Structure of the Criminal Justice System

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Sources of Law

- U.S. Constitution (includes Bill of Rights)
- U.S. Supreme Court decisions
- U.S. Code (federal laws)
- Wisconsin Constitution
- Wisconsin statutes
- Wisconsin Appellate and Supreme Court cases
- Federal and state administrative rules and regulations
- Attorney General opinions
- Departmental policy
- Municipal ordinances
Bill of Rights

- 1st Amendment – freedom of speech, religion, assembly, press and to petition government to redress grievances
- 2nd Amendment – right to keep and bear arms
- 3rd Amendment – no military in homes w/out consent unless in war as prescribed by law
- 4th Amendment – protection against unreasonable searches and seizures and basis of warrants fr persons and possessions based on PC
- 5th Amendment – due process, protection against compelled self-incrimination and double jeopardy
- 6th Amendment – right to speedy trial w/impartial jury, to be informed of pending charges, to confront adversarial witnesses, to cross-examine witnesses, to compel witnesses for the defense and right to an attorney
- 7th Amendment – right to trial by jury in common law cases over $20
- 8th Amendment – protection against excessive bail, fines and cruel and unusual punishment
- 9th Amendment – constitutional rights not to infringe or deny other rights
- 10th Amendment – powers not gived federal government by Constitution nor prohibited by it are reserved for the states
- 14th Amendment – equal protection under law and due process w/regard to life, liberty and property
Legal Terminology

- Reasonable suspicion
- Probable cause
- Custody
- Arrest
- Warrants, apprehension requests, probation holds and capiases
- Initial appearance
- Criminal complaint

- Preliminary hearing
- Information
- Arraignment
- Appeal/certiorari
  - Appeal public law
- Subpoena
- John Doe proceedings
  - A public fact finding hearing
Legal Terminology

- Grand jury proceedings
- Forfeiture
- Misdemeanor
- Felony
- Burden of proof
- Voir dire selection
  - Jury selection process of objections by prosecution and/or defense
- Continuance
- Restraining orders/injunctions
- Objectively reasonable
- Exigent circumstances/Fruit of the Poisonous Tree
- Indictment
Levels of Police Contact and Burden of Proof

- Mere suspicion – field interview
- Reasonable suspicion – Terry stop
- Probable cause - arrest
- Preponderance of evidence – civil proceedings
- Clear and convincing evidence – forfeiture matters
- Proof beyond a reasonable doubt – criminal matters
- Absolute certainty
Jurisdiction and Sovereigns

- Jurisdiction is defined as the “authority to act”
- Jurisdiction is largely governed by geographical boundaries, especially within the court system
- Legal/ court systems are considered to be separate sovereigns, with each system separate from the others but sometimes intertwined by overlapping geographical considerations
- Rodney King as an example of a case processed through both state and federal sovereigns
Wisconsin Court Structure

**Supreme Court**
- 7 justices who serve 10-year terms
- Court of last resort
- Decides matters of law and creates law

**Appellate Courts**
- 16 appellate judges in four districts – usually 3 judges per panel except for single judge hears minor cases
- Correct matters of legal error and create law
- Hear appeals from circuit courts

**Circuit Courts**
- 10 administrative districts – at least one branch in almost every county
- Original jurisdiction in all criminal and civil matters in state
- Decide matters of fact and hear appeals from municipal courts
- About 225 of these courts in state

**Municipal Courts**
- Hear largely traffic and ordinance matters
- Exclusive jurisdiction over ordinances – no jury trials
Wisconsin Appellate Court Districts
How a Case Comes to the Wisconsin Supreme Court

Supreme Court – 30 min. of oral arguments after written briefs – opinions posted at www.courts.state.wi.us

Petition for Review – hear about 100 of 1,000 requests per year

Court of Appeals either reviews or certifies case directly to Supreme Court

Loser appeals to Court of Appeals

Loser petitions to bypass to Supreme Court

Supreme Court decides for direct review

Civil or criminal case from circuit court

Original action to Supreme Court w/no other court action – facts must be agreed to
Federal Court Structure

Supreme Court
- 9 justices who interpret the U.S. Constitution and federal law
- Court of last resort
- Decides matters of law and creates law
- 13 appellate circuits

Appellate Courts
- Correct matters of legal error and create law
- Hear appeals from district courts

District Courts
- 94 district courts hearing civil and criminal federal cases
- Original jurisdiction - criminal and civil matters under federal law
- Decide matters of fact
- Each of 94 judicial districts handles bankruptcy cases

Bankruptcy Courts
- Have exclusive jurisdiction over bankruptcy cases
Roles, job functions, and powers and limitations of criminal justice system participants

- Judges
- Juries
- Prosecutors
- Defense attorneys
- Probation and parole officers
- Correctional officers
Forfeiture Case Processing

- Ordinance violation
  - Warn and release

- Police issue citation
  - Subject stipulates no contest or guilty before court date

- Subject goes to court date
  - Subject pleads not guilty
    - Bench trial (in most cases)
      - Subject found guilty
        - Subject pays forfeiture amount
      - Subject found not guilty

- Subject pleads no contest or guilty
  - Subject pays forfeiture amount
Misdemeanor Case Processing

Misdemeanor violation

Arrest

Request charges to DA

Criminal complaint

Initial appearance:
Advised of charges
Advised of rights
Makes plea

Not guilty plea
Bench or jury trial

Guilty plea
Judge accepts plea

Sentencing

No prosecutive merit

Diversion

Compliance

Noncompliance

Probable cause affidavit:
If custody over 48 hours

Not guilty