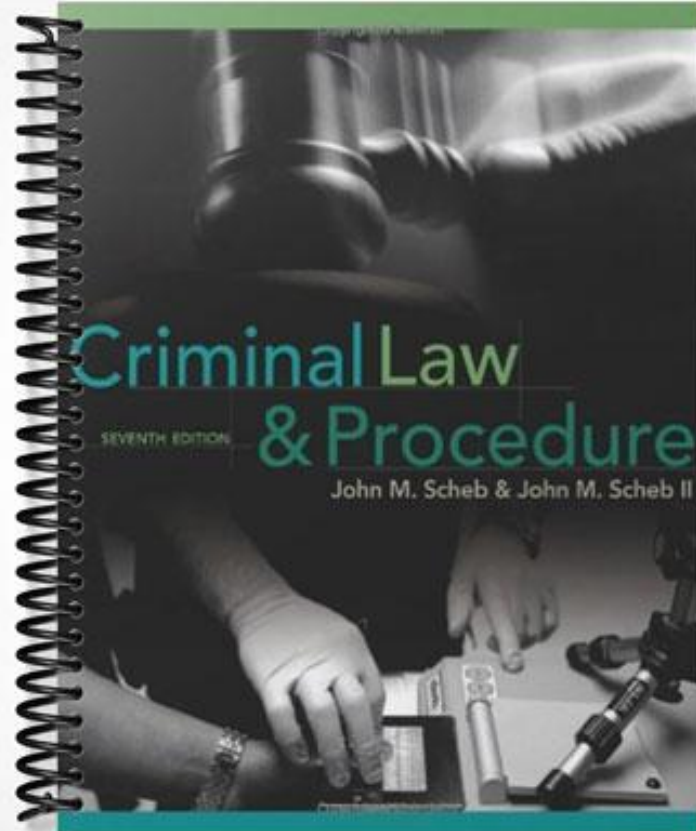


SOLUTIONS MANUAL



Chapter 2

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 there are variations in criminal justice systems across the states
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 and why courts interpret criminal laws enacted by legislatures
5. how modern American policing has evolved from its medieval English origins
6. the roles of prosecutor and defense counsel
7. how grand juries differ from trial juries
8. how the federal and state judicial systems are structured
9. how military tribunals differ from civilian criminal courts
10. how the juvenile justice system differs from the criminal justice system for adults
11. how the system of corrections is structured and how criminal punishment has evolved

CHAPTER OUTLINE:

Introduction
Legislatures
Law Enforcement Agencies
Prosecutorial Agencies
Counsel for the Defense

Juries
The Courts
The Juvenile Justice System
The Corrections System
Conclusion
Chapter Summary
Key Terms
Questions for Thought and Discussion

KEY TERMS:

federalism
legislature
United States Congress
statutes
enumerated powers
implied powers
U.S. Code
United States Code Annotated (U.S.C.A.)
session laws
mala prohibita
rules of statutory interpretation
plain meaning rule
canons of construction
legislative intent
void for vagueness
implied exception
sworn officers
Federal Bureau of Investigation
Department of Justice
special agents
United States Marshals
sheriff
police departments
order maintenance
community policing
prosecutors
plea bargaining
Attorney General
United States Attorneys
independent counsel
state's attorneys
nolle prosequi
indigent defendants
public defenders

defense attorney
jury
grand jury
petit (trial) jury
true bill
no bill
indictments
prosecutor's information
speedy and public trial
trial courts
appellate courts
jurisdiction
United States District Courts
intermediate appellate courts
United States Courts of Appeals
en banc hearings
United States Supreme Court
writ of certiorari
rules of procedure
courts-martial
Uniform Code of Military Justice
Court of Appeals for the Armed Forces
courts of general jurisdiction
courts of limited jurisdiction
state supreme court
juvenile courts
juvenile delinquency
status offenses
parens patriae
corrections system
penitentiary
death penalty
cruel and unusual punishments
fines
incarceration
probation
parole
community service

RELEVANT CASES ON THE COMPANION WEBSITE:

Gideon v. Wainwright
Hurtado v. California
Duncan v. Louisiana
Williams v. Florida

Solorio v. United States
Ex parte Milligan
Ex parte Quirin
Hamdan v. Rumsfeld
In re Gault

MEDIA SUGGESTION:

Go to the Cengage Criminal Justice Media Library, online at <http://college.cengage.com/criminaljustice>.

Have students view the learning module entitled “CJ system” which covers subsystems of the criminal justice system, the existence of discretion in the system, and how cases are processed through the system.

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.