

## Stage of Justice (Courts)

- Arraignment

- o Types of Plea:

- Guilty (90%) (Usually already accepted a plea bargain)

- To accept guilty plea, judge must:

- o State defendant has waived his/her constitutional right to trial

- o Believe there is a basis for plea, plea is voluntary

- o Inform defendant of his/her right to counsel during plea process

- Not Guilty

- Entered two ways:

- o Verbal statement by defendant or attorney

- o Defendant stands mute, court/judge enters not guilty plea on behalf of the defendant

- No Contest

- Plea guilty without fear of civil suits

- o Bail, Jail, or Released on own recognize

- Factors:

- Seriousness of charge

- Offender's criminal record

- Whether or not defendant has local address (least likely to be granted bail if they do not have a local address)

- Previous failures to return to court procedures (granted bail in the past and violated bail)

- (Most people are granted bail)

- BAIL

- Monetary amount for, or condition of, pretrial release, usually set by a judge at court appearance—bail is returned after you return to court

- Purpose: ensure return of the accused

- Q: Does the constitution guarantee a defendant the right to bail?

- o A: NO, but there is a constitutional safeguard around bail:

- excessive bail under the 8<sup>th</sup> amendment. Ex: if you make 35,000 a year, you will not get a 2 million dollar bail

- JAIL (Detain Defendant)

- Two different types:

- o Preventive Detention: practice of holding dangerous defendants before trial and the denial of bail—harmful defendants

- o Pretrial Detention; practice of holding defendant in secure confinement prior to trial—given bail, or they are not going to post bail

- RELEASED ON OWN RECOGNIZANCE

- Nonmonetary condition for pretrial release

- o Outcomes of Criminal Process

- 1: Plea Bargaining (90%)

- 2: Pre-trial Diversion (6%)

- 3: Trial (4%)

- o Factors influencing Prosecutor's Pursuit of Cases (and Case Outcome)

- Seriousness of the offense

- Criminal history of defendant

- Cost of prosecution to the CJS

- Heavy caseloads

- Strength of the prosecutor's case

- Avoid undue harm to the defendant
- Willingness of defendant to cooperate with law enforcement, prosecutor, and/or diversionary efforts
- o Factors that Influence Pretrial Diversion
  - Offense Type—alcohol/drug related, domestic case, etc. NOT RAPE/MURDER
  - Special circumstances
  - Defendant (1<sup>st</sup> time offender)
  - Willingness of defendant to cooperate with diversionary program
  - Impact of Diversion on community
  - Victim consideration
- o Plea Bargaining
  - The discussion between the defense counsel and prosecutor by which the defendant agrees to plead guilty for certain considerations/concessions
- o Factors Considered in Plea Bargaining
  - Caseload of the prosecutor
  - Strength or weakness of the case
  - Offense type
  - Type of defense counsel
  - Defendant's prior record
  - Compliant
  - Personal characteristics of defendant (age, race, bail status)
- o Types of Plea Bargaining
  - Implicit Bargaining (Going Rate)—knows how the prosecutor operates—take it or leave it
  - Bargaining over Charges
    - Concurrent charges
    - Dropping charges
    - Altering charges
  - Bargaining over Sentence
    - Sentence reduction or recommendation

#### MAY 5, 2011 COURSE CAPTURE WATCH

- Timeline
  - o Changes in Prison History-MOVEMENTS
    - Penitentiaries—1820s
      - Two competing Models
        - o The Pennsylvania Model
          - “Segregate” System
          - Solitary confinement; remain in cell at all times
          - Emphasis on inmate ability to reflect on criminal past and gain spiritual insight
          - No talking to other inmates—hooded while walking through prison; reduced contact
          - Read the bible, repent
          - Reform through personal conversion
        - o New York's Auburn Model
          - Congregate system
          - Inmates had no external contact
          - Inmates housed in small cells and confined on the Sabbath and during non-working hours
          - Inmates labored in factory like shops during working hours
          - Inmates prohibited from talking to other inmates

- Repentance and reform through harsh labor and external discipline
  - Established in 1816
  - Originally designed to include 61 double cells but William Britten, the first warden, made each double cell into solitary cells, thinking it would be easier to handle separated convicts
  - First recorded time single cell construction was used in the world
- Reformatories—1870s
- The big house—1950s
- Correctional facilities—1970s
- Deterrence -1980s
- Today?
- Key Terms and Definitions
  - o Jails
    - Local institution designed for offenders who are serving sentences less than one year, housing minor offenders, awaiting trial or sentencing
    - Purposes:
      - Awaiting trial, conviction, or sentencing
      - Readmit probation, parole, and bail bond violators
      - Hold mentally ill persons pending their movement to appropriate health care facilities
      - Hold individual for the military, for protective custody, for contempt of court
      - Release convicted inmates to the community upon completion of their sentence
      - Transfer inmates to federal, state, and other authorities
      - House inmates for federal, state, or other authorities because of the over-crowding of their facilities
      - Community based programs
    - What are causes of death in jail?
      - Natural causes and suicide are the leading causes of death in jail
        - o 53% of those who attempt suicide attempt their first try in the first 24 hours
  - o Reformatories
    - Institutions which house youthful offenders (felons) often between the ages of 18-25
  - o Prisons
    - A state or federal correctional institution for incarceration of offenders for terms of one year or more
      - Minimum security prison
        - o Least secure facility that house white collar and nonviolent offenders, maintains a few security measures and has liberal visitation policies
        - o May be: small farms, road camps, or forestry camps
        - o Most likely located in rural areas
        - o House inmates considered nonviolent, low on internal and external risk (no escape risk)
        - o Facilities have been created mainly to serve economic needs of the community