

From Arrest to Trial

Reading Preview

Key Concepts

- How are a person's rights protected before, during, and after an arrest?
- How are crimes classified?
- What typically happens between an arrest and a trial?

Key Terms

- Bill of Rights
- jury
- bail
- felony
- misdemeanor
- probable cause
- defendant
- judge
- prosecutor
- public defender
- plea bargain

Target Reading Skill

Building Vocabulary After you read this lesson, use what you have learned to write a definition of each Key Term in your own words. Define a term by telling its most important feature or function.

Discover Activity

When Is a Suspect Guilty?

Read the newspaper clipping about the missing books. Look for the word *allegedly*. This word is often used in news reports about crimes. It means "stated but not proven."

Think It Over

Developing Hypotheses Clara was caught with ten rare library books in her car. Why do you think the word *guilty* was not used in the news story?

MISSING BOOKS DISCOVERED IN CAR Local Woman Arrested

Clara Berle was arrested yesterday afternoon at the car wash on Main Street. Police found ten rare library books on the back seat of her car. Berle allegedly stole the books to pay for a trip around the world.

- *You have the right to remain silent.*
- *Anything you say can and may be used against you.*
- *You have the right to an attorney.*
- *If you cannot afford an attorney, one will be appointed to represent you.*

Why do police have to read words like these before they question a suspect? In 1963, Ernesto Miranda was arrested. While being questioned by the police, he confessed to a crime. But Miranda's lawyer argued that the confession should not be used in court because Miranda was not told that he had the right to remain silent. The U.S. Supreme Court, the highest court in the land, agreed with Miranda's lawyer. The Court decided that police must warn suspects of their rights. The warning that is read is called the *Miranda warning*.

In the United States, the police must balance two tasks. They need to protect society from criminals. They must also protect the rights of people who are accused of crimes. In the United States a person accused of a crime is presumed to be innocent until proven guilty.

The Bill of Rights

Where do the rights listed in the Miranda warning come from? They come from the U.S. Constitution. A constitution describes how a government should be organized and what it can do. The people who wrote the Constitution had fought a war to escape the harsh rule of England's King George III. They wanted a government where ordinary people ruled.

Amendments The framers of the Constitution could not know what issues the country would face in the years ahead. So they agreed on a way to change, or amend, the Constitution. These changes are called amendments. James Madison drafted the first ten amendments, which are known as the Bill of Rights. A right is a freedom that all people have, no matter what their race, religion, or wealth. The **Bill of Rights** is a list of rights that the government promises to protect.

The Bill of Rights protects individual freedoms. These include the right to speak or write freely. The Bill of Rights also protects people from the power of the government. For example, a city can't take a person's land to build a road without paying for the land. The Bill of Rights also ensures that people are not deprived of their liberty without "due process of law." **Four of the amendments in the Bill of Rights protect a person's rights before, during, and after an arrest.**



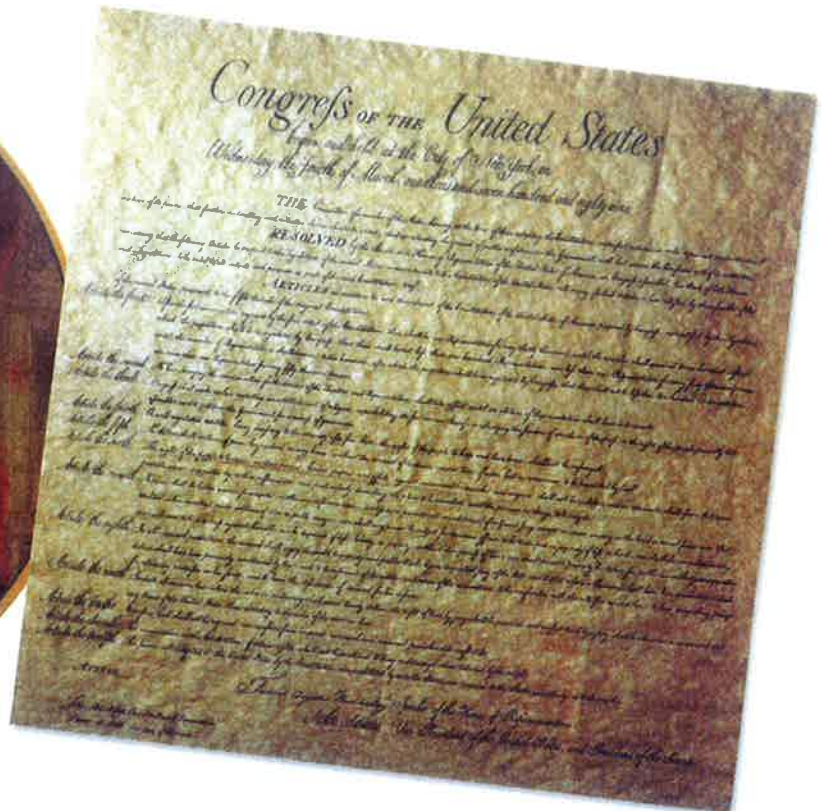
Forensic Science Video

Bill of Rights

FIGURE 1

James Madison

Madison was a representative to Congress from Virginia and later President of the United States. In 1789, he led the effort to add the first amendments to the Constitution.



Fourth Amendment Search and Seizure

The Fourth Amendment protects a person against “unreasonable searches and seizures.” One way to make sure a search is reasonable is to ask police to obtain a search warrant. Recall that a warrant must list a specific time and place for the search. It must also list what evidence the police expect to find during the search.



Fifth Amendment Rights of the Accused

This amendment states that a person can't be forced to be a “witness against himself.” This means that people have a right to remain silent when they are asked questions about a crime. In some cases, claiming this protection is called “taking the Fifth.”

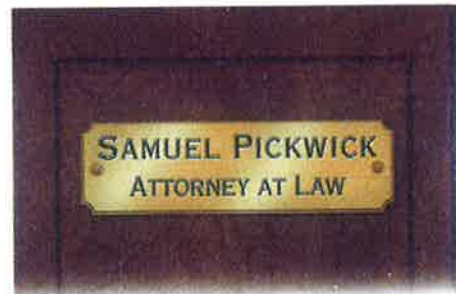
The Fifth Amendment also says “nor shall any person be subject for the same offense to be twice put in jeopardy.” Suppose a person is tried for a crime and found not guilty. That person cannot be tried again for the same crime. To do so would place the person in “double jeopardy.”



Sixth Amendment Right to a Jury Trial

In some countries, trials are held in secret or people are kept in prison for a long time without a trial. The Sixth Amendment addresses these and other concerns. It includes rights that help ensure that a person accused of a crime gets a fair trial.

- A person has a right to a speedy and public trial.
- The person has a right to a trial by jury. A **jury** is a group of ordinary citizens who listen to the evidence in a trial. The jury decides whether the person is guilty.
- The person has a right to know what crime he or she is accused of committing and to face the accusers in court.
- A person charged with a crime has the right to a lawyer. Lawyers are trained to offer advice about legal cases and to represent a person in court. If a person cannot afford to hire a lawyer, the government will appoint a lawyer and pay for the lawyer's services.



Eighth Amendment Bail and Punishment

Some people who are arrested are released on bail. **Bail** is money or property that is pledged to the court to ensure that a person will appear at trial. The Eighth Amendment states that the amount of bail should be reasonable. For bail to be reasonable, a person must have a fair chance of raising that amount of money. This amendment also states that the punishment a court sets for a crime should not be “cruel and unusual.”



Felony



Misdemeanor

Types of Crimes

Laws are rules that everyone in society is supposed to follow. Some laws define what acts are considered crimes, and how those crimes should be punished. Most crimes are acts that threaten the safety of people or their property. **Crimes are classified as felonies or misdemeanors.**

Felonies A serious crime, such as murder or kidnapping, is classified as a **felony**. People convicted of felonies are called felons. Typically, felons can be sent to prison for more than a year. In addition, felons may lose some rights, such as the right to vote. They may be barred from certain types of jobs, such as teaching. They may not be allowed to serve in the military.

Misdemeanors Crimes that are less serious than felonies are called **misdemeanors** (mis duh MEEN ur). Shoplifting is a misdemeanor. So is spray-painting graffiti on a building. A person convicted of a misdemeanor may pay a fine. The person may be asked to do volunteer work or attend a treatment program. People can be sent to jail for a misdemeanor.



Reading
Checkpoint

What are laws?

FIGURE 2

Felonies and Misdemeanors

An armed robbery is classified as a felony. Painting graffiti is usually a misdemeanor.

Applying Concepts How did investigators get a photograph of the armed robbery?

FIGURE 3

Making an Arrest

Local police officers and FBI agents worked together to arrest this member of a Russian mob.

Inferring What inference can you draw from the location of the defendant's hands?



Making an Arrest

The events leading up to an arrest can vary, but there are two constants. **Police need probable cause to make an arrest. The person who is arrested is taken into custody and booked.**

Probable Cause A suspect may be caught at or near the scene of a crime. For example, the police may respond to a burglar alarm and see a suspect running from the building. If the police can chase down the suspect, they have probable cause to make an arrest. **Probable cause** is a reasonable belief that a person has committed a crime.

A robber points a gun at a man and steals his watch. The man is able to identify the robber. Or a person who knows the robber tips off the police. If the police trust the identification or the tip, they have probable cause to arrest the suspect.

More often than not, an arrest will not be made right away. The crime scene team will need time to gather evidence, and scientists at the crime lab will need time to test the evidence. If the evidence points to a particular person, police can use the evidence to get an arrest warrant.

Booking The process that takes place at the police station is called a booking. Police record information about the suspect. They usually take mug shots and fingerprints, too. The prints may be compared with prints in a database to see if the suspect is connected to other crimes. Before police question the suspect, they read the Miranda warning.



Reading
Checkpoint

What do police need to get an arrest warrant?

Pretrial Procedures

A person who is accused of a crime is called a **defendant**. A defendant will appear before a judge one or more times before a trial. A **judge** is the person who controls what takes place in a courtroom. At a **pretrial hearing**, the defendant is charged. The judge may set bail, assign a lawyer, and review evidence. Before a trial, lawyers may reach a plea bargain.

Charging the Defendant Crimes are seen as a threat to society. That is why criminal cases are brought in the name of the state, as in *Arizona v. Miranda*. The lawyer who represents the state in a criminal case is the **prosecutor**. The prosecutor decides what crime a defendant will be charged with. The charges are read aloud in court. The defendant is then asked to plead guilty or not guilty.

Setting Bail At a pretrial hearing, a defendant may be released. For minor crimes, the defendant may only have to promise to appear at trial. Or the judge may set bail.

Sometimes a judge does not set bail. The crime may be too serious or the judge may be concerned that the defendant will run away. A hearing may be held to decide if a defendant is too dangerous to remain in the community during a trial.

A Lawyer for the Defense If a defendant does not have a lawyer, the judge can assign one. Sometimes the lawyer is a **public defender**, a lawyer who works for the state. Or a lawyer from a private law firm may be assigned to the case.

Skills Activity

Making Judgments

A judge might consider these factors when setting bail.

- criminal history, if any, of the defendant
- type of crime
- defendant's ties to the community

How do you think the judge might rank these factors in importance? Give a reason for your answer.

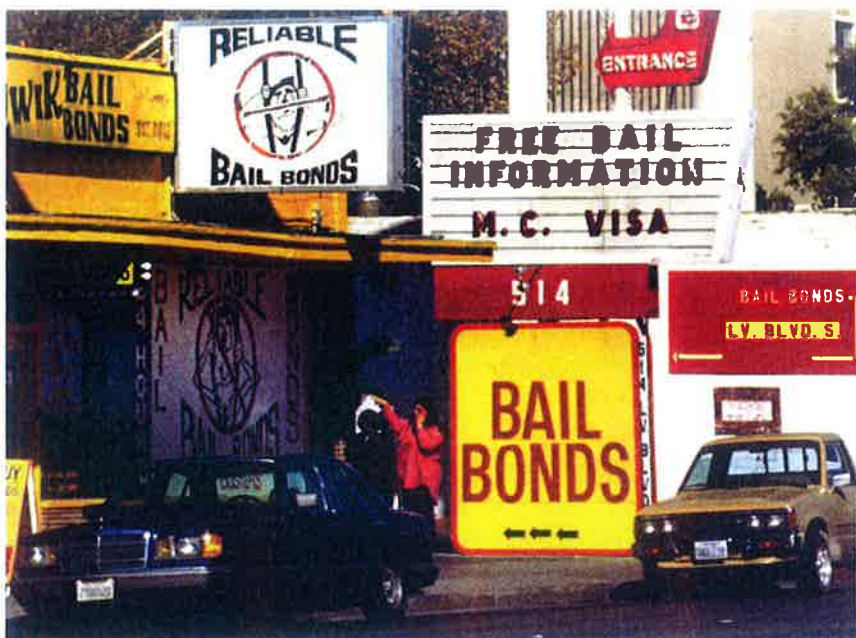


FIGURE 4

Bail Bonds

Some businesses will guarantee the bail for a defendant, for a fee—often 10 percent of the bail. If a defendant fails to appear in court, the bail bond agent must pay the bail. So the agent will try to track down the defendant.

Four Related Charges	
Charge	Description
Murder, first degree	Planned in advance; intended to harm
Murder, second degree	Not planned in advance; intended to harm
Voluntary manslaughter	Not planned, but intended; "heat of the moment"
Involuntary manslaughter	Not planned or intended; result of reckless behavior

FIGURE 5

Reducing a Charge

When a person kills another person, there are four possible charges. A prosecutor may be able to reduce the charge as part of a plea bargain.

Inferring Which charge would carry the lightest punishment?

Reviewing Evidence A defendant and a lawyer work together as a team. During a pretrial hearing, the defense may ask the judge to dismiss a case for lack of evidence. Then the prosecutor has to persuade the judge that there is enough evidence to go ahead with the case. The defense may also ask to exclude, or keep out, some evidence. They may argue, for example, that a search was not legal.

Plea Bargains Most criminal cases never go to trial. Instead, they are resolved by a **plea bargain**, an agreement between the prosecutor and the defense. The accused person agrees to plead guilty. What does the prosecutor offer in return?

A charge may be changed to a less serious crime. The new charge might be a misdemeanor instead of a felony. The prosecutor may agree to a lighter punishment. This could mean that the defendant serves less time or goes to counseling instead of jail or prison. Some charges against the defendant may be dropped.

Plea bargains help move cases through the courts quickly. But they are controversial. Some people argue that a plea bargain lets a guilty defendant off too lightly. Others say that the threat of a harsh punishment may persuade a defendant to accept a plea bargain even when there is little evidence of guilt.

Lesson 1 Assessment

 **Target Reading Skill Building Vocabulary** Use your definitions to help answer the questions.

Reviewing Key Concepts

1. a. **Identifying** Which Sixth Amendment right is part of the Miranda warning?
 - b. **Summarizing** In general, what rights do the Fourth, Fifth, Sixth, and Eighth Amendments protect?
 - c. **Applying Concepts** Why is it important that a person accused of a crime has a right to a lawyer?
2. a. **Classifying** What are the two major types of crimes?
 - b. **Applying Concepts** Both shoplifting and armed robbery are stealing. Yet these crimes are classified differently. Why?
3. a. **Naming** What four topics can be discussed at a pretrial hearing?
 - b. **Identifying** Who controls what takes place at a pretrial hearing?
 - c. **Making Generalizations** What is the defendant's role at a pretrial hearing?

In the Community

Comparing Rights Your teacher may invite a few people who were not born in the United State to talk with your class. Prepare some questions in advance. Focus on how the rights people have in the United States compare to the rights people have in other countries.