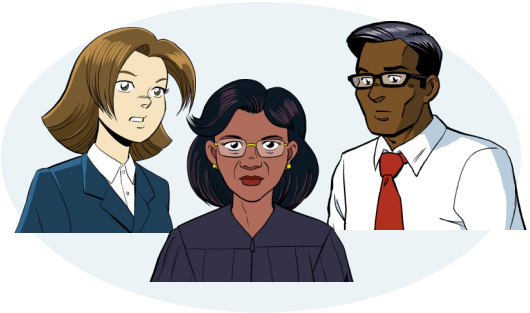
A Day in Court Game*



Follow a criminal case in which an 18-year-old high school student is accused of crashing his car on purpose into the car of another student.

Witness | Test your powers of observation. What did you see and hear? How does it feel to be a witness? Be sure to tell the truth.

Prosecutor/Defense Attorney | Learn about the roles of prosecuting and defense attorneys. Use witness statements and other sources to build a case.

Jury | Question people called from the community and then decide which person you think will make the best juror.

Judge | Analyze different types of questions to decide whether the attorneys are following the rules in a trial.

Court Overview | Learn more about state government, state courts, and legal careers using this research tool.

* For modern desktop browsers, including Chromebooks.

Criminal Cases

Rights of the Accused

The founders of the United States knew what it was like to live without the rule of law; many early Americans were jailed, lost their property, or were even executed without a trial. As subjects of the British king, they only had the rights that the king wanted them to have. The founders realized that freedom would only be protected against dictators and tyrants if our country had a strong legal system and a rule of law that applied to everyone, including the government.

The U.S. Constitution, including the Bill of Rights, offers strong protections for those accused of crimes. Amendments IV, V, VI, and VIII define the rights of the accused, including protections against unreasonable searches, freedom from double jeopardy, the right against self-incrimination, the right to a public and speedy trial by jury, and a prohibition on excessive bail and the infliction of cruel and unusual punishments. Originally, the guarantee of these rights applied only to the federal government, but they have been interpreted by the U.S. Supreme Court to apply to the states under the provision of Amendment XIV that no state shall "deprive any person of life, liberty, or property, without due process of law."

The Michigan Constitution of 1963 also protects the rights of the accused under several sections of Article I, Declaration of Rights (see Const 1963, art 6, §2, 10, 11, 12, 13, 14, 15, 17, and 20). Criminal cases in state courts must adhere to the provisions outlined in the state and federal constitutions.

Criminal Procedure in Michigan

Court cases fall into two categories: criminal and civil. The parties in a criminal case are the prosecutor, who represents the "People," and the defendant, who is accused of breaking one or more criminal laws.

Crimes are categorized as misdemeanors or felonies. Felonies are more serious crimes typically punishable by one year or more in prison. Misdemeanors are less serious crimes typically punishable by less than one year in jail.

Criminal cases generally begin with a crime being reported and a police investigation. The prosecutor reviews the information and decides whether to file a case with the court, commonly referred to as "pressing charges." A judge or magistrate then reviews the case to determine if there is probable cause to issue an arrest warrant.

After an arrest, an arraignment is scheduled in district court. At the arraignment, the defendant is told the charges, possible penalties, and his/her rights, including the right to an attorney. If the alleged crime is a misdemeanor, the defendant may plead guilty or not guilty. (Felony defendants do not enter a plea until a later hearing.)

Misdemeanor cases remain in district court, and a pretrial conference is held, at which the prosecutor may offer a plea bargain to the defendant. If the defendant does not plead guilty, the case goes to trial to be decided by a six-person jury or a judge. If the defendant is unanimously found guilty beyond a reasonable doubt, a presentence investigation occurs and the defendant is sentenced by the judge at a sentencing hearing. Misdemeanor appeals are made to circuit court.

In felony cases, the defendant may exercise the right to a preliminary examination in district court. At the examination, the prosecutor presents evidence and the judge determines whether there is probable cause to bind over the case to circuit court. If the case is bound over, the defendant is arraigned a second time and enters a plea. As with a misdemeanor, the next step is a pretrial conference at which the prosecutor may offer a plea bargain to the defendant. If the defendant does not plead guilty, the case goes to trial to be decided by a 12-person jury. If the defendant is found guilty beyond a reasonable doubt, a presentence investigation occurs and the defendant is sentenced by the judge according to the statutory Michigan Sentencing Guidelines. Felony appeals are made to the Michigan Court of Appeals.

Felony
A serious crime; 12-person jury at trial; one year or more in prison upon conviction.

Misdemeanor
A less serious crime; 6-person jury at trial; less than one year in jail upon conviction.

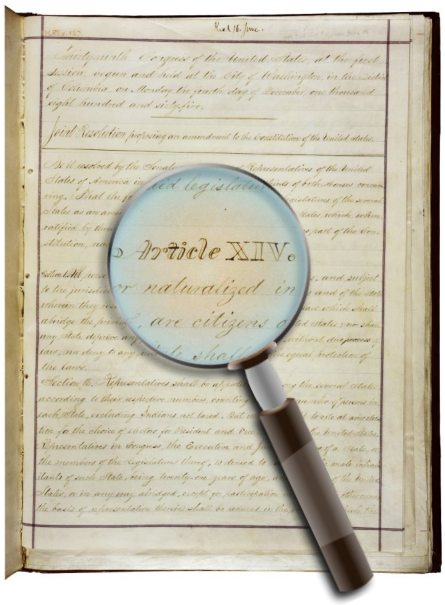
Experts Near You

Legal professionals near you may be willing to meet with students. Contact information is available from these sources.

Michigan Trial Court Directory | Select your county and click on Locations & Judges to find courts and contact information.

Local and Special Purpose Bar Associations | Local bar associations serve lawyers from particular cities, counties, and regions. Special purpose bar associations are for specific practice areas (e.g. defense attorneys, judges, prosecutors) or are made up of specific groups of people; some have local chapters.

Prosecutor Directory | Select a county to be directed to a local website or scroll down for contact information.



Joint Resolution Proposing the Fourteenth Amendment to the United States Constitution; 6/13/1866; Enrolled Acts and Resolutions of Congress, 1789- 2011; General Records of the United States Government, Record Group 11; National Archives Building, Washington, DC. [Online Version, http://ww.docsteach.org/documents/document/joint-resolution-proposing-fourteenth-amendment, April 4, 2017]

Section 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Fourteenth Amendment

Ratified in 1868 during Reconstruction following the Civil War, the Fourteenth Amendment has been interpreted by courts to advance the rights of all Americans through its Citizenship, Due Process, and Equal Protection clauses.

Due Process Clause

"Due process of law" defines the fundamental rules that guarantee "fair play" in legal proceedings. The Due Process Clause of the Fourteenth Amendment states "nor shall any State deprive any person of life, liberty, or property without due process of law[.]" Requirements of due process in court have been outlined as:

1. An unbiased judge and jury.
2. An opportunity to have a lawyer with you.
3. Notice of the charges being filed against you and why.
4. An opportunity to explain why the charges against you should not be filed.
5. The right to present evidence, and the right to know what evidence the opposing party has against you.
6. The right to call witnesses, and the right to cross-examine, or question, the witnesses that the other party might call against you.
7. A decision in your case that is based only on the evidence that has been presented during the case.
8. A decision in your case that is written down and explained, and includes clear explanations of any facts of your case.[1]

[1] List quoted from the American Bar Association's Law Day 2017 Planning Guide Lesson Materials; adapted from Judge Henry Friendly, "Some Kind of Hearing," 1975.

Resources

National Constitution Center

Interactive Constitution, Fourteenth Amendment – Text of and essays about clauses of the Fourteenth Amendment

Constitution Hall Pass, The Fourteenth Amendment – Video about the history and impact of the Fourteenth Amendment (25 minutes)

Miranda Warnings

The *Miranda* warnings resulted from the U.S. Supreme Court decision in *Miranda v Arizona* (1966).

In this case, Ernesto Miranda was arrested and questioned after a crime victim identified him in a line up. Under police questioning he eventually confessed to the crime. During interrogation the officers did not use threats, physical force, or promises, but they also did not tell him of his right against self-incrimination or his right to consult with a lawyer before and have a lawyer present during questioning.

Miranda's lawyer argued that his confession should not be allowed as evidence in court because he had not been advised of his rights. The U.S. Supreme Court agreed, based on the idea that there is an inherently unequal relationship between law enforcement and the person who is being questioned while in custody.

In order to comply with the Fifth Amendment, *Miranda* warnings must be given whenever a person is subjected to custodial interrogation, i.e. when a person is (1) in custody and (2) being interrogated.

Unlike what is shown during many police procedural dramas, a suspect does not need to receive the warnings prior to arrest. The warnings are only required before questioning a person while in custody.

"You Have the Right To Remain Silent . . ."

The terms *Miranda* warnings or *Miranda* rights were not used in the *Miranda* decision. Provided the proper elements are given, there is no specific language required.

1	YOU HAVE THE 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 TALK TO A LAWYER AND HAVE THE LAWYER PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.
4	IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING IF YOU WISH.
5	YOU CAN DECIDE AT ANY TIME TO EXERCISE THESE RIGHTS AND NOT ANSWER ANY QUESTIONS OR MAKE ANY STATEMENTS.
6	DO YOU UNDERSTAND EACH OF THESE RIGHTS AS I HAVE EXPLAINED THEM TO YOU?
7	HAVING THESE RIGHTS IN MIND, DO YOU WISH TO TALK TO US NOW?

From Law Day 2016 Planning Guide, page 25.

Select Resources

American Bar Association Law Day 2016 – Products and resources, including a planning guide with detailed lesson plans for k–12 and a school/community dialogue, are available. A free subscription is required for select downloads.

Constitution-in-Action Lab – In this activity from the National Archives DocsTeach program, students in grades 5–12 analyze an original copy of the *Miranda* decision.

iCivics – This mini-lesson for middle school and up can be paired with the Argument Wars online game. A free subscription is required.

Landmark Cases – This website by StreetLaw, Inc. features landmark U.S. Supreme Court cases, including *Miranda*. It includes background information and lessons for students of different reading abilities, middle school and up.