



Introduction to Legal Concepts

Lesson 2 - Courts, Crime, and Controversy

WORKBOOK



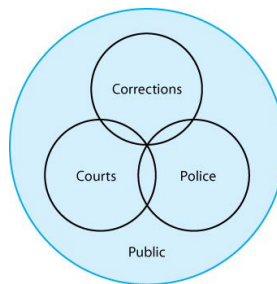
Courts, Crime, and Controversy - Overview

- Courts and the Criminal Justice System
- An Overview of U.S. Courts
- Actors in the Courthouse
- Criminal Process
- Models of Justice

The Courts and the Criminal Justice System

- In addition to Courts, the two other main components of the Criminal Justice System are:

- ① Police
- ② Corrections



The Courts and the Criminal Justice System

- Courts are related to the rest of the criminal justice system as follows:
 - Interdependent
 - All have different goals, histories, operating procedures
 - All forced to interact with one another
 - Fragmented
 - Over 18,000 law enforcement organizations
 - Corrections encompasses prisons, probation, parole, drug treatment, halfway houses, etc.
 - Court has many actors including private citizens
 - Tensions and Conflicts
 - Come from conflicting goals and perspectives

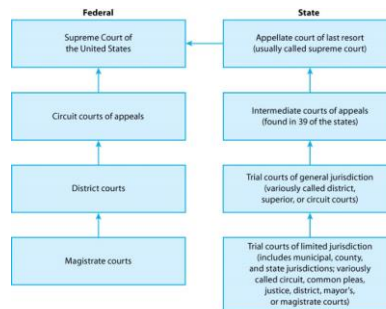
U.S. Courts

- Major types of courts in the United States:

① Trial Courts

② Appellate Courts

③ United States Supreme Court



A Typical Courthouse



A Typical Courtroom

• Chandler, Arizona

1. The Clerk
2. The Judge
3. The Witness
4. The Jury
5. The Defendant
6. The Defense Attorney
7. The Prosecutor
8. The Prosecutor's Investigating Officer



The Jury Box



U.S. Supreme Court



U.S. Supreme Court Interior



Trial Courts

- Trials are held here, jurors sworn, and witnesses are questioned
 - **Municipal Courts**
 - These lower courts initially process felonies (e.g. initial appearance, set bail) but usually lack the jurisdiction to try and sentence felony cases, which will be transferred to a Major Trial Court
 - Lower courts process millions of minor offenses regularly, i.e., public drunkenness, petty theft, disorderly conduct, etc
 - **Major Trial Courts (Superior Court, Common Pleas)**
 - Major Trial Courts focus on the trial and sentencing phases of felony prosecutions
 - Major Trial Courts sentence felony offenders (e.g. murderers, robbers, rapists, drug traffickers, etc.) who plead guilty or are found guilty by a judge or jury

Appellate Courts

- Review decisions made by trial courts - most often major trial courts
 - No trials are held
 - No jurors employed
 - No witnesses heard
 - Lawyers argue using previous cases as precedents

U.S. Supreme Court

- Court of Last Resort
 - Cases are hand selected
 - From thousands of requests fewer than 85 cases are heard per term (Writ of Certiorari)
 - Hears cases impacting society as a whole and hears cases to resolve a pending legal issue

Actors in the Courthouse

TABLE 1.1 ■ ACTORS IN THE COURTHOUSE

Justice Professionals				Members of the Public	
Police	Lawyers	Court Support Staff	Corrections Officials	Regular Participants	Irregular Participants
Federal	Prosecutors	Clerks of court	Probation officers	Bail agents	Defendants
State	Public defenders	Court reporters	Jail employees	Reporters	Victims
Sheriff	Private defense attorneys	Pretrial services personnel	Prison employees	Social services personnel	Witnesses
Local	Judges	Bailiffs	Drug rehabilitation program personnel	Select expert witnesses	Jurors
Special districts	Law clerks	Court administrators			Victim advocates
Private security		Victim-witness-assistance program personnel Rape crisis center			

Prosecutors

Looking only at state and local levels:

- Can be found in the lower courts (city or county attorney), major trial courts (district attorney/state's attorney), or state level (attorney general)
- Prosecutors are the most influential in the courtroom, in part because of Prosecutorial Discretion
- The Prosecutor's office makes charging decisions, decides whether to offer plea-bargains, and determine which cases to prosecute. Bail and sentencing are also influenced by the prosecutor.

Defense Attorneys

- Privately retained, Court-appointed or Public Defenders
- Sometimes urge clients to plead guilty if evidence is overwhelming and guilt can be proved by the prosecutor beyond a reasonable doubt
- Cannot always secure a not-guilty verdict for clients. The goal is to be the best possible advocate even when cases do not go to trial
- Post-Conviction Relief

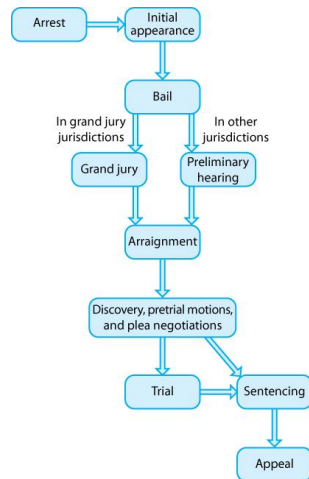
Judges

- Elected or Appointed officials at the local and state level
- Federal judges are nominated by the President of the United States and confirmed by the US Senate to serve for life
- Set bail, instruct jurors, impose sentencing or dismiss cases, respond to prosecutors and defense attorneys
- Important to note: while judges normally are attorneys, this is sometimes not a requirement in lower level courts (magistrates court or traffic court)

Criminal vs. Civil Court Cases

- Our system is based on Criminal Law Procedure
- You must understand the criminal process first to become knowledgeable of criminal court procedures
- Civil Court and Criminal Court is very similar with some distinct differences
- You must learn the specific procedures for both criminal and civil cases in the locality where you are working
- This course will cover the criminal process in detail before discussing civil cases

The Steps in the Criminal Judicial Process



The Steps in a Typical Felony Prosecution

- Crime
 - Felony
 - Misdemeanor
 - Summary
- Arrest
- Initial appearance
- Bail
- Grand Jury
- Preliminary Hearing
- Arraignment
 - In some jurisdictions, this happens at the initial appearance
- Discovery
- Pretrial Motions
- Plea Negotiation
- Trial
- If a Guilty Verdict, sentencing
- Possible Appeal

Crime

- About 1.5 million violent crimes and 9.1 million property crimes are reported to the police each year
- Crimes fall into three categories:
 1. Felonies (in most states, one or more year in jail or prison)
 2. Misdemeanors (up to one year in jail)
 3. Violations (fine or a short jail term)
- Majority of cases are burglary, theft (reported) and drug offenses (often unreported)

Arrest

- 11 million arrests per year for non-traffic offenses
- 1.86 million arrests per year for serious crimes, such as:
 - Murder
 - Rape
 - Assault
- 1 out of every 5 crimes reported to the police results in an arrest

Initial Appearance

- A person is brought before the judge without delay
- Depending on jurisdiction, a plea will not be entered on initial appearance
 - Charges are read, rights are advised, counsel appointed if indigent, bail is determined, and a preliminary hearing date is set
- Misdemeanor cases allow for a plea to be entered and sentence imposed immediately

Bail

- Most important part of the initial appearance
- Many arrestees are too poor to afford bail and remain in jail until trial
- Judges do not want criminals on the streets therefore they raise bail to keep dangerous offenders in jail
- There is an issue in many jurisdictions with overcrowding in jails and prisons

Grand Jury

- This is a check of unwarranted prosecutions
- Required in all federal felony prosecutions
- Prosecution requires to show probable cause (fair probability) that the defendant committed the alleged offense(s)
- If enough evidence is found a "true bill" charges the defendant and the case continues; if insufficient evidence is determined, a "no bill" is issued and the case is dismissed
- In reality, grand juries almost always indict whoever the prosecutor wants indicted

Preliminary Hearing

- A Prima Facie case is established in this hearing for the case to go forward
 - Prima Facie: 'at first appearance'
 - Demonstration that a crime has been committed and a link between the defendant and the crime
- Cases may be dismissed at the preliminary hearing for the inability of the Prosecution to satisfy their evidentiary burden

Arraignment

- Defendant is given the formal charges, advised of their rights, must enter a plea
- Most defendants enter a plea of not guilty at this hearing, and a trial date is set

Discovery

- “Discovery” is the exchange of information between the prosecution and defense before trial
- The prosecution is required to turn over a copy of the police reports to the defense along with other evidence intended for the trial

Pretrial Motions

- “Motions” are a request for the judge to make a decision, in criminal proceedings many are made during trial
- Suppression of evidence illegally seized by the police in violation of the U.S. Supreme Court’s ruling in *Mapp v. Ohio*, 1961
- Suppression of confessions obtained by the police in violation of the U.S. Supreme Court’s ruling in *Miranda v. Arizona*, 1966

Plea Negotiations

- 90% of all felony cases are resolved through negotiations between the prosecutor and the defense
- Plea bargaining is so popular, because it presents an opportunity for the prosecutor to gain a conviction, the defendant to know with certainty the outcome of the case, and the court to dispose of the case and clear it from its docket
- Pleading guilty requires the defendant to understand and willingly acknowledge their part in the criminal activity
 - Affects appeal rights

Trial

- Most common is trial by jury (6-12 jurors depending on your jurisdiction)
- Defendant may choose to be tried by a judge, known as a bench trial
- Prosecutor goes first followed by the defense
- Both have the ability to call witnesses and make both an opening statement and a closing argument
- The judge instructs the jury about the law
- Jury deliberates in secret and returns with a verdict

Sentencing

- When the judge or jury returns a guilty verdict, the defendant must be sentenced.
- Sometimes sentencing happens immediately (mostly with misdemeanors), sometimes sentencing is delayed pending a Pre-Sentence Investigation
- Courtroom work group assists the trial judge in determining an appropriate sentence, which may range from a fine to the death penalty depending on the type of crime for which the defendant is convicted
- The judge may be bound to certain parameters from which to impose a sentence, based on mandatory sentencing guidelines
- Sentence is pronounced by the trial judge

Appeal

- Almost all convicted defendants appeal
- Very few appeals achieves victory
- Individuals who plead guilty to a crime are prohibited in many jurisdictions from filing an appeal
- Appellate court decisions affect policy matters

Law on the Books and Law in Action

- Law on the Books
 - **Legal and structural components of the judiciary**
 - Constitutions
 - Legislation
 - Regulations
 - Court Cases
- Law in Action
 - **Focuses on human factors governing the actual application of law**
 - Police
 - Prosecutors
 - Judges
 - Victims
 - Witnesses
 - Jurors

Law On The Books

- References the structure of the courts, the legal duties of the main actors, and the steps in the criminal process
- Found in federal and state constitutions, laws enacted by legislative bodies, regulations issued by administrative agencies, and cases decided by courts.
- Guides and set limits on how crimes are processed – how the police may make arrests, search suspects or their homes, extract confessions, etc.
- Court decisions have profound effect on how crime suspects are treated.
- In *Brown v. Mississippi, 1936*, the U.S. Supreme Court, citing the Wickersham Commission's report on police brutality in obtaining confessions as evidence, overruled the conviction reasoning that the confession obtained from numerous beatings of the defendant by the police violated the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution because coercive police practices are a violation of "fundamental fairness," an important element of due process. As such, statements obtained through coercive police means are considered involuntary and are not admissible in courts.

Law In Action

- Law on the Books represents the high ideals set out for the processing of criminal cases and the treatment of crime suspects
- Law in Action is the reality in which the law is applied, taking into account the human factors that influence how decisions are made by each actor throughout the criminal justice process
- Discretion is an important aspect of law in action, regardless of what the law requires – police, prosecutors, judges, defense attorneys, defendants, jurors, victims, witnesses, etc. each plays a role in how the law is applied
- Political pressures or operational necessities may influence how an actor makes his/her decisions
- Cooperation rather than conflict during trial, often characterizes the behavior of courtroom actors

The Crime Control Model and the Due Process Model

- The Crime Control Model
 - **Conservative model**
 - **Proposes harsher penalties**
- The Due Process Model of Criminal Justice
 - **Liberal model**
 - **Advocates social programs aimed at reducing crime by reducing poverty**

Crime Control vs. Due Process

- The American criminal justice system strives to control crime while simultaneously honoring the constitutional rights of the accused
- The public shifts from one model to the other depending on the prevailing social conditions and sentiment
- In the 1950s and 1960s, social consciousness began to focus on social equality and equal justice under the law, which brought to light abuses of police power
- U.S. Supreme Court began to “constitutionalize” criminal procedure with a focus on due process and individual rights and liberties
- Since the 1970s, the “wars” on crime, drugs, and terrorism have shifted public focus back to the Crime Control Model

The Crime Control Model

- Crime must be controlled for citizens to be protected
- Heavy reliance on informal and non-judicial fact-finding by police and prosecutors are the best way to expeditiously achieve justice for victims and society as a whole
- Assembly-line justice – processes cases quickly and efficiently to promote finality of convictions
- Technicalities permit the guilty to “beat the system” and go free
- Courts hinder protection of society

The Due Process Model

- Respect for and protection of individual rights
- Focuses on presumption of innocence – innocent until proven guilty beyond a reasonable doubt by the government
- Giving officers leeway causes loss of freedom/civil liberties
- Formal fact-finding ensures accuracy and integrity on the part of the police and prosecutors
- Obstacle Court Justice – presents numerous obstacles to prevent errors and wrongful convictions
- Technicalities prevent abuses of governmental authority
- Alternate sanctions to incarceration – rehabilitation prevents crime

Courts, Crime, and Controversy - Review

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Questions

and

Answers

Review Questions:

1. True or False: The first step in a typical felony prosecution is the Initial Appearance.
 - A. True
 - B. False
2. What is the difference between the Crime Control Model of criminal justice and the Due Process Model of criminal justice?
 - A. Crime Control focuses on health and welfare of the defendant and Due Process focuses on retribution.
 - B. Crime Control focuses on controlling crime while the Due Process Model focuses on preserving the rights of the criminal defendant.
 - C. Crime Control focuses on treating juvenile offenders as adults while Due Process concentrates on treating juveniles as children.
 - D. Crime Control focuses on the war on drugs while Due Process focuses on the war on crime.
3. The process of exchanging information between both parties before trial is called what?
 - A. Inspection
 - B. Recovery
 - C. Production
 - D. Discovery
4. The three main components of the Criminal Justice System are:
 - A. Courts, Police & Corrections
 - B. Courts, Police & Judges
 - C. Police, Judges & Attorneys
 - D. Corrections, Judges & Clerks
5. True or False: The typical courtroom includes a jail within the courtroom for those who haven't been able to post bail to communicate with the judge.
 - A. True
 - B. False
6. True or False: In some jurisdictions, it is possible to find juries with only 4 members.
 - A. True
 - B. False

7. True or False: Trials are held in both major trial courts and in appellate courts.

A. True

B. False

8. True or False: The Supreme Court is the highest level court in the United States.

A. True

B. False

Answer Key:

1. B

False. Typically the first step is an Arrest. In some instances, it will be the Indictment, Information, or Criminal Complaint that occurs first and then leads to an arrest, but for the vast majority of cases the arrest of a defendant will generate the criminal case.

2. B

The Crime Control Model of criminal justice focuses on the need for society to control crime and create safety within communities. The Due Process Model of criminal justice focuses on preserving respect for the individual rights and civil liberties of all persons, including criminal defendants.

3. D

Discovery is the exchange of information between parties during the period before trial. Discovery is an opportunity for both sides to review some of the evidence that will be used in the trial to prove their side of the case.

4. A

The 3 main components of the Criminal Justice system are Courts, Police (or law enforcement) and Corrections. While all separate, they each work together to achieve the goal of safety in society and efficient management of criminal cases.

5. B

False. Often, there will be an area near the courtroom (but not within the courtroom) where defendants who are in custody will be held until their case is called by the clerk. Once the defendant's case is being heard, they will generally be brought into the courtroom to communicate with their attorney and face the judge.

6. B

False. Juries are between 6-12 members. Exactly how many will depend on the jurisdiction where the trial is held.

7. B

False. Trials are not held in appellate courts. In an appeals court, the judge(s) will review written material sent by the attorney and will then hear arguments by the attorney in court.

8. A

True. The Supreme Court is the court of last resort in the U.S. which means that it is the final arbiter of a case and if the Supreme Court reviews a case, there is no higher court that may review its decision.