

The rights of the defendant in the american criminal justice system

[Law](#), [Criminal Justice](#)



The criminal justice system enforces criminal statutes through the social and legal institutions in accordance with the prescribed criminal procedure and regulations. It consists of subsystems such as the law enforcement, the judiciary, the public prosecutors and defenders, probation and parole agencies and the corrections department, and the prison institutions (Frase and Weidner, n. d.). The criminal statutes define crimes and their respective defenses. On the other hand, criminal procedure delineates the “ the stages of the criminal process from arrest through prosecution, sentencing, appeal and release from prison” (Jacobs, 2007).

The criminal justice system works both in the federal and state levels. Each has its own set of criminal laws, courts, enforcement agencies and probation systems (Jacobs, 2007). The foundation of criminal procedure is the U. S. Constitution (Jacobs, 2001). Specifically the Bill of Rights is placed in the Constitution to protect the citizens from the vast powers of government. It grants fundamental rights and liberties to all those living in the United States (Jacobs, 2001). The defendant in a criminal prosecution is entitled the presumption of innocence.

This necessarily means that the burden of proving his guilt beyond reasonable doubt rests upon the prosecution (Jacobs, 2001). The due process clause of the Constitution accorded the defendant a wide array of protections and guarantees such as giving him an opportunity to be heard. The Fifth Amendment ensures that the defendant is not tried twice or more for the same offense and by the same authority. This is the right against double jeopardy (Jacobs, 2001) Moreover, the Constitution protects the

defendant by guaranteeing that he does not testify against himself or the right against self incrimination (Jacobs, 2001).

The rights enumerated under the Sixth Amendment refer to the codified rights of the accused in criminal prosecutions. The rights of the defendant in criminal prosecution are: “ 1) right to a speedy trial; 2) right to a public trial; 3) right to a trial by jury; 4) notice of the accusation; (5) right to confront the opposing witnesses; 6) right to compulsory process for obtaining favorable witnesses; and (7) the assistance of counsel or right to counsel” (Oxford Companion, 2005). The right to a speedy trial prevents oppressive incarceration before trial and ensures defense by the accused of his cause.

The right to a public trial acts as a safeguard against abuse of judicial power. Moreover, it also assures the accused that he is informed of the charges against him. This is part of due process (Oxford Companion, 2005). The right to confront opposing witnesses refers to the right of the accused to cross examine said witnesses. He is also entitled to subpoena witnesses in his behalf (Oxford Companion, 2005). Finally, the accused is also entitled to be represented by counsel or a lawyer. The Eight Amendment on the other hand proscribes excessive bail, cruel and unusual punishments (Jacobs, 2001). The rate of crime in the U.

S. is quite appalling and this is blamed on the ineffective criminal justice system. The ineffective system is due to the “ adversarial character and its irrational maze of procedural technicalities. ” According to Maechling, the trial is characterized by artificiality whereby it is reduced into nothing but a sport game where defense lawyers try to outwit and use technicalities

against the prosecution in their tactical defense theories. Frivolous objections and dilatory tactics mar the trial. By reason of this growing recognition, authorities have started to look into the possibility of reform in the criminal justice system.

Synopsis of “ Gideon’s Trumpet” The book written by Anthony Lewis was inspired by the actual court case, Gideon v. Wainwright (1963). Clarence Earl Gideon was arrested for a felony in 1961 in Panama City. The felony under Florida law involved the breaking and entering the Bay Harbor pool hall. During trial before the trial court, Gideon requested for the court to appoint a lawyer to handle his defense. The judge denied his request on the ground that state law allows appointment of counsels for indigents for capital offenses and considering that the felony he was being prosecuted for is not one with a capital penalty but a misdemeanor, i.

e. petty larceny; he is therefore not entitled to have a counsel appointed for him. Gideon had no choice but to represent himself. Gideon has been previously convicted of four felonies, homeless and destitute. He had only the education of an eighth grader. He conducted his trial and lost. He was sentenced to imprisonment of five years. Subsequently, he applied for a writ of habeas corpus before the state Supreme Court based on the alleged violation of his rights under the federal Constitution. This was denied.

He filed his five-page Petition for Certiorari directed at the Supreme Court of Florida requesting for the Court to take cognizance of his case. He also filed an application to litigate in forma pauperis. His main argument was that his “ conviction violated the due process clause of the Fourteenth Amendment to

the Constitution. " He claimed that when he was deprived the right to counsel during a trial for a felony, it was tantamount to depriving him his right to due process of the law. The Supreme Court of U. S. granted Gideon's petition and the judgment of conviction was reversed and remanded to the Supreme Court of Florida.

In so doing, the ruling in the case of *Betts v. Brady* and Progeny was overturned. In the *Betts* case, Court ruled that " the appointment of counsel is not a fundamental right essential to a fair trial" [316 U. S. 455 (1942)]. It laid down the principle that the right to be represented by counsel is not necessary in state cases involving non capital offenses except in special circumstances. In *Gideon*, the Court in abandoning the *Betts* reasoning ruled that the right to assistance of counsel is imperative, basic and fundamental and the Fourteenth Amendment requires that the same be available and applicable in state courts.

Synopsis of " *The Onion Field*" This book was written by Joseph Wambaugh. The novel is about the two felony car officers who patrolled the side streets of Hollywood and Sunset Boulevard. Ian Campbell was breaking in Karl Hettinger, who was newly assigned to felony cars. In the evening of March 9, 1963, both were patrolling and noticed a suspicious 1946 Ford. Both decided to check it out. The two men in the Ford were responsible for the robberies in the area. Powell exited the car and poked a gun at Campbell while Smith exited the passenger side.

Hettinger was asked to hand his gun to Smith and both cops were forced to get in the Ford. Campbell at gunpoint drove the Ford while Hettinger laid flat

on the floor of the backseat. They were assured that they would be released when they get to the remote area so that it would take time for them to get help. After driving for sometime, they stopped and both were asked to get out of the car. Powell fired at Campbell and hit him in his mouth. Hettinger ran to the field while he heard four more shots. Both culprits were apprehended and went through custodial investigation. Both pointed to each other as to who shot Campbell.

After many years of dilatory motions, appeals and lengthy trials, both were found guilty and sentenced to death in 1967. Since death penalty was abolished in the early 1970s, their sentences were commuted to life.

Discussion and Analysis The main theme of Gideon's is that society must protect a person charged with an offense. The rights and liberties afforded to him by the law and the Constitution must be strictly observed and enforced. The accused must be presumed innocent until proven guilty and he must be afforded the right to have counsel because this is part of the right to due process.

The study of law requires knowledge, skill and experience in trial proceedings. Even an educated and intelligent man who is not properly educated and trained in law is considered incompetent and unable to defend himself. Courts are created to punish and deprive the guilty of their liberties through imprisonment and other imposable penalties. Thus, it is imperative that if a person is charged with an offense in court he must be able to put a defense and be heard by a properly trained counsel. To deprive him of this

would be tantamount to depriving him of due process and would render nugatory the basic tenets of the Bill of Rights.

A person charged of an offense would need the expertise of a counsel so that he does not risk himself of being convicted even if he be innocent simply because he does not know how to establish his innocence. More so an uneducated man, a feeble minded person or an indigent. Consequently, it becomes the duty of the court to appoint counsel so that such person may not be denied due process of law as guaranteed by the Fourteenth Amendment. The central theme in "The Onion Field" is that the defendants brought to trial are guilty already.

It also justifies the use of deadly force by the police to achieve their ends so that it can serve to prevent crime. It also portrays the weakness of the legal system when it can be manipulated to prolong and lengthen the trial by legal tactics and dilatory measures by the defense which further victimized the cop who survived the crime—Hettinger. He was asked to relive and testify over and over again the details of the incident. The courts have been overly protective of the rights of the defendants that it defeats the very ends of a peaceful and safer society. Similarly, there are two models of criminal law that are subject of heated debates.

Central to this controversy is rooted from the goals of the criminal justice system; firstly, the need to enforce and implement the laws to maintain peace and social order and secondly, the need to protect people from being victims of injustice. The first goal is the crime control model, as developed by Herbert Packer in 1960s while the second is the due process model

(Schmallegger, 1999). The crime control model has placed its priority upon arrest, prosecution and conviction of criminals. This model supports and justifies all acts of the police and prosecution on an all out war against crime. This includes profiling, sting operations, patrolling areas that are high risk and the like. It entails aggressive identification, pursuit, isolation and prosecution of the criminals. This model allows collateral damage or acceptable losses even if this be a human life (Perron, n. d.). For instance, a 75-year old minister was handcuffed during a raid on drugs. He suffered and died of a heart attack. Later it turned out that the informant gave a wrong apartment number. The minister is considered a collateral damage in the war against drugs (Perron, n. d.).

Moreover, the crime control model assumes the defendant is already guilty even before trial. In the book, ' The Onion Field' the investigating police officers already assumed that Powell and Smith are guilty of the crimes for which they were being investigated even before their trial. This can be seen from Smith's apprehension when he was thrown to the floor of his bedroom and shouted at by the apprehending officers as a cop-killer. Due to countless motions and re-trials, Hettinger was made to relive and recount his ordeal. He was on moral trial by his colleagues.

He resigned and got involved in petty thefts and was never the same again. Hettinger was the collateral damage. The Due Process Model focuses on protecting the rights and liberties of the defendant in criminal prosecutions. Perron, a certified criminal investigator claims that " the due process model demands a careful and informed consideration of the facts of each individual

case. According to this model, law enforcement agents must recognize the rights of suspects during arrest, questioning, and handling. In addition, constitutional guarantees must be considered by judges and prosecutors during trials.

The primary mission of the due process model is to protect innocent people from wrongful conviction. " This model is guided by the principle that it is better to release guilty persons than to prosecute and incarcerate an innocent person. It recognizes the innocence of the accused before conviction and therefore prescribes as an imperative the observance and respect to the rights of persons during criminal prosecutions. It protects the rights of an individual first and foremost since the rights of one represent the rights of the many (Perron, n. d.).

The book, " Gideon's Trumpet" may illustrate the due process model. The case was heard at the time when the Betts principle was controlling. This means that the accused can only be appointed a counsel in case where he is charged with a capital offense. The Supreme Court overturned this dictum and laid down a principle that indigent defendants in all criminal prosecutions must be given the right to assisted by counsel otherwise this will be a denial of his right to due process. Gideon's upholds the rights of the accused in criminal prosecutions and considers him innocent until proven guilty.

To a certain extent, the book ' The Onion Field' illustrates also a due process model principle in that the numerous trials and hearings manifested a system that allowed due process or the right of the accused to be heard and

present his own evidence during trial. For the law enforcement, the due process model only frustrates and delays the elimination of crime in the society. It is claimed that observance of the rights of the accused only lengthens the process of putting the criminal behind bars. It protects the guilty at the expense of innocent individuals.

On the other hand, advocates of due process model believe that crime control model is prone to commit errors that result consequently in the conviction of the innocent. They believe that it is too harsh and believes in the philosophy of a police state (Perron, n. d.). Conclusion These two models are susceptible to being reconciled and rationalized. As proposed by a noted criminologist Frank Scmalleger in his book, Criminal Justice Today claimed that the American criminal justice system works as a ' crime control through due process. ' According to him, this new model balances the different strengths and weaknesses of the previous two models.

It harnesses the strong points of each model and avoids their respective pitfalls. This means that law enforcement strategies to control crime and apprehend criminals can continue under the philosophy of still bringing the defendant to court for prosecution. Although evidence may be gathered as to prove factual guilt still the judiciary is left with the role of establishing legal guilt. The greatest challenge that is facing the criminal justice system is finding balance between the rights of the defendant in criminal prosecutions and the interest of the people in the society to impose punishment on the guilty.

As between the crime control model and the due process model, I would prefer to live in the due process model of criminal justice. The United States symbolizes stability and democracy and its Constitution as the bedrock of society. Advocating crime control model would mean the higher risk of violations of civil liberties guaranteed by the Constitution and the principles embodied in the Declaration of Independence of our forefathers. All men are created equal with unalienable rights in seeking life, liberty and happiness. By leaving to the power and discretion of the police and law enforcement, the prerogative to adjudicate guilt i.

e. factual guilt would mean leaving the decision to curtailing freedom and liberties in the hands of men who are not properly trained to seek legal guilt. It would also mean that rules in determining factual guilt may be relative and subjective unlike if this was determined in accordance with laws and judicial pronouncements based on jurisprudence and sound judicial principles. In order to keep order and peace in a society, laws are to be observed with uniformity and with a clear and informed consideration of the facts before one is convicted.

The due process model makes use of an objective and just standards of determination of guilt or innocence rather than one that may be subjective and error prone. References Frase, R. and Weidner, R. " Criminal justice system - structural and theoretical components of criminal justice systems, the systems in operation, the importance of viewing criminal justice as a system. " American Law and Legal Information web site Crime and Justice

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