jeopardy stare decisis

1. The two partners signed a \_\_\_\_\_ specifying the terms of their agreement.
2. The \_\_\_\_\_ guaranteed the man's right to appear before a judge to determine whether he was being held legally.
3. The \_\_\_\_\_ had been injured in an accident and was bringing suit against the bus company.
4. By basing its ruling on the precedents of other cases, the Supreme Court was following \_\_\_\_\_.
5. The constitutional provision against \_\_\_\_\_ protected the man from being tried for the crime a second time.
6. The accused waived her right to a jury trial in favor of a \_\_\_\_\_.
7. The \_\_\_\_\_ handed down the indictment after hearing the arguments of attorneys for both sides in the case.
8. The judge felt that the witness was obstructing the trial and held him in \_\_\_\_\_.

## Reviewing the Main Ideas

### SECTION 1

1. Identify four characteristics of good laws.
2. How did English law influence the development of American law?

3. Describe the role of the judicial branch in making laws.

### SECTION 2

4. Why is the crime of treason defined in the Constitution?
5. What does "taking the Fifth" mean?
6. Identify three rights that guarantee individuals will have an adequate defense during a trial.

### SECTION 3

7. Name three types of law.
8. Give at least two reasons why a person might file a lawsuit.

## Critical Thinking

### SECTION 1

1. **Evaluating Information** Why do you think laws are important to our society?

### SECTION 2

2. **Identifying Alternatives** Are there any other legal rights you think people should have? Explain.

### SECTION 3

3. **Analyzing Information** Which types of law do you think might be most difficult to enforce? Why?

## Focusing on Your Community

Lawyers often specialize in a particular type of law. Find out about specialties of the lawyers in your community. How many lawyers deal with criminal law, with international law, and so on? What is the most common type of law practiced? With what types of law are most of the legal cases in the community involved? Prepare a short report for the class.



## Reinforcing Citizenship Skills

Imagine that you have received a jury notice in the mail. Write a description of what you would do next and what you would expect to happen. Then note what you plan to tell the judge about your understanding of a juror's responsibilities. Share your writing with the class.

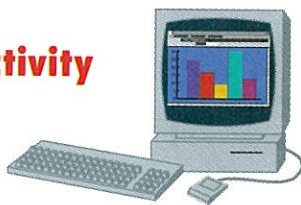
## Cooperative Learning

With a group of three other students, develop five questions about the American legal system—such as, do you believe that people accused of crimes have too many rights? Do you think juries are a fair way to try someone for a crime? Survey several adults and other students. Share your results with the members of your class, and discuss their opinions of our legal system.

## Technology Activity

### Using a Computerized Card Catalog

Search a computerized card catalog to find your local library's holdings on the history of legal systems and the evolution of law in the United States. (You may need to review the technology skill on using a computerized card catalog on page 16.) Find the sources on the library shelves, then use the information you find to write a two-page description of the history and foundations of the American legal system.



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## Analyzing Visuals

Copyright laws protect a person's work and creative ideas from others who might claim those ideas as their own or use them without the permission of the artist or author. The copyright notice reproduced above is typical of what you will see in most books. Study the notice, then answer the questions that follow.

1. On what date does this copyright become effective? Who holds the copyright?
2. What does this copyright protect?
3. What exception to the law does the notice cite?
4. Who is given permission to reproduce material from the book? Why?
5. How might someone else legally use material from the book?



# Civil and Criminal Law

## CIVIC PARTICIPATION

**A**mericans are very concerned about the issue of law and order. Each year millions of people are charged with crimes. Millions more go to court to try to resolve legal disputes. As citizens, we can help maintain law and order by obeying laws, respecting the rights of others, and being aware of current laws. Contact your local police department or town court to find

out about any new or altered laws, such as a change in the local speed limit. Do some background research on your local laws.

### Working in Your Community

After you have obtained the information, prepare a pamphlet describing a number of local laws and the punishments or fines for breaking them. Distribute this pamphlet in your neighborhood. ■

### Your Civics Journal

As you study this chapter, think about how juveniles and adults are treated differently by our justice system. Record your ideas in your civics journal. Try to provide specific examples of different treatment based on cases discussed in the media.