

## F. Information on the Specific Charge

When a person is arrested, he or she goes before a judge or magistrate. That person informs the defendant of the charge or charges. Assuming the defendant is indicted (formally accused of a crime) after the arrest and after the initial appearance before a magistrate, he or she will be brought back to court and told of the specific charges in the indictment.

## G. What is the Right of Confrontation?

The right to be confronted with the witnesses against him means that a defendant through his attorney (or himself, if he is acting as his own attorney) has the right to question and cross-examine those persons who testify against him. An example of the denial of that right occurred in *Pointer v. Texas*, (Lesson Four, Case 4). In *Pointer*, the Supreme Court held that a defendant's right to confront witnesses was denied because the witness who testified against him at a preliminary hearing, who was not cross-examined, moved out of the state and did not testify at the trial. The testimony given at the preliminary hearing could not be used to convict the defendant since there had been no cross-examination.

## H. What is Compulsory Process?

Compulsory process means that 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 compulsory process (often called a subpoena) is personally served on him! her, the person can be arrested and prosecuted for contempt of court.

The Sixth Amendment guarantees the right to compulsory process to obtain witnesses in a defendant's favor. One case which upheld this right was *Washington v. Texas*.<sup>2</sup> In that case, the 18-year-old defendant, Washington, was convicted of murder and sentenced to 50 years in prison. The evidence showed that Washington had become angry when a girl he had been dating began dating someone else. He and other boys began searching for a gun on August 29, 1964. They found one and went to his former girlfriend's house where one of them shot the new boyfriend to death.

The shot was fired by Washington or by another person named Fuller. Fuller's trial was held first and he was convicted. Then Washington wanted to call Fuller to testify at his trial. Fuller's testimony would have been that Washington had tried to stop him from firing the gun and that he (Fuller) was intoxicated at the time of the shooting. Two Texas statutes prevented a co-participant in a crime from testifying for the defense but not for the prosecution. The case then went to the U.S. Supreme Court.

The Supreme Court held that the Texas statutes violated the right to compulsory process guaranteed by the Sixth and Fourteenth Amendments. The conviction was reversed.

1. 380 U.S. 400 (1965)

2. 388 U.S. 14 (1967)