



UNIT

5

# The Individual, the Law, and the Internet

## Why It Matters

The United States is a nation of laws. Our laws bring order into our lives and protect our individual rights. As our nation gains technological knowledge, these laws must be reviewed against a new system that includes new technologies such as the Internet.



Use the **American History Primary Source Document Library CD-ROM** to find primary sources about the law and technology.

### ★ BE AN ACTIVE CITIZEN ★

Organize the class into two groups. Pairs from one group should conduct a public opinion poll on crime in their community. Pairs from the other group should research the changing crime rate in the community over several years. Compare the findings of the groups.



**An American archaeologist in Cairo, Egypt, accesses information through the Internet.**



# Legal Rights and Responsibilities

## ★ CITIZENSHIP AND YOU ★

The Constitution and the Bill of Rights contain important provisions, or laws, safeguarding the 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 the court system at the county level to find out how it selects the names of people for jury duty and how it determines who actually serves. Summarize your findings in an informational chart or diagram.

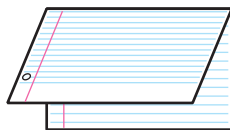


To learn more about legal rights and responsibilities, view the *Democracy in Action* video lesson 15: The Law and You.

### FOLDABLES™ Study Organizer

**Summarizing Information Study Foldable** Make this foldable journal about our legal rights and responsibilities, and use it as a study guide.

**Step 1** Fold a sheet of paper in half from top to bottom.



**Step 2** Fold it in half again from side to side and label as shown.

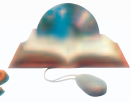


**Reading and Writing** As you read the chapter, use your “law journal” to write what you learn about the types of laws, their sources, and their impact on Americans.





**CIVICS**  
*Online*



**Chapter Overview** Visit the *Civics Today* Web site at [civ.glencoe.com](http://civ.glencoe.com) and click on **Chapter Overviews—Chapter 15** to preview chapter information.

**POLICE LINE**



## SECTION

# 1

# The Sources of Our Laws

## GUIDE TO READING

### Main Idea

Modern laws that help people in the United States live together peacefully can be traced back to early laws like the Code of Hammurabi, the Code of Justinian, and English common law.

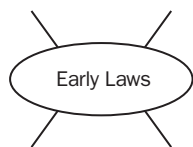
### Key Terms

**jurisprudence, common law, precedent, statute**

### Reading Strategy

#### Organizing Information

As you read, take notes on a web diagram like the one below of early laws upon which modern legal systems are based.



### Read to Learn

- What are the functions of law?
- What early laws influenced modern legal systems?



## Americans in Action

Read the following laws: “If any one is committing a robbery and is caught, then he shall be put to death.” “If fire break out in a house, and some one who comes to put it out cast his eye upon the property of the owner of the house, and take the property of the master of the house, he shall be thrown into that self-same fire.” These laws sound very harsh. However, they were a set of rules under which a people once lived.



Ancient tablet depicting King Hammurabi

## Functions of Law

The laws mentioned above come from the Code of Hammurabi, the first known system of written law. The early leaders of our nation knew that it was important to establish a set of laws for the nation. In 1779 future president John Adams wrote in the original draft of the Massachusetts state constitution that the state should have “a government of laws, and not of men.” He meant that government should operate according to established and dependable rules rather than the changeable and prejudiced feelings of officials. This principle, while not always fully realized, has guided the development of American society.

Laws are sets of rules that allow people to live peacefully in society. They are binding on everyone living in a particular community, state, or nation. They make it possible for all parties—people, organizations, and governments—to deal with one another because everyone knows which actions are permitted and which are not.

A major purpose of laws is to keep the peace and prevent violent acts. Laws set punishments that are meant to discourage potential criminals from such acts as murder, assault, or robbery. To help accomplish this, laws include the administration of justice, in the form of law-enforcement agencies (police) and courts. Laws also set the rules for resolving civil disputes, which are disagreements over money, property, contracts, and other noncriminal matters.



To be fully effective, laws must be fair and must treat all people equally. People in similar circumstances should be treated equally under the law. Good laws are reasonable, setting out punishments that fit the crime. Ordinary people must be able to understand laws, and the government must be able to enforce them. If most people understand the laws and believe they are reasonable and fair, then the laws will be obeyed, and enforcement will become much easier. When the writers of the Constitution created our government, they based the nation's system of laws on ideas, traditions, customs, and laws passed down from generation to generation.

**Reading Check** **Concluding** What are the purposes of laws?

## Early Law

Legal scholars believe that some kind of law existed in even the earliest human societies. They trace its beginnings to prehistoric people, who used unwritten rules of behavior to help members avoid or cope with social conflict. These 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.

**Economics and You**

### Underground Economy

Illegal activities that produce unreported income are part of the underground economy. It consists of people who violate tax laws by not reporting their earnings. The underground economy costs the nation billions of dollars in lost tax revenues. Research one of history's most famous tax evasion cases—the 1931 trial and conviction of Al Capone. Report your findings in the form of a mock radio report. Include a summary of the charges and penalties imposed on Capone.

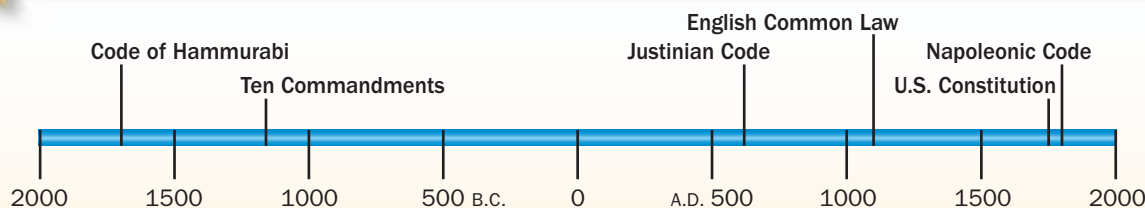
## Code of Hammurabi

As mentioned, the first known system of written law was the Code of Hammurabi. King Hammurabi of Babylonia, an ancient Middle Eastern empire, compiled his code in about 1760 B.C. The code was a collection of 282 laws regulating everyday behavior. By today's standards, the Code of Hammurabi prescribed harsh penalties. If someone stole property, for example, the thief had to pay back 10 times the value of what was taken. If he could not afford to pay, he was put to death.

Another set of early laws is the Ten Commandments found in the Bible. Hebrews living in ancient Palestine followed these laws. The Commandments



## Development of Legal Systems



### Analyzing Time Lines

Although the earliest laws were based on practices in tribal societies, the Code of Hammurabi was the first known written law. **On what set of laws did Napoleon base his code of laws? When was the Napoleonic Code written?**





# American Biographies



## John Peter Zenger (1697–1746)

Freedom of the press owes its origins, in part, to German immigrant John Peter Zenger. In 1733 Zenger agreed to print the *New York Weekly Journal*, founded to expose New York's corrupt royal governor, William Cosby. Zenger, who had come to America at age 13, knew the

risks. No government at the time, including Britain, granted newspapers such freedom.

Stories in the *Journal* infuriated Cosby, who ordered copies of the paper publicly burned. Cosby charged Zenger with libel and threw him into jail. Unable to meet the high bail, Zenger sat in a cell for eight months, while his wife Anna kept the paper alive.

When the case went to trial in 1735, Cosby tried to handpick the jurors but failed. Zenger's lawyer, Andrew Hamilton of Philadelphia, told jurors, "Nature and the laws of our country have given us a right to liberty . . . by speaking and writing the truth." Had Zenger printed the truth? Jurors thought so. It took them just 10 minutes to reach a verdict: "Not guilty."



include moral rules about how people should behave toward one another. Ideals of the Commandments, such as "thou shalt not steal" and "thou shalt not kill," are reflected in our laws today.

## Roman Law

The Romans made a science of the law, which they called **jurisprudence**, a word we use today to mean the study of law. The first code of Roman law was published in 450 B.C. As in the Code of Hammurabi,

Roman penalties for offenses were drastic by later standards: "If any person has sung or composed against another person a song such as was causing slander or insult to another," said one of the laws, "he shall be clubbed to death."

Over several centuries the Roman senate adopted a great many laws, and Roman judges wrote commentaries on them, which often became part of the law. Later Roman emperors created law by issuing edicts—commands that were equivalent to laws. As the Roman Empire grew, these laws spread to Europe, Africa, and Asia. In A.D. 533 Emperor Justinian I, ruler of the Byzantine, or Eastern Roman, Empire, boiled down the confusing mass of Roman law into an orderly body of rules called the Code of Justinian. This code became the basis of law for the Byzantine Empire. Roman law also became part of the laws of the Roman Catholic Church, known as canon law.

More than twelve hundred years later, the French emperor Napoleon Bonaparte updated the Justinian Code and called it the Napoleonic Code. Napoleon went on to conquer much of Europe in the early nineteenth century, bringing his code with him. In turn, European colonists carried it to Asia and Africa later in the century. As a result, much of the world now lives under some form of Roman law as interpreted by the Napoleonic Code. Even the state of Louisiana, which was French-held territory that Napoleon sold to the United States in 1803, has a system of laws, unlike those of the other 49 states, 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. After the Norman conquest of England in 1066, English kings sent



judges into the countryside to administer justice. Over time, these judges began to compare the facts and rulings from earlier cases to new cases. When judges decided a new case, they looked in the books for a similar case and followed the earlier ruling, or precedent. **Precedents** are legal opinions that became part of the common law.

English judges were familiar with Roman law and canon law, and they blended these into the body of common law. The law came to include basic principles of citizens' rights such as trial by jury and the concept that people are considered innocent until proven guilty. Common law became the basis for the legal systems of many English colonies, including the lands that later became Canada, Australia, New Zealand, and the United States.

By the seventeenth century, as the English legislature, called Parliament, became stronger in relation to the monarchy, acts of Parliament—written **statutes**—came to dominate the English legal system. Still, common law continued to have a strong influence in legal matters. When English settlers came to the North American colonies in the 1600s and 1700s,



**English Law** By tradition, English lawyers, called barristers, wear wigs in court. Patricia Scotland, shown here, was Britain's first black female barrister. **What two principles of American law come from English law?**

they brought with them their traditions of common law and citizens' rights. Today the common law tradition of following precedents still survives in the courts.

**Reading Check** **Concluding** Why was the Code of Hammurabi important?

## SECTION 1 ASSESSMENT



**Study Central™** To review this section, go to [civ.glencoe.com](http://civ.glencoe.com) and click on **Study Central™**.

### Checking for Understanding

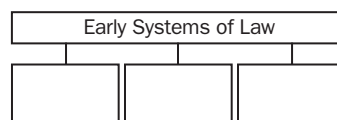
- Key Terms** Define the following terms and use them in sentences related to law and legal systems: **jurisprudence, common law, precedent, statute**.

#### Reviewing Main Ideas

- Explain** What did John Adams mean when he said that Massachusetts should have “a government of laws, not of men”?
- Identify** What three systems of law were based on Roman law?

### Critical Thinking

- Drawing Conclusions** Why do you think common law predated statute law in the English system of law?
- Making Comparisons** Using a graphic organizer like the one below, compare early systems of law.



### Analyzing Visuals

- Interpret** Read the time line on page 345. The Justinian Code was written about how many years after the Code of Hammurabi was written?

### ★ BE AN ACTIVE CITIZEN ★

- Interview** Invite a lawyer to your class to discuss how the system of laws in the United States differs from those of other nations.





## SECTION

# 2

# Types of Laws

## GUIDE TO READING

### Main Idea

In addition to criminal law, there are other less well-known kinds of law, including civil law, public law, and international law.

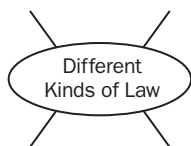
### Key Terms

plaintiff, defendant, felony, misdemeanor, lawsuit, torts

### Reading Strategy

#### Summarizing Information

As you read, define the different kinds of law on a graphic organizer like the one below.



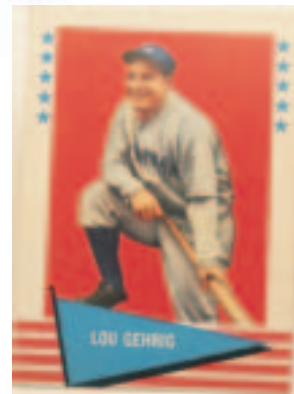
### Read to Learn

- What actions do various kinds of law govern?
- How do various kinds of law differ?



## Americans in Action

“A Mercer County man was indicted today by a State Grand Jury on charges that he conned as much as \$26,000 from six out-of-state victims by offering to sell them high-grade collectible sports cards over the Internet last year, Attorney John J. Farmer, Jr., and Division of Criminal Justice Director Kathryn Flicker announced.” This information from the Division of Criminal Justice of New Jersey shows Americans taking action in new ways. As society and technology change, so must the application of the law.



A collectible sports card

## Criminal and Civil Law

Most people are familiar with criminal laws, such as prohibitions against fraud and drunk driving, robbing a store, selling drugs, physically attacking a person, and so on. Many other kinds of laws exist as well. Civil laws regulate noncriminal behavior that may end up in disputes between parties. Public law concerns alleged violations of constitutional rights and disputes involving the actions of government agencies. International law is the law of relations between countries. Two types of law affect Americans 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

Criminal laws are laws that seek to prevent people from deliberately or recklessly harming each other or each other's property. American courts operate on an adversary system of justice. Under this system, the courtroom serves as an arena in which lawyers for opposing sides try to present their strongest cases. The judge has an impartial role and should be fair to both sides. Critics of the adversary system argue that it encourages lawyers to ignore evidence that is not favorable to their side. Supporters, though, claim that it is the best system to bring out the facts of a case.



In criminal cases, the government is always the **plaintiff**—the party that brings the charges against the alleged criminal. This is because the American system of justice assumes that society—everyone—is the victim when a crime is committed. The individual or group being sued is the **defendant**. About 95 percent of criminal trials in the United States are for violations of state laws. Most criminal cases are titled in terms of the state against the defendant—for example, *State of California v. John Jones*. This shows that the government, rather than an individual crime victim, is bringing action against the defendant.

Crimes are graded as either felonies or misdemeanors, depending on their seriousness. Murder, rape, kidnapping, robbery and other serious crimes are **felonies** because they have very serious consequences. **Misdemeanors** are offenses such as vandalism, stealing inexpensive items, writing bad checks for low amounts, and so on. Typically, misdemeanors are punished with a fine or a jail sentence of less than one year.

## Civil Law

Civil cases involve disputes between people or groups of people—individuals, organizations, or governments—in which no criminal laws have been broken. These disputes are not viewed as a threat to the social order, so the state will not take legal action. When a civil case goes to court, it is called a lawsuit. A **lawsuit** is a legal action in which a person or group sues to collect damages for some harm that is done. Individuals who think they have been wronged must take action themselves by filing a lawsuit. The person suing is the plaintiff.

In civil cases, individuals believe they have lost something of value or suffered some damage because of someone else's blame-worthy actions. A case may be a dispute over

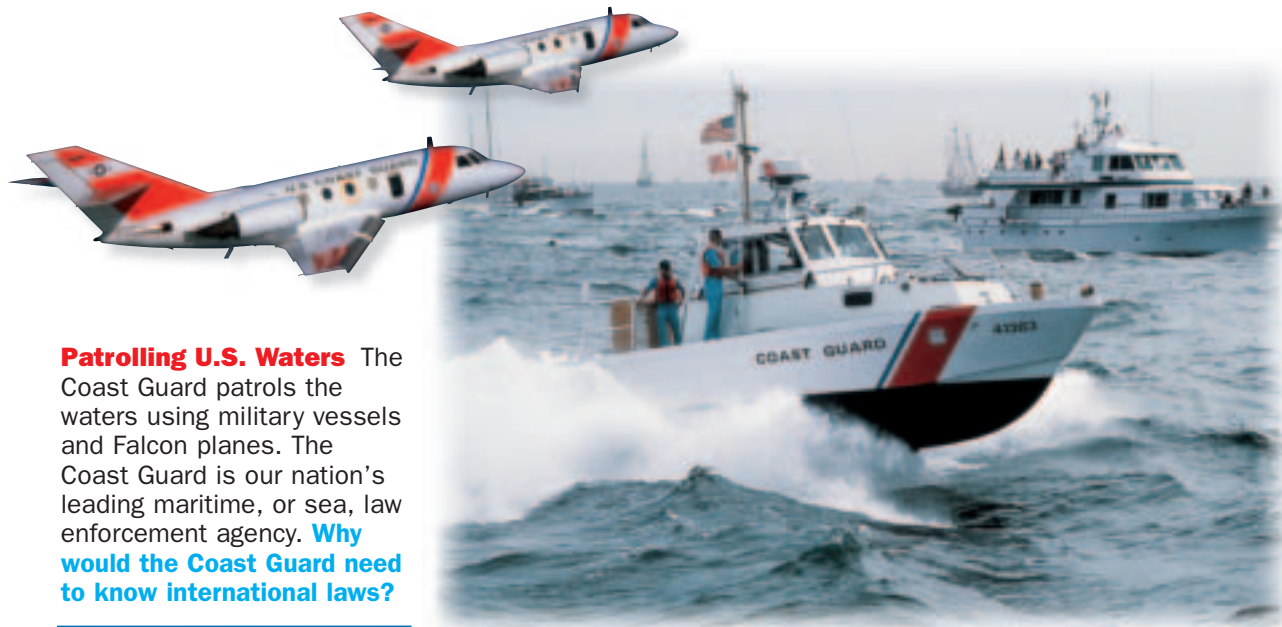
**W**ith its well-manicured lawns and upscale shopping malls, Mission Viejo, California, doesn't look like the kind of place gun violence would be an issue. Looks can be deceiving, say Lara and Alicia Miramontes. Tragedy can happen anywhere. "There are a lot of people who take things for granted," says Lara. "But with [gun violence] happening everywhere—why can't it happen here? We say, when it happens to you, that's when you're going to get involved. People should get involved before they're affected by it."

The Miramontes twins helped start a youth chapter of the Million Mom March, a grassroots organization that promotes gun registration and licensing. Among their activities: A victims' memorial dinner, get-out-the-vote rallies, petition signings, and educational programs. In 2000 the girls lobbied the California State legislature in support of a gun owner-licensing bill and were asked to appear on the floor of one of the houses! The bill was passed and was signed into law in the fall of 2001.

Now Alicia and Lara have started an anti-gun violence club at their school. They hope to educate others about firearm laws and statistics, paying special attention to gun-related suicides. For more information about gun violence or starting your own anti-gun violence group, contact the Million Mom March Web site at [www.millionmomsmarch.org](http://www.millionmomsmarch.org) or the Brady Campaign to Prevent Gun Violence at [www.bradycampaign.org](http://www.bradycampaign.org)

### Lara and Alicia Miramontes from California





**Patrolling U.S. Waters** The Coast Guard patrols the waters using military vessels and Falcon planes. The Coast Guard is our nation's leading maritime, or sea, law enforcement agency. **Why would the Coast Guard need to know international laws?**

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a contract in which one party believes that the other has not fulfilled the terms of an agreement. (A contract is an agreement between two or more parties.) Suppose that a supplier of raw materials signed a contract to deliver certain goods to a manufacturer by a given date. When the materials do not arrive on time, the manufacturer must shut down its production line. So then, the manufacturer might sue the supplier for monetary damages.

Another civil case might involve someone accused of **plagiarism**. This is the copying or stealing of another person's words and ideas, and passing them off as your own. The person who originally wrote the words could sue you for copying them without giving the writer credit.

Civil law also covers **torts**, or civil wrongs. In tort law a person may suffer an injury and claim that another party is responsible because of negligence. For example, if your neighbor fails to clear ice off her sidewalk and you fall and injure yourself, you might bring a tort action against her. You sue her to recover the costs of your medical treatment and other damages.

Family law is another type of civil law. Family law deals with family issues and problems. Typical cases involve divorce, child custody, adoption, alimony, child support, and spouse and child abuse.

**Reading Check** **Comparing** What is the difference between a felony and a misdemeanor?

## Public Law

As citizens, we are probably most familiar with criminal and civil law. There are, however, laws that affect us indirectly. Public law, or constitutional law, involves rights guaranteed under the Constitution or spelled out in congressional legislation. A constitutional law case would occur, for example, if a defendant in a criminal matter argued that he was the victim of an unreasonable search and seizure in violation of the Constitution's Eighth Amendment. Constitutional laws are the highest laws in the land; they dictate how the government works.

Another element of public law is administrative law, which includes all the



rules and regulations that government agencies of the executive branch must issue to carry out their jobs. In an administrative law case an individual might charge that an agency has acted wrongfully. For example, a plaintiff may claim that the Environmental Protection Agency acted contrary to the will of Congress in some of the regulations it issued on air or water pollution.

Statutory law is another type of public law. Recall from Section 1 that a statute is a law written by a legislative branch of government. The U.S. Congress, state legislatures, and local legislatures write thousands of these laws. Statutes regulate our behavior by, for example, setting speed limits, specifying rules for inspecting food products, and setting the minimum age to obtain a work permit. Statutes are also the source of many of the rights and benefits we take for granted, such as the right to get a Social Security check, to enter a veterans' hospital, to get a driver's license, and to return merchandise you bought at a store.

## International Law

International law comprises treaties, customs, and agreements among nations. International law might involve military and diplomatic treaties, trade regulations, international agreements, and so on. Alleged violations of international law may be brought to the International Court of Justice, also called the World Court, which is located in The Hague, the Netherlands. The United Nations established the World Court in 1946 to hear and make rulings on disputes that nations have brought against other nations. The World Court, however, does not have enforcement powers and must rely on the willingness of the parties involved to accept its rulings. A typical international law case might involve a dispute over fishing rights, such as when one nation believes that fishing boats from another nation are operating in its territorial waters.

**Reading Check Identifying** What is an example of a case involving international law?

## SECTION 2 ASSESSMENT



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### Checking for Understanding

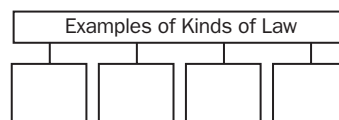
- 1. Key Terms** Define the following terms and use them in sentences related to different kinds of law: **plaintiff, defendant, felony, misdemeanor, lawsuit, torts.**

### Reviewing Main Ideas

- 2. Contrast** What is the difference between criminal and civil law? Who is the plaintiff and defendant in each case? How are the results of each type of case different?
- 3. Identify** What does administrative law deal with? Why is administrative law considered part of public law?

### Critical Thinking

- 4. Making Judgments** In the event of a dispute with another nation, do you think the United States should abide by a ruling of the World Court, or should it maintain its independence and do what it thinks is right?
- 5. Organizing Information** In a graphic organizer like the one below, write the four kinds of laws and give two examples of each.



### Analyzing Visuals

- 6. Conclude** Reexamine the photographs on page 350. If a Coast Guard patrol should see another nation's ships violating U.S. territorial waters, what recourse can the United States take?

### ★ BE AN ACTIVE CITIZEN ★

- 7. Research** Read your local newspaper for a week. List all the examples of criminal, civil, public, and international law that you find. Which kind of law was most often in the news? Report your findings to the class.

# The American Legal System

## GUIDE TO READING

### Main Idea

The U.S. Constitution and the American legal system offer vital protections and rights to citizens of the United States, including those accused of a crime.

### Key Terms

*stare decisis*, writ of habeas corpus, bill of attainder, ex post facto law, due process of law, search warrant, double jeopardy, grand jury, bail

### Reading Strategy

#### Summarizing Information

As you read, list on a web diagram like the one below the legal protections enjoyed by Americans that are included in Article I and the Bill of Rights of the U.S. Constitution.



### Read to Learn

- What legal protections are guaranteed by the U.S. Constitution?
- What are the rights of people accused of a crime?



## Americans in Action

Ernesto Miranda was only 23 years old when he was arrested by police for kidnapping and rape. At first, Miranda denied any involvement in the crime, but after two hours of questioning by the police, he confessed and signed a statement. At his trial Miranda was sentenced to 20 years in prison. He appealed, claiming that he had not realized that he had a right to have a lawyer present during the police questioning nor had he realized that he had the right to remain silent. Miranda's case went to the Supreme Court, and it changed the way police officers operate. Now, every person who is arrested hears the Miranda warnings.



Ernesto Miranda

## Legal Protections in the U.S. Constitution

American colonists enjoyed a degree of liberty found in few countries in the eighteenth century. They owed their rights to legal principles that developed in England and were transferred to America with the colonists. Colonial lawyers studied from English law books, and judges used English common law as the basis for their decisions.

As in England, however, American law increasingly became a law of written statutes, which are the work of Congress and state legislatures. Although this legislation has replaced common law, courts still refer to common-law principles when no statutes exist to deal with a given legal issue.

The U.S. Constitution is the basic law of the land. It gives each branch of government a role in making, enforcing, and interpreting the law. The legislative branch of government makes most laws. The executive branch carries out these laws and, in doing so, makes laws as well. The judicial branch also sets laws by interpreting laws. Courts base their rulings on written laws and on the precedents of earlier 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."



Article I of the Constitution includes several basic legal rights of Americans. One of the most important is the writ of habeas corpus. A writ is a written legal order; habeas corpus is a Latin phrase meaning “produce the body.” The **writ of habeas corpus** requires an official who has arrested someone to bring that person to court and explain why he or she is being held. The officials holding the person must show good reasons for not releasing the person. This is a safeguard against being kept in jail unlawfully.

Article I also forbids enactment of bills of attainder and ex post facto laws. 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 before the law was passed.

The Constitution’s first 10 amendments—the Bill of Rights—further guarantee the freedoms of individuals. Several of these amendments spell out the rights of Americans in relation to law enforcement and the administration of justice. After the Civil War, Congress adopted the Fourteenth Amendment, extending these rights to formerly enslaved persons.

The Fifth and Fourteenth Amendments guarantee **due process of law**. This means, in part, that government may not take our lives, liberty, or property except according to the proper exercise of law. The law requires, for example, that accused people have the opportunity for a trial by jury and for questioning witnesses against them.

The equal protection of the law clause in the Fourteenth Amendment requires governments to treat all people equally. It

## ★ Constitutional Rights of the Accused



### Article 1, Section 9

- ★ to be granted habeas corpus (released until trial)

### Fifth Amendment

- ★ to have a grand jury hearing
- ★ to be protected from double jeopardy
- ★ to refuse to answer questions that may be incriminating

### Sixth Amendment

- ★ to be informed of the accusation
- ★ to hear and question witnesses
- ★ to be able to subpoena witnesses
- ★ to be represented by an attorney
- ★ to have a speedy and public trial by an impartial jury
- ★ to be represented by a lawyer

### Fourteenth Amendment

- ★ to have due process of law
- ★ to have equal protection of the laws

## Evaluating Charts

The Constitution guarantees our basic legal rights. What protections does the Fourteenth Amendment guarantee?



A California border patrol agent books a suspect.



**House Arrest** This man is under house arrest, which means that a person convicted of a crime is confined to the home instead of prison while serving out a sentence. Like most people under house arrest, this man wears a monitor around his ankle so law enforcement officials can monitor his activities. **If a convicted person felt that he was subjected to an unreasonable search of his home, what amendment might he cite in his appeal?**

forbids unfair or unequal treatment based on such factors as gender, race, or religion. Since the 1950s, this clause has been the major civil rights tool of minorities and women when challenging laws or government policies that discriminate against them.

The Constitution defines only one crime—the crime of treason. 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. 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 acts. In some countries, criticizing the government is considered treason.

**Reading Check** **Inferring** Why is the writ of habeas corpus an important right?

## Rights of People Accused of Crimes

Several parts of the Bill of Rights protect citizens accused of crimes. These rights ensure that accused people are treated fairly and receive every chance to defend themselves. Each of these rights is based on the idea that a person is presumed innocent until proven guilty in a court of law. The burden of proving an accusation against a defendant falls on the prosecution. The defendant does not have to prove his or her innocence.

### Fourth Amendment: Search and Seizure

The Fourth Amendment protects citizens against “unreasonable searches and seizures.” It gives Americans a fundamental

**?** **Fact Fiction Folklore**

**Do we protect criminals?**

Critics of the exclusionary rule claim that it goes too far in protecting criminals because, as a result of it, many people who are known to have committed crimes go free. Following the terrorists attacks of September 11, 2001, some Americans have argued that police need more authority, while others do not want to change our basic freedoms.



right to be secure in their homes and property. Police seeking to intrude on this security must first get a **search warrant**—a judge’s authorization—specifying the exact place to be searched and describing what objects may be seized. A judge may issue a search warrant if the police can show that they have probable cause—a good reason to believe that a wanted person is hiding in that place or that goods or evidence are housed there.

In the 1961 case *Mapp v. Ohio*, the Supreme Court adopted what is called the exclusionary rule. This rule says that if the police gain evidence in a way that violates the Fourth Amendment, that evidence may not be used in a trial.

### **Fifth Amendment: Self-Incrimination, Double Jeopardy, and Grand Juries**

The Fifth Amendment states that people may not be required to incriminate themselves—to say anything that might show them to be guilty of a crime. Sometimes when being questioned, a person may say, “I decline to answer on the grounds that it may tend to incriminate

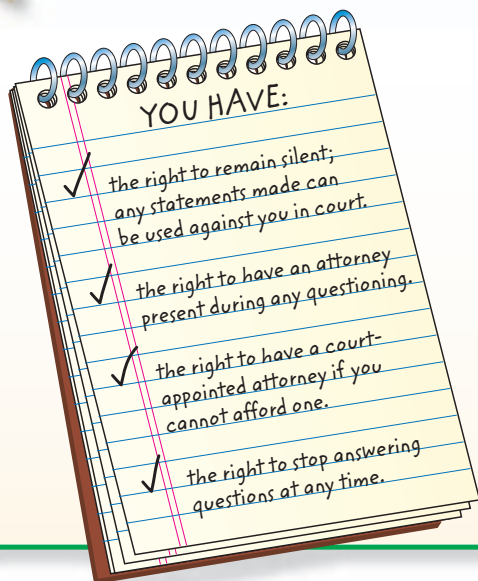
me.” This is known as “taking the Fifth.” Before the 1960s, police often questioned suspects, sometimes under great pressure, to push them to confess to a crime before they saw a lawyer or appeared in court. In 1966 the Supreme Court held, in *Miranda v. Arizona*, that police must inform suspects that they have the right to “remain silent”—to refuse to answer police questions. However, if this right is misused—for example, if a person is using it to protect another person—the judge may hold the person in contempt of court. This means that the judge believes the person is obstructing or interfering with the judicial process, and that person could be jailed.

The Fifth Amendment also bans **double jeopardy**. This means that a person who is tried for a crime and found not guilty may not be placed in jeopardy—put at risk of criminal penalty—a second time by being retried for the same crime.

The Fifth Amendment says, furthermore, that people accused of serious federal crimes must be brought before a **grand jury** to decide whether the government has



## **Miranda Warning**



### **Evaluating Charts**

**In 1966 the Supreme Court threw out the felony conviction of Ernesto Miranda, who had confessed while in police custody. Now all police officers must recite the Miranda warning to those they arrest. Why do you think it is important for arrested persons to be informed of these rights?**





## Should It Be a Crime?

Rank these 8 offenses from the most serious (1) to the least serious (8). Make your decision based on your opinion, not on what the law says.



- A factory knowingly dumps waste in a way that pollutes the water supply of a large city.
- A person sells crack cocaine to others.
- A person breaks through the firewall of a bank's computer system just to see if she can do it.
- A person with a gun robs a victim of \$50. No physical harm occurs.
- A drunk driver kills a teen pedestrian by driving an automobile recklessly.
- A person downloads music from the Internet.
- A person releases a virus into the city's police and rescue squad computer system.
- A person intentionally sets fire to a business, causing damage worth \$250,000.

### ★ BE AN ACTIVE CITIZEN ★

Meet with two classmates to compare rankings and discuss the reasons for your decisions. Follow up by researching federal and state laws relating to the actions above.

enough evidence to bring them to trial. (In some states, a preliminary hearing is used instead of a grand jury indictment.) A grand jury is a group of 12 to 23 citizens that hears evidence presented by a prosecutor. The grand jury decides whether there is enough evidence to indicate that the accused has committed the crime. If the grand jury finds sufficient evidence to proceed to trial, it indicts the accused person, or issues a formal charge that names the suspect and states the charges against him or her.

## Sixth Amendment: Legal Counsel and Trials

The Sixth Amendment says that an accused person has the right to be defended by a lawyer. In 1963 the Supreme Court, in *Gideon v. Wainwright*, interpreted the amendment to mean that if a defendant cannot afford a lawyer, the state must provide one. Previously the federal government provided lawyers for poor defendants, but some states did not.

The Sixth Amendment also guarantees that accused people must be informed of the nature and cause of the accusations against them and have “the right to a speedy and public trial, by an impartial jury” and the right to confront, or question, witnesses against them. Most state and federal courts require the government to bring an accused person to trial within about 100 days. This protects defendants against being held in jail for an unreasonably long time. It also means that trials usually may not be closed to the public or the news media.

A person accused of a crime also has the right to a trial by an impartial jury. Impartial means that 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 usually must be drawn from the area where the crime was committed.

In federal courts, all trial juries, called petit juries, have 12 people, and they must reach a unanimous verdict in order to convict or acquit. Several states have juries with as few as six people. Some states allow 12-member juries to reach a verdict if 10 jurors agree. When juries as small as six are used, verdicts must be unanimous.

Although everyone charged with a crime has a right to a jury trial, defendants may choose to appear only before a judge, without a jury. This kind of trial is called



a bench trial. A person might request a bench trial to avoid the long and drawn-out process and expense of a jury trial. Even so, many criminal prosecutions do not come to trial at all—with or without a jury—because of plea bargains. Plea bargaining is a negotiation between the defense attorney and the prosecutor, who is the government’s attorney. In a plea bargain, the government offers the defendant a chance to plead guilty to a less serious crime in exchange for receiving a less severe penalty. A judge must agree to any bargain reached. People often agree to plea bargains to cut down on the expense and time of a trial or to get a lighter sentence if they fear conviction. Judges often agree to plea bargains as a way to handle the tremendous volume of criminal cases that courts must process every year.

### **Eighth Amendment: Punishment and Bail**

This amendment outlaws “cruel and unusual punishments.” Torture, for example, would be cruel. Also, a punishment may not be out of proportion to the crime, such as imposing the death penalty for robbery. There is controversy, however, over how this protection relates to the death penalty. In 1972 the Supreme Court ruled in *Furman v. Georgia* that the death penalty as then administered was not constitutional. The Court found that the death penalty was being imposed in unfair ways, for a wide variety of crimes, and mainly on African Americans and poor people. In response to the *Furman* decision, about three-fourths of the states revised their death penalty laws to comply with guidelines laid down by the Supreme Court. In *Gregg v. Georgia* the Court stated Georgia’s death penalty must not be assigned arbitrarily. Some states have established a two-stage process to deal

with death penalty cases. First, a jury trial determines the guilt or innocence of the defendant. Then a separate hearing determines the degree of punishment.

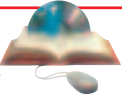
The Eighth Amendment also prohibits “excessive bail.” **Bail** is a sum of money an arrested person pays to a court to win release from jail while awaiting trial. The purpose of requiring this payment is to guarantee that the person will voluntarily return for the trial. After the trial, the person gets back the money. Courts may not set bail so high that a person is unnecessarily and unfairly forced to stay in jail. For example, a judge cannot set bail at \$100,000 for a motorist accused of running a red light.



**Analyzing Visuals** The American legal process contains many provisions to safeguard the rights of those accused of committing crimes—including the right to make a phone call after being arrested. **What is the setting of this cartoon? How would you summarize the cartoonist’s point?**



## CIVICS Online



**Student Web Activity** Visit [civ.glencoe.com](http://civ.glencoe.com) and click on **Student Web Activities—Chapter 15** to learn more about our legal rights.

If a person is accused of a serious crime, however, the judge may set a very high bail. In case of an extremely serious criminal

action such as murder, or if the arrested person seems highly likely to flee or to be a danger to the community, the judge may deny bail altogether, and the defendant is remanded—returned to custody until the trial. On the other hand, sometimes a judge will require no bail at all, releasing a person on his or her own recognizance, or simple promise to return.

**Reading Check Concluding** Why must police be aware of the exclusionary rule when investigating crimes?

## Our Legal Responsibilities

The Declaration of Independence stated, “all men are created equal.” This does not mean that everyone is born with the same characteristics. Rather, this democratic

ideal of equality means that all people are entitled to equal rights and treatment before the law. Americans have a number of legal responsibilities. By fulfilling them, we ensure that our legal system works as it should and that our 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 laws and cooperating with law enforcement officials. A government’s ability to enforce a law depends to a great extent on people’s willingness to obey it. The effectiveness of law enforcement officials often depends on people’s willingness to become involved and tell what they know about a crime.

Americans must work peacefully to change unfair, outdated laws. This might involve gathering voters’ signatures on petitions to place an issue on a ballot for a vote or asking legislators to change the law.

**Reading Check Summarizing** What are the legal responsibilities of Americans?

## SECTION 3 ASSESSMENT



**Study Central™** To review this section, go to [civ.glencoe.com](http://civ.glencoe.com) and click on **Study Central™**.

### Checking for Understanding

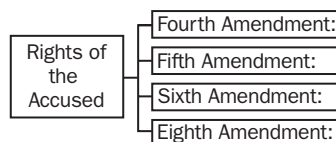
- 1. Key Terms** Define the following terms and use them in sentences related to constitutional legal protections and rights of the accused: **writ of habeas corpus, bill of attainder, ex post facto law, double jeopardy, bail.**

### Reviewing Main Ideas

- 2. Identify** What are three basic legal rights of all citizens, and what do these rights mean?
- 3. Explain** What must police show a judge in order to obtain a search warrant?

### Critical Thinking

- 4. Drawing Conclusions** Which of the rights guaranteed to people accused of a crime do you think is the most important? Explain.
- 5. Organizing Information** On a graphic organizer like the one below, explain the constitutional rights of the accused in the United States.



### Analyzing Visuals

- 6. Identify** Review the chart on page 353. Which part of the U.S. Constitution includes the guarantee that if you are arrested you must be informed of the charges against you?

## ★ BE AN ACTIVE CITIZEN ★

- 7. Interview** Talk with a police officer. Find out what procedures police must follow to obtain a search warrant and what they must do at the time of an arrest. Share your findings with the class.

# Citizenship SKILLBUILDER

## Making Decisions

### Why Learn This Skill?

Making decisions is part of living. Deciding what to wear or what to have for lunch is just part of your daily routine. Many decisions, however, are more serious. Deciding what subjects to pursue in school, what career to plan for, or how to help a troubled friend can all have lasting consequences. You may have to make decisions as a leader in school or perhaps in government when you become an adult. These decisions could affect many other people.

### Learning the Skill

Following the steps below will help you make more thoughtful decisions.

- State the situation or define the problem. Gather all the facts. Ask: Why do I have to make a decision on this matter? Whom will my decision affect? Then, define your objective. State as clearly as possible what you hope to accomplish.
- List your options. Think of all the different courses of action open to you. Ask: What are the alternatives? How can I deal with this situation in a different way?
- Consider the possible outcomes. Ask yourself what the likely results of each option would be.
- Compare the possible outcomes to your objective. Consider your values. Values are the beliefs and ideas that are important to you. Your values should serve as your guidelines in making all decisions.
- Decide and act. Having thought out the situation, you know you have made the best decision possible at the time.
- Evaluate your decision. Review the actual outcome and ask yourself if you would make the same decision again.

### Practicing the Skill

On a separate sheet of paper, write out the decision-making steps for the fictional situation described below.

Maria sees her friends Beth and Amy drop some earrings from a store counter into their pockets. Beth and Amy do not know Maria is watching. What action will Maria take? Maria wants to keep Beth's and Amy's friendship. She thinks it's even more important that Beth and Amy do not break the law.

Maria's objective: \_\_\_\_\_

Maria's options:

- a. Confront her friends    b. \_\_\_\_\_  
c. \_\_\_\_\_                d. \_\_\_\_\_

Possible outcomes:

- a. Friends don't listen    b. \_\_\_\_\_  
c. \_\_\_\_\_                d. \_\_\_\_\_

Outcomes v. Objective

- a. Friends shoplift again b. \_\_\_\_\_  
c. \_\_\_\_\_                d. \_\_\_\_\_

Maria decides and acts: \_\_\_\_\_

Maria evaluates her decision: \_\_\_\_\_

### Applying the Skill

Research a new law your local or state leaders are considering. Place yourself in their position. How would you decide to vote if it were up to you? Record the steps you took in making your decision.



Practice key skills with Glencoe's  
**Skillbuilder Interactive Workbook**  
CD-ROM, Level 1.

# Assessment & Activities

## Review to Learn

### Section 1

- Laws keep the peace and prevent violent acts. They set punishments and rules for resolving disputes.
- Early laws like the Code of Hammurabi, the Ten Commandments, Roman law, and English law have influenced our laws today.



### Section 2

- Many types of law exist including public law, international law, and criminal and civil law.
- Whereas criminal law deals with criminal acts, civil law deals with disputes between people or groups.



### Section 3

- Article I of the U.S. Constitution and the Bill of Rights include several protections for those Americans accused of a crime.



## FOLDABLES™

### Study Organizer

#### Using Your Foldables Study Organizer

Work with a partner and your completed foldable to review the chapter. Face each other. One person begins by reciting a fact from his or her completed foldable. Then the partner recites a related fact. Repeat the process as many times as you can.

## Reviewing Key Terms

Choose the key term from the chapter that best matches each clue below.

1. guarantees a person's right to appear before a judge to determine whether he or she was being held legally
2. a person bringing suit against another party
3. less serious crimes or minor offenses such as traffic violations
4. protects people from being tried for the same crime a second time
5. laws written by a legislative branch
6. a sum of money an arrested person pays to win release from jail while awaiting the trial
7. legal opinions or court decisions upon which later decisions are based
8. serious crimes such as robbery or murder

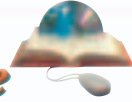
## Reviewing Main Ideas

9. Identify four characteristics of effective laws.
10. How did English law influence the development of American law?
11. How is common law different from statute law?
12. Name four types of laws.
13. Give at least two reasons a person might file a lawsuit.
14. Give two examples of a felony and two examples of a misdemeanor.
15. What does "taking the Fifth" mean?
16. How do grand juries and petit juries differ?



## Economics Activity

17. The Supreme Court ruled in *Gideon v. Wainwright* that the government must provide a lawyer to anyone accused of a crime who cannot afford one. Contact the local bar association in your area or a lawyer in your community. Find out how much it would cost to hire a lawyer for different kinds of cases, for example, criminal, civil, and so on.



**Self-Check Quiz** Visit the *Civics Today* Web site at [civ.glencoe.com](http://civ.glencoe.com) and click on **Self-Check Quizzes—Chapter 15** to prepare for the chapter test.

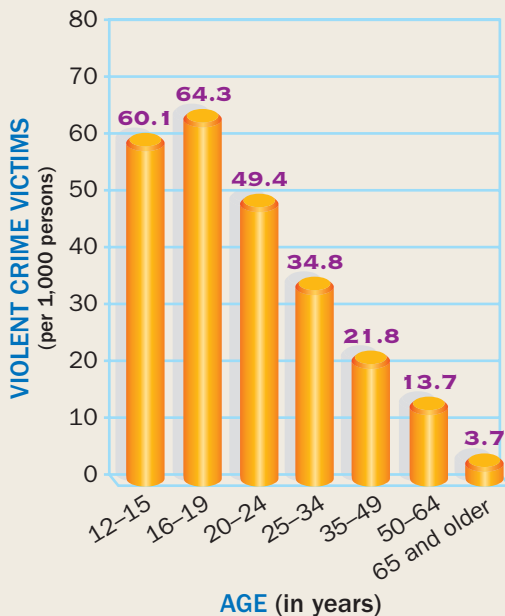
## Practicing Skills

**18. Making Decisions** Use local newspaper archives to read about an event that has affected or that affects your community. Make an educated decision about how you would handle the event if you were a government official. Explain your decision and your reasoning.

## Analyzing Visuals

Read the bar graph below. Then answer the following questions.

- Which age group includes the most victims of violent crimes?
- Summarize the information on the graph in a few sentences.



## ★ CITIZENSHIP COOPERATIVE ACTIVITY ★

**21.** Divide into three or four groups and find out about specialties of the lawyers in your community. As a group, focus on one area of law. Interview a lawyer practicing that area of law to find out about typical cases and report your findings to the class.

## Critical Thinking

- Identifying Alternatives** Are there any other legal rights you think people should have? Explain.
- Organizing Information** In a chart like the one below, describe the U.S. Constitution's role in protecting the rights of U.S. citizens.

Part of Constitution	Role in Protecting Rights



## Technology Activity

**24.** On the Internet go to the FindLaw Web site: <http://news.findlaw.com/>. Look for an article that relates to the legal protections described in this chapter. Read the article and summarize its main points.

## Standardized Test Practice

**Directions:** Choose the *best* answer to the question below.

Which amendment to the U.S. Constitution guarantees the “equal protection of the laws”?

- A** Fourth Amendment
- B** Fifth Amendment
- C** Eighth Amendment
- D** Fourteenth Amendment

## Test-Taking Tip

Find the best answer by eliminating answer choices that you know are incorrect, thereby narrowing the choices.