

Criminal Procedure - General Overview

I. Overview of a case:

A. Participants:

1. Police,
2. defendant,
3. witnesses,
4. attorneys,
5. judge,
6. jurors,
7. grand jurors

B. Distinguish criminal from civil cases

1. Crucial differences, the outcome.
 - a) Damages
 - b) penalty
2. The parties,
3. The place of the injured parties.
4. Burden of proof
 - a) beyond a reasonable doubt as compared
 - b) to preponderance.

C. Classes of crimes

1. felony, prison for beyond a year
2. misdemeanor, incarceration for less than a year.
3. infraction/offense

II. Source of power to prosecute criminal offenses is the U.S. CONSTITUTION.

III. Organization of federal government

A. separation of power among the branches

1. judicial
2. executive
3. legislative

IV. Organization of State governments – variations among the states.

V. Criminal laws: statutes, not primarily case law

VI. Federal and State Court system, Hierarchy: Limited Jurisdiction

- A. Federal, Supreme court, 13 Circuit Courts of Appeal, 94 District Courts for trial of cases.
- B. Oregon: Supreme Court. Court of Appeals. Circuit Courts at the County level.
- C. Hierarchy, the Supremacy Clause Article VI, U.C. Constitution.

VII. Common Law: Now, appellate law, published cases. Jurisdiction.

- A. Role in criminal law

VIII. Statutory crimes

- A. Oregon has no common law crimes

IX. Participants

- A. Defendants. The accused
 1. Protected by constitutional rights amounting to restrictions on government processes in detecting and punishing crime
 - a) due process model
 - b) crime prevention model
- B. Police
- C. Judges:
 1. federal, appointed Article III judges.
 2. State, elected or appointed.

3. Judicial ethical code.
4. Rule on law for the jury to apply to the facts.
5. Sentencing

D. Prosecutors (District Attorney, ADAs)

1. Frequently elected, political dimension state and federal
2. Represent the government
3. Counsel to the police.
4. Runs grand jury

E. Defense attorneys.

F. Court employees

G. Paralegals.