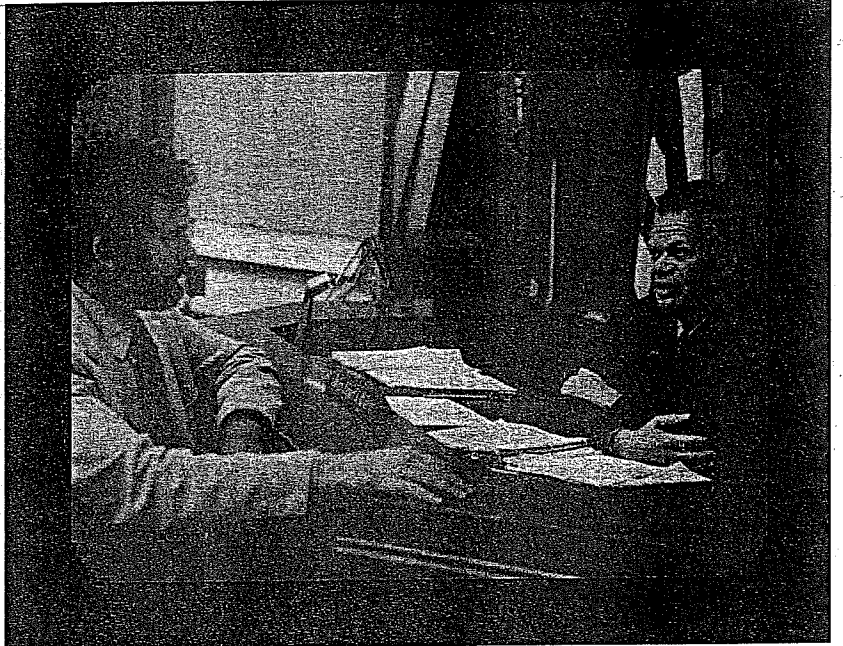


Trial and Sentencing

Peter K. was a college professor. In the 1960s, he was arrested as part of a **protest** at a restaurant. The protest was about the fact that the restaurant would not serve African Americans. He and a group of about seven other people sat down at the lunch counter and refused to move until they were served. The owner called the police to come and arrest the protesters. The jury in the trial could not agree on a verdict. As a result, the judge said that the trial did not count. A year later, Peter K. had not yet been tried again. Peter K. correctly went to court to fight for his right to a speedy trial.



CHECK vocabulary words in bold. LOOK UP word meanings in the glossary beginning on page 92.

The local court still did not act. Finally, the Supreme Court agreed that the Sixth Amendment gave all suspects the right to a speedy trial. Before Peter K.'s case, this right was only applied to federal cases. After Peter K.'s case, this right would be in effect for all cases.

In this chapter, you will learn about your right to a trial and your rights at the trial. You will also learn all about sentencing.



CRITICAL THINKING

Some people believe that no jury can be completely fair because the average person listens and watches the media to a degree that makes being impartial to certain kinds of crime impossible.



Actress Maria P. says: "I played a defense attorney on a TV show. Soon after, I was called for jury duty. But both the defense lawyer and the district attorney refused to let me serve. They were concerned that the

other jury members might forget that I was not really a defense attorney and treat me differently. Believe me, juries are selected carefully. How one person sees another in his or her mind is very important to the criminal justice system."

The Right to a Jury Trial

Do you have the right to a jury trial? Generally, a person who has been accused of a crime has a right to a trial by jury. In certain situations, you can decide to give up that right and choose to have a trial by a judge without a jury. This depends on the crime and the details of it. You should make this decision only after carefully discussing your choices with your lawyer.

Your lawyer can also decide that, for some reason, you will only be able to get a fair trial if it takes place in another city. He may think that the jurors might have made up their minds about the case even before the start of the trial. The story of the crime might have appeared on the television or on the radio.

Do juveniles have a right to a trial? The answer is sometimes. In some states they do, and in others they do not. Some trials for juveniles are open to the public, and some are not. But accused juveniles who are to be tried in juvenile court do not ever have a jury trial. Check your state's laws on the subject. Remember that juvenile records are always private.

Your Rights at a Trial

You have six basic rights at a trial:

■ **The right to a public trial.** This means that anyone can come to see the trial. The reason is so that everyone can see the evidence. A person cannot be sent to prison with little or no evidence against her. Usually, the trial is open to the media. Reporters may attend. Some states even allow TV cameras in the courtroom.

■ **The right to a speedy trial.** Not everyone agrees on what *speedy* means. The U.S. Congress passed a law that says you have to come to trial within 100 days for a federal offense. If you do not have a trial within 100 days, the charges can be dropped. But different states have different laws. One state might say three months, while another might say one year for misdemeanors and three years for a felony. Check your state's law on this subject.

You may be in jail while waiting for a trial. However, if you are convicted, the time you already spent in jail might count toward the sentence you are given.

■ **The right to appear at the trial.** This means that if, for any reason, you are unable to come to the courtroom, the trial will be have to be delayed. There are times, however, when trials are held without the defendant. For example, defendants can become extremely upset. They may say angry words to the witnesses. The judge may have such defendants removed from the courtroom.

■ **The right to face witnesses and question them.** You or your lawyer have the right to **cross-examine** or question witnesses. You also have the right to call witnesses for your case.

■ **The right not to speak.** You do not have to testify or speak at your own trial. The district attorney cannot call you as a witness. If you choose to speak for yourself, then the district attorney can cross-examine you.

■ **The right against having to be tried twice for the same crime.** This means that you cannot stand trial or be tried twice for the same crime. This would be double jeopardy. The district attorney cannot appeal a not-guilty verdict. However, you may appeal a guilty verdict.

In Court

How should you behave in court? You may testify, or you may not. However, the jury will watch you during the trial. Your lawyer will give you advice about how to dress and act. It is a good idea to follow the advice. Be polite in the courtroom. Do not become angry at what might be said. Be a good listener.

Who can testify against you? The answer is almost anyone. Yet, there are some people who have a relationship, or link, to you. For example, what you tell your lawyer is private. Whatever is said between any two people in a relationship does not have to be told to anyone else.

A lawyer cannot tell anyone what you tell him. However, this information is only privileged if the crime has already happened. When



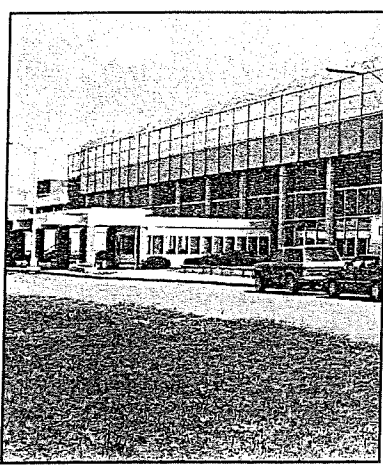
CRITICAL THINKING
Do you think that first offenders should be sentenced as harshly as repeat offenders?

DID YOU KNOW? All states require a twelve-person jury in murder cases.

EYE-OPENER Two out of five people on probation are later arrested for another crime.



CRITICAL THINKING
 The majority of suspects tried for homicide are not acquitted, but are sentenced to prison. Why do you think this is so?



DID YOU KNOW? Long ago in India, if you received the death penalty, your head would be stepped on and crushed by an elephant.

EYE OPENER On any given day in the United States, there are 4 million individuals on probation and behind bars.

anyone reveals plans to do something illegal when talking with a lawyer, this information is not private.

What other special relationships can there be legally? Husbands and wives do not have to testify against each other. Also, what a husband and wife tell each other can be kept private. Yet, husbands and wives can testify against each other if they so choose. For example, if one spouse brings charges against the other in a beating case, then one partner can testify or speak about the hurt that was done by the other partner.

Religious professionals such as priests, ministers, or rabbis can also refuse to testify if suspects have told them something in private. But any time someone else besides the other person in the special relationship has also heard the private information, it is no longer private.

Finally, doctors do not have to testify. Some states also let psychiatrists and journalists refuse to testify. Check the laws in your state about privacy one special relationship.

What happens at the trial? In Chapter 4, you learned about what happens at a trial. Each side gives **testimony**, presents evidence, and calls witnesses. The judge explains the law to the jury and tells the jury what kinds of verdicts it can give. The jury then acquits or convicts the person, or says it cannot decide. If it cannot decide, it is a hung jury, and there may be another trial with another jury.

What happens after conviction? If the verdict is guilty, a person can then appeal. The appeal for state cases goes up a step to the next highest court in the state system. Federal cases go up a step to the next highest federal court. Each state has rules about reasons for appeal.

What happens while your case is on appeal? The judge can change the amount of bail or take away bail. If she thinks you would skip bail, then you might have to stay in jail during the appeal.

Sentencing

Sentencing usually does not take place on the day you are convicted. As the accused, you would have to return to court for sentencing. In some states, the jury sentences the defendant. In other states, the judge does the sentencing. Some states have a state office that says how long the sentence will be. Check you state's laws on this subject.

How long can prison sentences be? There are two kinds of prison sentences. Some crimes have mandatory sentences. This means the law says the crime is punished by a certain number of years in prison. The judge or jury cannot choose or change this sentence. For example, drug-related crimes have mandatory sentences in many states.

For other crimes, the judge or jury can choose the sentence. The number of years can be fixed, or not able to be changed, or the number of years can be not fixed. For example, if you are sentenced to from five to ten years, you have to serve five years at least before you can be paroled. But after that, your case can be reviewed. If you stayed out of trouble, the judge may decide that five years is enough. If you did not

stay out of trouble, the judge may decide to make the sentence longer. This would also depend on whether or not this was your first offense.

Can you get a lighter sentence? If you have committed a serious crime or if this is not your first offense, the answer is no. In either case, you do not deserve less punishment. On the other hand, if this is your first offense and you can show that you really want to change your behavior, you might get a lighter sentence.

A probation officer makes a report to the judge before sentencing. The report tells about your behavior and what you did in the past before the crime. Your friends, your boss, and other people who know you could write letters to the court to say you want to become a lawful person.

Can you be convicted and not go to jail? If the judge thinks you are a person who can be trusted, you might receive a **suspended sentence**. This means the sentence is not carried out if you obey the judge's rules. For example, if the judge thinks you got in trouble because of the bad influence of your friends, then one rule might be that you may not see your friends. If the judge finds out that you have spent time with them, then you could go to jail.

Another way you might be convicted but not go to jail is if you are sentenced to probation. Probation is still punishment. Probation means that you have to follow certain rules in order to stay out of jail. If you break the rules of probation, you will go back to court for sentencing all over again.

When you are on probation, a probation officer supervises, or is in charge of, you. You report to him regularly. The job of the probation officer is to help you with your problems. He may help you get back into school, find an apartment, or get a job. When your probation is over, you are a free citizen. You then need to think about getting your record of conviction cleared. This depends on your state's law.

Parole

The Federal Sentencing Reform Act of 1984 eliminated, or took away, parole for felons sentenced before 1992. Those convicted before 1992 and eligible for parole were not affected. Yet, parole is still a possibility for persons convicted of other kinds of crimes.

After you have served time in prison, you might be placed on parole before your sentence is over. *Parole* means "word" in French. It means that you give your word not to commit any more crimes. A parole board decides whether or not you can be let go — whether or not you deserve to be trusted by society.

People on parole usually have to serve a certain amount of time. For example, on a life sentence, twenty-five years might have to be served before you can be given parole. The parole board does not have to give you parole.

If you are paroled, like probation, you meet with a parole officer regularly. You must also follow certain rules while on parole. For example, you will not be allowed to drink alcohol. If you break the rules,

The People's Publishing Group, Inc.: *Crime and the Law*

CRITICAL THINKING
The majority of suspects tried for homicide are not acquitted, but are sentenced to prison. Why do you think this is so?

DID YOU KNOW? Probation officers might have, on the average, about 200 individuals to supervise. This is according to Professor Charles Lindner, the John Jay College of Criminal Justice, New York City.

EYE OPENER There are two-and-one-half-million people on probation. They are mostly juveniles, first-time offenders.

If hardened career criminals could be seen by their probation officers eight times a month instead of the usual four times, the rate of repeat offenses would be reduced. Can you explain why this would be so?

you will go back to prison. Going back to prison means that you have failed to make a change for the better in your life even though you have been given a second change.

Each state has different rules about the rights of convicted people. In some states, for example, you may lose some of your civil rights.

You may lose the right to vote, or you may lose the right to work at certain jobs. You may also lose the right to hold public office or to serve on a jury. Yet, you may be able to get some of these rights back. Make sure you know the laws in your state.

DID YOU KNOW? The probation process is being made more efficient and easier to manage. In the near future, there might be electronic booths, like bank money machines, where persons on probation could check in more frequently.



Workbook

Self-Check p.24

Reality-Check p.25

WHAT TO READ NEXT

The Peoples Guide to Government:

The Judicial Branch, pp. 32-33

The Peoples Guide to: Drug Education,
pp. 38-39

Understanding Chapter 11

1. What six rights do you have at a trial?
2. Explain the two kinds of sentences you can receive.
3. Tell what happens after the verdict.

Side Information Chapter 11

1. What do some people believe about juries? _____
2. What does the average person do? _____
3. What does listening to the media make? _____
4. What did actress Maria P. play on T.V.? _____
5. How did this affect her being on a real jury? _____

6. What is very important to the criminal justice system? _____

7. First offenders are usually not sentenced as what? _____
8. What do all states require in a murder case? _____
9. How many on probation are later arrested for another crime? _____
10. The majority of suspects tried for homicide are what? _____

11. How did the country of India punish those guilty of murder? _____

12. How many people in the U.S. are on probation or behind bars? _____
13. What percent of suspects tried for homicide are sent to prison? _____
14. Usually, how many individuals do probation officers have to supervise? _____
15. What city does Charles Lindner live in? _____
16. How many people are on probation? _____
17. Most people on probation are what? _____
18. How many times a month do hardened criminals get to see their probation officers? _____
19. What would happen if they could see them 8 times a month? _____
20. What could help persons on probation check in more frequently? _____

Define:

1. Protest: _____
2. Media: _____
3. Impartial: _____
4. Generally: _____
5. Federal: _____
6. Critical: _____
7. Offender: _____
8. Congress: _____
9. Defendant: _____
10. Examine: _____
11. Jeopardy: _____
12. Verdict: _____
13. Information: _____
14. Testify: _____
15. Spouse: _____
16. Journalist: _____
17. Mandatory: _____
18. Penalty: _____
19. Suspend: _____
20. Parole: _____