



COMMON MISCONCEPTIONS

Defendants Get Off on Technicalities All the Time

It is not uncommon to hear someone complain about how criminals get off on technicalities all the time. By *technicality*, that person usually means that the government violated a constitutional right of the suspect or defendant. For example, an error may have been that the Miranda warnings were improperly given, a search warrant was not obtained, or a suspect was coerced and beaten into an admission. As a result of these improper procedures, important evidence is deemed inadmissible in court by the judge and the chances of a successful conviction are reduced or obliterated.

"Getting off on a technicality" is a popular story line in the media, but it is not a reality. In real life there is no legal definition of a technicality. Rather, our

system is composed of constitutionally based rules and procedures that require strict adherence to ensure a just and fair criminal justice system. Law enforcement agents, prosecutors, and others in the criminal justice system are trained on proper procedures, so errors—or technicalities, as they are referred to in the media—are uncommon.

Still, there are documented cases in which an individual is retried because of a breach in procedure. In 2008, Timothy Becketl was sentenced for assault with the intent to commit murder. It turns out the judge failed to administer the jury oath to members of the panel who subsequently found Becketl guilty. As a result of this error, Becketl has been awarded a second trial.