

Right to counsel

[Law](#), [Common Law](#)



Right to Counsel CJA/364 October 9, 2011 Right to Counsel Every individual is afforded the right to counsel in criminal proceedings. It is the liability of the government to provide every defendant facing criminal charges with legal representation that also is considered sufficient (2011). The Sixth Amendment to the U. S. Constitution guarantees every individual the right to a swift and public trial from an unbiased jury of his or her peers in the state or district in which the crime was committed in (1995-2011).

The district should have been beforehand established by law, and to be educated of the nature and reason for the charge, the right to face the eyewitness in opposition of him or her, to have necessary process for gathering eyewitnesses in his or her support (1995-2011). Last, the Sixth Amendment affords and individual the right to have the aid of an attorney for his or her defense (1995-2011). The last statement of the Sixth Amendments establishes that every individual has a right to counsel from the very second he or she is placed in police confinement (2011).

The judgments of the U. S. Supreme Court also indicates that the Right to Counsel be provided to any individual who is insolvent or penniless and that the individual is guaranteed the right to the attendance of a court-appointed counsel at a crucial point in the criminal trial (2011). The crucial points of these proceedings are composed of custodial questioning, pre-charge lineups, preliminary examinations, arraignment, trial, punishment, and the first appeal of guilty verdict (2011).

The Right to Counsel was initiated as a response to the English custom of refusing the aid of counsel in severe criminal proceedings that forces

individuals to be present in court and represent his or herself in his or her own words (2011). An example of the strictness of the practice to deny counsel is evident in the trial of Mary Stuart, Queen of Scots in 1568 (2011). Queen Mary was indicted for treason for supposedly plotting to kill Queen Elizabeth I (2011).

Queen Mary requested the aid of an attorney on the basis that the laws and statutes of England were unfamiliar to her, she was without an attorney and no one would stand up and speak for her (2011). Queen Mary was eventually found guilty of her crimes and sentenced to death by beheading (2011). The creators of the U. S. Constitution deemed the denial of an attorney revolting to the fundamental ideology of criminal justice (2011). The creators of the U. S. Constitution ascertained that the aid of an attorney was an important factor in sustaining an accusatorial method of justice (2011).

The accusatorial method of justice leaves the problem on the state to determine the guiltiness of the defendant (2011). The accusatorial method is in disagreement with the inquisitorial method in which fault or blamelessness is established through questioning of the defendant (2011). The Supreme Court also has interpreted the Sixth Amendment to mean that a defendant is entitled to an attorney that the attorney must also be effective in representing the defendant (2011).

The Supreme Court interpreted this to mean that the representation must be diligent and significant (2011). The Supreme Court established that if a defendant is not provided with effective counsel during court proceedings, the conviction could be overturned (2011). The Supreme Court has also

established that although the Sixth Amendment guarantees an individual the right to have an attorney, whether the attorney is hired or delegated by the courts that an individual may also represent his or herself (2004-2011).

Any individual has the right to represent his or herself in court but a judge may refuse the individual that right to be his or her own counsel if the judge deems the individual lacks the capability to exercise a knowing or competent dismissal of an attorney (2004-2011). The judge may also deny an individual the right to represent his or herself if the representation is in any way disorderly of normal court proceedings (2004-2001). The right for an individual to represent his or herself is granted only at normal court proceedings and is not available when a case is before the courts on appeal (2004-2011).

If a person is granted the right to represent his or herself in court, that individual cannot later state the quality of his or her defense deprived him or her of sufficient aid to an attorney (2004-2011). The crucial components of right to an attorney is highlighted in the case of McKaskle v. Wiggins that detailed the self-represented defendants rights vis-a-vis “ standby counsel” delegated by the trial court (2004-2011). If the defendant is representing his or herself, he or she has the power of how information is presented to the jurors (2004-2011).

Even if there is an attorney on standby, the attorney’s presence should in no way alter the jury’s assessment that the individual is representing his or herself (2004-2011). But involvement of a standby attorney in the company of the jury and despite the protest of the defendant does not infringe on the

defendants constitutional rights afforded by the Sixth Amendment when the aid is in agreement with normal courtroom principles and practices that alleviates the trial judge of these responsibilities (2004-2011).

Some defendants may think it is wise to represent his or herself but if the individual is not well versed in the law he or she could make major mistakes that may cause him or her to lose his or her freedom. It is said that a person who represents his or herself has a fool for a client. An attorney is a delegate of citizens, an officer of the criminal justice system and the public that has an accountability to ensure justice is dispensed (1995-1999). The role of an attorney has many facets; a consultant, promoter, delegate, mediator, and an assessor (1995-1999).

As a consultant an attorney notifies his or her client with knowledge of his or her constitutional rights and responsibilities and clarifies his or her realistic suggestions (1995-1999). As a promoter an attorney feverishly emphasizes the client's point under the standards of the adversary method (1995-1999). As a delegate an attorney searches for an outcome beneficial to the client but uniform with the necessities of truthful dealings with others (1995-1999).

As a mediator among clients an attorney searches to settle his or her conflicting interest (1995-1999). As an assessor an attorney researches his or her client's legal dealings and informs the client or others of the legal dealings (1995-1999). In criminal court proceedings the prosecutor who works for the state, and the defense attorney who can also work for the state but is there to aid the defendant. The U. S. Supreme Court established in the

case of Gideon v. Wainwright that the basic role of applies in a just criminal justice system (2011).

The Justices collectively determined that the states possess a legal responsibility afforded within the Sixth and 14th Amendments to offer counsel to any individual who cannot afford one (2011). The judgment emphasized that a penniless individual in a criminal proceeding is guaranteed the aid of an attorney as a basic civil right necessary to ensure a just trial, a client's trial and sentence deprived of an attorney is an infringement of the 14th Amendment (2011). The privilege to have an attorney is the most basic bureaucratic safety measure to ensure a just trial in which the government and the defendant stand alike in the eyes of the law (2011). As stated earlier, the Supreme Court established that if a defendant is not provided with effective counsel during court proceedings, the conviction could be overturned (2011). References Right to Counsel 2011 <http://legal-dictionary.thefreedictionary.com/right+to+counsel> Retrieved October 9, The Exclusionary Rule January 16, 1999 The United States Constitution 1995-2011 U. S.

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