

Trial and Sentencing

- Criminal Trials
 - Determine legal guilt or innocence
 - Legal guilt vs. factual guilt
 - Most are adjudicated or decided by juries
 - Determine facts, weigh evidence, deliberate, render verdict
 - Defendants charged with misdemeanors can opt for a bench trial
 - The defendant must voluntarily and knowingly waive their right to a jury trial
 - Government (state) must consent
 - Court (judge) must approve
- Criminal Trials
 - Stages of a criminal trial
 - Jury selection
 - Opening statements
 - Presentation of evidence and witnesses
 - Closing statements
 - Judge's charge and instructions to jury
 - Jury deliberation
 - Verdict
- Opening Statements
 - Opening statements summarize what both sides will argue happen in the particular case
 - The prosecution argues why the defendant should be found guilty
 - Because the burden of proof rests with the prosecution, they give their opening statements first
 - The defense argues why the prosecution case is faulty and thus, why the defendant should be found not guilty
- Presentation of Evidence
 - Two types of evidence
 - Direct

- Does not require interpretation
 - i.e., pictures, video, eyewitness testimony
 - Circumstantial
 - Requires interpretation
 - i.e., fingerprints, ballistics, DNA
- Presentation of Evidence
 - Each side presents their witnesses and evidence
 - The prosecution presents its case first
 - Direct examination by prosecution
 - Cross examination by defense
 - Redirect by prosecution
 - The defense then presents its case
 - Direct examination by defense
 - Cross examination by prosecution
 - Redirect by defense
 - The defendant cannot be compelled to testify himself or herself
- Presentation of Evidence
 - Hearsay
 - Statements or testimony from sources outside of the courtroom that are attempted to be introduced into evidence
 - Typically disallowed if the witness does not possess personal knowledge
 - Exceptions to the hearsay rule
 - Dying declaration
 - Excited utterance
- Closing arguments
 - The prosecution and defense summarize the evidence and facts of the case and make a final appeal to the jury
 - No new evidence can be introduced
 - The prosecution goes first

- The defense goes next
 - The prosecution can then offer a rebuttal
 - Charge to the Jury
 - The judge instructs the jury on the law to be followed
 - Most states use a template
 - Instructions reiterate that the defendant is innocent until proven guilty and that the prosecution's case must be proven beyond a reasonable doubt to find the defendant guilty
 - Jury deliberation
 - Outcomes
 - Guilty
 - Unanimity is required in most cases (LA and OR are exceptions)
 - Not guilty (or acquittal)
 - Jury nullification
 - "double jeopardy"
 - Jury deliberation
 - Hung jury
 - The jury fails to reach a consensus on guilt
 - Can often lead to a mistrial
 - Mistrial
 - Incorrect jury selection
 - Improperly admitted evidence
 - Prosecutorial/judicial misconduct
 - Juror disqualification/misconduct
 - Any significant prejudicial error
- Sentencing
- The application of a criminal sanction to a legally guilty individual
 - Can happen immediately following the trial or at a later scheduled date
 - Punishment may include:

- Fines, restitution, probation, intermediate punishments (intensive supervision, substance abuse treatment, electronic monitoring, boot camp, and halfway houses), imprisonment in jail or prison, state hospital commitment, or death
- Sentencing
 - Guided by three essential concepts:
 - Proportionality
 - Equity
 - Social debt
- Sentencing
 - Indeterminate sentencing
 - Judges have greater discretion to craft an individualized sentence with emphasis on rehabilitation
 - Sentenced to a range of years with a stated minimum and maximum
 - Parole boards determine when the prisoner is released
- Sentencing
 - Determinate sentencing
 - Sentences are generally given in fixed terms with an anticipated date of release
 - Impersonal
 - Removes or reduces judicial discretion
 - “Three-strikes laws”
 - “Truth-in-sentencing”
 - Focus on retribution instead of rehabilitation
 - Designates minimum sanctions for particular crimes
- Sentencing
 - Sentencing guidelines
 - Presented in a form of a grid or matrix
 - Identifies the appropriate sentence for the offender based upon the severity of the crime and the offender’s criminal history
- Capital (Death Penalty) Cases
 - Capital crimes are crimes that punishable by death

- Examples of capital crimes...
 - Premeditated (first degree) murder, treason, murder of federal agents and politicians, and some crimes against children
- Capital (Death Penalty) Cases
 - Prosecutors must declare their intent to seek the death penalty
 - During *voir dire*, attorneys ascertain if prospective jurors are qualified to serve on a case in which the punishment may be death
 - Juries are more likely to be sequestered
 - Bifurcated trials
 - Guilt phase
 - Sentencing phase
 - Requires unanimous jury verdict
 - Mandatory appeals process
- Capital (Death Penalty) Cases
 - Proponents
 - Offender is incapacitated permanently
 - Deters future capital crimes
 - Moral and fair response to those who have committed murder
 - Opponents
 - Contradictory and morally inconsistent
 - Research suggests that the death penalty is not a deterrent
 - Innocent persons may be executed
 - Death sentences are unfairly administered