

5th & 6th Amendments

What Rights Does the 5th Amendment Guarantee?

- 1. presentation or indictment by a grand jury
- 2. no “double jeopardy”
- 3. the right against self-incrimination
- 4. the right to due process

What is Double Jeopardy?

- Simply: a person can not be tried twice for the same crime
- If a conviction is reversed on appeal, a person can be tried again if there is other evidence of guilt.

What is Meant by the Right Against Self-Incrimination?

- A person may not be forced to incriminate him/her self by giving evidence that would prove his/her own guilt.
- Miranda Rights

Miranda Rights

- 1. Right to remain silent.
- 2. Anything you say can and will be used against you in a court of law.
- 3. You have the right to an attorney.
- 4. If you cannot afford an attorney, one will be appointed for you free of charge.

What is the Right to Due Process?

- Generally speaking:
 - *Due process* means that a person has the right to be treated fairly.
 - The term due process is not easily defined. i.e. It doesn't mean the same process in every instance.

What Rights Does the 6th Amendment Guarantee?

- 1. speedy trial
- 2. public trial
- 3. trial by an impartial jury
- 4. information on the nature of the charge
- 5. confrontation with the witnesses against the accused
- 6. compulsory process
- 7. assistance of counsel

Compulsory Process

- A court can order a person to come to court to testify and give evidence in a case.
- If the person fails to come once a subpoena is personally served on him/her, the person can be arrested and prosecuted for contempt of court.
- Is there any situation in which the person subpoenaed can refuse to speak on the witness stand?