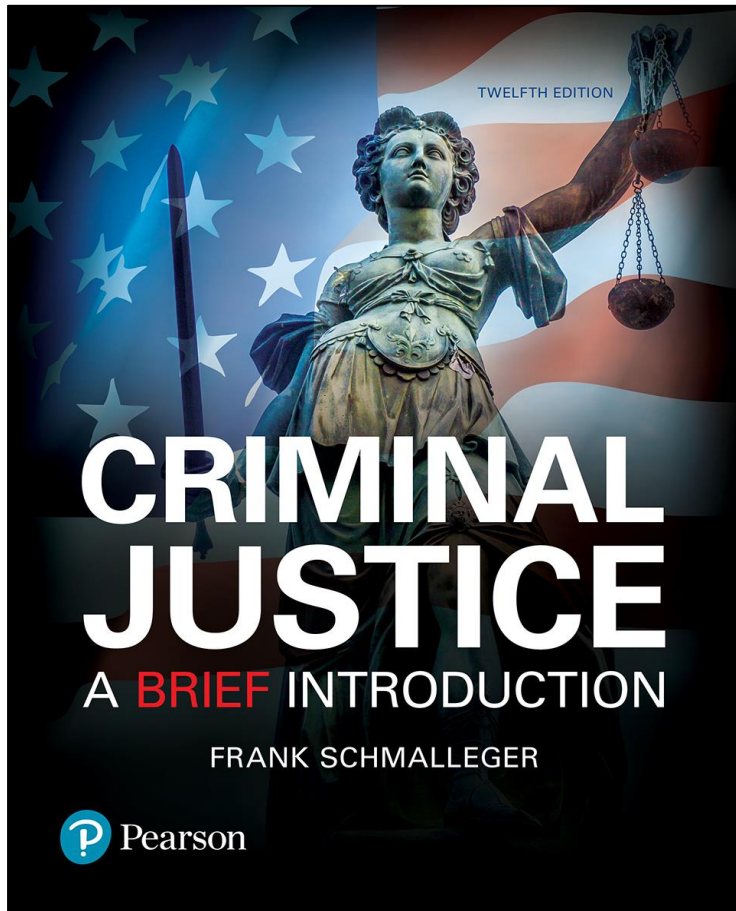


# Criminal Justice: A Brief Introduction

Twelfth Edition



## Chapter 8

The Courtroom Work Group  
and the Criminal Trial

# The Courtroom Work Group: Professional Courtroom Actors (1 of 2)

- Trial
  - The examination in court of the issues of fact and relevant law in a case for the purpose of convicting or acquitting the defendant
- Two categories of participants in criminal trials
  - Professionals – official courtroom actors
  - Outsiders

# The Courtroom Work Group: Professional Courtroom Actors (2 of 2)

- Courtroom work group
  - The professional courtroom actors, including judges, prosecuting attorneys, defense attorneys, public defenders
- Outsiders
  - Include jurors, witnesses, and victims
  - Outsiders generally are unfamiliar with courtroom organization and trial procedure

# The Judge

- An elected or appointed public official who presides over a court of law
- The trial judge has the primary duty of ensuring justice.
  - Holds the ultimate authority and weighs objections from both sides
  - Decides on the admissibility of evidence and sentences offenders

# Judicial Selection

- Federal-level judges are nominated by the president and confirmed by the Senate
- State judgeships are won through either popular election or political appointment
- Missouri Plan combines elements of both election and appointment

# Judicial Qualifications

- Nearly all states require judges hold a law degree, be a licensed attorney, be a member of the state bar
- Many require newly elected judges to attend state-sponsored training
- In some states, lower court judges may be elected without education or other professional requirements

# The Prosecuting Attorney

- An attorney who is responsible for presenting the state's case against the defendant
- State prosecutors are elected and generally serve four-year terms, with the possibility of continuing reelection.
- May serve as quasi-legal advisor to local police.
- Have the burden of proving guilt.

# Prosecutorial Discretion

- Prosecutorial Discretion
  - The decision-making power of prosecutors, based on the wide range of choices available to them
- Prosecutors have considerable discretion in charging defendants, scheduling cases, accepting negotiated plea, and so on.



# The Abuse of Discretion

- There is considerable potential for abuse of prosecutorial discretion
- Gross misconduct by prosecutors may be addressed by the state supreme court or state attorney general's office
- The Professional Misconduct Review Unit is responsible for disciplining federal prosecutors who engage in intentional or reckless misconduct

# The Defense Counsel

- An attorney who represents the accused and ensures the defendant's civil rights
- Three main category of defense attorneys
  - Private attorneys
  - Court-appointed counsel
  - Public defenders

# Private Attorneys

- Either have their own practice or work for law firms in which they are partners or employees
- Charge by the hour – can be very expensive
- Few law students choose to specialize in criminal law

# Court-Appointed Counsel

- 6<sup>th</sup> Amendment guarantees defendants the effective assistance of counsel
- The Supreme Court has established that defendants who cannot pay for attorneys will receive adequate representation
- Types of indigent defense
  - Assigned counsel
  - Public defenders
  - Contractual arrangements

# Assigned Counsel

- Usually drawn from a roster of all practicing attorneys within the jurisdiction of the trial court
- Fees are paid at a rate set by the state or local government
  - Usually low
  - May affect the amount of effort the attorney puts into the case

# Public Defenders

- State-employed lawyer defending indigent defendants
- The public defender system is the primary method used to provide indigent counsel for criminal defendants
- Most public defender offices are understaffed

# Contractual Arrangements

- County and state officials arrange with local criminal lawyers to provide for indigent defense on a contractual basis.
- The least widely used form of indigent defense, although its popularity is growing.

# Problems with Indigent Defense

- State systems are significantly underfunded
  - Results in heavy use of plea bargaining
- Not true of the federal system
- Defendants are not required to accept assigned counsel
  - May waive their right to an attorney and defend themselves



# The Ethics of Defense

- Attorneys may become emotionally committed to the outcome of the trial
- There are clear ethical and procedural considerations for the defense role
- The American Bar Association provides guidance in the areas of legal ethics and professional responsibility

# The Bailiff

- Bailiffs are court officers whose duties are to keep order in the courtroom, to secure witnesses, and to maintain physical custody of the jury
- Usually an armed law enforcement officer
- Bailiffs in the federal courtroom are deputy U.S. marshals.

# The Trial Court Administrators

- Their job is to facilitate the smooth functioning of courts in particular judicial districts or areas
- Provide uniform court management
- Relieve judges of routine and repetitive tasks
- Increasingly involved in juror management

# The Court Reporter

- Also called a court stenographer or court recorder
- Role is to create a record of all that occurs during a trial.
- The official trial record may later be transcribed in manuscript form and will become the basis for any appellate review of the trial.

# The Clerk of Court

- Maintains all records of criminal cases, including all pleas and motions made
- Prepares the jury pool, issues jury summons, subpoenas witnesses
- Marks physical evidence for identification during trial and maintains custody of that evidence

# Expert Witnesses

- A person who has special knowledge and skills recognized by the court as relevant to the determination of guilt or innocence
  - Can express opinions or draw conclusions in their testimony
  - Is usually viewed by jurors as more trustworthy than other forms of evidence

# Lay Witnesses (1 of 2)

- Lay witnesses
  - An eyewitness, character witness, or other person called on to testify who is not considered an expert
- Subpoena
  - A written order issued by a judicial officer or grand jury requiring an individual to appear in court and give testimony

# Lay Witnesses (2 of 2)

- The job of witnesses is to provide accurate testimony only about things of which they have direct knowledge
- Traditionally shortchanged by the judicial process
- Many states pay witnesses for each day they spend in court



# Jurors (1 of 2)

- Juror
  - A member of the trial or grand jury who has been selected for jury duty and is required to serve as an arbiter of the facts in a court of law
- Jury duty is a responsibility of citizenship
- Prospective jurors are usually drawn from tax register, motor vehicle records, or voter registration roles

# Jurors (2 of 2)

- Minimum qualifications for jury service vary by jurisdiction
- A peer jury is composed of a representative cross section of the community where the crime occurred and the trial is held

# The Victim (1 of 2)

- Not all crimes have clearly identifiable victims, or victims who survive
- Victims are often the most forgotten people in the courtroom
  - They may not even be permitted to participate directly in the trial process

# The Victim (2 of 2)

- Key hardships experienced by victims:
  - Uncertainty about role in the CJ process
  - Lack of knowledge about the CJ system, courtroom procedure, legal issues
  - Trial delays
  - Fear of the defendant or of retaliation from the defendant's associates
  - Trauma of testifying and cross-examination

# The Defendant (1 of 2)

- Generally, defendants must be present at their trial
  - A defendant who is present at the start of the trial may be voluntarily absent after the trial has commenced
  - This does not hold if the absence is due to escape or failure to appear

# The Defendant (2 of 2)

- Defendants exercise choice in:
  - Selecting and retaining counsel.
  - Planning defense strategy
  - Deciding what information to provide the defense team
  - Deciding what plea to enter
  - Deciding whether to testify personally
  - Determining whether to file an appeal if convicted

# Spectators and the Press (1 of 2)

- Presence supported by Sixth Amendment right to a public trial
- Ways to insure fair trial and impartial jury after pretrial release of information
  - Change of venue
  - Trial postponement
  - Jury selection and screening

# Spectators and the Press (2 of 2)

- Cameras of all kinds are prohibited in all federal district criminal proceedings.
  - **Caribbean International News Corporation v. Puerto Rico** (1993)
- Modern personal technologies threaten courtroom privacy



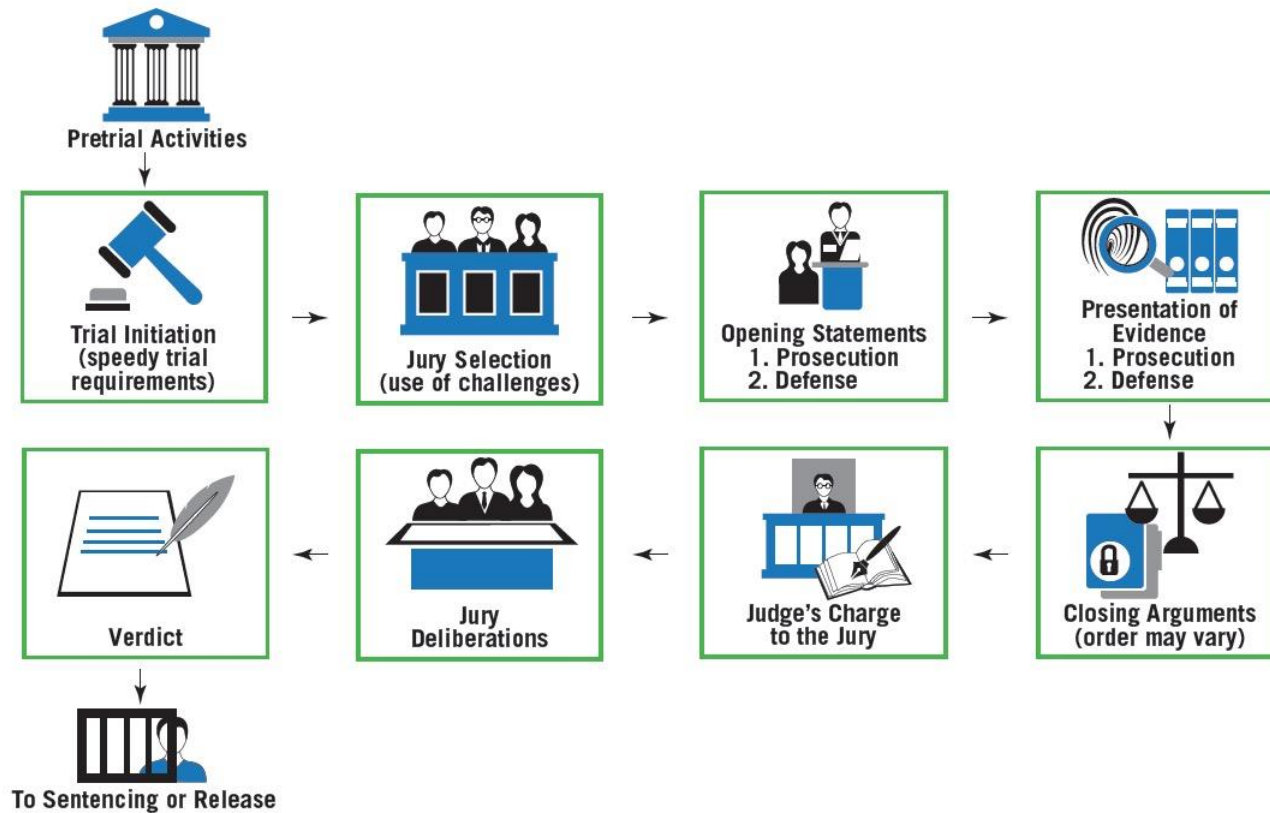
# The Criminal Trial Procedure

- Highly formalized
- The course of the trial is determined by rules of evidence and other procedural guidelines
- Trials are also affected by informal rules and professional expectations

# Nature and Purpose of the Criminal Trial

- The primary purpose is the determination of the defendant's guilt or innocence
  - Factual guilt
  - Legal guilt
- Adversarial system
  - The two-sided structure under which American criminal trial courts operate (prosecution vs. defense)

# Figure 8–3 Stages in a Criminal Trial



# Trial Initiation

- Sixth Amendment provides for the right to a speedy trial
- Federal Speedy Trial Act (1974)
  - Allows for dismissal of federal criminal charges if the prosecution does not seek an indictment or information within 30 days of arrest or if a trial does not begin within 70 working days after indictment or initial appearance

# Jury Selection (1 of 2)

- Sixth Amendment right to an impartial jury
- Types of challenges allowed during voir dire
  - Challenges to the array
  - Challenges for cause
  - Peremptory challenges

# Jury Selection (2 of 2)

- Scientific jury selection
  - Using social science techniques to gauge the likelihood that potential jurors will vote for conviction or for acquittal
- Shadow jury
  - Assesses the impact of a defense attorney's arguments
- Sequestered jury
  - Isolated from the public during the trial and deliberation process

# Jury Selection and Race

- Race alone cannot provide the basis for jury selection
- Juries may not be intentionally selected for racial imbalance
- Despite this, peremptory challenges continue to tend toward racial imbalance

# Opening Statements

- The initial statement of the prosecution or the defense, made in a court of law to a judge or to a judge and jury, describing the facts that he or she intends to present during trial to prove the case
- Evidence is not offered during opening statements



# Presentation of Evidence (1 of 5)

- Types of evidence
  - Direct evidence: Proves a fact without requiring an inference
  - Circumstantial evidence: Indirect and requires an inference
  - Real evidence: Physical material or traces of physical activity

# Presentation of Evidence (2 of 5)

- Evaluation of evidence
  - Trial judge must decide which evidence can be presented to the jury
  - Must weigh probative value of evidence
    - The degree to which evidence is useful in proving something important in a trial
  - Evidence may have only limited admissibility
  - Harmless error rule

# Presentation of Evidence (3 of 5)

- Testimony of witnesses
  - The oral evidence offered by sworn witness on the stand during the trial
  - Chief means by which evidence is introduced at trial
  - Witnesses may commit perjury
    - Intentionally make statements they know are untrue

# Presentation of Evidence (4 of 5)

- Children as witnesses
  - 37 states allow the use of videotaped testimony in criminal courtrooms and 32 permit the use of closed-circuit TV
  - **Coy v. Iowa** (1988)
  - **Maryland v. Craig** (1990)
  - **White v. Illinois** (1992)

# Presentation of Evidence (5 of 5)

- Hearsay
  - Anything not based on personal knowledge of a witness
- Hearsay Rule
  - Hearsay cannot be used in court
- Exceptions to the hearsay rule
  - Dying declaration
  - Spontaneous statements
  - Out-of-court statements

# Closing Arguments

- At the conclusion of a criminal trial, both sides have the opportunity for a final narrative presentation to the jury
- States vary as to the order but nearly all allow the defense attorney to speak first

# Judge's Charge to the Jury (1 of 2)

- Judge reminds the jury of their duty to consider evidence objectively and impartially
- May review the statutory elements of the offense, the burden of proof, the reasonable doubt standard
- Some judges provide a summary of the evidence presented.

# Judge's Charge to the Jury (2 of 2)

- Half the states allow judges to express their own views on witness credibility and the significance of evidence
- Other states only permit judges to summarize evidence in an objective and impartial manner
- Following the charge, the jury begins deliberations



# Jury Deliberations and the Verdict

- Deliberations may be very brief or last for days or weeks
- Many jurisdictions require juries reach a unanimous verdict
- Hung jury – jury is deadlocked and cannot agree on a verdict

# Problems with the Jury System

- Some question about the ability of the American jury system to do its job
  - Jurors cannot be expected to understand modern legal complexities
  - Difficult to separate emotions and fact
  - Jurors may suffer from inattention
  - Jurors may fear personal retaliation
- Alternatives
  - Panel of judges
  - Professional jurors

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