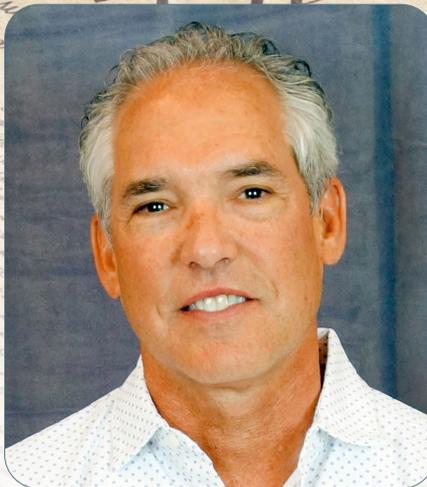


# PRESIDENT'S MESSAGE

## The Constitution is For All

BY ERIC DOBBERSTEIN, ESQ., PRESIDENT,  
STATE BAR OF NEVADA



**There is no greater example of a free democratic republic than to witness and observe its criminal justice system. The loss of liberty is a far greater risk than any loss of financial compensation for damages caused by a tortious act or breach of contract. Thankfully, our country has never had a debtors' prison, and we are guaranteed to not have excessive bail under the Eighth Amendment.**

When I obtained my criminal justice undergraduate degree at UNLV, I had high hopes of working in law enforcement. Once I was accepted to law school and landed my first law clerk position with a small Las Vegas firm that focused on criminal, personal injury and family law, I knew I had found my passion and calling to work as a criminal defense attorney. Growing up, I had seen firsthand many friends that were in and out of the criminal justice system, and in fact, some are still behind bars to this day. The experience of watching them and how they were treated, interning with law enforcement officers while I was in college, and then being on the front row watching a brilliant criminal trial lawyer defend the

Constitutional rights of those who had little or nothing, was inspiring.

Our Constitution is one of a kind, and the words written by our Founding Fathers put in place a system intended to be blind to wealth and other factors, and to treat all its citizens equally under the law. It truly is a work of art and a living document that has grown and improved over the years as our Supreme Court has helped the other branches of government and our citizens to protect their rights.

Looking back at some of the cases that the U.S. Supreme Court decided lets me remind us all of the freedoms that the court has protected. It seems like the 1960s was the decade of protecting individual rights. In *Mapp v. Ohio*, 367 U.S. 643 (1961), the court addressed the issue of a search of Mapp's apartment without her permission and without a warrant. During the search, the police found pornographic material. Even though the prosecutors could not produce a valid search warrant, Mapp was convicted and sentenced to one to seven years. Six justices held that the exclusionary rule is an essential part of the Fourth

and 14<sup>th</sup> Amendments. The conviction was reversed based on illegally obtained evidence.

Two years later in *Gideon v. Wainwright*, 372 U.S. 335 (1963), a unanimous court held states are required under the Sixth Amendment to provide an attorney to defendants in criminal cases who are unable to afford their

own. As a result of extending the federal right to counsel to the states, approximately 2,000 individuals were freed in Florida. Gideon, on the other hand, had to have a retrial. This time, with defense counsel and after only one hour of deliberation, he was acquitted by a jury. On a side note, Gideon was laid to rest in 1972 and a headstone was placed on his grave with a quote from Abe Fortas (the

attorney who represented him in the Supreme Court, who went on to become a member of the Supreme Court): "Each era finds an improvement in law for the benefit of mankind."

One of the most famous cases in criminal law history must be *Miranda v. Arizona*, 384 U.S. 436 (1966). Everyone should know this case. In it, Miranda was arrested by the Phoenix police department in connection with

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a kidnapping and rape that occurred 10 days prior. After two hours of interrogation, Miranda signed a confession to the crimes. The majority of the court ruled that because of the coercive nature of the custodial interrogation, no confession could be admissible under the Fifth Amendment's self-incrimination clause and the Sixth Amendment's right to an attorney. Miranda was retried in 1967, and this time with other evidence and witnesses, he was convicted and sentenced to 20 to 30 years.

Many people believe that the Miranda case made a positive impact on law enforcement and that it has not hampered police investigations, while others argue that these warnings have reduced the rate of solving crimes. In any event, I'm sure all of us are thankful for these rights, including the warning to advise those who are not trained in law school to know that they have protections under our Constitution. We would want that for our families and friends in order to safeguard them from the times when some might take advantage of the uninformed.

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