**Courts Review Study Guide**

**Assignment 3**

After reviewing your study guide, answer the questions at the end and forward them to my email address, [rschwill@bartlettschools.org](mailto:rschwill@bartlettschools.org) .

**America’s Dual Court System**

1. The United States has a dual court system, with courts on both the federal and state levels.

**U.S. Supreme Court**

2. The U.S. Supreme Court consists of nine justices, eight of whom are referred to as Associate Justices.

3. The ninth justice presides over the Court as the Chief Justice.

**Supreme Court Justices:**

4. are nominated by the President

5. are confirmed by the Senate

6. serve for life

*Chief Justice:* John Roberts (appointed Sept. 2005 as Chief Justice)

*Associate Justices:*

Antonin Scalia (appointed Sept. 1986)

Anthony Kennedy (appointed Feb. 1988)

Clarence Thomas (appointed Oct. 1991)

Ruth Bader Ginsberg (appointed Aug. 1993)

Stephen Breyer (appointed Aug. 1994)

Samuel Alito (appointed Jan. 2006)

Sonia Sotomayor (appointed Aug. 2009)

Elena Kagan (appointed Aug. 2010)

**U.S. Supreme Court**

7. It does not conduct trials except in disputes between states and some attorney disbarment.

8. It reviews the decisions of lower courts.

9.It handles all cases dealing with Voting Rights.

10. Four justices must vote in favor of a hearing for a case to be heard.

11. This is called “The Rule of Four.”

12. Five justices comprise the majority

13. The Court issues a “*writ of certiorari*” to a lower court.

14. Usually the Court only reviews cases that involve a substantial federal question.

15. Of 5,000 annual requests for review, only about 200 are heard.

16. A Writ of Certiorari is:

… a writ issued from an appellate court for the purpose of obtaining from a lower court the record of its proceedings in a particular case.

17. A Judicial Review by the Supreme Court is:

… the power of a court to review actions and decisions made by other agencies of government.

It is probably the U.S. Supreme Court’s greatest power.

**Types of Crimes**

18. Felonies – most serious

19. Misdemeanors – serious

20. Infractions – less serious

**Pretrial Activities**

21. Initial appearance

22. Pretrial release and bail

23. Diversion

24. The Grand jury

25. Indictment

26. The Preliminary hearing

27. Arraignment and plea

28. Plea bargaining

**Initial Appearance**

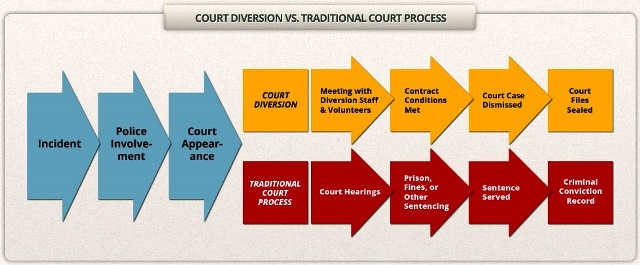
29. At an initial appearance, the defendant is informed of his legal rights.

The defendant may not be aware of what exact rights he has after his arrest.

The judge will inform him of these rights to help him in his decisions.

30**. Court Diversion**is a restorative alternative for individuals *charged with a crime*.

After police issue a citation for violating the law, the state’s attorney decides whether to refer the person out of the court system to the community-based Court Diversion program.

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31. Arraignment is the first appearance before the court with authority to try the case.

32. Two purposes:

* + Inform suspect of specific charges
  + Allow defendant to enter a plea

33. Approx. half of states use Grand Juries.

34. They hear evidence only from prosecutors.

35. They serve as filters to eliminate cases without sufficient evidence.

36. If they find that there is enough evidence to proceed to trial, they issue an *indictment.*

**Preliminary hearings**

37. Used instead of Grand Juries.

38. They give the defendant an opportunity to challenge the legal basis of his detention.

39. A lower court judge summarizes the charges and reviews the rights of criminal defendants.

40. The judge makes a determination if there is enough evidence to proceed to trial.

**Plea Bargaining**

41. **Plea Bargaining** … the process of negotiating an agreement among the defendant, the prosecutor, and the court as to an appropriate plea and associated sentence in a given case.

42. Plea bargaining circumvents the trial process and dramatically reduces the time required for the resolution of a criminal case.

43. Some surveys have found that 90% to 95% of all criminal cases prepared for trial are eventually resolved through a negotiated plea.

**What is the jury’s job?**

44. Hear/See testimony and evidence in a trial, deliberate and render a verdict.

**How and when do jurors serve?**

45. Potential jurors receive a summons from the court and are entered into the jury pool.

46. Selected jurors are then empanelled to hear a case

**Can you be excused?**

47. YES.

48. Jurors may be excused if:

* + - Serving on jury duty poses an unusual hardship.
    - An illness prevents you from doing a good job.
    - A disability which the court cannot accommodate prevents you from serving

49.

* + You must request to be excused. A failure to appear when summoned is a misdemeanor.

**50. Voir Dire**

* + - “The truth” + “To speak” = “To speak the truth”

**How jurors are selected**

51. The attorneys ask jurors questions to discover biases of the jurors.

52. Jurors may be removed:

* + For Cause - If juror says or otherwise expresses a bias.
  + Through Peremptory Challenge - No reason is required.

53. However: Neither side is allowed to exercise a peremptory challenge based on the race or gender of a prospective juror. *Batson v. Kentucky*, 476 U.S. 79 (1986)

**The Trial Process**

1. opening statements are made by the prosecution and defense
2. presentation of evidence – first by prosecution and then by defense

Types of Evidence

56. Direct evidence: facts that need not be interpreted (photographs, testimony)

57. Circumstantial evidence: requires judge or jury to make inferences or draw conclusions

58. Real evidence: physical material or traces of activity

59. testimony of witnesses: victims, police officers, defendant, and specialists

60. closing arguments by prosecutor and defense

61. The burden of proof in a criminal trial is “beyond a reasonable doubt”

62. judge’s charge to the jury

63. jury deliberations

64. If the jury makes a unanimous decision they have reached a “verdict”

65. If the jury cannot reach a unanimous decision they are “hung”

**Important Legal Terminology**

66. Stare Decisis -Literally means “Let the decision stand”. The doctrine that courts will abide by or adhere to the ruling of previous court decisions when deciding cases having substantially the same facts.

68. Discovery -A legal motion requesting the disclosure of information held by the opposing counsel and intended for use in the forthcoming trial.

70. Habeas Corpus - A written court order requiring that the accused be taken to court to determine the legality of custody and confinement. Also refers to writs that inmates file regarding the alleged illegality of their confinement or the conditions of that confinement.

71. Lex Talionis- The law of retaliation/retribution, “an eye for an eye.” Goes with the Code of Hammurabi

72. Nolle Prosequi - The Latin term for when a prosecutor dismisses charges against a defendant.

73. Pro se -The Latin term for when defendants choose to defend themselves at trial.

**Some Important Court Cases to Know**

***74. Miranda v. Arizona* (1966) -** The U.S. Supreme Court reversed the conviction of Ernesto Miranda and, thereby, established guidelines for the police to follow in the interrogation of suspects.

75. Important to note, only have to be read if under arrest AND being questioned.

76. You have the right to remain silent.

77. Anything you say can and will be used against you in a court of law.

78. You have the right to talk to an attorney and have him/her present while you are being questioned.

79. If you cannot afford an attorney, one will be appointed for you.

80. After the warnings have been given, the following questions should be asked.

* Do you understand each of these rights I have explained to you?
* Having these rights in mind, do you wish to talk to us now?

***81. Tennessee v. Garner*  -**This court case held that under the Fourth Amendment, when a law enforcement officer is pursuing a fleeing suspect, he or she may use deadly force only to prevent escape if the officer has probably cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.

**82. *Batson v. Kentucky* -** This case held that the use of peremptory challenges against potential jurors in criminal cases violated the U.S. Constitution if the challenges were based solely on race.

***83. Furman v. Georgia* -** This case halted the application of the death penalty because it was viewed to be cruel and unusual punishment which violated the Eighth Amendment of the U.S. Constitution.

**The Courtroom Work Group**

84. Courtroom work group is made up of those individuals who are involved with the defendant from the time she or he is arrested until sentencing.

85. Three most prominent members are the:

* The judge
* The prosecutor
* The defense attorney

86. Three other participants complete the work group:

* The bailiff of the court is responsible for maintaining security and order in the judge’s chambers and the courtroom.
* The clerk of the court has an exhausting list of responsibilities.
* Court reporters record every word that is said during the course of the trial.

87. The work group establishes patterns of behavior and norms, and cooperation allows the adjudication process to function informally and smoothly.

88. The judge is the dominant figure in the courtroom and therefore exerts the most influence over the values and norms of the work group.

89. The **criminal court** and it's work group, the judges, prosecutors and defense attorneys, are charged with weighty responsibility of determining the innocence or guilt of criminal suspects.

90. The United States has a dual court system, one on the **Federal level** and one on the **state level**.

91. In the crime control model judges operate on the presumption of guilt which means **any suspect brought before the court is more likely guilty than not guilty.**

92. The due process model relies heavily on **the courts and their role in upholding the legal procedures of establishing guilt.**

93. Crime control believes that it is better to detain, question and arrest potential suspects that are later found to be innocent than to allow them to remain free.

94. Due process proponents believe it is better to allow unproved criminals to go free than have one innocent person in jail.

95. It all starts with the gathering of information and evidence. A crime control model allows for law enforcement officials to do whatever necessary to find evidence.

96. Due process limits the way the evidence can be found. In the due process model, someone accused of a crime may be allowed to go free after arranging for some type of plea bargain. Other criminals are released due to some error during the collection of evidence, or any other due process rights.

97. Unreasonable search and seizure is a commonly violated due process right. A mistake by the judicial system allows a criminal to go free in a due process model.

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What is the process a person has to go through to become a Supreme Court Justice?

List three of the important Supreme Court decisions in the study guide. Tell me why they are important, and which case you think had the most important impact on the Criminal Justice System and why.

There are several Latin terms deemed important legal terminology discussed in this study guide. List five of them and include is their definition?

There are two models mentioned in this study guide of how criminal justice systems work. Which model do we use in the United States and why is it better than the other Model?