

lific sources of our criminal law. They are both in a position to respond to changing needs of society. When a criminal law becomes outdated, it can be repealed and thus eliminated. When new technology or new societal needs are identified, new laws may be passed, or previously existing laws may be amended and updated.

**Decisions of the Courts.** Our appellate courts constitute another major source of our criminal law. Once a law is passed by the legislature, or directly by the people using the initiative petition (e.g., Proposition 8), it may need interpretation. The law may not be clear to everyone. Different words or terms may mean different things to different people. Obviously, if we are to have a "government of laws," some entity must have the authority to define the statute as to the legislature's meaning and intent.

This is the role of the court and can be recognized as an extension of the old English common law. The result of this procedure is known as case law or precedent and is based on the legal principle of *stare decisis*, which is discussed in Section 1.5.

## 1.4 THE PURPOSE AND NATURE OF CRIMINAL LAW

Crimes are prohibited and punished on the grounds of public policy to prevent injury to the public. Injury to the public may include destruction or interference with government, human life, private property, or other valued institutions or interests. Such considerations as desire for vengeance or compensation for injury may also be involved.

Punishment is often said to be the purpose of the criminal law. This is true only up to a point. The real purpose of criminal law is to define socially intolerable conduct, and to hold conduct within limits which are reasonably acceptable from the social point of view (*Sire v. United States*, 241 Fed. Rptr. 2d 640).

Perhaps it may be said that whatever purpose is served by punishment, one purpose is that of compelling persons to cease or refrain from committing crime and forcing or persuading them to conform to established rules of conduct designed for the protection of government, life, and property.

## Selections from the U.S. Constitution

### Preamble

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

### First Amendment—Religion and Expression

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.

### Fourth Amendment—Search and Seizure

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.

### Fifth Amendment—Rights of Persons

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.

### Sixth Amendment—Rights of Accused in Criminal Prosecutions

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.

### Eighth Amendment—Further Guarantees in Criminal Cases

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

### Fourteenth Amendment—Rights Guaranteed Privileges and Immunities of Citizenship, Due Process and Equal Protection

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.