

**Solution Manual for Criminal Law and Procedure 8th Edition by Scheb ISBN
1285070119 9781285070117**

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Chapter 2

The Organization of the Criminal Justice System

CHAPTER ORIENTATION:

In every modern country, criminal justice is a complex process involving a plethora of agencies and officials. In the United States, criminal justice is particularly complex, largely because of federalism, the constitutional division of authority between the national and state governments. Under this scheme of federalism, the national government operates one criminal justice system to enforce federal criminal laws, and each state has a justice system to apply its own criminal laws. As a result of this structural complexity, it is difficult to provide a coherent overview of criminal justice in America. Each system is to some extent different in both substantive and procedural law. Nevertheless, this chapter attempts an overview of the criminal justice system, including legislatures, law enforcement agencies, prosecutorial agencies, defense counsel, the courts, and the corrections system.

LEARNING OBJECTIVES:

After reading this chapter, the student should be able to explain ...

1. why federalism is such an important concept in understanding the American system of criminal justice
2. the different roles played by legislatures, courts, and law enforcement agencies at the federal, state, and local levels of government
3. the differences and similarities between Congress and the state legislatures with respect to their legislative powers
4. how modern policing has evolved from its medieval English origins
5. the roles of prosecutor and defense counsel
6. how grand juries differ from trial juries
7. how the federal and state judicial systems are structured
8. how military tribunals differ from civilian criminal courts
9. how the juvenile system differs from the criminal justice system for adults
10. how the system of corrections is structured and how criminal punishment has evolved

CHAPTER OUTLINE:

- I. Introduction
- II. Legislatures
 - A. Legislative Powers of Congress
 - i. Publication of Federal Statutes
 - B. State Legislatures
 - C. Statutory Interpretation

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- III. Law Enforcement Agencies
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 - B. Policing in Modern America
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- VIII. The Juvenile Justice System
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- IX. The Corrections System
 - A. Historical Background
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 - C. America's Massive Prison Population
 - D. The Future Outlook

- X. Conclusion

Key Terms:

appellate courts
General
construction
policing
service
system
Appeals for the Armed Forces
court-martial
courts of general jurisdiction
courts of limited jurisdiction
cruel and unusual punishments
death penalty
defense attorney
Department of Justice (DOJ)
en banc hearing
enumerated powers
Federal Bureau of Investigation (FBI)
federalism
grand jury
implied exception
implied powers
incarceration
independent counsel
indictment
indigent defendants
intermediate appellate courts
jurisdiction
jury
juvenile court
juvenile delinquency
legislative intent
legislature
monetary fines
no bill
nolle prosequi
order maintenance
parens patriae
parole Attorney
penitentiary canons of
petit (trial) jury community
plain meaning rule community
plea bargaining corrections
police departments Court of
probation
prosecutor
prosecutor's information
public defender
rules of procedure
rules of statutory interpretation
session laws
sheriff
special agents
speedy and public trial
state supreme court
state's attorneys
status offenses
statute
sworn officers
trial courts
true bill
U.S. Code
Uniform Code of Military Justice
(UCMJ)
United States Attorneys
United States Code Annotated
(U.S.C.A.)
United States Congress
United States Courts of Appeals
United States District Courts
United States Marshals Service
United States Supreme Court
void for vagueness
writ of certiorari

JURISPRUDENCE:

Gideon v. Wainwright, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963). Clarence Earl Gideon, a indigent drifter who had been in and out of jails all his adult life, was charged with felonious breaking and entering. He requested that the court appoint an attorney to

represent him. The court refused, citing the Florida law that required appointment of counsel for indigent defendants only in capital cases. In a unanimous decision, the Supreme Court reversed Gideon's conviction. Hugo Black opined that "[t]he right of one charged with a crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours." Because Gideon was made retroactive, it allowed numerous persons serving time in state prisons to win their freedom by seeking writs of habeas corpus in the federal courts.

Hurtado v. California, 110 U.S. 516, 4 S.Ct. 111, 28 L.Ed.232 (1884). Joseph Hurtado was charged with murder by the state of California by way of an information rather than the traditional grand jury indictment. He was tried, convicted and sentenced to death. Hurtado claimed that the grand jury procedure required in federal criminal cases by the Fifth Amendment was an essential feature of "due process of law" and thus required in state criminal cases by the Fourteenth Amendment. Dividing 7–1, the U.S. Supreme Court rejected that argument and sustained his conviction. The Court said that states should be free to design their own criminal justice systems without interference by the federal courts. This decision remains "good" law, and states are not required by the federal constitution to use grand juries to bring criminal charges, although many still do.

Williams v. Florida, 399 U.S. 78, 90 S.Ct. 1893, 26 L.Ed.2d 446 (1970). Johnny Williams was convicted of robbery by a Florida court and sentenced to life imprisonment. Under a Florida law, juries in noncapital criminal cases were reduced from twelve to six jurors. Williams claimed that this violated his constitutional right to trial by jury, which is protected by the Sixth Amendment and applicable to the states under the Fourteenth Amendment. The U.S. Supreme Court rejected Williams' argument, holding that the Sixth Amendment does not require a particular number of jurors.

Solorio v. United States, 483 U.S. 435, 107 S.Ct. 2924, 97 L.Ed.2d 364 (1987). While serving in the Coast Guard, Richard Solorio was accused of sexually abusing children in his private residence. A general court-martial was convened to adjudicate the case. He moved to dismiss the charges on the ground that they were not "service connected," and his motion was granted. The prosecution appealed to the Coast Guard Court of Military Review, which reversed and reinstated the charges. After the Court of Military Appeals affirmed this ruling, Solorio obtained review by the U.S. Supreme Court. Dividing 5–4, the Court upheld the reinstatement of the charges and overturned its 1969 decision in *O'Callahan v. Parker*. Chief Justice William Rehnquist concluded that the "service connection approach" set forth in *O'Callahan* "has proven confusing and difficult for military courts to apply."

Hamdan v. Rumsfeld, 548 U.S. 547, 126 S.Ct. 2749, 165 L.Ed.2d 723 (2006). Salim Ahmed Hamdan, a Yemeni national detained at the American naval base at Guantanamo Bay, Cuba, brought suit to challenge the legality of the military tribunal before which he was to be tried for conspiracy to commit terrorism. The Supreme Court held that the federal government's plan to try Guantanamo Bay detainees before military commissions was unauthorized by statute and violated international law. However, the Court indicated that Congress could, through appropriate legislation, provide for the use of military

tribunals to try Guantanamo Bay detainees. Justice John Paul Stevens noted that “in undertaking to try Hamdan and subject him to criminal punishment, the Executive is bound to comply with the Rule of Law that prevails in this jurisdiction.”

In re Gault, 387 U.S. 1, 87 S.Ct. 1428, 18 L.Ed.2d 527 (1967). After a neighbor complained of receiving an obscene phone call, fifteen-year-old Gerald Gault was taken into custody and brought before a juvenile court in Gila County, Arizona. As was normal at that time, the case against Gault proceeded without many of the constitutional protections afforded to adult defendants in criminal courts. Gault was denied the right to an attorney, was not formally notified of the charges against him, was not informed of his protection against self-incrimination, and was not given an opportunity to confront his accuser. After a brief hearing, Gault was judged to be delinquent and was ordered to serve six years in juvenile detention. Two years later, the U.S. Supreme Court held that the process leading to Gault’s detention was constitutionally defective: juvenile proceedings must observe the rudiments of due process of law. Justice Abe Fortas observed, “Under our Constitution, the condition of being a boy does not justify a kangaroo court.”

MEDIA TOOLS:

Federal Courts Website

Assignment: Have students explore the federal courts website. Then have them answer the following questions:

1. In which federal district are we located?
2. In which federal circuit are we located? Where is the U.S. Court of Appeals for that circuit based?
3. What other states are in this federal circuit?
4. Are the opinions for that circuit court available online?

Findlaw Website-Miranda v. Arizona

Assignment: Have students use FindLaw’s searchable database of Supreme Court cases to locate the Court’s landmark decision in *Miranda v. Arizona*, 384 U.S. 436 (1966).

1. What was the issue before the Court?
2. How did the Court decide that issue?
3. Who wrote the opinion of the Court?
4. Were there any dissenting opinions? If so, by whom?
5. Why do you think this is considered a landmark decision?

QUESTIONS FOR THOUGHT AND DISCUSSION

1. How does the concept of federalism complicate the administration of criminal justice in the United States?

Answer: Federalism refers to the constitutional division of authority between the national and state governments. The national government operates one criminal justice system to enforce federal criminal laws while each state operates its own system of criminal laws. Each system is to some extent different in structure and in its application of both substantive and procedural law. This results in complications in the administration of criminal justice in the United States.

2. Describe the functions of federal and state law enforcement agencies.

Answer: The Federal Bureau of Investigation (FBI) is the primary agency empowered to investigate violations of federal criminal laws. United States Marshals execute orders of federal courts and serve as custodians for the transfer of prisoners. Nearly fifty other federal agencies have law enforcement authority in specific areas. Among them are the Bureau of Alcohol, Tobacco, and Firearms; the Internal Revenue Service; the Bureau of Indian Affairs; the Drug Enforcement Administration; the Bureau of Postal Inspection; the Tennessee Valley Authority; the National Park Service; the Forest Service; the U.S. Capitol Police; the U.S. Mint; the Secret Service; and the Bureau of Citizenship and Immigration Services within the new Department of Homeland Security.

States have their own law enforcement agencies that patrol the highways, investigate crimes, and furnish skilled technical support to local law enforcement agencies. Additionally, every state has agencies responsible for enforcing specific areas of the law, ranging from agricultural importation to food processing and from casino gambling to dispensing alcoholic beverages. Most counties in America (more than three thousand of them) have a sheriff; nearly 15,000 cities and towns have their own police departments. Although the county sheriff usually has jurisdiction within the municipalities within the county, sheriffs usually focus their enforcement efforts on areas outside the boundaries of municipalities. Local police enforce the criminal laws of their states as well as ordinances adopted by their municipalities. In addition to county and municipal law enforcement agencies, numerous special districts and authorities have their own police forces. For example, state universities, airports, and seaports usually have their own police departments.

3. Compare and contrast the functions of trial and appellate courts. How are they similar? How are they different?

Answer: Both trial and appellate courts are similar in that each operates under constitutional and statutory provisions which spell out their jurisdiction over persons and geographical areas. Each operates under procedural rules; each has the authority to hold persons in contempt.

Trial courts generally consist of a single judge with or without a jury while appellate courts consist of three or more judges who make their decisions without the assistance of a jury. Trial courts conduct criminal trials and rule on various

pretrial and post-trial matters. They are primarily concerned with ascertaining facts, determining guilt or innocence, and imposing punishments,

Appellate courts are primarily concerned with correcting errors of trial courts and in developing the law when new legal questions arise. They hear appeals from trial court decisions and issue writs directed to lower courts. In some instances appellate courts must determine whether there is legally sufficient evidence to uphold a conviction.

4. What function does a grand jury serve? Does replacement of the indictment function of grand juries at the state level with prosecutors authorized to charge crimes by filing a sworn information impair the rights of citizens charged with crimes?

Answer: Grand juries essentially consider whether there is sufficient evidence to bring charges against a person; petit or trial juries sit to hear evidence at a trial and render a verdict accordingly. The Fifth Amendment to the U.S. Constitution stipulates that “[n]o person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury.” The constitutional requirement binds all federal courts; however, the Supreme Court has held that states are not bound to abide by the grand jury requirement.

Discussion: Many states have replaced grand juries with prosecutors who are authorized to charge crimes by filing sworn information. Some, however, require a grand jury indictment before a person is charged with a capital crime. This is a good topic for students to discuss. There are arguments pro and con. Some argue that grand juries are dominated by prosecutors and almost never fail to return an indictment. Others see the grand jury as a protector of the rights of citizens against an otherwise aggressive or politically motivated prosecutor. Those who support the concept of prosecutors issuing sworn informations point to the efficiency of that system noting that an accused can challenge a prosecutor’s information before a court.

5. Is there a justification for the broad discretion vested in a prosecutor?

Discussion Points: Most would probably say “yes.” As gatekeepers of the criminal justice system prosecutors become sensitive to the community norms while exercising their broad discretion. They sometimes *nol pros* cases to secure cooperation of a defendant in furthering other prosecutions; in other instances, a prosecutor may allow a defendant to participate in some diversionary program of rehabilitation. Refer to arguments pro and con concerning prosecutors issuing sworn informations as opposed to persons being charged by grand juries. Ask: “What other mechanism can effectively provide an effective screen for charging defendants?” “Would the absence of prosecutorial discretion give police agencies too great a control over the criminal justice system?”

6. To what extent does the Constitution protect the right to trial by jury in a criminal case?

Answer: Article III, Section 2 of the U.S. Constitution establishes the right to trial by jury in criminal cases. The Sixth Amendment guarantees “the right to a speedy and public trial by an impartial jury.” All state constitutions confer the right of trial by jury in criminal cases; however, the federal constitutional right to a jury trial applies to the states, thereby guaranteeing a defendant a right to a jury trial in a state criminal prosecution if such a right would exist in a federal prosecution. (This topic is discussed in more detail in Chapter 18).

7. What are the arguments for and against allowing trial judges broad discretion in criminal sentencing?

Factors to be Considered: By allowing a judge broad discretion the court may tailor a criminal sentence to meet the objectives of punishment or rehabilitation and allow the judge to consider the defendant’s age, maturity, record of prior offenses, family situation, and any circumstances of the crime. To require a flat, non-discretionary sentence provides predictably and uniformity, and may possibly be a disincentive to commission of an offense. (This topic is discussed in more detail in Chapter 19).

8. What factors do you think a prosecutor should take into consideration in determining whether to prosecute an individual the police have arrested for possession of illegal drugs?

Suggestions: Here are some factors a prosecutor should consider. The individual’s prior record of drug offenses and other criminal violations, the individual’s age, circumstances involving the possession and amount of illegal drugs involved, and whether an alternative form of punishment or rehabilitation, for example, drug court may be a viable alternative to prosecution. (Ask students for their opinions as to matters a prosecutor should consider in determining whether to prosecute a person arrested for possession of illegal drugs.).

9. What chief characteristics distinguish the military justice system under the Uniform Code of Military Justice from civilian criminal prosecutions?

Main points: Military tribunals have both similarities and differences from civilian courts. Judges, prosecutors, and defense counsel have qualifications similar to civilian courts. Court procedures and rules of evidence basically follow federal court procedures.

Congress has enacted the Uniform Code of Military Justice (UCMJ) that gives military courts jurisdiction to try offenses committed by military personnel under the UCMJ. Certain conduct peculiar to the military environment, for example,

absence without leave, desertion, disobedience of a superior officer's orders, etc. are made criminal. Many minor offenses are handled by non-judicial punishment.

A military commander convenes a court martial composed of military officers, and in some instances, enlisted personnel. Court martial jurisdiction and level of authorized punishment depends on whether the court-martial is summary, special or general. A military judge presides at special and general courts-martial. A trial counsel serves as prosecutor and defendants are furnished military lawyers who act as defense counsel unless an accused chooses to employ a civilian attorney. The military has an appellate system consisting of courts of review in each branch of the military services. The U.S. Court of Appeals for the Armed Forces hears appeals in specified instances.

10. What factors should a judge consider in determining whether to sentence a convicted felon to prison?

Suggestions: At the outset it should be pointed out that criminal punishment is limited by the Eighth Amendment prohibition of cruel and unusual punishments, the due process clauses of the Fifth and Fourteenth Amendments, and by similar provisions in all fifty state constitutions. Today the criminal law provides for a variety of criminal punishments, including monetary fines, incarceration, probation, community service, and, of course, the death penalty.

Factors that a judge should consider in determining whether to sentence a convicted felon to prison are considered in more detail in Chapter 19. Obviously the judge should consider the seriousness of the felony involved and the defendant's prior record of convictions. At this stage students should begin to discuss whether the objectives of sentencing are punishment or rehabilitation or a combination of both. The discussion might include brief references to alternatives to incarceration such as fines, probation, community control, and community service.