

Secret Trials and Government Extortion? Bring Back The Bill of Rights!

In Human Events, conflict abounds. Some people want to enslave others. Some people rob and kill others. Others heal the sick, and others help their neighbors through tough times. How can we make society just and fair for all? The struggle for human rights and safety has been a long one. Some of this story is told at: <https://www.history.com/topics/united-states-constitution/bill-of-rights>.

The American answer is the Bill of Rights. Initially drafted by George Mason and passed into law by the colony of Virginia in 1776, it was re-written by James Madison. In 1791 the Bill of Rights became the first ten amendments to the U.S. Constitution. (Reverse page.) <https://nccs.net/blogs/americas-founding-documents/bill-of-rights-amendments-1-10>. The First Amendment is possibly the best known. It concerns freedom of religion, freedom of speech, press, and assembly, and the right to petition government.

Now let us turn attention to another amendment, the Sixth. Can the government come along, accuse you of a crime and just lock you up? The Sixth Amendment states that if you are accused of a criminal act, you have the right to face your accusers, to know the details of the accusations, have legal counsel, have a speedy and public trial before a jury of your peers, and to present witnesses in your favor at that trial.

But today a process called “plea bargaining” has negated your Sixth Amendment rights. Plea bargaining occurs when a prosecutor – who has far more resources than you -- coerces you to plead guilty without a trial. The National Association of Criminal Defense Lawyers (NACDL) found that in 2016 more than 97 % of accused persons in federal courts agreed to plead guilty without a trial. NACDL’s study of the problem, [Trial Penalty Report](http://www.nacdl.org/trialpenaltyreport) can be found at www.nacdl.org/trialpenaltyreport. NACDL defines the “trial penalty” as the discrepancy between the sentence offered during plea negotiations and the sentence a defendant may face after trial. (pg 15).

Unless you are poor and qualify for a Public Defender, you must pay a lawyer to defend against the charges. And Public Defenders often tell their stories, as did Jeffrey D. Stein in “How to make an innocent client plead guilty” (published in the *Washington Post* on January 12, 2018). He wrote: “The conversation almost always begins in jail. Sitting with your client in the visitation room, you start preparing them for the most important decision the person has ever made. Though the case is just a few days old, the prosecution has already extended a plea offer that will expire within the week. And, because local laws might require detention for certain charges at the prosecutor’s request, or because criminal justice systems punish those unable to pay bail, your client will have to make that decision while sitting in a cage ... Your client is desperate, stripped of freedom and isolated from family. Such circumstances make those accused of crimes more likely to claim responsibility, even for crimes they did not commit.

“In federal and in many local courts, the prosecution is not obligated to reveal its witnesses before trial. You and your investigator do your best to assess whether the case rests on unreliable eyewitnesses, faulty assumptions or witnesses with reasons to fabricate an account, which you cannot fully explore because — remember — the prosecution has not even disclosed who they are.”

If you refuse to plead guilty, the prosecutor may add more charges, carrying more severe penalties. In many cases, the risk of going to trial – and being hit with much more severe penalties if you lose – is greater than simply pleading guilty and suffering the lesser penalties offered in the plea deal.

All of this happens away from public view – in effect creating secret trials where the accused’s Constitutional rights are trampled. And it fits the definition of extortion: The practice of obtaining something through force or threats.

The U.S. has the highest incarceration rate in the world and many innocents are in prison because they are forced to plead guilty. Those who defend plea bargaining cite the prohibitive cost of bringing the number of criminal cases to court. “The court system would be unable to accommodate trials for all these matters without a massive increase in resources,” says the Multnomah County District Attorney. <https://www.meda.us/index.php/justice-center/or-county-government>.

On the other hand, the U.S. global military expenditure is \$1.7 trillion a year. Nearly 200,000 troops are deployed in 177 countries. <https://www.visualcapitalist.com/u-s-military-personnel-deployments-country/> Moreover, the U.S. gives Israel \$3.8 billion in military aid a day. <https://ifamericaknew.org/> Would it not be more consistent with our stated principles -- “Liberty and Justice for All”-- to live our law rather than expand our global empire?

Carol DeCoursey, July 4, 2019. <http://everyones-business.org>. Urge your friends and neighbors: “Let us live the Bill of Rights.”

The Bill of Rights

Amendment I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Amendment II. A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

Amendment III. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Amendment VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Amendment VII. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

Amendment VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX. The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

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The Sixth Amendment, or Amendment VI of the United States Constitution is the section of the Bill of Rights that guarantees a citizen a speedy trial, a fair jury, an attorney if the accused person wants one, and the chance to confront the witnesses who is accusing the defendant of a crime, meaning he or she can see who ...