

# CRIMINAL DEFENDANTS

Although many aspects of criminal law involve civil liberties issues, including the guarantee of rights to criminal suspects and the limitation of police powers provided by the Fourth, Fifth, and Sixth Amendments, the ACLU generally does not provide legal representation in criminal cases. There may be a rare exception to this rule when the crime itself involves a civil liberties matter, such as when the only issue is whether a law is constitutional, e.g. flag burning or prohibitions on leafleting in a public forum.

If a case involves an important or novel civil liberties issue, the ACLU may be interested in filing a "friend of the court" (*amicus curiae*) brief. *Amicus* briefs are usually filed in the appellate courts. Defendants should discuss this possibility with their criminal defense attorney and ask the attorney to contact the ACLU with details about the case and what assistance is requested.

## Arrest

The police can arrest you when they have a warrant for your arrest; they see you violating or attempting to violate the law, or if they have good reason to believe you violated the law.

When you are arrested the police are allowed to search your body, belongings, car (if you are in it when you get arrested) and the space around you.

When you are arrested you may refuse to talk to the police, answer any questions or sign any statements. You **MUST** be allowed to call a lawyer. If you cannot afford a lawyer, you can insist that a free lawyer be present during any police questioning.

## Public Defense

A person lacking sufficient money to hire an attorney has a right to an attorney for offenses that could result in a jail sentence or other considerable consequences. However, most traffic offenses, parking citations and other violations of city ordinances do not carry penalties of possible jail time; in these cases people are not entitled to publicly funded attorneys (but you may hire one).

At a defendant's first appearance in court, a defendant should advise the court of his/her limited monetary resources or indigency. The court will then conduct a hearing to determine the defendant's financial status. If the defendant is found to be indigent, a public defender or, in the absence of a public defender, a private attorney licensed by the state will be appointed to represent the defendant.

Wherever there is a right to counsel, defendants not fluent in English have the right to translator services. Individuals requiring translation who have or need public defense may ask their public defender to have a translator provided.

## Appeals

An individual convicted of a crime has a constitutional right to appeal the conviction. Indigent defendants have the same right of appeal. If the defendant decides to appeal, it is generally considered the attorney's duty to file a timely notice of appeal, even if the attorney does not think there are any valid issues. The law provides a set amount of time within which an appeal may be filed. The court-appointed attorney in a criminal case may continue to represent the defendant through any direct appeal and post-conviction proceedings that warrant representation, according to court rule.

## SEE ATTORNEY REFERRALS PAGE:

<http://www.aclu-tn.org/attorney-referral-resource-sheet/>



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