

Sociology 3395: Criminal Justice & Corrections

Class 13: The Courts & Criminal Trial Procedure 1

- * Only 9% of persons charged actually have a trial
- * Increasing caseloads have resulted in staying of charges due to delays (Askov case)
- * Alternatives: plea bargaining, mediation, & specialty courts

The Functions of the Courts:

* Due process model:

- make impartial decisions
- consider all relevant evidence
- follow procedural rules to discover

truth

* Crime control model:

- protect society from criminals
- ensure convictions/punishment of
- deter crime & protect the law-abiding

offenders

* Bureaucratic function model:

- focus on day-to-day operations
- speed, efficiency, ability to move

things along

- ideal of justice vs. realities of
bureaucracy

The Organization of Canadian Criminal Courts:

* Provincial & Territorial Courts:

(1) Limited jurisdiction courts:

- specialize in certain areas (e.g. traffic offences)
- include circuit courts in rural areas
- hear most minor offences
- include justices of the peace (a.k.a. magistrates)

(2) General jurisdiction courts:

- hear serious criminal offences
- may use juries or judge only
- some specialized courts (e.g. domestic violence)

(3) Courts of appeal:

- consist of panel of judges
- review decisions made by lower courts
- highest authority in a province
- decisions may be appealed to the SCC (with leave)

* Supreme Court of Canada:

- final authority over all public & private law
- judicial review (e.g. is a law constitutional?)
- interprets the law
- selects certain cases / others heard “as of right”

* Lower & higher courts:

Lower courts: provincial courts that hear summary conviction
& provincial statute offences

Higher courts: hear only indictable offences &/or appeals

The Court System:

* Proof prior to trial = probable cause

* Proof to convict: beyond a reasonable doubt

* Participants: the accused, crown prosecutor, defense counsel, judge,
jury, victim, & witness

* Procedures: governed by law, tradition & judicial authority

* Common practices:

- (70%)
 - accused pleads guilty to one or more charges
 - depending on evidence/policework, prosecutors may proceed without concessions (60%), or stay proceedings, withdraw or reduce charges

* Defense counsel:

- represents legal rights of his/her client
- prepares case/ determines strategy
- helps client understand laws, procedures, possible sentence
- deals with police & prosecution
- assesses the value of a plea bargain
- represents client at all stages
- challenges the evidence / questions witnesses
- may not allow client to lie on the stand

* Crown prosecutor:

- job is to enforce, not necessarily to convict
- must present all relevant evidence
- yet conviction rate often seen as success, acquittal as failure
- makes opening statements to the jury, sets the tone
- examines records & witnesses
- decides whether to go ahead with case
- lays out evidence & examines witnesses in preliminary hearings
- heavy workload (6-10 cases/day: 12-14 in peak periods)

* Judge:

- presides over court
- admits or excludes evidence
- instructs juries re: evidence & charges
- determines guilt or innocence if there is no

jury

- appointed by federal or provincial
governments (i.e. superior vs.
lower courts)

* Next class: overview of criminal trial procedures, legal
rights,
trials & appeals