**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