

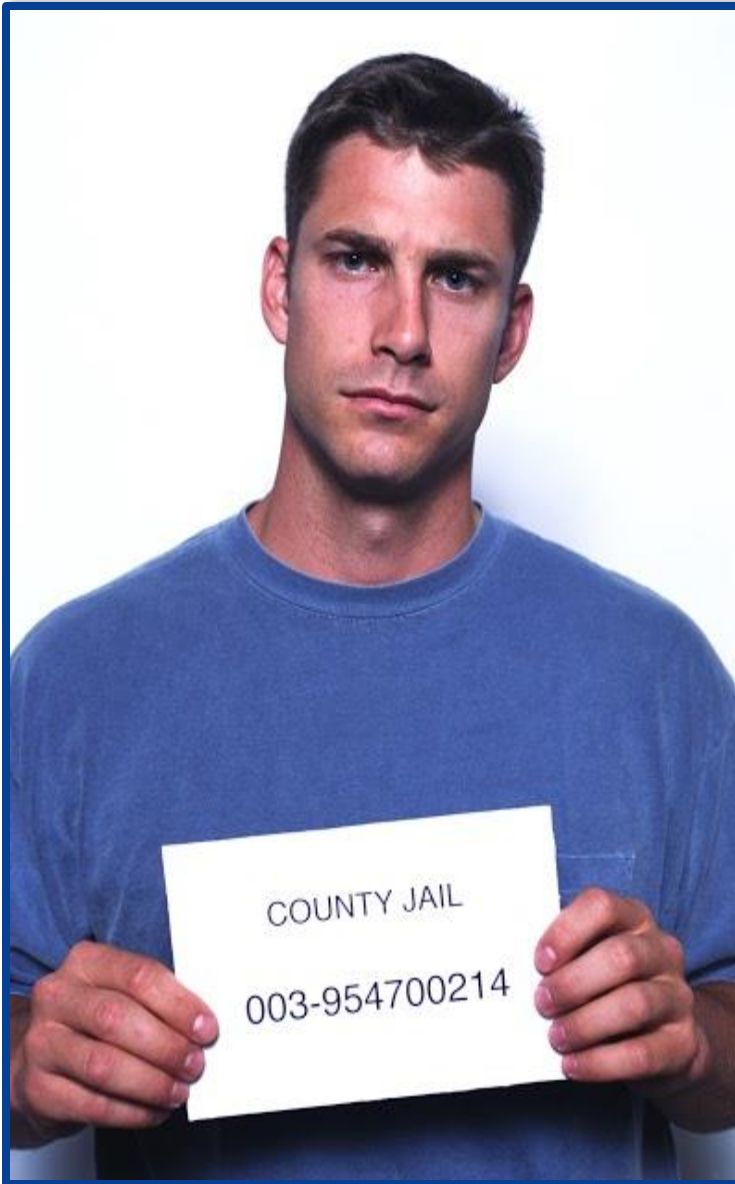
NEBRASKA CRIMINAL LAW

10 MOST IMPORTANT CONSTITUTIONAL RIGHTS

*“Hopefully, you will never have to use them. However, a basic understanding of the most important rights you have as a suspect or a defendant is essential for everyone, which is why we have chosen the ten most important rights to address in this two-part series. In **Part I** we discussed the first five and here, in **Part II**, we will cover the last five.”*



PART II OF A TWO-PART SERIES



Like most people in the United States, you undoubtedly know you have a number of important constitutional rights and protections. However, if asked to name them and explain them, you might be at a loss. You likely assume that as a law-abiding citizen you will never need an in-depth understanding of your constitutional rights. The reality is, though, that you could find yourself the target of an investigation, or even charged with a criminal offense at any time. If you are wrongfully accused of a crime you will find your rights to be even more important than had you actually

committed the crime. Hopefully, you will never have to use them. However, a basic understanding of the most important rights you have as a suspect or a defendant is essential for everyone, which is why we have chosen the ten most important rights to address in this two-part series. In **Part I**, we discussed the first five and here, in **Part II**, we will cover the last five.

6. Right to Confront and Cross-Examine Witnesses

Your right to confront and cross-examine witnesses against you is found in Sixth Amendment to the U.S. Constitution as well as Article I-11 of the Nebraska Constitution. This right is so much a part of our modern day legal system, it may seem odd that it needed to be put down in writing. However, it was included by the Founding Fathers to prevent nameless, faceless accusations that once led to convictions and imprisonment. Today, these rights can be particularly important in drug cases where informants are used, as well as in other types of criminal trials.



7. Right to a Speedy Trial

Also found in the Sixth Amendment to the U.S. Constitution and Article I-11 of the Nebraska Constitution, the right to a speedy trial is frequently misunderstood. The purpose of your right to a speedy trial is to prevent a defendant from spending more time than is necessary in custody awaiting trial. For this reason, the speedy trial rules apply differently to a defendant



who is *out* of custody than to a defendant who is *in* custody. In most jurisdictions, a defendant must affirmatively make a “speedy trial request” to the court.

From the time the request is made, the “clock” starts ticking and the prosecution has only a

specific amount of time within which to bring the case to trial – in theory. Many things can “toll” the time though, causing the case to take longer than the allowable time. Often, the defendant tolls the time, or even waives his/her speedy trial rights, without even realizing it. Asking for a continuance, for example, can toll the time or even waive the speedy trial request altogether. Finally, if the State does fail to bring you to trial within the time allotted under the State’s speedy trial rules, the recourse is *nota*

dismissal of the case. Instead the recourse is typically only that you must be released from custody.

8. Right to Trial by Jury



Found in the Sixth Amendment to the U.S. Constitution and Article I-11 of the Nebraska Constitution, the right to a trial by jury is probably the most well-known right of an accused in the U.S. The idea behind a “jury of your peers” is that an accused will not

be convicted and sentenced to a lengthy prison term without a group of his/her peers listening to all the testimony, viewing all the evidence and deciding that the defendant is, indeed, guilty *beyond a reasonable doubt*.

9. Right against Cruel and Unusual Punishment

The prohibition against cruel and unusual punishment is found in the Eighth Amendment to the U.S. Constitution as well as in Article I-9 of the Nebraska Constitution. Two hundred years ago, this prohibition was meant to prevent prisoners from being tortured or viciously punished. Today, the 8th Amendment is most commonly used as an argument against the death

penalty, which remains a potential punishment in 34 states. As of 2015, there are just over 3,000 people waiting on death row in the United States.

10. Right against Double Jeopardy

Found in the Fifth Amendment to the U.S. Constitution as well as in Article I-12 of the Nebraska Constitution, the double jeopardy clause ensures that you cannot be tried twice for the same offense. In the American system of jurisprudence, a defendant has the right to appeal a conviction; however, the State does *not* have the right to appeal an acquittal. The State gets one shot at convicting you, unless the trial results in a hung jury, in which case the trial may take place all over again. If, however, you go through a trial and the verdict is “not guilty,” the prosecution must accept that verdict and allow you to go free.

If you believe you are the target of a criminal investigation, or you have actually been accused of a criminal offense, it is imperative that you assert your right to an attorney and contact an experienced Nebraska criminal defense attorney immediately. In addition, please be sure to review Part I of this series where we covered rights one through five at length.

REFERENCES

Nebraska Legislature, [Nebraska Constitution](#)

ACLU, [Know Your Rights When Encountering Law Enforcement](#)

Cornell University School of Law, [Bill of Rights](#)

Constitution Society, [Summary of Constitutional Rights, Powers, and Duties](#)

South Carolina Judicial Department, [Rights of the Defendant](#)

About Petersen Criminal Defense Law



Omaha, Nebraska Law Firm: Committed To Making Your Voice Heard By The System

Established in 1995, Petersen Criminal Law follows a simple firm philosophy: Our clients are presumed innocent until proven guilty. Our firm's attorney, Thomas M. Petersen, has devoted his career to this philosophy, helping clients throughout the Omaha, Nebraska, area make sure their voices are heard in the criminal defense system.

In that time, he has handled over 6,000 criminal defense cases and represented clients in numerous trials. This experience means he is a battle-tested veteran of the criminal defense system who has committed himself to putting to work for you the insights he has gained.

Your Decision Today Affects The Rest Of Your Life

Facing criminal charges means your future is at stake. You do not have to let a Nebraska criminal case ruin your life, though your choices today do affect your future.

For that reason, you want an adviser in your corner who has traveled this road before and understands the terrain. You do not want to test your ability to learn the law on your own when your own liberty is at stake.

No Lectures. No Judging. We Just Defend You.

Call Petersen Criminal Law at 402-909-0367. You can also schedule your initial consult by contacting the firm online. All consultations with our firm remain completely confidential.

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