

Answer Key with Elaborations
Rights of the Accused: Misconception Check

Instructions: Below is a series of statements that refer to the legal rights of a person who is accused (i.e. has been arrested and then charged) of a crime. Decide whether the statement is true or false and circle the corresponding word.

1. An accused person has the right against any search of their person.

(False. Section 8 - The right to be secure against *unreasonable* search and seizure. There are many situations in which it would be reasonable to search a person - i.e. if they are arrested, searching them for weapons)

2. An accused person has the right to an interpreter in a court proceeding.

(True. Section 14 of the Charter.)

3. An accused person does not have to be told what offence they are charged with.

(False. Section 11 - The right to be informed without unreasonable delay of the specific offence you are charged with.)

4. An accused person does not have to be allowed bail and is usually kept in custody until the trial.

(False. Section 11 - The right to reasonable bail unless there is just cause (a good reason) to deny it).

5. An accused person has the right to get a lawyer immediately after they are arrested.

(True. Section 10 - The right to know why you're arrested, to speak to a lawyer immediately and to be told that you have that right.)

6. An accused person, when there is a great deal of evidence against them, may be found guilty before a legal trial takes place.

(False - Section 11 - Rights if you're charged with an offence, including - The right to be presumed innocent until proven guilty). The accused may, however, plead guilty at any point up until a judge or jury finds them guilty or not guilty.

7. An accused person has the right to a trial within a reasonable amount of time.

(True - Section 11 of the Charter. A reasonable amount of time may vary, but between 18 and 30 months are common ceilings (2016 *R. v. Jordan*). The public has an interest to see matters justice dealt with quickly, while the accused has a right to have a trial with fresh, recent evidence, and to

minimize the anxiety and any stigma of waiting for a resolution to a case.)

8. An accused person has the right to trial by jury if an offence can be punished with imprisonment for five years or more.

(True - Section 11)

9 . A person has the right not to be arrested for no reason.

(True - Section 9 - The right not to be arbitrarily arrested.)

10 . An accused person has the right to not undergo cruel or extreme punishment.

(True - Section 12 - The right not to be subject to cruel and unusual treatment or punishment. An example would be a punishment that “degrades human dignity” such as physical punishment, punishment that is disproportionate to the offense (i.e. a lengthy prison term for a minor offense), or punishment that “shocks the public conscience).

Reference:

“Your Rights - Information for Accused.” *Province of British Columbia*, Ministry of Public Safety and Solicitor General, 14 Jan. 2019, www2.gov.bc.ca/gov/content/justice/criminal-justice/bcs-criminal-justice-system/if-you-are-accused-of-a-crime/your-rights.