**Sociology 3395: Criminal Justice & Corrections**

**Class 13: The Courts & Criminal Trial Procedure 1**

\* Only 9% of persons charged actually have a trial

\* Increasing caseloads have resulted in staying of charges due to delays (Askov case)

\* Alternatives: plea bargaining, mediation, & specialty courts

**The Functions of the Courts:**

\* Due process model:

- make impartial decisions

- consider all relevant evidence

- follow procedural rules to discover truth

\* Crime control model:

- protect society from criminals

- ensure convictions/punishment of offenders

- deter crime & protect the law-abiding

\* Bureaucratic function model:

- focus on day-to-day operations

- speed, efficiency, ability to move things along

- ideal of justice vs. realities of bureaucracy

**The Organization of Canadian Criminal Courts:**

\* Provincial & Territorial Courts:

(1) Limited jurisdiction courts:

- specialize in certain areas (e.g. traffic offences)

- include circuit courts in rural areas

- hear most minor offences

- include justices of the peace (a.k.a. magistrates)

(2) General jurisdiction courts:

- hear serious criminal offences

- may use juries or judge only

- some specialized courts (e.g. domestic violence)

(3) Courts of appeal:

- consist of panel of judges

- review decisions made by lower courts

- highest authority in a province

- decisions may be appealed to the SCC (with leave)

\* Supreme Court of Canada:

- final authority over all public & private law

- judicial review (e.g. is a law constitutional?)

- interprets the law

- selects certain cases / others heard “as of right”

\* Lower & higher courts:

Lower courts: provincial courts that hear summary conviction

& provincial statute offences

Higher courts: hear only indictable offences &/or appeals

**The Court System:**

\* Proof prior to trial = probable cause

\* Proof to convict: beyond a reasonable doubt

\* Participants: the accused, crown prosecutor, defense counsel, judge,

jury, victim, & witness

\* Procedures: governed by law, tradition & judicial authority

\* Common practices:

- accused pleads guilty to one or more charges (70%)

- depending on evidence/policework, prosecutors may proceed without concessions (60%), or stay proceedings,

withdraw or reduce charges

\* Defense counsel:

- represents legal rights of his/her client

- prepares case/ determines strategy

- helps client understand laws, procedures, possible sentence

- deals with police & prosecution

- assesses the value of a plea bargain

- represents client at all stages

- challenges the evidence / questions witnesses

- may not allow client to lie on the stand

\* Crown prosecutor:

- job is to enforce, not necessarily to convict

- must present all relevant evidence

- yet conviction rate often seen as success, acquittal as failure

- makes opening statements to the jury, sets the tone

- examines records & witnesses

- decides whether to go ahead with case

- lays out evidence & examines witnesses in preliminary hearings

- heavy workload (6-10 cases/day: 12-14 in peak periods)

\* Judge:

- presides over court

- admits or excludes evidence

- instructs juries re: evidence & charges

- determines guilt or innocence if there is no jury

- appointed by federal or provincial governments (i.e.

superior vs. lower courts)

\* Next class: overview of criminal trial procedures, legal rights,

trials & appeals