

Main Idea

The Constitution contains many features that help ensure that people accused of a crime receive fair and reasonable treatment—from arrest to trial to punishment.

Reading Focus

1. How does the U.S. justice system address both civil law and criminal law?
2. How does the Constitution guarantee the rights of those accused of a crime?
3. What are the major constitutional guarantees for ensuring fair trials?
4. How does the Constitution address the punishment of persons convicted of crimes?

Key Terms

civil law

criminal law

indictment

bail

capital punishment

Miranda warnings

bench trial

double jeopardy

The U.S. Justice System (pp. 304–306)

Your civil liberties are guarded by the U.S. justice system, which also provides protections for people accused and convicted of crimes. The U.S. justice system follows rules and guidelines in the Constitution and in U.S. law to resolve lawsuits, criminal trials, and other disputes.

Types of Law The law is commonly classified into two categories. **Civil law** covers private disputes between people over property or relationships. People who violate civil law are typically fined or otherwise punished, but are not usually imprisoned. **Criminal law** is the system for dealing with crimes and their punishments. People who violate criminal law may be fined, imprisoned, or even executed.

Civil Law There are several categories of civil law, including contracts, tort law,

property law, and family law. A contract is a legal written or verbal agreement, or promise, between two or more parties that makes clear what each party must do and when he or she must do it. A tort is an action that harms another person. Property law involves the purchase and sale of property. Family law addresses issues related to families.

Civil Lawsuits A case in civil law is called a lawsuit. In a lawsuit, a plaintiff brings the suit against a defendant, often seeking damages. Some cases go through a different process, called alternate dispute resolution, instead of going to trial. The three basic types of alternate dispute resolution are mediation, arbitration, and negotiation. In mediation, a trained negotiator works with both sides to reach a compromise. In arbitration, a third party listens to both sides and issues a ruling. In negotiation, the two sides discuss ways to

resolve the issue without the involvement of a third party.

When a case goes to trial in either a federal or state court, it follows these general steps:

- The plaintiff hires a lawyer and files a complaint with the court.
- The two sides can seek to settle the dispute before trial.
- If the trial goes forward, the two sides exchange information about evidence and witnesses during the discovery process.
- The trial is heard by jury or by a judge alone.
- The jury or judge issues a ruling.
- Decisions may be appealed.

Criminal Law There are two types of crimes—misdemeanors and felonies. A misdemeanor is a relatively minor offense, such as trespassing, for which a person may receive a minor fine or may be imprisoned for less than a year. A felony is a more serious crime, such as murder, that carries a harsher sentence.

Criminal Case Processes The Fifth Amendment says that people accused of federal crimes must first face a grand jury before going to trial. A grand jury is a group of 16 to 23 citizens who gather in secret to decide if there is enough evidence to send a person to trial. If the grand jury believes there is enough evidence to charge a person with a crime, it issues a formal complaint of criminal wrongdoing called an **indictment**.

If a person waives his right to a grand jury, a prosecutor can bring charges in an information, an official report of the offense for which the person is charged. The person is arrested, or taken into custody by police, either before or after an indictment. The accused may face several hearings before trial. One hearing is the arraignment, where formal charges are read and the accused

pleads guilty or not guilty. Other hearings may involve motions, or requests, from either side. The court may also hold a hearing to discuss the setting of bail. **Bail** is money pledged by the accused as a guarantee that he or she will return to court for trial.

Often a defendant will accept a plea bargain—an agreement to plead guilty to a lesser charge. If the defendant does not plead guilty or accept a plea bargain, the trial takes place. The process involves jury selection, presentation of evidence, and witnesses giving testimony, or statements regarding the crime. The judge or jury then decides the case. A decision may be appealed to a higher court. If a person is found guilty, he or she receives some kind of punishment, such as jail time. A small number receive **capital punishment**—punishment by death.

Reading Check Sequencing What are the steps in a criminal trial?

Rights of the Accused (pp. 306–308)

People are assumed to be innocent until they are proven guilty beyond a reasonable doubt. Balancing the rights of the accused against the need to protect society from criminals is a major challenge. The Framers recognized, however, the people can sometimes need protection from government.

Habeas Corpus The writ of habeas corpus is an important protection. It requires that an imprisoned person be brought before a court so that a judge can determine if the imprisonment is legal. The Constitution says that the writ of habeas corpus may not be suspended, or stopped, except in times of rebellion or invasion. President Abraham Lincoln suspended the writ of habeas corpus during the Civil War. Lincoln's actions were

found unconstitutional by the Supreme Court in *Ex parte Merryman* (1861). Congress then passed a law legalizing Lincoln's actions. After the war, the Court ruled in *Ex parte Milligan* (1866) that neither Lincoln nor Congress had the power to suspend habeas corpus in this case.

After the September 11, 2001, terrorist attacks, the United States and its allies captured a number of suspected terrorists in Afghanistan and Iraq. Many of these people were held by the U.S. military for several years without any judicial process. In *Hamdi v. Rumsfeld* (2004) and *Rasul v. Bush* (2004) the Court ruled that unlawful enemy combatants did have limited rights to challenge their imprisonment. Then, Congress passed a law establishing military tribunals to try these people. Critics question the constitutionality of the rules and procedures of the tribunals.

Grand Juries The grand jury guarantee has not been incorporated into the Fourteenth Amendment, and some states do not have grand jury systems. In many, criminal charges are brought by a prosecutor in an information.

Self-Incrimination The Fifth Amendment protects people from being forced to give evidence or testimony that is incriminating—that is, evidence or testimony that suggests their own guilt. It applies to spoken testimony only. Government can force people to give testimony against themselves by giving them immunity. That is, the government can agree not to prosecute a person for a crime.

In *Miranda v. Arizona* (1966), the Supreme Court ruled that questioning suspects without informing them of their rights violated the Fifth Amendment and that a resulting confession could not be used at trial.

The Miranda decision requires police to read the Miranda warnings to a suspect

before the suspect is arrested. The **Miranda warnings** are a list of certain constitutional rights possessed by those accused of crimes, including the right to remain silent. If the police fail to read these rights to a suspect, the courts may refuse to consider a confession as evidence.

Bail The Eighth Amendment prohibits excessive bail. Courts have ruled that bail is excessive, or too high, if it is greater than the amount necessary to ensure a person's appearance at trial. Some people charged with serious crimes are not allowed to post bail.

Bills of Attainder Congress and the states may not pass bills of attainder—laws that declare a person guilty of a crime. In practice, bills of attainder take away a person's right to a trial and violate the separation of powers. An example of a case in which the Court overturned part of an appropriations bill that Congress had passed was *United States v. Lovett* (1946).

Ex Post Facto Laws The Constitution also outlaws ex post facto laws. These are laws that apply to events in the past.

Victims' Rights Some people believe the Constitution does not protect victims of crimes well enough. As a result, many states have passed victims' rights laws that include the right to be present at court proceedings relating to the crime.

Reading Check Identifying Supporting Details What are Miranda warnings?

Guarantees of a Fair Trial (pp. 310–312)

There are many rights guaranteed by the Constitution to those accused of crimes. These can be found in the Fifth, Sixth, Seventh, and Eighth Amendments, as well as in Article I.

Speedy and Public Trial The Sixth Amendment protects the right to a speedy and public trial. This rights has been incorporated into the Fourteenth Amendment. If a trial takes place soon after an arrest or indictment, the person will spend less time in jail and witnesses' memories will be fresher. Courts may throw out charges against the accused for delays that harm the defendant or benefit the prosecutor.

A public trial is important because it helps prevent abuses of the law by allowing the public to monitor the proceedings. Some people argue that press coverage can influence and affect the outcome of a trial. In *Chandler v. Florida* (1981) the Supreme Court ruled that televising a trial does not necessarily prevent a fair trial. Limits may be placed on media and public access, however.

Trial by Jury The Sixth Amendment says that people have a right to trial by jury. This right has been incorporated into the Fourteenth Amendment and applies to state as well as federal trials. In federal and most state courts, a trial jury—sometimes called a petit jury—is made up of 12 people.

A defendant may give up his or her right to a jury trial. If no jury is used, the judge conducts a **bench trial**, in which he or she hears and decides the case. This is only allowed in trials for minor criminal offenses.

Jury trials must take place in the district in which the crime took place. Jurors must also be from this district. Defendants can request, however, that a trial be moved to a new location if finding an impartial jury, or one that has not already heard a great deal about the case, in the area would be difficult.

The Seventh Amendment guarantees jury trials for certain types of civil cases. This right has not been incorporated, and rules vary from state to state.

Right to an Adequate Defense The Sixth Amendment includes several features that help a defendant present an adequate defense at trial. These have been incorporated into the Fourteenth Amendment. A defendant must be informed of the charges against him or her. Defendants have the right to be confronted with the witnesses against them. A person must have adequate legal representation. The Supreme Court strengthened this right in *Powell v. Alabama* (1932) and *Gideon v. Wainwright* (1963).

Lawyers must also meet professional standards when representing clients. Defendants may represent themselves, but judges can take this right away if a defendant is judged to be unable to defend him- or herself properly.

Double Jeopardy The Fifth Amendment also protects people from **double jeopardy**, or being forced to stand trial twice for the same offense. Protection against double jeopardy has been incorporated into the Fourteenth Amendment. It is not considered double jeopardy if a state and the federal government try a person for the same offense. If the jury fails to find a verdict, a person may also be tried again.

Reading Check Summarizing How does the Bill of Rights make sure a defendant has a fair trial?

Punishment (pp. 312–313)

The Constitution also includes protections for those convicted of crimes. These include protection from excessive fines and cruel and unusual punishments.

Excessive Fines The Eighth Amendment prohibits government from fining people excessively. This does not apply to jury awards in civil cases.

Cruel and Unusual Punishments The Eighth Amendment bans cruel and unusual punishments. The Supreme Court has never defined what *cruel and unusual* means. It has said that such things as burning at the stake would be cruel and unusual, however. Debate over what cruel and unusual means has led to numerous cases involving the death penalty.

Capital Punishment The Supreme Court has consistently ruled that capital punishment—the death penalty—is not cruel and unusual punishment. Over the years, the federal and state governments have reduced

the number of crimes for which capital punishment may be applied. Some states have eliminated the practice altogether. The Court has issued rulings in some cases, including *Furman v. Georgia* (1972) and *Gregg v. Georgia* (1976), to try to ensure a just application of the penalty. Some American still question how fairly capital punishment is applied and the means of execution, such as lethal injection.

Reading Check Summarizing What forms of punishment are prevented by the Constitution?

SECTION 4 ASSESSMENT

1. **Describe** What is the difference between **civil law** and **criminal law**?
2. **Recall** What is the purpose of the **Miranda warnings**?
3. **Identify** Which amendments help ensure a fair trial?
4. **Identify** Which amendment to the Constitution seeks to ensure fair punishment?