Golden Gate University Law Review

Volume 2 | Issue 1 Article 10

January 1972

High School Legal Curricula: Court Systems Unit

COURT SYSTEMS UNIT

INTRODUCTION

There are essentially three ways to categorize our courts. First, there are *trial* and *appellate courts*. The job of the *trial courts* is to find the facts in the case and apply the law to those specific facts. The *appellate courts* focus on the law involved in the case. They must decide whether the trial judge erred in his interpretation of the law.

The second distinction is between *criminal* and *civil courts*. In a criminal case, the government accuses a person of violating a law for which a penalty is provided. It seeks to punish the accused by depriving him of his life, liberty, or property. In a civil case, one may also be deprived of his property (and sometimes his liberty), but for a different reason. The purpose of a criminal trial is to punish the offender; that of a civil trial is to compensate one person for a loss caused by another. Common cases where such liability may be found are automobile accidents, sale of faulty merchandise, and failure to pay rent.

Third, there are both *state* and *federal court systems*. Most cases, both criminal and civil, are brought in the state courts. Within the state court system there may be a number of different trial and appellate courts having jurisdiction over different types of cases and cases of different degrees of importance. For example, in California trial courts, a case in a large judicial district will be brought in either the *municipal court* or the *superior court*. The *superior court* handles the more important cases - the felonies and civil cases involving over $5,000. But certain

A SIMPLIFIED VIEW OF THE FEDERAL AND CALIFORNIA COURT STRUCTURES

types of cases, such as divorce and probate, are brought only in the *superior court* regardless of the amount in controversy. In the smaller judicial districts with a *justice court* instead of a *municipal court*, there is a similar division of the cases.

The federal court system has a similar structure. While there are a number of specialized courts, such as the *customs court* and *tax court*, most cases originate in the *federal district courts*. Congress has strictly limited the types of cases that fall within the jurisdiction of these courts. One type is the *diversity case* where each party resides in a different state and the amount in controversy is over $10,000. The other type is a case involving a *federal question*, that is, one applying the federal constitution, statutes, or treaties.

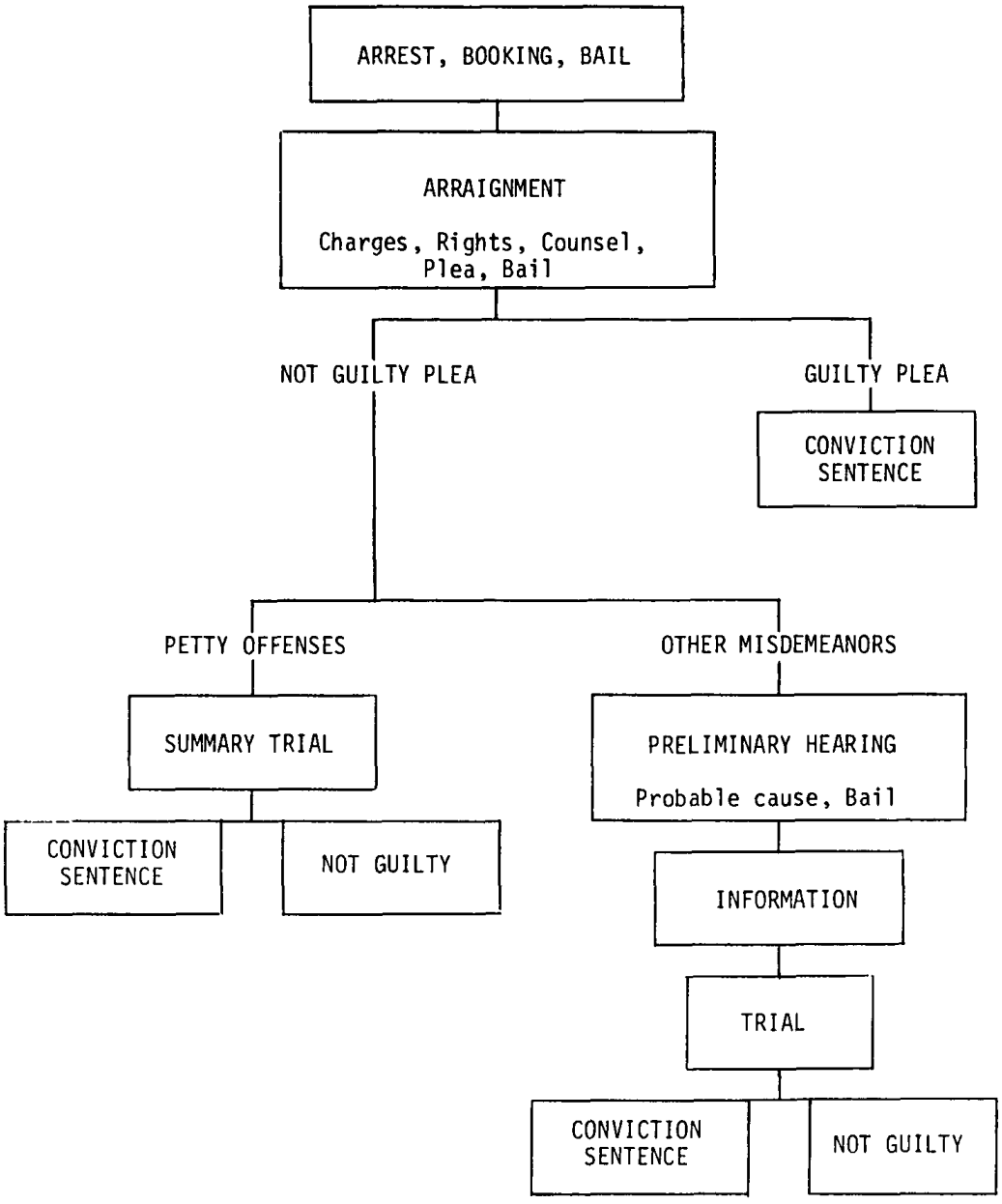
CRIMINAL PROCEDURES

The procedures leading to a criminal trial are designed in part to protect the constitutional rights of the person accused. The diagrams show the sequence that typically occurs. There may be variations depending on the circumstances and the jurisdiction.

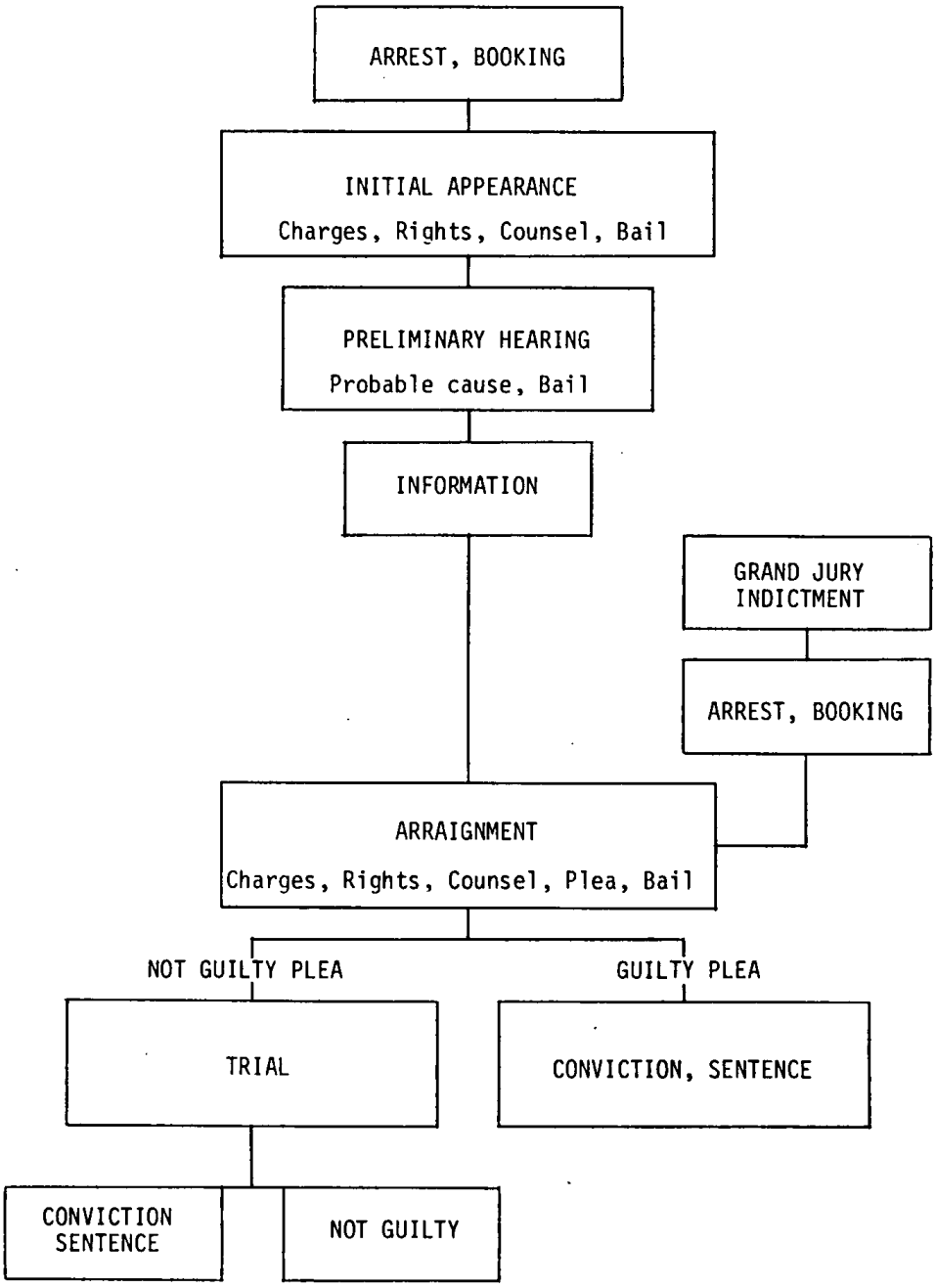
Arrest

When there is probable cause to believe that the suspect has committed a crime, he is arrested. Sometimes the police officer makes his arrest pursuant to a *warrant*. When an *arrest warrant* has been issued, there has usually been either a police or grand jury investigation. More often, however, an officer arrests without a *warrant*. In these

TYPICAL PROCEDURE FOR MISDEMEANORS



TYPICAL PROCEDURE FOR FELONIES



cases his *probable cause* is based on his observations at the scene of the crime and the reports of witnesses.

Booking

Once he is arrested, the suspect is transported to the police station for booking. His name, time of arrest and the charges against him are recorded. He might also be fingerprinted and photographed. If the crime is minor, the suspect may be released on bail by the police. The amount of *bail* is either specified in the warrant or is determined by a set schedule according to the severity of the offense.

Initial Appearance or Presentment

The laws in many states require that the accused be brought before a magistrate without unreasonable delay. Unless the arrest occurs on a weekend or holiday, the *initial appearance* is usually within a few hours of booking.

At the initial appearance the magistrate apprises the accused of the charges against him and his constitutional rights. If the accused is indigent, in many states, counsel will be appointed for him. The magistrate can dismiss the case for lack of *probable cause;* however, he usually leaves this determination for the preliminary hearing.

The magistrate will set bail if it has not already been set. In some jurisdictions, he may release the accused on his *own recognizance,* that is, without bail. This procedure is used when the charge is minor and the accused is well established in the community so that there is high probability that he will appear in court for future proceedings.

Typically, the magistrate has trial jurisdiction over *misdemeanors.*

In these cases, the *initial appearance* usually serves as the arraignment. For petty offenses the accused can be given a summary trial and sentenced immediately. For other misdemeanors, he can waive his right to a jury trial, plead guilty and be sentenced immediately.

Preliminary Hearing

Within the next several days the accused is entitled to a *preliminary hearing*. This proceeding is a miniature trial before the magistrate in which the prosecutor must show that there is *probable cause* to hold the accused for a full trial. He will generally call only enough of his witnesses to show that he has a strong enough case to warrant a trial. The magistrate may review the bail at this point.

Information or Grand Jury Indictment

Before prosecution can commence, there must be a formal accusation. In the vast majority of cases, where the above steps are followed, the formal charge is an *information* filed by the prosecutor. In the small number of felonies where a *grand jury indicts* the defendant, these safeguards are replaced by the grand jury's own independent investigation and finding of probable cause. The *grand jury* is a panel of citizens who are nominated by judges and who serve for a year, meeting as often as necessary to fulfill their investigative duties.

Arraignment

The *arraignment*, is the first procedure in the court having jurisdiction to try the crime. In a felony crime, it occurs after the magistrate holds the preliminary hearing and binds the accused over to the proper trial court. In a misdemeanor case, it is usually the initial appearance before

the magistrate. The accused is given notice of the charges against him and his constitutional rights. The defense attorney may make various pretrial motions, such as to suppress illegally obtained evidence or to transfer the trial to a different district.

The defendant enters his plea at this point. A guilty plea usually results from a bargain made between the defense attorney and the prosecutor. The prosecutor frequently agrees to drop or reduce some of the charges or to recommend a lenient sentence if the accused will plead guilty. In this manner, the prosecutor reduces his work load and the accused avoids the possibility of a harsher punishment at trial. If he cannot afford bail, the accused also avoids several months in jail while awaiting a trial.

PROCEDURES BEFORE A CIVIL TRIAL

The steps leading to a civil trial are relatively simple. They are designed to keep the actual trial proceeding as short as possible by allowing the parties to focus on the legal issues and facts that are in dispute.

Each side files one or more *pleadings* in which are stated its legal arguments. The plaintiff files a *complaint* in which he alleges facts sufficient for the court to hold the defendant liable. The complaint must be served upon the defendant, usually in person. The defendant must then file one or more *responsive pleadings* in which he usually denies either that the allegations are true or that they render him liable to the plaintiff.

Each party then has an opportunity for *discovery* of facts known by the opponent. These facts are elicited by sending the opponent a set of written questions, called *interrogatories*, or by oral examination, called

a *deposition*. The *deposition* is similar to the examination of a witness in court. It is taken in the presence of a court recorder, usually in the attorney's office.

THE TRIAL

The jury

The first step in the trial is to select the jury. Prospective jurors are picked from the community by some random method to form *a panel* from which the jury is chosen. The judge or the attorneys ask the panel members various questions to determine whether they will be impartial jurors.

A member of the panel can be excused as a result of a *challenge for cause* against any person who can be shown to have a prejudice in the case. In addition, each party has a limited number of *peremptory challenges* that it can exercise to excuse anybody whom he suspects of being hostile, even though there is not sufficient reason to challenge for cause.

In criminal trials there are almost always twelve jurors.* They must arrive at a unanimous verdict. If they do not, the case must be retried. In civil cases a smaller number of jurors is sometimes used, and the verdict in many states need not be unanimous. In California, a civil trial jury may render a verdict by a three-fourths vote.

The adversary system

The judicial system of many countries is based upon the *inquisitorial* concept. In these countries a panel of judges questions persons who are before the court. Based upon this dialogue, the judges reach their decision.

*The Supreme Court, in Williams v. Florida, 399 U.S. 78 (1970), held that a twelve-man jury is no longer a Sixth Amendment constitutional requirement. Congress and the state legislatures can determine the size of juries "unrestrained by the Sixth Amendment which does not dictate the precise number which can constitute a jury."

The American *adversary system* is quite different. It is based upon the idea that the truth is best reached by having the opposing parties argue their cases as forcefully as possible before a silent jury. Each party presents his own case in the most favorable light and attacks the weaknesses in his opponent's case. In a civil case, the opposing parties are the plaintiff and defendant. In a criminal case, they are the prosecutor and the defendant, or accused.

At the beginning of the trial, the attorney for each side makes an *opening statement* to the jury summarizing the case that is to be presented. These statements give the jurors a picture of the entire case so that they will be better able to understand the importance of each piece of evidence as it is presented.

Most of the evidence is presented through testimony of witnesses. The plaintiff's attorney (the prosecutor in criminal cases) calls each of his witnesses and elicits his testimony by *direct examination*. The defendant's attorney may then *cross-examine* the witness to discredit what he has said on direct examination. He does this by eliciting additional facts that tend to disprove the plaintiff's case or to impeach the credibility of the witness' statements. Each side then has an opportunity to conduct a *redirect* and *recross-examination*, respectively.

After the plaintiff has called all of his witnesses, the defendant may call his own witnesses for *direct examination;* and the plaintiff may *cross-examine* each of them.

There are significant differences between the direct and cross-examinations. On direct examination, the attorney may not ask the witness

leading questions, that is, questions that suggest the answer that the examiner wants to elicit. On cross-examination, since the attorney is addressing a hostile witness, he may ask *leading questions* in his attempt to destroy the value of the witness' previous testimony.

After all of the evidence has been presented, each side also makes a *closing statement* to recap the evidence and points out the strengths of his case and the weaknesses of his opponent's case.

In addition to making opening and closing statements and examining witnesses, it is the task of the attorney to object to any attempt by his opponent to introduce evidence contrary to the complex rules of evidence. He must be able to state the reason for his objection. The judge must then either *sustain* or *overrule* the objection.

Questions of Law and Fact

In most cases that come to trial, the parties do not agree on the facts. For example, suppose that in a murder case the defendant presents evidence to show that the victim had drawn his gun and declared, "I'm going to kill you for stealing my woman." The prosecutor then introduces evidence that the defendant had always been hostile toward the victim and had vowed to "get him." He also introduces evidence that the victim was cleaning his gun at the time of the shooting and merely said, "If anybody ever steals my woman, I'll kill him." What is the best way to resolve this conflict in facts?

In our system, it is believed that a jury of the defendant's peers is better-qualified to decide which facts are true than a judge. Twelve heads

are considered better than one, and the common man, capable of evaluating the credibility of the story and the witnesses just as well as the learned judge. Thus, a jury decides questions of fact. In cases where both parties decide not to use a jury, the judge will do the fact-finding.

All questions of law must be decided by the judge. Suppose in our example that the jury finds that the victim was cleaning his gun and that he declared, "I'm going to kill you for stealing my woman." The defendant argues that the statement establishes that the shooting was in self-defense. The prosecution argues that there was no self-defense since the defendant did not need to use an immediate deadly force to protect himself. The issue of what factual elements must be found to establish self-defense is a *question of law.*

At the end of the trial the judge will give the jury a number of *instructions* on how the law must be applied to their findings of fact. For example, he may instruct, "If you find that the victim's words and actions caused the defendant to reasonably believe that shooting the victim was immediately necessary to protect himself from being shot, then you must find that the defendant acted in self-defense."

Other questions of law that frequently arise in trials concern the admissibility of evidence. Each time the judge *sustains* or *overrules an objection* to the examiner's questioning, he is deciding a *question of law.*

Burden of Proof

In every case, the plaintiff or prosecutor has the initial burden of proving the facts necessary to win the case. This burden is quite different in criminal and civil cases.

In a civil case, the plaintiff must prove his case by a *preponderance of the evidence*, that is, the jury must find that it is *more probable than not* that the plaintiff's facts are true. Thus, in a civil case, the plaintiff and defendant are on an equal footing in the minds of the jurors.

In a criminal trial, however, there is a *strong presumption* that the defendant is innocent. The burden is on the prosecutor to prove his guilt *beyond a reasonable doubt*. The jurors do not simply balance the probabilities as they do in a civil case; they must find the defendant not guilty if there is *any reasonable doubt* of his guilt.

THE APPELLATE COURT

The function of the *appellate court* is quite different from that of the *trial court*. The *appellate court* concerns itself solely with reviewing *questions of law*, which one of the parties believes were wrongly decided by the trial court. It does not review *questions of fact* decided on in the trial court.

The procedure is simple compared to that of the trial court. The court consists of a panel of between three and nine judges and the attorneys for each party. The attorneys present written briefs of their legal arguments and are usually invited to present an oral argument to the court. Each attorney discusses the legal concepts and cites cases supporting his position. He may also try to show that his position will have a favorable effect on society.

After hearing the arguments from both sides, the judges write their

opinion in which they discuss the law and how it applies to the facts in the case. They conclude by stating whether they affirm or reverse the lower court's decision. The opinion is published so that it can be used as a *precedent* in future cases.

Often the judges are not unanimous in their decision or in their reasons for reaching the decision. In this situation, the *opinion of the majority* may be accompanied by one or more *concurring or dissenting opinions*.

The appellate court hierarchy consists of one or more levels. The parties can usually make one appeal as a *matter of right*. For the most part, the state and federal supreme courts provide an additional review only for cases involving the most important questions of law. Their primary job is to clarify and provide uniformity where the lower courts have interpreted the law differently.

In reaching its decision, the Court follows *precedents*, that is, previous cases dealing with the same issue. These precedents are known as *case law*, and, in the absence of *statutory law* written by legislative bodies, they are the law.

The cases that are taken up to the appellate courts are usually ones for which there is no identical precedent. Therefore, the Court must make law by analogizing to cases with similar facts. When the Court wants to change the law, it may *overrule a precedent*. But the Court prefers a more gradual change. The usual procedure is to emphasize the differences between the facts in the case in question and those in the precedents.

In so distinguishing the cases, the courts can justify applying a different rule of law to the new fact situation.

Thus, our law courts play an important role not only in administering the law in civil disputes and criminal prosecutions at the trial level, but also in creating new law to apply to ever changing circumstances.