

CHAPTER 7

The Courts

Teaching Outline

I. Introduction (p.204)

II. History and Structure of the American Court System (p.204)

Federal Court System: The three-tiered structure of federal courts, comprising U.S. district courts, U.S. courts of appeal, and the U.S. Supreme Court. (p.204)

State Court System: A state judicial structure; most states generally have at least three court levels: trial courts, appellate courts, and a state supreme court. (p.204)

Jurisdiction: The territory, subject matter, or people over which a court or other justice agency may exercise lawful authority, as determined by statute or constitution. (p.205)

III. The State Court System (p.205)

A. The Development of State Courts (p.205)

- Each of the original colonies had its own court system for resolving civil and criminal disputes.
- After the American Revolution, state court systems were not uniform and initially made no distinction between original and appellate jurisdictions.

Original Jurisdiction: The lawful authority of a court to hear or act upon a case from its beginning and to pass judgment on the law and the facts. The authority may be over a specific geo-graphic area or over particular types of cases. (p.205)

Appellate Jurisdiction: The lawful authority of a court to review a decision made by a lower court. (p.205)

B. State Court Systems Today (p.206)

1. State Trial Courts (p.208)

- Trial courts of limited or special jurisdiction are also called lower courts.
- Trial courts of general jurisdiction may be called high courts, circuit courts, or superior courts.

Trial *de Novo*: Literally, “new trial.” The term is applied to cases that are retried on appeal, as opposed to those that are simply reviewed on the record. (p.208)

2. State Appellate Courts (p.208)

- Most states have an appellate division that includes an intermediate appellate court (court of appeals) and a high-level appellate court (court of last resort).
- May attempt an appeal from the court of last resort to the U.S. Supreme Court.

Court of Last Resort: The court authorized by law to hear the final appeal on a matter. (p.208)

Appeal: The request that a court with appellate jurisdiction review the judgment, decision, or order of a lower court and set it aside (reverse it) or modify it. (p.208)

3. State Court Administration (p.209)

State Court Administrator: A coordinator who assists with case-flow management, operating funds budgeting, and court docket administration. (p.209)

Review the common tasks of state court administrators.

4. Dispute-Resolution Centers and Community Courts (p.209)

Dispute-Resolution Center: An informal hearing place designed to mediate interpersonal disputes without resorting to the more formal arrangements of a criminal trial court. (p.209)

Community Court: A low-level court that focuses on quality-of-life crimes that erode a neighborhood's morale, that emphasizes problem solving rather than punishment, and that builds upon restorative principles like community service and restitution. (p.210)

IV. The Federal Court System (p.210)

- Federal courts were created by Article III, Section 1 of the U.S. Constitution.

A. U.S. District Courts (p.210)

- The lowest level of the federal court system.
- Made up of 94 district courts.
- Considered the trial courts of the federal system.

B. U.S. Courts of Appeals (p.211)

- The federal intermediate appellate courts.
- The system is made up of 13 circuit courts (U.S. Court of Appeals for the Federal Circuit and 12 regional courts of appeal)
- Have mandatory jurisdiction over the decisions of district courts within their circuit

C. The U.S. Supreme Court (p.213)

- The Supreme Court has immense power because of judicial review.
- *Marbury v. Madison* (1803) established the Court's authority as the final interpreter of the U.S. Constitution.

Judicial Review: The power of a court to review actions and decisions made by other agencies of government. (p.213)

1. The Supreme Court Today (p.213)

- Has final appellate jurisdiction and may accept cases from the US courts of appeal and state supreme courts. It also has limited original jurisdiction.
- The Court consists of nine judges.
- Approximately 5,000 requests for review are filed each year —200 are actually heard.

Instructional Cue

Students may have a difficult time understanding how the state and federal court systems interact in practice. One way to illustrate state and federal court decision-making processes is to walk a case through the various levels. For example, you can discuss a felony murder trial that receives a significant amount of pretrial publicity. Discuss how the defendant would be tried first in a state court of general jurisdiction. Then explain the process of appeal from the state intermediate appellate court to the court of last resort. Also, since there may have been a Sixth Amendment due process issue, describe how the case could be appealed directly to a federal district court or to the U.S. Supreme Court.

V. Pretrial Activities (p.214)

A. The First Appearance (p.214)

- Defendants are brought before a judge and are given formal notice of the charges against them, are advised of their rights, are given the opportunity to retain a lawyer or have one appointed to represent them, and may be given the opportunity for bail.
- *McNabb v. U.S.* is responsible for creating the notion that a suspect should have his or her first appearance within 48 hours of arrest.
- A suspect does not have a right to present evidence but is entitled to representation by counsel at this stage.

First Appearance: An appearance before a magistrate during which the legality of a defendant's arrest is initially assessed and the defendant is informed of the charges on which he or she is being held. At this stage in the criminal justice process, bail may be set or pretrial release arranged. Also called *initial appearance*. (p.214)

Bail: The money or property pledged to the court or actually deposited with the court to effect the release of a person from legal custody. (p.214)

1. Pretrial Release (p.217)

- Pretrial release is considered at the first appearance.
- Defendants charged with very serious crimes or who are thought likely to escape or to injure others may be held in jail until trial (pretrial detention).

Pretrial Release: The release of an accused person from custody, for all or part of the time before or during prosecution, upon his or her promise to appear in court when required. (p.217)

2. Bail (p.218)

- Helps insure reappearance of the accused and prevents unconvicted persons from suffering imprisonment unnecessarily.

Bail Bond: A document guaranteeing the appearance of a defendant in court as required and recording the pledge of money or property to be paid to the court if he or she does not appear. The bail bond is signed by the person to be released and by anyone else acting on his or her behalf. (p.218)

3. Alternatives to Bail (p.218)

a. Release on Recognizance (ROR) (p.218)

Release on Recognizance (ROR): The pretrial release of a criminal defendant on his or her written promise to appear in court as required. No cash or property bond is required. (p.218)

b. Property Bonds (p.219)

Property Bond: The setting of bail in the form of land, houses, stocks, or other tangible property. In the event that the defendant absconds prior to trial, the bond becomes the property of the court. (p.219)

c. Deposit Bail (p.219)

- An alternative form of cash bond, available in some jurisdictions, that places the court in the role of the bail bondsman.

d. Conditional Release (p.219)

- Imposes a set of requirements on the defendant, such as participation in a drug-treatment program or attendance at a regular job.
- Release under supervision is similar but adds the stipulation that defendants report to an officer of the court or a police officer at designated times.

e. Third-Party Custody (p.219)

- Releases the defendant in the custody of another individual or agency.

f. Unsecured Bonds (p.219)

- Based on a court-determined amount promised by the defendant upon release with no monetary deposit.

g. Signature Bonds (p.219)

- Allow release based on the defendants written promise to appear.

4. Pretrial Release and Public Safety (p.219)

- *U.S. v. Hazzard* held that Congress was justified in denying bail to offenders who represent a danger to the community.

Danger Law: A law intended to prevent the pretrial release of criminal defendants judged to represent a danger to others in the community. (p.220)

B. The Grand Jury (p.221)

- The federal government and about half the states use a grand jury as part of the pretrial
- Grand juries serve primarily as filters.
- Grand jury hearings are secret; the defendant does not have the opportunity to appear before the grand jury and has no right to cross-examine witnesses.
- If a state does not use a grand jury, then it will use a preliminary hearing.
- The purpose is to challenge the legal basis of the detention.

Grand Jury: A group of jurors who have been selected according to law and have been sworn to hear the evidence and to determine whether there is sufficient evidence to bring the accused person to trial, to investigate criminal activity generally, or to investigate the conduct of a public agency or official. (p.221)

Indictment: A formal written accusation submitted to the courts by a grand jury, alleging that a specified person has committed a specified offense, usually a felony. (p.221)

C. The Preliminary Hearing (p.222)

Preliminary Hearing: A proceeding before a judicial officer in which three matters must be decided: (1) whether a crime was committed, (2) whether the crime occurred within the territorial jurisdiction of the court, and (3) whether there are reasonable grounds to believe that the defendant committed the crime. (p.222)

Information: A formal, written accusation submitted to a court by a prosecutor, alleging that a specified person has committed a specified offense. (p.222)

Draw attention to the differences between an information and indictment.

Competent to Stand Trial: A finding by a court, when the defendant's sanity at the time of trial is at issue, that the defendant has sufficient present ability to consult with his or her attorney with a reasonable degree of rational understanding and that the defendant has a rational as well as factual understanding of the proceedings against him or her. (p.222)

D. Arraignment and the Plea (p.222)

1. Arraignment (p.222)

- Once indicted, the accused will be formally arraigned.
- Here the defendant is again informed of the charges against him or her and is asked to make a plea (for example, guilty, not guilty, or *nolo contendere*).

Arraignment: Strictly, the hearing before a court having jurisdiction in a criminal case in which the identity of the defendant is established, the defendant is informed of the charge and of his or her rights, and the defendant is required to enter a plea. Also, in some usages, any appearance in criminal court before trial. (p.222)

Plea: In criminal proceedings, the defendant's formal answer in court to the charge contained in a complaint, information, or indictment that he or she is guilty of the offense charged, is not guilty of the offense charged, or does not contest the charge. (p.222)

Nolo Contendere: A plea of "no contest." A no-contest plea is used when the defendant does not wish to contest conviction. Because the plea does not admit guilt, however, it cannot provide the basis for later civil suits that might follow a criminal conviction. (p.223)

2. Plea Bargaining (p.223)

- Based on *Brady v. U.S.*, pleas are acceptable if voluntarily and knowingly made.
- *Santobello v. New York* established that plea bargaining is an important and necessary component of the American justice system.
- In *Henderson v. Morgan*, the U.S. Supreme Court held that a defendant can withdraw a plea after it has been given.
- The Court has held that defendants have the right to counsel during plea bargaining.

Plea Bargaining: The process of negotiating an agreement among the defendant, the prosecutor, and the court as to an appropriate plea and associated sentence in a given case. Plea bargaining circumvents the trial process and dramatically reduces the time required for the resolution of a criminal case. (p.223)

Learning Activities Utilizing the World Wide Web

The following are presented as instructor led activities, to be used in a classroom with online access.

Use the Cybrary (<http://mycrimekit.pearsoncmg.com>) to locate a detailed description of a state court system, perhaps the court system in your home state. Describe the various courts that comprise the system, the staff roles, and the administrative agencies (for example, the administrative office of state courts). Outline the functions of each.

This pre-class assignment is designed to help your students learn more about the United States Supreme Court. Visit the Supreme Court's website at <http://www.supremecourt.gov>. Explore the various links from this page. Compile ten facts about the Supreme Court for display during class. Lead a discussion about the Supreme Court.

Other websites for organizations and agencies related to the material in Chapter 7 include:

Supreme Court of the United States <http://www.supremecourt.gov>

U.S. Federal Judiciary <http://www.uscourts.gov>

National Center for State Courts <http://www.ncsc.org/>

Professional Bail Agents of the United States <http://www.pbua.com>

Florida CyberCourt Home Page <http://www.flcourts.org>

Center for Court Innovation – Community Court
<http://www.courtinnovation.org/topic/community-court>

International Criminal Court www.icc-cpi.int