

Right to counsel paper

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



Right to Counsel Paper Joslyn R. Ollila CJA/364 09/17/2012 Chris Bragg Right to Counsel Paper To analyze and understand the aspects of the right to counsel one must understand the Sixth Amendment of the Constitution of the United States which states that; any person that is a U. S. citizen accused of a crime will have the right to counsel during a Criminal Procedure that helps aid the defendants or person accused defense. In this paper I am going to analyze the aspects of the right to counsel and the developments of the right to counsel in depth. Criminal Procedures included in the right to counsel and when self-representation came about will also be discussed. Also the role of an attorney and how it applies to our right to counsel. To understand the Right to counsel one must understand the when it and how long ago it began. In the 16th and 17th century's Criminal Defense attorneys were actually banned from certain criminal cases which prevented people from proper rights and justice. Later in the 17th century Criminal Defense attorneys began to be allowed in treason cases (which previously were not), by the 18th century almost all criminal cases could have a defense attorney. The reasoning behind these changes was due to the Amendments of the Constitution as well and ratification of some of these Amendments I will discuss later in this paper. The Amendments of our Constitution focus highly on fundamental Rights which safe-guard us against federal and state actions giving us a right to the Due Process of Law. Included in these rights were a suspect accused of a crime was aloud a right to counsel aid during interrogations and Criminal Prosecutions. Under the Fourteenth Amendment it is a violation to convict a defendant without a counsel aid which violates those individuals' rights. The purpose and reasoning behind these rights of

counsel aid is to lead to a fair trial. Our right to counsel in the United States is a right we all have whether we have committed a crime or not. A right to counsel is viewed as a privilege and shows equality in our Justice System. A person accused of a crime can choose to have a counsel aid in their defense which this right begins immediately when taken into police custody. For people who are a defendant for trial and they cannot afford counsel they then are appointed counsel. This right to counsel clause show how balanced our Criminal Justice system is in following the Constitution. The ratification of the Sixth Amendment which added State requirements for right to counsel changed to what we know it as today. The reason this right to counsel is so important is those of us that are wrongly accused of a crime have protection and we also have a guarantee whether we are guilty or not guilty we are treated fairly and proper convictions get done and justice gets served. Another aspect in our criminal justice system I found surprising the more I learned about was our right to Self- Representation. A defendant has the right to represent themselves and can get approved for what appears and is a risky request. In our history in the U. S. of self-representation cases the majority have not succeeded in their intended outcome of the trial after making that choice. A defendant who chooses self-representation have a higher chance in losing their case, however the principle of the fact that one can choose so goes along with our constitution ensuring our freedoms, rights, and protections. Many who choose to self-represent are often people who mistrust the CJS, have had bad experiences with past attorneys, or simply because they believe they can do better than any other aid. An individual who chooses this option must know proper court room

expectations and guidelines, have proper opening and closing arguments, and stay on track throughout proceedings with the case and displaying factual, reliable evidence. The decision of whether or not to have an attorney/counsel is a decision we all have to make. It is not required to obtain an attorney or accept the one appointed to you; however it is crucial to use any aid one can due to the legal advice that can be life changing advice. Having an attorney gives the attorney the opportunity to serve as our advisor or consultant who is very knowledgeable of the Criminal Justice System and court processes. When using the service of an attorney there are many steps in the process that are required. A consultation is an opportunity for the attorney to explain to their client the possible positives and negative outcomes of the case. An attorney is there for their clients to ask questions, and he/she will guide and direct their client with the legal expertise. If you choose to have an attorney which is highly recommended that attorney has to commit and be successful in their efforts. Attorneys duties are; to be supportive by participating with all efforts, develop strong arguments for their client, and communicate with the court room efficiently. Having the right to counsel ensures we have a backbone in the courtroom by having the opportunity to have a person appointed to us with zealous and ethical representation. An attorney communicates effectively, gives legal directions, while keeping their client attorney based relationship and details confidential. An attorney must be loyal while keeping our best interests in first priority. Reference Page: Hoefel, J. C. (2007) Toward Moore robust Right to Counsel of Choice. *Sandiego Law Review*, 44(3), 525-550. Retrieved September 15th 2012 from EBSCOhost University Library. Holland, B. (2009),

A relational sixth Amendment during interrogation. Journal of Criminal Law and Criminology 99(2), 381. Retrieved September 16th 2012 from EBSCOhost University Library. <http://criminal.findlaw.com/criminal-rights/right-to-counsel/> http://www.law.cornell.edu/wex/right_to_counsel