

Criminal Justice *in* America

EIGHTH EDITION



GEORGE F. COLE

CHRISTOPHER E. SMITH

CHRISTINA DeJONG

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Courts and Adjudication

LEARNING OBJECTIVES

- LO1 - Describe the structure of the American court system.
- LO2 - Name the qualities that the public desires in a judge.
- LO3 - Describe the process by which American judges are selected.
- LO4 - Identify some of the roles of the prosecuting attorney.
- LO5 - Describe the role that the prosecutor's discretion plays in the process for filing criminal charges

LEARNING OBJECTIVES

- LO6 - Identify those with whom the prosecutor interacts in decision making.
- LO7 - Describe the day-to-day reality of criminal defense work in the United States.
- LO8 - List the methods for providing counsel for defendants who cannot afford a private attorney.
- LO9 - Describe the courtroom work group, and explain how it functions.

THE CASE OF ARIEL CASTRO

- On May 16, 2013, the entire nation was shocked by news reports about three women in Cleveland who had been held as sexually abused prisoners for more than a decade by Ariel Casto. He was arrested, and pled not guilty. The initial plea was part of the pretrial process of negotiation for a plea agreement. Castro was seeking to avoid the death penalty, and the prosecutor would save substantial time and money by avoiding a lengthy death penalty trial.
- Should the costs of a trial be a factor in allowing plea agreements that subvert the criminal justice process? When is a plea agreement an acceptable solution?

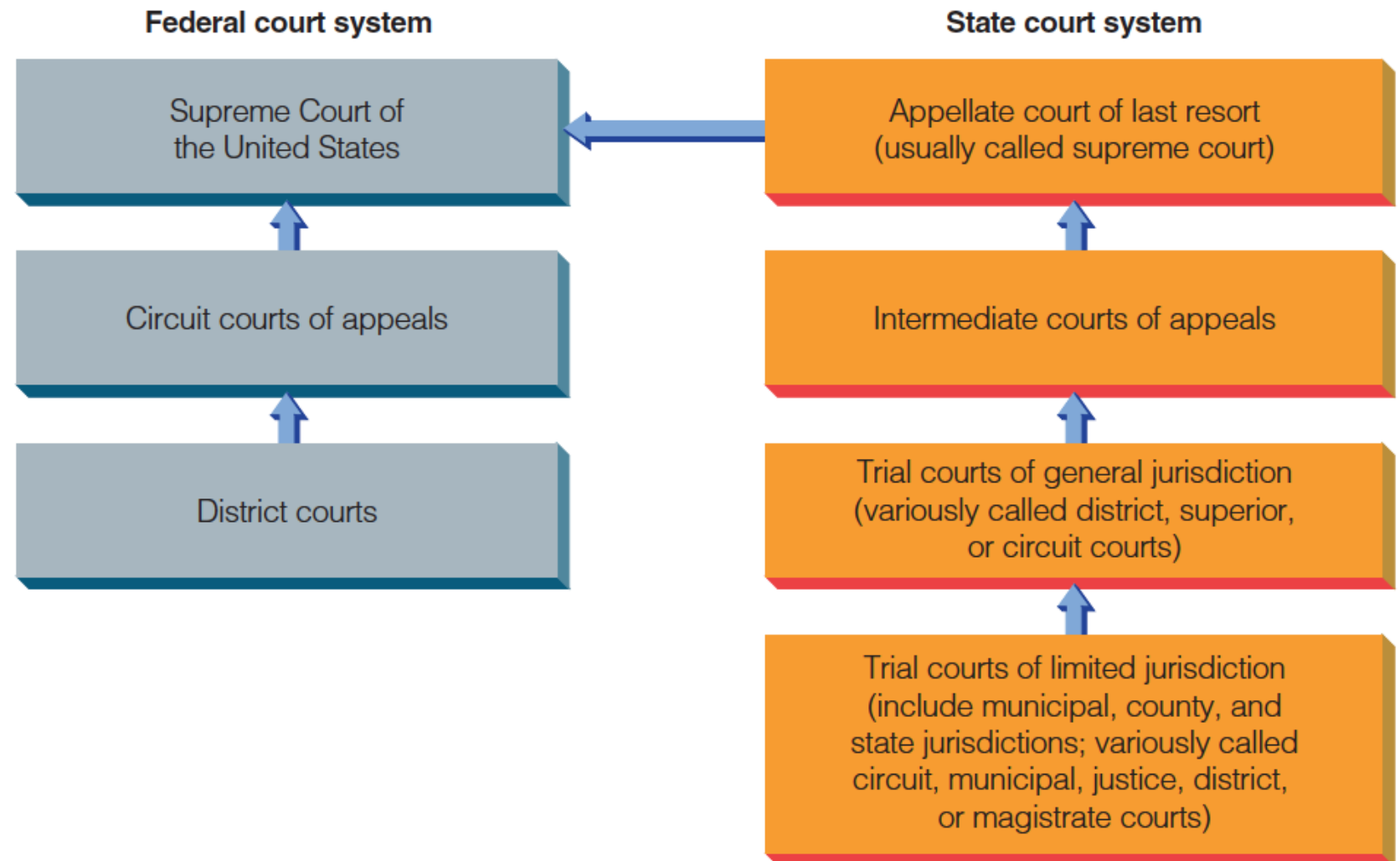
FUNCTIONS AND STRUCTURE OF AMERICAN COURTS

- **The United States has a dual court system**
 - Separate federal and state court systems handle matters throughout the nation
 - American rules and traditions permit states to create their own court systems to handle most legal matters, including most crimes
- **Other countries have a single national court system**

FUNCTIONS AND STRUCTURE OF AMERICAN COURTS

FIGURE 7.1

The Dual Court System of the United States and Routes of Appeal Whether a case enters through the federal or state court system depends on which law has been broken. The right of appeal to a higher court exists in either system.



ADVERSARIAL PROCESS

- Court process employed in the United States in which lawyers for each side represent their clients' best interests in presenting evidence and formulating arguments as a means to discover the truth and protect the rights of defendants
 - In the United States, both state and federal courts use the adversary process
 - Prosecution and defense challenge each other's evidence and arguments

STRUCTURE OF COURTS

- Inquisitorial process is employed in most countries of the world, in which the judge takes an active role in investigating the case and examining evidence, for example, questioning witnesses
- Native American tribal courts, whose authority is endorsed by congressional statutes and Supreme Court decisions, with jurisdiction over their own people on tribal land
 - Geographic territory or legal boundaries within which control may be exercised; the range of a court's authority

FUNCTION OF COURTS

- Enforcing the norms of society
- Process disputes for society
- Making policy

STRUCTURE OF COURTS

- **Trial courts of limited jurisdiction**
 - Criminal courts with trial jurisdiction over misdemeanor cases and preliminary matters in felony cases
- **Trial courts of general jurisdiction**
 - Criminal courts with jurisdiction over all offenses, including felonies. In some states these courts also hear appeals
- **Appellate courts**
 - Courts that do not try criminal cases but hear appeals of decisions of lower courts
- **Courts of last resort**
 - All states have courts of last resort, usually called state supreme courts

PROBLEM-SOLVING COURTS

- Lower-level courts dedicated to addressing particular social problems.
 - Drug courts
 - Domestic violence courts
 - Mental health courts

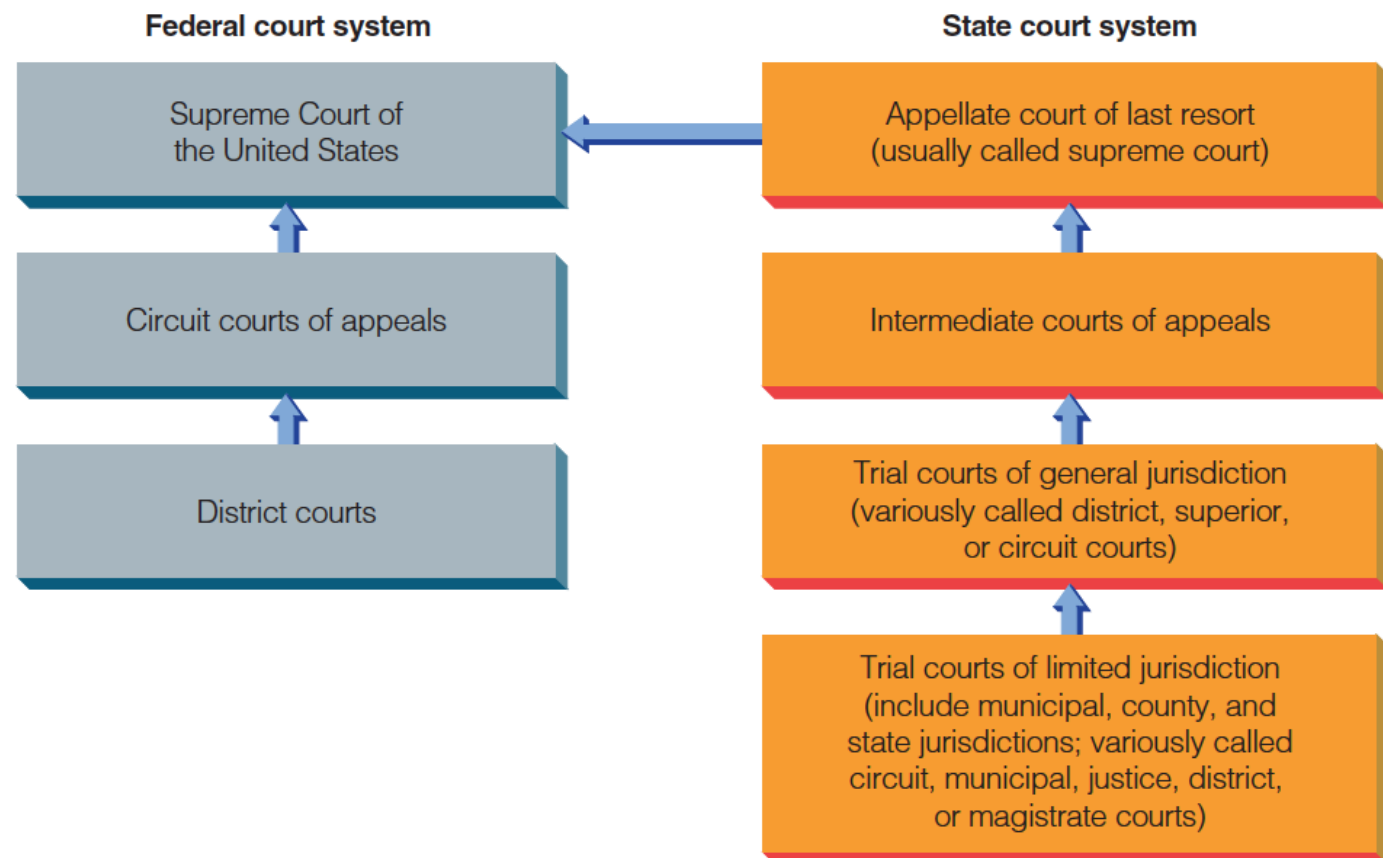
- Do specialized courts advance the interests of justice?

DUAL COURT SYSTEM OF THE UNITED STATES

- Whether a case enters through the federal or state court system depends on which law has been broken. The right of appeal exists in both systems

FIGURE 7.1

The Dual Court System of the United States and Routes of Appeal Whether a case enters through the federal or state court system depends on which law has been broken. The right of appeal to a higher court exists in either system.



FEDERAL COURTS

- The federal system has no trial courts of limited jurisdiction
- U.S. district courts are the federal trial courts of general jurisdiction
- U.S. circuit courts of appeals are the intermediate appellate courts
- U.S. Supreme Court is the court of last resort

U. S. SUPREME COURT

- **Court of last resort for federal system**
 - Controls its caseload by choosing 75 - 85 cases from among 7,000 cases submitted annually
 - Takes votes of four of nine justices to decide to grant a request to hear a case
 - Majority vote will determine the outcome and the rule of law to be expressed in the Court's majority opinion

CRIMINAL COURTS

- American trial courts are highly decentralized
 - Local political influences and community values affect the courts
 - Only a few small states have a court system organized on a statewide basis, with a central administration and state funding
- In most of the country, the criminal courts operate under the state penal code but are staffed, managed, and financed by county or city governments

WHO BECOMES A JUDGE

- Traditionally white males with strong political connections were selected
- Even today only 7% are African American, 4% Latino and 2% Asian
- The amount of female judges vary between 27% and 34%



FUNCTIONS OF A JUDGE

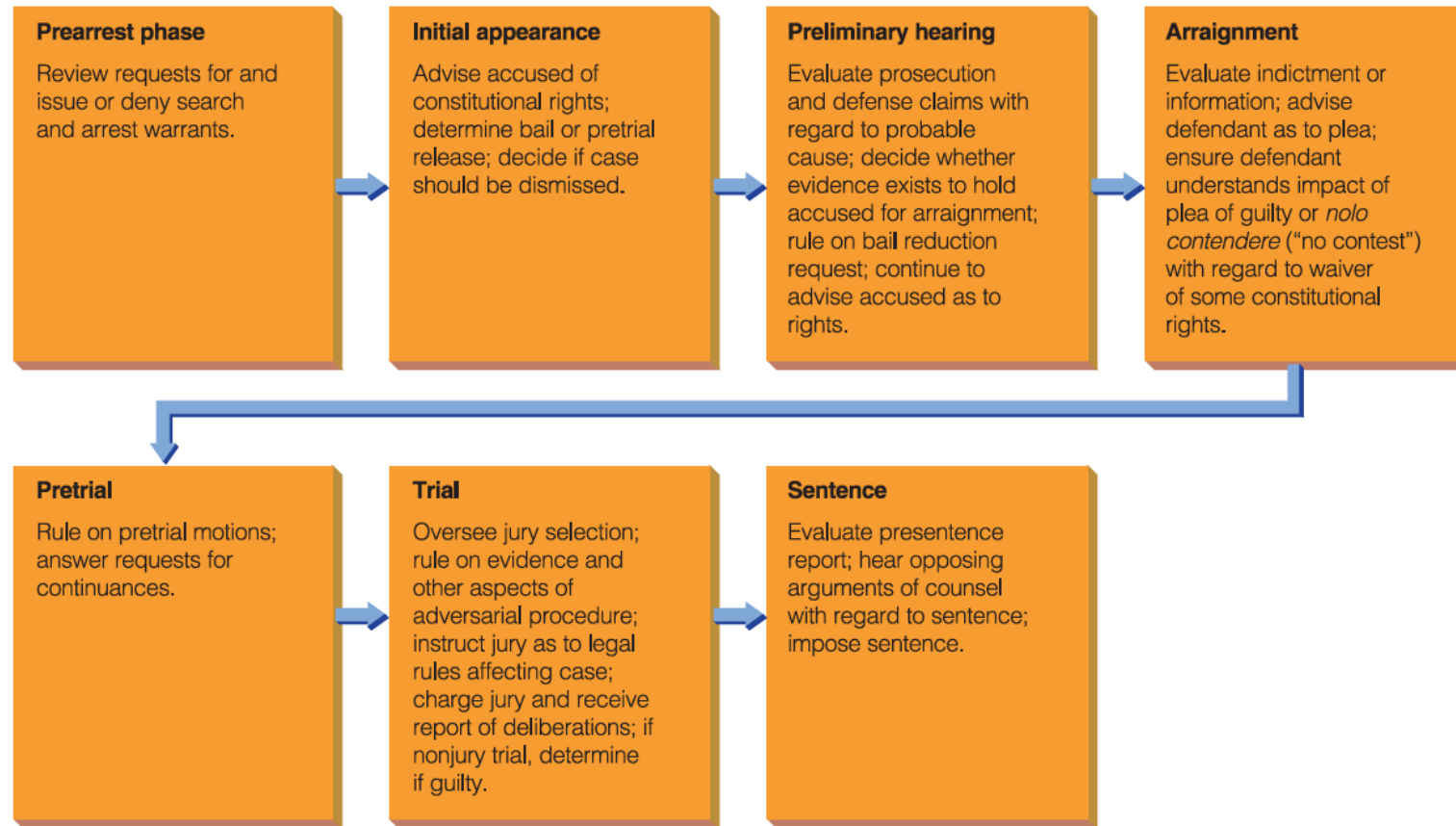


FIGURE 7.2

Actions of a Trial Court Judge in Processing a Felony Case Throughout pretrial and trial processes, the judge ensures that legal standards are upheld; he or she maintains courtroom decorum, protects the rights of the accused, meets the requirement of a speedy trial, and makes certain that case records are maintained properly.

FUNCTIONS OF A JUDGE

- **Adjudicator**
 - Assumes a neutral stance in overseeing the contest between the prosecution and the defense
- **Negotiator**
 - Encourage parties to work out things such as pleas, or procedures
- **Administrator**
 - Manages the courthouse

FIVE METHODS USED TO SELECT JUDGES

- Partisan election
- Nonpartisan election
- Gubernatorial appointment
- Legislative selection
- Merit selection

ELECTION OF JUDGES

- **Nonpartisan election**
 - An election in which candidates' party affiliations are not listed on the ballot.
- **Partisan election**
 - An election in which candidates openly endorsed by political parties are presented to voters for selection.

MERIT SELECTION OF JUDGES

- A reform plan by which judges are nominated by a commission and appointed by the governor for a given period
- When the term expires, the voters approve or disapprove the judge for a succeeding term
- If the judge is disapproved, the committee nominates a successor for the governor's appointment
- After having reviewed the different methods of choosing judges, what is the best way to select them? Why?

THE PROSECUTORIAL SYSTEM

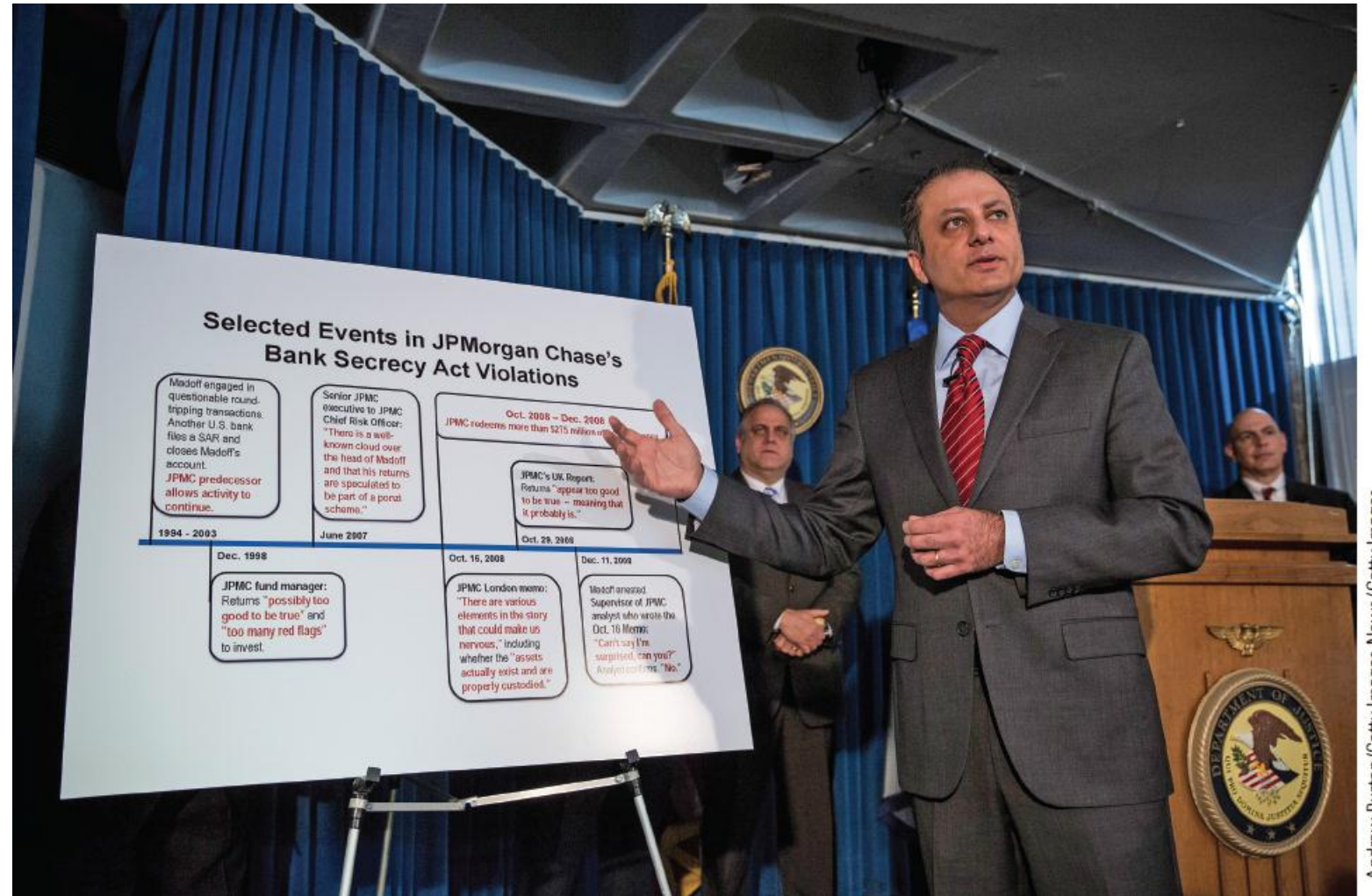
- Prosecuting attorneys make discretionary decisions about whether to pursue criminal charges, which charges to make, and what sentence to recommend
- They represent the government in pursuing criminal charges against the accused
 - Federal cases are prosecuted by United States attorneys
 - Each state has an elected state attorney general, who usually has the power to bring prosecutions in certain cases

THE PROSECUTORIAL SYSTEM

- **Prosecuting attorney**
 - A legal representative of the state with sole responsibility for bringing criminal charges. In some states this person is referred to as the district attorney, state's attorney, or county attorney
- **United States attorneys**
 - Officials responsible for the prosecution of crimes that violate the laws of the United States. Appointed by the president and assigned to a U.S. district court jurisdiction.
- **State attorney general**
 - Chief legal officer of a state, responsible for both civil and criminal matters

POLITICS AND PROSECUTION

- Prosecutors are elected, usually for a four-year term
 - Local politics influence the office
 - Discretionary power can lead to the appearance of discrimination and reflect biases based on race, social class, and gender



THE PROSECUTORIAL SYSTEM

- Prosecutors have great influence because they are concerned with all aspects of the criminal justice process
 - From arrest to final disposition of a case, prosecutors can make decisions that largely determine the defendant's fate
 - Prosecutors' links with the other actors in the system shape the prosecutors' decisions
 - Prosecutors gain additional power from the fact that their decisions and actions take place away from public view

ACCOUNTABILITY OF PROSECUTORS

- In 2011, the U.S. Supreme Court decided the case of *Connick v. Thompson*, concerning a man who spent 18 years in prison and came within one month of being executed for a murder that he did not commit. In the Thompson case, New Orleans prosecutors hid evidence from the defendant's counsel, that the prosecutor later admitted he had done intentionally. Thompson sued the prosecutor's office for violating his rights by failing to train prosecutors regarding their obligation to share relevant evidence. A jury awarded him \$14 million. The Court threw out the jury award and found that Thompson had not proven his case.
- Should we make prosecutors more susceptible to lawsuits as a means to hold them accountable and control the risk that they will engage in improper conduct?

THE PROSECUTOR'S ROLES

- Trial counsel for the police
- House counsel for the police
- Representative of the court
- Elected official

DISCRETION OF THE PROSECUTOR

- Because they have such broad discretion, prosecutors can shape their decisions to fit different interests
 - The prosecutor can use discretion in deciding the number of charges and thus increase the prosecution's supply of "bargaining chips"
 - By filing as many charges as possible, the prosecutor strengthens his or her position in plea negotiations

DISCRETION OF THE PROSECUTOR

- **Count**

- Each separate offense of which a person is accused in an indictment or an information.

- **Discovery**

- A prosecutor's pretrial disclosure to the defense of facts and evidence to be introduced at trial

- **nolle prosequi**

- An entry, made by a prosecutor on the record of a case and announced in court, indicating that the charges specified will not be prosecuted
- In effect, the charges are thereby dismissed

KEY RELATIONSHIPS OF THE PROSECUTOR

- Police
- Victims and witnesses
- Judges and courts
- The community

ACTIONS OF THE PROSECUTOR

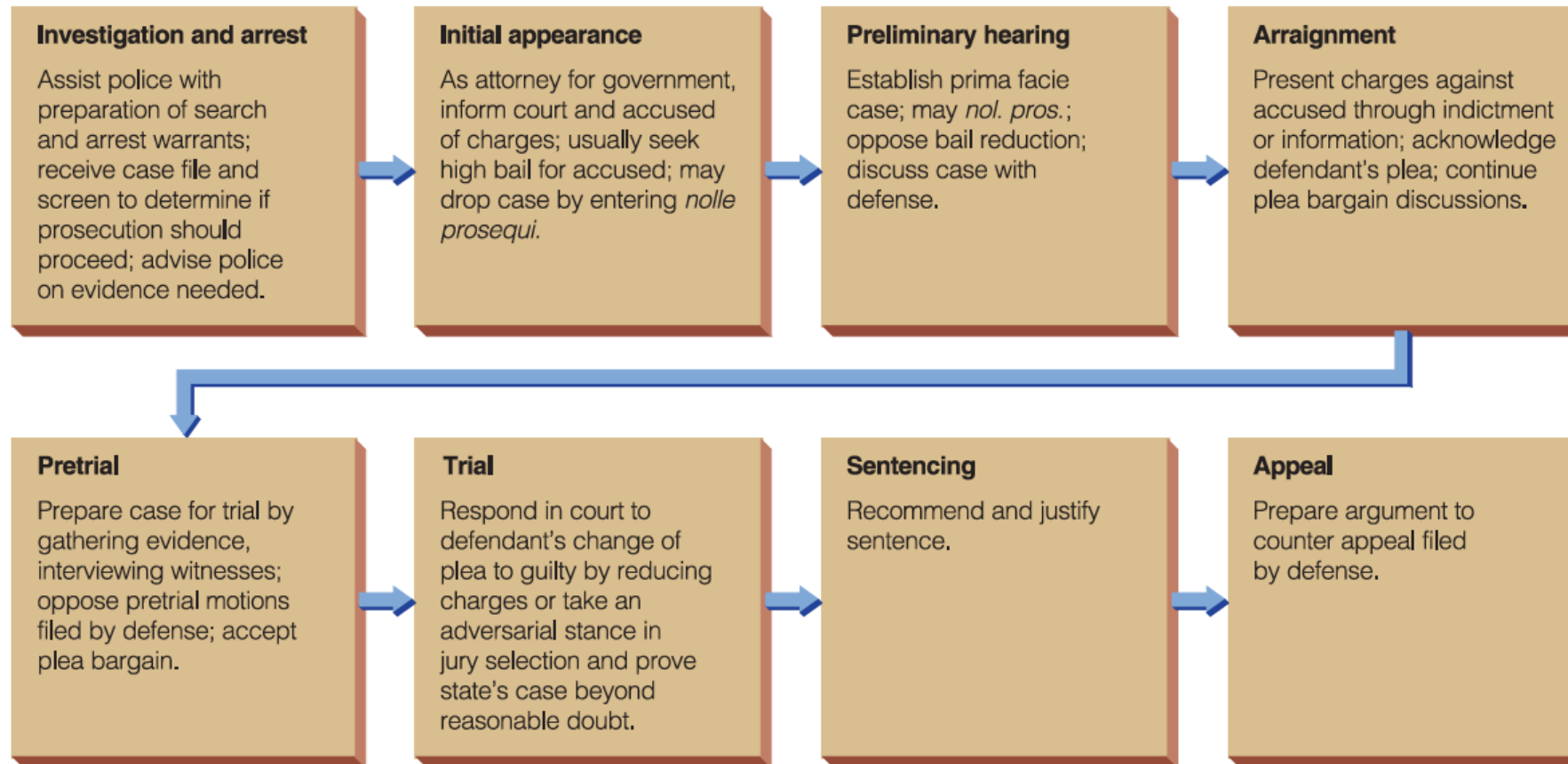


FIGURE 7.3

Typical Actions of a Prosecuting Attorney in Processing a Felony Case The prosecutor has certain responsibilities at various points in the process. At each point, the prosecutor is an advocate for the state's case against the accused.

ACCUSATORY PROCESS

- The series of events from the arrest of a suspect to the filing of a formal charge (through an indictment or information) with the court

DEFENSE ATTORNEY

- The lawyer who represents accused offenders and convicted offenders in their dealings with criminal justice.



DEFENSE ATTORNEY

- The defense attorney advises the defendant and protects his or her constitutional rights at each stage of the criminal justice process
- The defense attorney advises the defendant during questioning by the police, represents him or her at each arraignment and hearing, and serves as advocate for the defendant during the appeal process

PRIVATE PRACTICE DEFENSE ATTORNEYS

- Nationally known attorneys who charge large fees in highly publicized cases
- Lawyers of choice for defendants who can afford to pay high fees
- Retained or assigned counsel who accept cases for small fees and participate daily in criminal justice system

COUNSEL FOR INDIGENTS

- **Indigent defendants**
 - Those who are too poor to afford their own lawyers
 - The Supreme Court has interpreted the “right to counsel” in the Sixth Amendment to the Constitution as requiring that the government provide attorneys for indigent defendants
 - The portion of defendants who are provided with counsel because they are indigent has increased greatly in the past three decade

COUNSEL FOR INDIGENTS

TABLE 7.2 The Right to Counsel: Major Supreme Court Rulings

Case	Year	Ruling
<i>Powell v. Alabama</i>	1932	Indigents facing the death penalty who are not capable of representing themselves must be given attorneys.
<i>Johnson v. Zerbst</i>	1938	Indigent defendants must be provided with attorneys when facing serious charges in federal court.
<i>Gideon v. Wainwright</i>	1963	Indigent defendants must be provided with attorneys when facing serious charges in state court.
<i>Douglas v. California</i>	1963	Indigent defendants must be provided with attorneys for their first appeal.
<i>Miranda v. Arizona</i>	1966	Criminal suspects must be informed about their right to counsel before being questioned in custody.
<i>United States v. Wade</i>	1967	Defendants are entitled to counsel at “critical stages” in the process, including postindictment lineups.
<i>Argersinger v. Hamlin</i>	1972	Indigent defendants must be provided with attorneys when facing misdemeanor and petty charges that may result in incarceration.
<i>Ross v. Moffitt</i>	1974	Indigent defendants are not entitled to attorneys for discretionary appeals after their first appeal is unsuccessful.
<i>Strickland v. Washington</i>	1984	To show that ineffective assistance of counsel violated the right to counsel, defendants must prove that the attorney committed specific errors that affected the outcome of the case.
<i>Rothgery v. Gillespie County, Texas</i>	2008	The right to counsel attaches at the initial hearing before a magistrate when the defendant is informed of the charges and restrictions on liberty are imposed.
<i>Missouri v. Frye</i>	2012	Defense attorneys are obligated to inform their clients about plea agreement offers made by the prosecutor.

WAYS OF PROVIDING INDIGENTS WITH COUNSEL

- **Assigned counsel**
 - An attorney in private practice assigned by a court to represent an indigent. The attorney's fee is paid by the government with jurisdiction over the case
- **Contract counsel**
 - An attorney in private practice who contracts with the government to represent all indigent defendants in a county during a set period of time and for a specified dollar amount
- **Public defender**
 - An attorney employed on a full-time, salaried basis by a public or private non-profit organization to represent indigents

DEFENSE ATTORNEY REALITIES

- In 2013, across-the-board cuts throughout the federal government forced federal public defenders to take unpaid furloughs. In 2010, in Gwinnett County, Georgia, cut the compensation for court-appointed defense attorneys from \$75 to \$65 per hour for serious felony cases. In Oklahoma, the indigent defense system suffered a \$1.5 million budget cut resulting in attorneys being assigned 400 to 500 cases per year. These are a few examples of the effect of the budgetary crisis on the criminal justice system.
- How well can we expect counsel for indigents to perform based on low pay and high caseloads? Are these high caseloads responsible for the significant number of cases that are plead out each year?

PUBLIC DEFENDERS

- Government-salaried attorneys who handle criminal cases for defendants who are too poor to hire their own attorneys
 - These attorneys focus exclusively on criminal cases and usually develop significant expertise
 - They cannot always devote as much time as they want to each case, because they often have heavy caseloads

LOCAL LEGAL CULTURE

- Norms shared by members of a court community as to how cases should be handled and how a participant should behave in the judicial process
 - Norms help participants distinguish between “our” court and other courts
 - Norms tell members of a court community how they should treat one another
 - Norms describe how cases should be processed
 - Going rate – local court official’s shared view of the appropriate sentence for the offense, the defendant’s prior record, and other case characteristics

WORKGROUP

- A collection of individuals who interact in the workplace on a continuing basis to:
 - Share goals
 - Develop norms regarding how activities should be carried out
 - Establish a network of roles, which differentiate the group from others and facilitate cooperation

