

## **Chapter 2**

### **Criminal Trial Procedure**

#### **Ante Interrogatory: D**

#### **Chapter Overview**

Chapter 2 explains criminal trial procedure, beginning the arrest, preliminary hearing, indictment, and arraignment, followed by sentencing and defendants' rights.

#### **Chapter Objectives**

By studying this chapter, students can learn that the process of criminal cases being taken to court is governed by rules that have been adopted by federal and state governments. The procedure is outlined in the chapter, and the rules of criminal procedure may be found on the Internet for further study. Students will also learn where defendants' rights come from and what they are.

#### **Lecture Outline**

- I. Arrest
- II. Preliminary Hearing
- III. Indictment
- IV. Arraignment
- V. Reasonable Doubt
- VI. Sentencing
- VII. Defendants' Rights
- VIII. Trial Separation

#### **Notes**

Miranda Warnings are listed in a box, which can be helpful to the student as they study criminal procedure.

The Web Wise box encourages students to look at overviews of criminal and civil procedure at the Legal Information Institute at [www.law.cornell.edu](http://www.law.cornell.edu) and federal procedure rules and Internet jurisdiction at [www.findlaw.com](http://www.findlaw.com).

#### **List of Changes**

The Terms in Action boxes highlights a criminal situation using terms from the chapter and the longest single prison sentence ever given.

Unraveling Legalese is not in the textbook, but is found below for the instructor to give the students as another exercise.

#### **Reviewing What You Learned**

1. The federal, state, or local government brings the action in a criminal case.
2. A criminal action begins with the issuance of an arrest warrant.
3. If the court finds probable cause that the defendant committed a crime, he or she is either kept in jail or released on bail or on personal recognizance.
4. A grand jury is a jury consisting of not more than 23 people who listen to evidence and decide whether or to charge someone with the commission of a crime.
5. An indictment is a formal written charge made by a grand jury. In contrast, an

arraignment is the act of calling a person before the court to answer the indictment or information.

6. If the judge or jury finds there is a reasonable doubt that the defendant committed the crime, the accused must be acquitted.
7. When arrested, suspects must be told, before being questioned, that they have the following constitutional rights: (1) the right to remain silent, (2) any statement made by them may be used against them to gain conviction, (3) they have the right to consult with a lawyer, and to have a lawyer present during questioning, (4) a lawyer will be provided without cost for indigent defendants.
8. Answers will vary. The severity of victim impact can influence the parole boards' decision on granting parole.
9. A commutation of a sentence reduces it, making it less severe, whereas a pardon sets aside the punishment altogether.
10. A bifurcated trial is one that is separated into two parts providing for separate hearings for different issues in the same lawsuit. In contrast, severance of actions occurs when a court separates lawsuits or prosecutions involving multiple parties into separate, independent cases, resulting in separate final judgments.

### Understanding Legal Concepts

- |                               |                         |
|-------------------------------|-------------------------|
| 1. F, the public at large, is | 6. T                    |
| 2. F, always                  | 7. F, parole            |
| 3. T                          | 8. T                    |
| 4. T                          | 9. F, concurrent        |
| 5. F, defendant               | 10. F, bifurcated trial |

### Checking Terminology (Part A)

- |      |      |       |          |       |
|------|------|-------|----------|-------|
| 1. h | 5. d | 9. q  | 13. g    | 17. j |
| 2. m | 6. b | 10. v | 14. k, o | 18. i |
| 3. p | 7. n | 11. f | 15. x    | 19. l |
| 4. a | 8. e | 12. r | 16. w    | 20. c |

### Checking Terminology (Part B)

- |      |         |          |       |       |
|------|---------|----------|-------|-------|
| 1. u | 5. p    | 9. j     | 13. x | 17. k |
| 2. i | 6. d    | 10. b    | 14. w | 18. v |
| 3. m | 7. l, n | 11. g, h | 15. f | 19. t |
| 4. * | 8. a    | 12. e    | 16. s | 20. q |
|      |         |          |       | 21. o |

\* question appears in 6<sup>th</sup> edition book, but there is no answer listed for it. Answer is convict.

### Unraveling Legalese

Use simple, non-legal language, with the help of the glossary, to rewrite this case quote in the space below so that it is shorter and can be understood by a layperson without losing its meaning.

### Exercise:

The parties must disclose the plea agreement in open court when the plea is offered, unless the court for good cause allows the parties to disclose the pleas agreement in camera.

**Answer:**

The prosecution and defense must reveal plea bargains in open court for everyone to hear, unless there is a good reason for the judge to allow it to be revealed in the privacy of his or her office.

**Using Legal Language**

Alphonse, high on drugs and carrying a handgun, broke into Krista's apartment one evening, unaware that Krista and her dog, Lilly, were present. Lilly lunged at the surprised Alphonse, causing him to shoot himself in the foot. Krista disarmed the bleeding Alphonse and called 911. When the police arrived, Alphonse was placed under **arrest**; that is, deprived of his liberty. He was also told about his rights, called **Miranda warnings**. The next morning, Alphonse went before the court for a **preliminary** hearing, which is also called a **probable cause** hearing. The judge set a high **bail** to assure Alphonse's return to stand trial. The district attorney presented the case to a **grand** jury, which issued an **indictment**—a formal written charge of a crime. This was followed by a court appearance called an **arraignment** at which Alphonse pleaded **not guilty**, denying that he had committed the crime. The trial that followed was governed by regulations known as **rules of criminal procedure**. The state brought the action, that is, **prosecuted**, against Alphonse who was the **defendant**. To find Alphonse guilty, the jury, that is, the **fact finder**, was required to find beyond a **reasonable doubt** that Alphonse committed the crime. At the time of sentencing, Krista was able to give a **victim's impact statement** pointing out the effect the crime had on her life. Alphonse was given a **mandatory** sentence—one that is fixed with no room for discretion.

