

Trial Procedures

Mrs. Martin's law class is on a field trip visiting the county courthouse where the case against Mr. Front is being heard. The students are sitting in the courtroom waiting for the case to begin.

Grace: Look, there's Mr. Front. He looks kind of pale.

Liz: He's lost weight, too. Probably from worrying about this case. He hasn't been in The Front Room for a long time.

Grace: The last time I saw him at The Front Room he told me that his lawyer was working on the pleadings for this case.

Liz: What are pleadings?

Grace: Something to do with evidence, I think, but I'm not sure.

Clark: (Talking to Mrs. Martin.) What will happen first, Mrs. Martin?

Mrs. Martin: First they will select the jury from a large group of people.

Clark: Will that take a long time?

Mrs. Martin: Sometimes it does—especially in a murder trial. In a small, civil case like this, though, it shouldn't take too long.

Clark: What happens after the jury is selected?

Mrs. Martin: Well, the plaintiff's attorney will make an opening statement—that is, tell the jury what the plaintiff will prove in order to win the case. Since this is an invasion of privacy case, the attorney will probably tell the jury about The Front Room advertisement with the mayor's photograph in it.

Clark: I would think the mayor would like to have his picture in the paper.

Mrs. Martin: I would think so, too. He must not like that particular photograph.

Clark: Will they show the photograph to the jury?

Mrs. Martin: Yes. That will be an important part of the evidence.

Clark: I remember reading about that in our law book. It's called documentary evidence, I think, when they show the jury a photograph like that.

(At that moment a bailiff leads a group of about 30 men and women into the courtroom and motions the group to sit in a particular area.)

Ben: (Talking to Jim.) That must be the jury. Mrs. Martin said that this is going to be a jury trial.

Jim: That's a lot of people for one jury. I didn't think a jury was that big.

Ben: It's probably a grand jury.

Jim: They look like they're having a grand time!

Ben: I heard that jury members have to agree unanimously when they decide a case.

Jim: That may be hard to do in this case. Some people really like the mayor a lot but others can't stand him. My parents always vote against him.

Grace: That looks like Lisa VanGuard sitting with those people who came in with the bailiff. She's Mr. Front's niece. She hangs out at The Front Room all the time.

Liz: Yes, it is Lisa. I recognize her. She's probably going to be on the jury.

Bailiff: All rise! (The judge enters and walks to the bench.) This court is in session. Please be seated.

New Terms

complaint, p. 74

answer, p. 74

verdict, p. 78

judgment, p. 78

arrest, p. 79

bail, p. 79

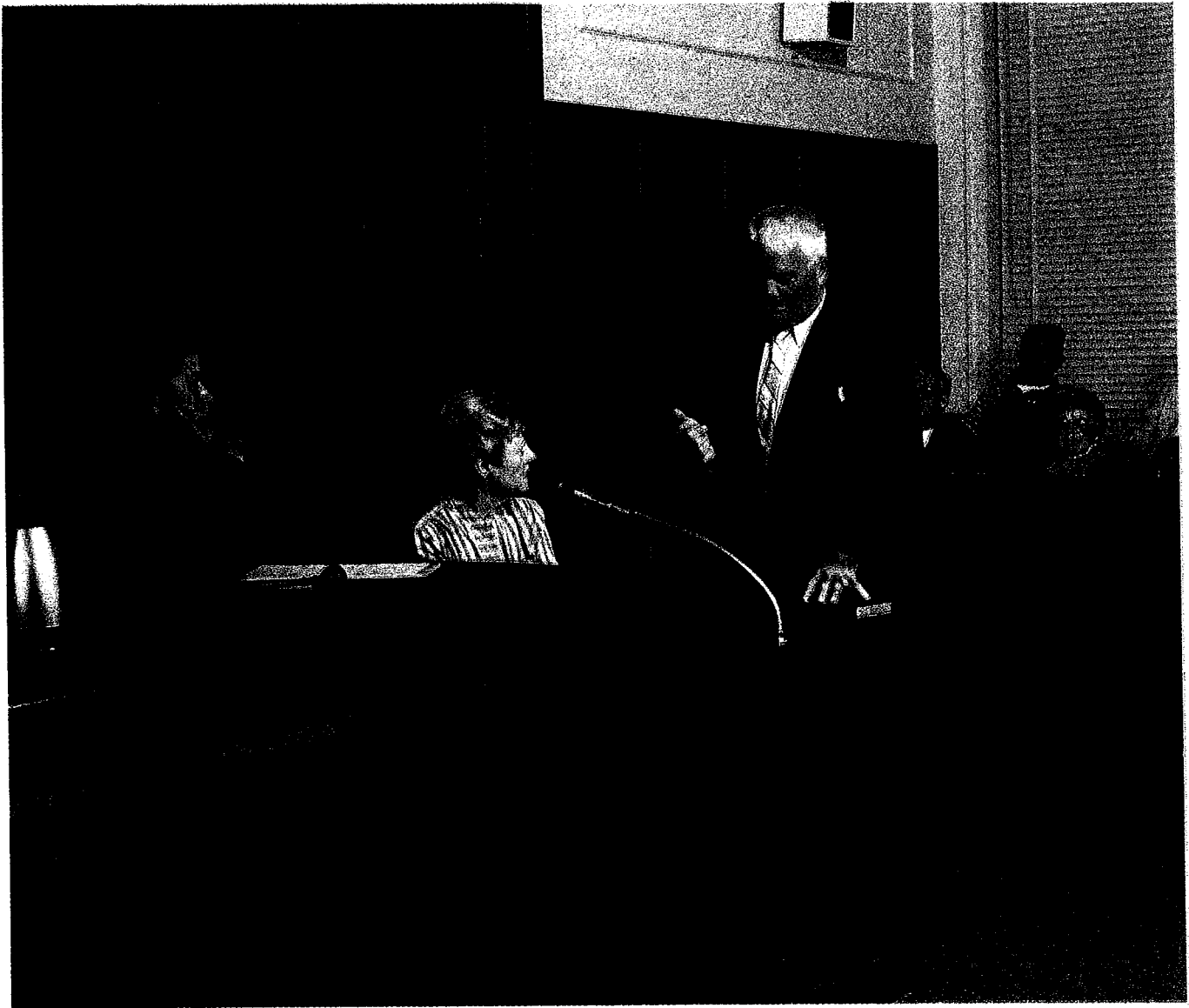
grand jury, p. 81

indictment, p. 81

arraignment, p. 81

detention

hearing, p. 82



Learning Objectives

1. Enumerate the steps in a civil trial.
2. State the rights that people have when they are arrested.
3. Identify the steps in a criminal trial.
4. Contrast a grand jury with a petit jury.
5. Summarize the disposition of juvenile court cases.



The Spirit of the Law

Civil and criminal trials begin differently. Civil cases are brought by individuals. The injured party begins the suit by filing a complaint with the court. In contrast, criminal cases are brought by the government. In minor criminal cases—misdemeanors—the action begins when a police officer or clerk-magistrate issues a summons for the suspect to appear in court. In major criminal cases—felonies—the action begins with a hearing before a judge to see if there is probable cause to refer the case to the prosecuting attorney to prosecute it or turn it over to a grand jury to decide if the suspect must stand trial. Once a trial begins, however, the procedures in civil and criminal cases are very similar.

Legal Issues:

1. Are pleadings considered evidence?
2. Are photographs introduced in court considered documentary evidence?
3. Does a grand jury determine the outcome of a case?
4. Must jurors agree unanimously when deciding civil cases?

Civil Trial Procedure

Civil trials begin with the use of pleadings. These are papers filed with the court by the plaintiff and the defendant at the beginning of a lawsuit. They establish the issues that the court is being asked to decide by setting forth the plaintiff's allegations (claims or assertions) and the defendant's answers to those allegations.

Pleadings

The first pleading filed is the plaintiff's complaint. A **complaint** is a legal document containing a short and plain statement of the plaintiff's claim against the defendant. The complaint must contain sufficient facts to allow the plaintiff to win the case if the allegations prove to be true and there are no defenses to them. Figure 6-1 on page 75 shows a typical complaint.

A civil lawsuit begins when the complaint is filed with the court. The clerk of the court issues a summons, or notice to the defendant that a lawsuit has begun. The defendant must answer the complaint within the time period allowed or lose the case by default. An **answer** is a formal written document that admits or denies each allegation of the complaint and states any defenses that the defendant plans to use. A defense is a reason that excuses an otherwise wrongful act. Figure 6-2 on page 76 shows an answer to the plaintiff's complaint.

Methods of Discovery

Under modern trial practice, the aim of the court is to make the facts of a case known to all parties involved before the trial begins. In this way, the issues that are in dispute become clearly recognized. In addition, the case takes less time to try and, many times, can be settled without even going to trial.

COMMONWEALTH OF MASSACHUSETTS DISTRICT COURTS OF MASSACHUSETTS		County
ESSEX, ss	FIRST DISTRICT COURT OF ESSEX	Name of court
	Civil Action No. 87-316	Docket number
STEVEN GRAZIO, a minor, by MATTHEW GRAZIO, his father and next friend,	Plaintiff	Parties
v.		
WAYNE WILLIAMSON,	Defendant	
COMPLAINT		Title of document
1. On or about April 10, 199-, a motor vehicle belonging to the plaintiff, was lawfully standing on North Street, a public high- way in the Town of Georgetown, County of Essex, Massachusetts.		Allegations
2. The defendant then and there operated a motor vehicle, so negligently, carelessly, and improperly that it ran into the plaintiff's automobile and greatly damaged it.		
Wherefore the plaintiff demands judgment against the defendant in the sum of \$3,000 and costs.		Relief sought by the plaintiff
By his attorney,		Date of suit important— must be before the statute of limitations runs out
November 15, 1993	Susan L. Powers 28 Main Street Beverly, MA 01915	Name and address of plaintiff's attorney

Figure 6-1 What are the defendant's duties regarding this complaint?

Methods used to bring facts out before the trial are called methods of discovery. The most common of these are depositions, interrogatories, requests for documents and other evidence, physical and mental examinations, and requests for admission.

If a case cannot be settled after the discovery phase, the clerk of the court places the case on the calendar, or court docket, for trial.

Pretrial Hearing

Before the actual trial takes place, a pretrial hearing usually occurs. This is an informal hearing before the judge in an attempt to simplify the issues and discuss matters that might help to dispose of the case quicker.



COMMONWEALTH OF MASSACHUSETTS
DISTRICT COURTS OF MASSACHUSETTS

ESSEX, ss

FIRST DISTRICT COURT OF ESSEX
Civil Action No. 87-316

STEVEN GRAZIO, a minor, by
MATTHEW GRAZIO, his father
and next friend, Plaintiff

v.

WAYNE WILLIAMSON, Defendant

DEFENDANT'S ANSWER

1. The defendant has no knowledge or information sufficient to form a belief regarding the truth of the allegation of paragraph 1 of the complaint.

2. The defendant denies the allegations of paragraph 2 of the complaint.

3. Further answering, the defendant says that at the time of the alleged accident, the plaintiff's motor vehicle was parked next to a fire hydrant. This violated the law and caused or contributed to the causing of the damages complained of.

By his attorney,

December 10, 1993

George Rodriguez
792 Washington Street
Peabody, MA 01960

Figure 6-2 A person who receives a summons on a complaint must file an answer to the complaint. How does this document answer the complaint in Figure 6-1 on page 75?

Steps in a Jury Trial

The steps in the trial consist of selecting the jury, opening statements, introduction of evidence, closing arguments, instructions to the jury, the jury's verdict, and the court's judgment.

Selecting the Jury

On the day set for a jury trial, the judge calls the court to order and has a jury drawn from a pool of citizens who have been called to serve as jurors. The jury's job is to determine the facts of the case and to apply the law to those facts. The judge supervises the attorney's questioning of each juror selected from the pool.

Determining whether a juror will be biased or prejudiced is difficult. Attorneys must think about such things as the juror's background,

education, experience, relationships, attitudes, and employment. They must also consider how the jurors will relate to one another as a group.

Opening Statements

The next step in the trial, after the jurors have been selected, is the opening statement of each attorney. It is at this time that the attorneys for each side tell the judge and jury about the case and what they intend to prove. The plaintiff's attorney makes an opening statement first, followed by the defendant's attorney. In some states, the defendant's attorney may elect to postpone making the opening statement until after the plaintiff's evidence has been presented.

Introduction of Evidence

At the conclusion of the opening statements, the prosecuting attorney presents to the court and jury all of the state's evidence. This may consist of documentary evidence (papers), such as written contracts, sales slips, letters, business papers, or affidavits (sworn statements). In addition it may include real evidence (actual objects) such as weapons, articles of clothing, photographs, and items found at the scene of a crime. The testimony of witnesses is another commonly used form of evidence.

Witnesses are people who have observed events that are relevant to the case on trial. They are subpoenaed (requested by a court order to appear in court) to testify to facts within their personal knowledge. They may also testify as to opinions that they may have formed based on the facts they may have perceived, such as an opinion that a person was drunk. Sometimes expert witnesses, who do not testify as to the facts but give expert opinion on facts or principles that apply to the case, are called.

Example 1. A subpoenaed witness failed to appear in court. Another refused to answer questions asked during the trial. It was held that the presiding judge had the right to declare both witnesses to be in contempt of court and that the judge had the power to impose a fine or a jail sentence.

The defendant's attorney has the opportunity to cross-examine, or question, the plaintiff's witnesses. The aim of the cross-examination is to test further the truth of the witnesses' statements and to bring out any related evidence that was not developed on direct examination. When the plaintiff's attorney rests, the defendant's attorney presents evidence favorable to the defendant. The attorney uses witnesses and any other evidence important to the defendant's case. The plaintiff's attorney then has an opportunity to cross-examine the defendant's witnesses. Specific rules of evidence must be followed to ensure that trials are run fairly and in an orderly manner. When the attorneys have introduced all their evidence, they rest their cases.

Closing Arguments

After both attorneys have rested their cases, they present their closing arguments. The plaintiff's attorney is first, followed by the defendant's attorney. Each attorney summarizes the evidence and suggests reasons why the judge or jury should find in favor of his or her client.

Instructions to the Jury

Juries are composed of ordinary people who are usually not experts in law. Therefore, in all jury trials someone has to explain the law to the jury. The judge, as the trial's impartial referee, delivers these jury instructions. Attorneys from both sides may offer suggestions about the instructions to

YOU And The LAW

*Where do the courts
in your community
find potential jurors?
How are you notified if
you are chosen to be a
juror? Can you choose
not to serve?*

assist the judge with this process. Ultimately, however, the final charge to the jury is up to the judge. The judge must explain the law in terms that the jury will understand. Yet, he or she must not dilute the law so much that the instructions become inaccurate.

Verdict and Judgment

After receiving instructions about the law, members of the jury go to the jury room for their deliberations. The decision of the jury is called a **verdict**. In a civil case, the jury finds "in favor of" one of the parties, influenced by the evidence that carries the most weight. There are variations from state to state as to the number of jurors who must agree to reach a verdict. In Massachusetts, for example, five-sixths of the jury members must agree to reach a verdict in a civil case.

Following the jury's verdict, the court issues a judgment. A **judgment** is the court's determination or decision in a case. It is the act of the trial court that finally determines the rights of the parties.

Execution of Judgment

There is now a winning party and a losing party. The judgment of the court must be executed, or carried out. The plaintiff may receive payment from the defendant in settlement of a claim. Or the defendant may be allowed to retain property claimed by the plaintiff. Sometimes the winning party must return to enforce a judgment.

A judgment is enforced by the issuance of an execution by the court. The execution may be an order by the judge to the sheriff to take property belonging to the person who lost the case. The sheriff must sell the property

Law and Social Studies



Conducting an Interview

Whether you are an attorney discussing a problem with a client, a mechanic seeking a permit to open a motorcycle shop, or a reporter writing an article for the school newspaper about searches of student lockers, you have to know how to conduct an interview. Here are some suggestions that should help you conduct a good interview.

Identify Your Purpose—Suppose you are the mechanic who wants to open the motorcycle shop. You might write: The purpose of my interview with the city clerk is to learn how to meet the legal requirements for my proposed business.

Choose Your Interviewees Carefully—Students or teachers who can only relate to you

what they have heard others say lack the personal knowledge you need for your article. Avoid wasting time interviewing someone who knows little about the subject.

Prepare Your Questions—To ask good questions, you have to know your subject. Begin by gathering all available information as background. Then write out your questions, leaving space for quick notes as the interviewee responds. Make your questions specific and direct. Avoid questions that only require a yes or no answer.

Control the Interview—Stick to the subject, let your interviewee do most of the talking, be a good listener, and, if necessary, ask for clarification. Keep your notetaking to a minimum.

1. What are the steps in conducting an interview?
2. How many of these steps have you used in an interview?

at an auction and use the proceeds to pay the amount of the judgment to the person who won the case. Or the execution may be an order to the sheriff to remove a person or property to another location.

Criminal Trial Procedure

Criminal cases often start with the arrest of the defendant. This is followed by an immediate court hearing designed to protect the defendant's rights. The case is then postponed to give time for the prosecuting attorney, who represents the state, and the defendant's attorney to prepare their cases.

Arrest of the Defendant

An **arrest** occurs when a person is deprived of his or her freedom. A police officer may arrest a person at any time if the officer has a warrant for that person's arrest. An arrest warrant is an order issued by a court saying that a person is charged with a crime and is to be arrested. An officer may arrest a person without a warrant if the officer has good reason to believe that the person has committed or is presently committing a felony. In addition, an officer may, without a warrant, arrest someone who has committed a misdemeanor if the misdemeanor involves a breach of the peace and is done in the officer's presence. Various state statutes also allow officers to make arrests for specific misdemeanors done in their presence, even if there is no breach of the peace.

Rights of the Defendant

When people are arrested, they must be informed of their constitutional rights, as set forth in the case of *Miranda v. Arizona*. Under the *Miranda* warnings, people have the right to know the crimes with which they are charged and the names of the police officers making the arrest. They have the right to use the telephone soon after they are brought to the police station to call their families, a friend, or lawyer, or to arrange for bail. **Bail** is money or other property that is left with the court to assure the court that the person will return to stand trial. People who are arrested also have the right to remain silent. If they decide to answer questions, they have the right to talk to an attorney beforehand. They can also have an attorney present during the questioning. People who cannot afford an attorney have the right to have the court appoint one to represent them free of charge. In addition to the *Miranda* warnings, the accused also have a constitutional right to a fair trial and to be presumed innocent until proven guilty of a crime by a court of law.

Search and Seizure

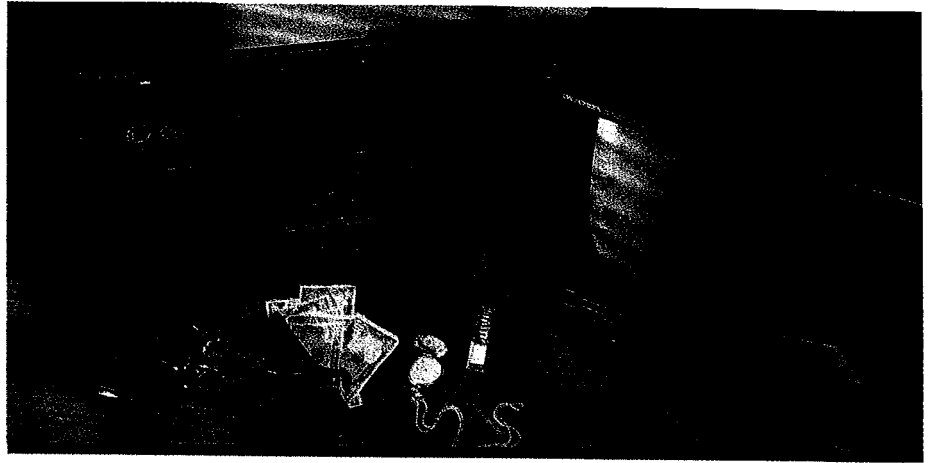
A police officer may search a person, a motor vehicle, a house, or other building at any time if permission is given or if the officer has a search warrant. A search warrant is a court order allowing an officer to conduct the search. The search must be limited to the area mentioned in the warrant. The one whose person or property is being searched has a right to see the search warrant or to have it read out loud. The officer keeps the warrant, however, since it must be returned to the court.

If an officer has reason to believe that a person is carrying a hidden weapon, the officer may conduct a limited search called a frisk. This is done by patting the outer clothing of a person. If the frisk reveals something that feels like a weapon, the officer may search for and remove that object. The officer must return any lawful object that is found. When the search is over,

Reducing Legal Risks

*You have certain rights within the law. Make an effort to know those rights, especially those that apply if you are placed under arrest and those that apply to any court proceeding. If you are in a court of law in **any** capacity—plaintiff, defendant, witness or juror—remember your rights as well as your obligations.*

►The scope of a search warrant is determined by the object that is being sought. How might the search areas differ in the search for a 25" television set and a search for a handgun?



the person must be either released or arrested. Persons who have been arrested may be searched without a warrant.

When someone is arrested in a house or building, the police may conduct a limited search of the area in which the arrest took place without a search warrant. They must have a warrant, however, to search the entire building. A limited search of a car may be made without a warrant if someone is arrested in the car. A more complete search of the car may be made if there is good reason to believe that the car contains something illegal that the police may take as evidence. In addition, the police have the right to impound (take possession of) a car until a search warrant is obtained from the court.

Example 2. In a 1976 case, a car was impounded by the police in a South Dakota community for a number of parking violations. While making a routine list of the car's contents, the police found a bag of marijuana. They charged the owner with possession of the substance. The Supreme Court of the United States held that the search without a warrant was constitutional in this case because the police of this community had followed a standard procedure of writing down the contents of every car they impounded.

Police may seize suspicious items, such as illegal drugs or weapons, that are in plain view without obtaining a warrant. This is known as the plain-view exception to the requirement of obtaining a search warrant. The U.S. Supreme Court has said that "information obtained from observing an object in plain sight may be the basis for probable cause or reasonable suspicion of illegal activity."

In 1981, the Supreme Court said that police can search the entire passenger area of a car without a search warrant once the occupants are placed under arrest. A year later, the Court held that police officers who have legitimately stopped an automobile and who have probable cause to believe that contraband (illegal goods or substances) is concealed somewhere within, may conduct a warrantless search of the vehicle, including compartments and containers within the vehicle whose contents are not in plain view.

Example 3. Acting on information from a reliable informant, police officers stopped an automobile driven by a person whose description matched the description given by the informant. They had been told that the automobile contained drugs. The police opened the trunk,

without a warrant, and discovered a bag of heroin inside. In holding the warrantless search legal, the U.S. Supreme Court said, "If probable cause justifies the search of a lawfully stopped vehicle, it justifies the search of every part of the vehicle."

In 1991, the U.S. Supreme Court held that once police have probable cause to believe a crime is being committed, they do not have to obtain a warrant in order to seize a vehicle and search it as well as any closed container inside it. In that same year the Court said that once a motorist gives police permission to search a car, officers may open bags or containers within the car.

The Supreme Court has held that the Constitution permits school officials to search students without a search warrant. The officials must have reasonable grounds to believe that the search will turn up evidence that the student has violated either the law or rules of the school. Also, the search must be done in a reasonable manner.

The Arraignment

As soon as possible after an arrest, the suspect is brought before the court, informed of the nature of the complaint, and made aware of his or her rights. At this time, the judge may find cause to dismiss the complaint. Or, the judge may find probable cause that a crime was committed and refer the case to the prosecuting attorney. Depending upon the jurisdiction, the prosecuting attorney either prepares an information or presents the case to the grand jury. An *information* is a set of formal charges drawn up by the prosecuting attorney. A **grand jury** is a jury of inquiry. It is a group of citizens called together by a court official to determine whether there is enough evidence to justify accusing certain persons of certain crimes.

There is a clear difference between a grand jury and a petit jury. A grand jury conducts a preliminary hearing in secret to determine whether someone must stand trial. In contrast, a petit jury decides on the guilt or innocence of the person tried. A trial jury is called a petit jury because it usually has a smaller number of members than a grand jury. If the members of a grand jury believe, after hearing the evidence and listening to the testimony of witnesses, that a crime has been committed by the named individual or individuals, they issue an indictment. An **indictment** is a written accusation issued by the grand jury charging the individual or individuals named in it with a certain crime. An indictment does not mean that the named person is guilty of the crime. It only means that the grand jury believes that a crime has been committed and that there is a possibility that the person named in the indictment is guilty of the crime.

Following the indictment or information, the accused is brought to court to be arraigned. **Arraignment** is a procedure in which the accused is brought before the court, read the indictment or information, and asked to plead guilty or not guilty. The accused is informed of his or her rights, including the rights to counsel and to have counsel appointed if he or she cannot afford an attorney. If the person pleads guilty, the judge may impose the sentence at that time. If the person pleads not guilty, the case proceeds to trial.

The Trial

The trial opens with the selection of the jury if one is requested by the defendant. After the jury is selected, the attorneys make opening statements

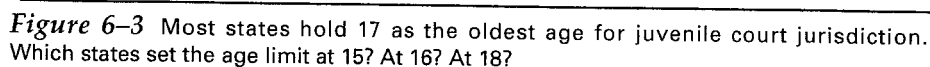
FYI

Around 500 B.C., there was a special court in ancient Greece. It tried only homicide cases and was called the Areopagus. Homicide trials were held outside so no one would have to share a roof with the accused murderer.

Finally, if the defendant is found not guilty, he or she is released from custody. If the defendant is found guilty, the judge imposes a sentence in the form of a fine, imprisonment, or both.

Cases involving juvenile offenders are handled by the juvenile court. The age limits for juvenile court jurisdiction vary among the states. Figure 6-3 below summarizes these variations.

As a first step, therefore, the judge usually holds a detention hearing. The purpose of a **detention hearing** is to find out whether there are good reasons for keeping the accused in custody and whether or not there are



special circumstances affecting the case. An investigation into the minor's background and home life is undertaken by the court's probation department or by a child welfare agency. If the investigation shows that there are special circumstances, or that the matter is not serious enough to pursue further, or that the youth was wrongly accused, the judge might dismiss the charges at this point.

If the charges are not dismissed, the judge then conducts an adjudicatory hearing. This is the actual hearing of the case by the court. It is quite informal. The judge may question the youth and his or her parents, listen to witnesses, and seek advice from the probation officer. Some courts decide what action to take at this point. Other courts hold a third hearing, called a dispositional hearing, to decide how to dispose of the case.

After one of these two types of hearings has taken place, the judge decides the outcome of the case. The matter is generally settled in one of three ways:

- The judge may allow the offender to return home, while placing him or her on probation for a period of time, under the supervision of a probation officer. The judge may set certain conditions of behavior for the offender and have the probation officer check on the offender's compliance. Failure to meet these requirements may result in more severe punishment.
- The judge may place the offender in an agency or foster home. The natural parents will then be required to pay what they can toward the offender's support.
- The judge may commit the offender to a training school or reformatory. This is usually a last resort, when both probation and foster care have already been tried and have failed, or when they seem unlikely to work.

Besides these alternatives, the judge can also order the juvenile offender to pay for the damages, with money or work or both. The parents of the offender may also be ordered to pay back the victim in some cases. This is true for a variety of offenses, including shoplifting as well as vandalism.

The sentence for youthful offenders is also set with rehabilitation in mind. It is generally limited to probation under court supervision, confinement for not more than three years in some kind of reformatory institution, or some other course of action designed to help, rather than punish, the youthful offender.

Chapter

6 Review



Summary

Carefully read the summary below before completing the chapter review.

1. A civil trial begins when a plaintiff files a complaint with the court. The court notifies the defendant that a suit has been filed. The defendant must file an answer to the complaint within a certain time period.

Chapter 6 Review

2. The most common methods of discovery are depositions, interrogatories, requests for documents and other evidence, physical and mental examinations, and requests for admission.
3. A trial consists of seven steps: jury selection, presentation of opening statements, introduction of evidence, presentation of closing arguments, instruction to the jury, the jury's verdict, and the court's judgment.
4. People who are arrested have the following rights: know the crime(s) with which they are charged; know the names of the officers making the arrest; use the telephone; remain silent; have an attorney present during questioning; have the court appoint an attorney to represent them free of charge if they cannot afford one.
5. Police officers may conduct a search when they have permission from the person searched or a search warrant. They may conduct a limited search of a car when someone in the car is arrested. They may conduct a more complete search of a car when there is good reason to believe that something illegal is hidden in the car. They may seize illegal items that are in plain view without a warrant.
6. A grand jury conducts a preliminary hearing to determine whether someone must stand trial for committing a crime. A petit jury decides whether the person on trial is guilty or innocent.
7. Juvenile court cases usually include three hearings: a detention hearing, an adjudicatory hearing, and a dispositional hearing.
8. The objective of the juvenile court is rehabilitation. With that in mind, the court may place the offender on probation and allow him or her to return home, place the offender in an agency or foster home, or commit the offender to a training school or reformatory.



Language of the Law

Choose the term from the list that has the same or nearly the same meaning as the italicized words in each sentence below. Then write the complete sentence on a separate sheet of paper.

detention hearing	arraignment	judgment	indictment
grand jury	arrest	bail	verdict
answer	complaint		

1. The first pleading filed in a civil case is *a brief statement of the plaintiff's claim against the defendant*.
2. The group of citizens called together to determine whether there is enough evidence to accuse a person of a crime is *a jury of inquiry*.
3. Spectators at the trial were surprised that the *decision of the jury* was "guilty."
4. The *proceeding to determine whether to keep the accused in custody* is usually the first step taken in a juvenile offender's case.
5. The court may issue a warrant for *depriving the suspect of his or her freedom*.
6. The defendant's *money or other property left with the court to assure that he or she will return to stand trial* will be forfeited if the defendant is not in court at the right time.

Chapter 6 Review

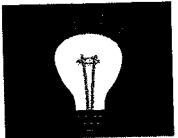
7. If the suspect pleads guilty, the judge may impose sentence during *the procedure in which the suspect hears the charges and makes a plea*.
8. The *formal written document that admits or denies each allegation of the complaint and states any defenses that the defendant plans to use* must be filed within a certain time period.
9. If the members of a grand jury believe that a crime has been committed, they issue the *accusation charging an individual with the crime*.
10. Following the jury's verdict, the *court's determination or decision in a case* is issued.



Questions for Review

Answer the following questions. Refer to the chapter for additional reinforcement.

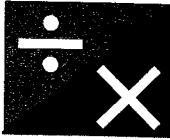
1. How does a civil trial begin?
2. How does a criminal trial usually begin?
3. What rights does a person who has been arrested have?
4. When are police allowed to search a vehicle without a warrant?
5. What are the seven steps of a trial?
6. Why are jury instructions necessary?
7. How does a verdict differ from a judgment?
8. What is the difference between a grand jury and a petit jury?
9. What three steps are usually taken in the disposition of juvenile cases?
10. Why is it impossible to list the exact punishments for juveniles?



Applying Critical Thinking Skills

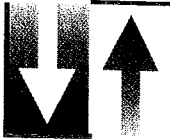
Apply your understanding of the chapter concepts by answering the questions below.

1. Find out what specific elements a complaint for a civil case must contain in your state. What might happen if it does not contain what it should?
2. A subpoenaed witness who fails to appear in court or refuses to answer questions asked during the trial is in contempt of court. What does "in contempt of court" mean? What can happen to the witness in the courtroom? Should a person who refuses to testify in a court of law be punished? Why or why not?
3. A jury in a criminal case must agree unanimously on its verdict, whether it finds for the plaintiff or the defendant. What happens if the jury cannot agree unanimously? Do you think this is fair? Why or why not?
4. What process is used to ensure that prospective jurors are not biased or prejudiced? What kind of things do attorneys want to know about prospective jurors? Why?
5. In some juvenile cases, the parents are ordered to pay back the victim. In what situations might this happen? Is this fair to the juvenile's parents? To the victim? To the juvenile? Explain your answers.



Applying Math Skills

Sam Rawlins was arrested and jailed. At his arraignment, bail was set at \$50,000. Rawlins could not come up with the 10 percent fee he needed to get a bail bondsman to pay the bail. As a result, he stayed in jail for a month, until the judge lowered his bail to \$15,000. That was a more manageable amount for Rawlins. How much less did he have to raise for a bail bondsman after the judge reduced his bail?



Cases in Point

For each of the following cases, give your decision and state a legal principle that applies:

1. When Robin Staples answered her door, the sheriff handed her two papers: a summons and a complaint. Feeling innocent of any wrongdoing, Robin decides to do nothing about the papers. What will be the result?
2. Susan Cram won a court judgment of \$4,000 against Ralph Ricci. Believing the court to be wrong, Ralph refused to pay Susan. What should Susan do?
3. A police officer caught James Koby breaking into a building. James was arrested. James claims that the arrest was not legal—it was made without a warrant. Is James correct?
4. Fred Kawabata was arrested for a traffic violation. He was fined \$100 by the local justice of the peace. Kawabata maintained that this fine was excessive and unfair—he would appeal the case to the federal court. May he do so? Why?
5. Walter Tobin, 15, was tried in a juvenile court and found guilty of shoplifting. Walter no longer had the merchandise he had taken. Walter was fined and ordered to pay the store for the stolen items. Walter's friend said the court could fine Walter but could not make him pay for the stolen goods. Is the friend correct?



Cases to Judge

In each case that follows, you be the judge.

1. Watson was charged with murder. The victim's friend presented testimony to the grand jury about a telephone conversation. Similar evidence was presented to the petit jury but later held to be inadmissible by the court of appeals. The question of whether the grand jury was responsible for determining the guilt or innocence of the accused was raised. What is your opinion? *People v. Watson*, 486 N.Y.S.2d 592 (New York)
2. A police officer noticed a pickup truck in the parking lot of an all-night grocery store at 4:45 A.M. Both doors of the truck were open, and he saw no one near the vehicle. There had been a rash of vehicle break-ins in that parking lot a week or two earlier. The officer, suspicious, walked toward the truck and saw a pair of legs on the driver's side. As the officer approached, Miller got out of the truck. While talking with Miller the officer looked into the open vehicle. The glove compartment was open and the officer saw a clear plastic bag containing a green substance he thought might be marijuana. At that moment, Miller instructed a person in the truck to close the glove compartment. The officer reopened the compartment and found that the plastic bag did contain marijuana. Was this search illegal? Why or why not? *Miller v. State*, 686 S.W.2d 725 (Texas)