

# **INTRODUCTION TO CRIMINOLOGY**

## **CRM1300**

**Winter 2013**

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**Week 4 Introduction to the Criminal  
Justice System**

# CANADA'S CRIMINAL JUSTICE SYSTEM (CJS)

- A vast network of organizations and facilities charged with the investigation, detection, prosecution, and punishment of offenders.
- Key Agencies:
  - police, courts, and correctional system.



# WHAT IS CRIMINAL JUSTICE?

1. Guilt, innocence, and sentence must be determined fairly.
2. Punishment should fit the crime.
3. Like cases should be treated alike.

(Law Reform Commission of  
Canada 1977)



# SUBSTANTIVE AND PROCEDURAL JUSTICE

## ***Substantive Justice:***

- accuracy of the outcome of a case.

## ***Procedural Justice:***

- fairness of the procedures used to arrive at the verdict in a case.



# PURPOSE OF THE CRIMINAL JUSTICE SYSTEM

1. To Control Crime.
2. To Prevent Crime.
3. To Maintain Justice.



# DISPARITY

- Disparity refers to a difference, but one that doesn't necessarily include discrimination.
- inconsistencies emerge as a result of the authorities using illegitimate factors in making decisions.
- Illegitimate factors: extralegal factors such as race, religion, and gender unrelated to the criminal activity of the individual.
- Legitimate factors: seriousness of offence, prior criminal record of offender etc.

# DISCRIMINATION

- Differential treatment based on negative judgments relating to group membership.
- ***Systemic discrimination***
  - - discrimination in all aspects of the operation of the CJS.
- ***Institutional discrimination***
  - - disparities in the outcomes of policies.
- ***Contextual discrimination:***
  - - disparity in specific situations.
- ***Individual discrimination***
  - - differential treatment by specific employees.

# THE ADVERSARIAL SYSTEM

## Benefits

- Clear division among actors and agencies.
- Extensive examination of evidence.
- Legitimacy of CJS is promoted.

## Limitations

- Procedural justice could be sacrificed for efficiency.
- Lengthy trials and expensive trials.
- Judge could exclude relevant evidence.

# THE STRUCTURE OF THE CRIMINAL JUSTICE SYSTEM

# FOUR LEVELS OF POLICING IN CANADA

- Municipal
- Provincial
- Federal
- International

# CANADIAN POLICE

## Municipal

- established by municipalities.
- - most common type of police agency .

## Provincial

- enforce laws in parts of province not under control of municipal police.

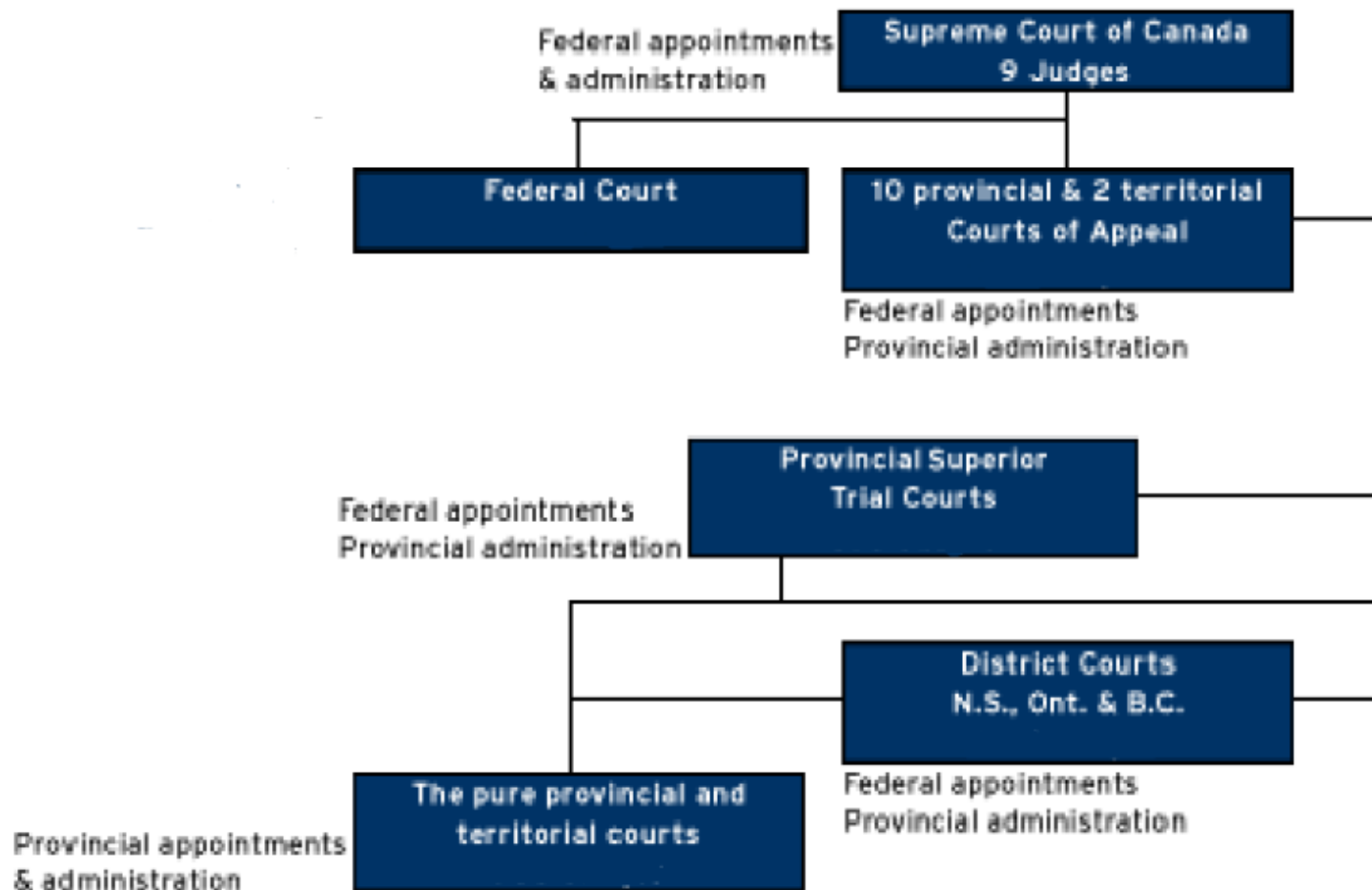
## Federal (RCMP)

- enforce federal statutes, executive orders, protect visiting dignitaries, International policing



# CANADIAN COURT STRUCTURE

## Canadian Court Structure



# THE COURTS

## **Lower Courts**

- provincial courts.
- handles routine criminal cases.
- deals with most criminal cases.

## **Superior Courts**

- indictable offences.
- appeals from provincial courts.

# THE COURTS (cont'd.)

## **Appeal Courts**

- highest level of a court in a province.
- appeals from superior courts.
- occasionally from provincial courts.

## **Supreme Court of Canada**

- court with greatest authority.

# CORRECTIONS

## Provincial/Territorial

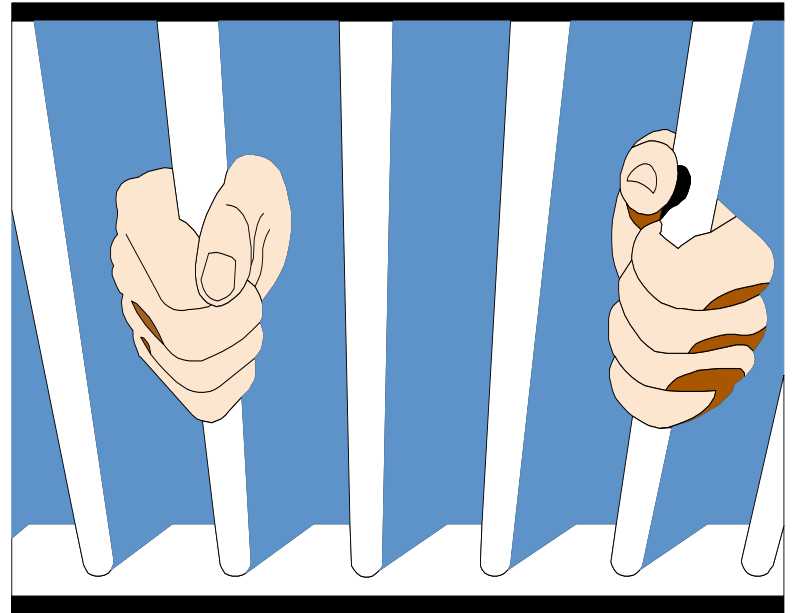
- a term under two years.
- all non-custodial sentences.

## Federal

- Correctional Service of Canada.
- a term of two years or more.

## Community Supervision

- parole, probation, conditional sentence, statutory release, temporary absences.



# PROCESSING CASES THROUGH THE CANADIAN CRIMINAL JUSTICE SYSTEM

# ARREST

- The purpose of arresting someone is to ensure the accused appears in a criminal court, and
- prevent the commission of further crimes.

Police officers can arrest a suspect for violating the law, with or without a warrant.

# APPEARANCE NOTICE

- An appearance notice is given to the suspect by a police officer at the scene of a crime.
- The police officer must lay an information with a justice of the peace as soon as possible.

# SUMMONS

- Another alternative to an arrest is a summons.
- In these cases, the summons must be handed to the accused by a police officer or another person who has been granted special powers by provincial authorities.

# DETENTION

- Canadian law states that the accused must be released unless there is good reason for keeping the accused in detention.
- After an arrest, police officers have to decide if the person arrested should be held in custody before the trial.
- The police cannot hold an individual for an undetermined reason – s. 9 of the Charter states that “everyone has the right on arrest or detention to be informed promptly of the reasons thereof.”

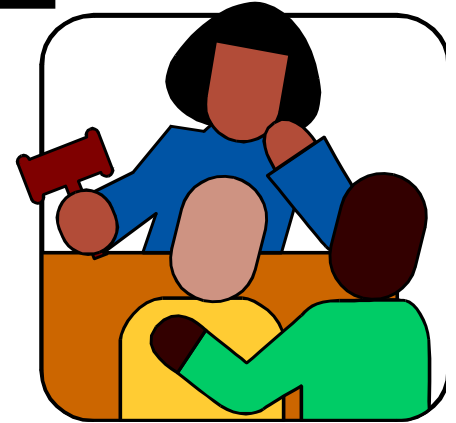
# PRE-TRIAL RELEASE (BAIL)

- The purpose of bail is to make sure that the accused appears at the ensuing trial.
- A judge or justice of the peace decides whether or not to keep the suspect in custody or to release them during a hearing formally known as a judicial interim release hearing.

# TRIAL PROCEDURE

- **First Court Appearance**

- in most jurisdictions, the accused is arraigned at the preliminary hearing or trial.



- **Preliminary Inquiry**

- involves an election indictable offence.
- the purpose of a preliminary inquiry is to determine whether there is enough evidence to send the accused to trial.

# TRIAL

- For most indictable offences, the accused can elect trial by judge alone or by judge and jury.
- Some exceptions apply-for example, for all 1<sup>st</sup> and 2nd degree murder charges the accused must be tried by judge and jury unless there is a reason to proceed with a judge alone. Also, some indictable offences are considered so minor they are always heard by a judge alone.
- There is the possibility of re-election where the accused has the right to change their mind about the type of trial chosen within a certain time limit.

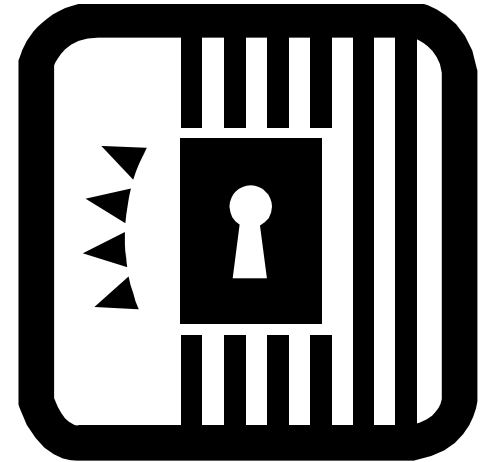
# SENTENCING



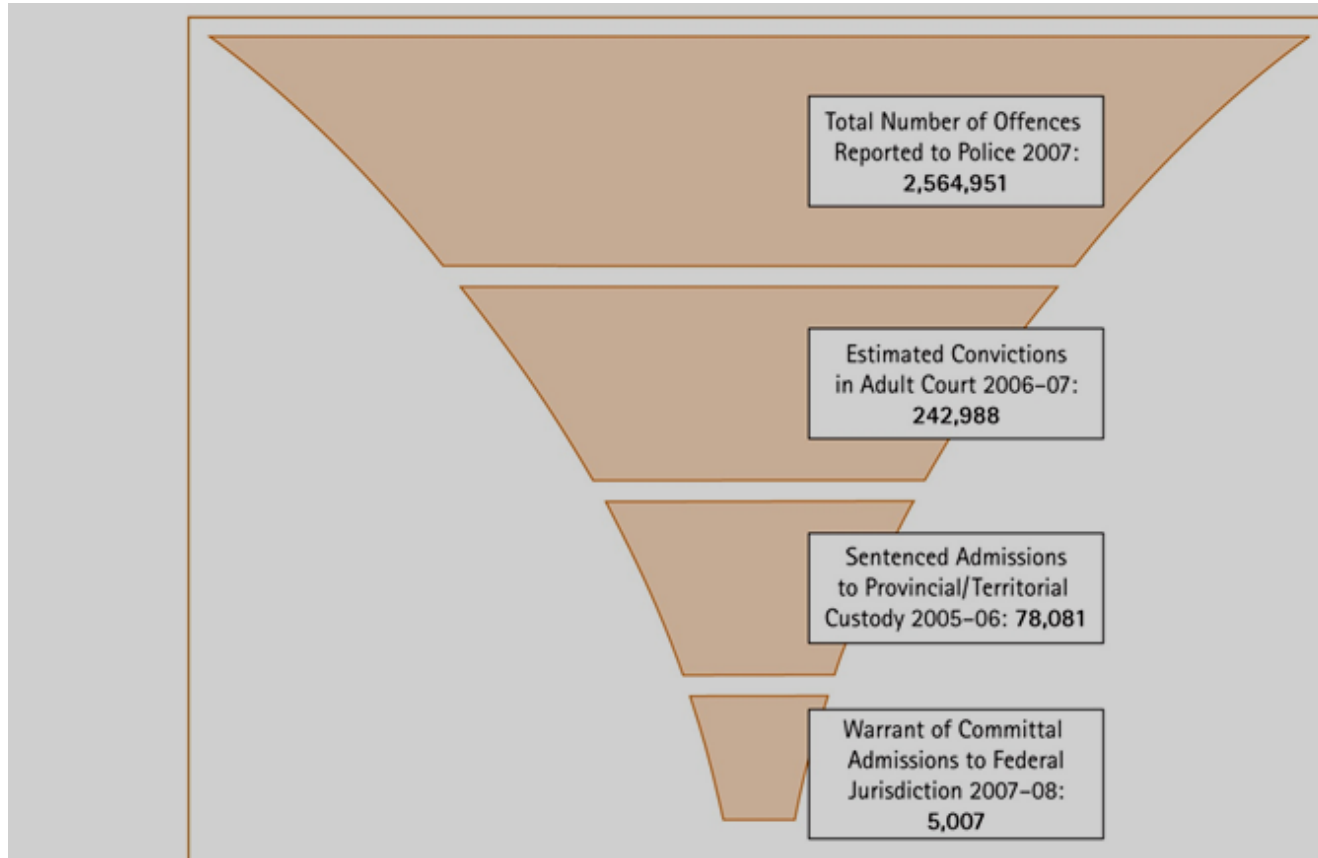
- Possible Sentencing Options
  - discharge, probation, incarceration, suspended sentence, and a fine.
- Depends on charges and prior record.
- No choice in setting penalty in a few cases
  - e.g. first and second degree murder.
- Sources of information
  - pre-sentence report, victim impact statement, Crown prosecutor and defence lawyer submissions, mitigating or aggravating circumstances

# INCARCERATION

- Provincial or federal institution
  - Depending on length of sentence.
- Treatment programs
  - Varies with institutions.
- Early release programs
  - Full parole, day parole, or statutory release.
- Community supervision
  - Halfway houses.



# “CRIMINAL JUSTICE FUNNEL”

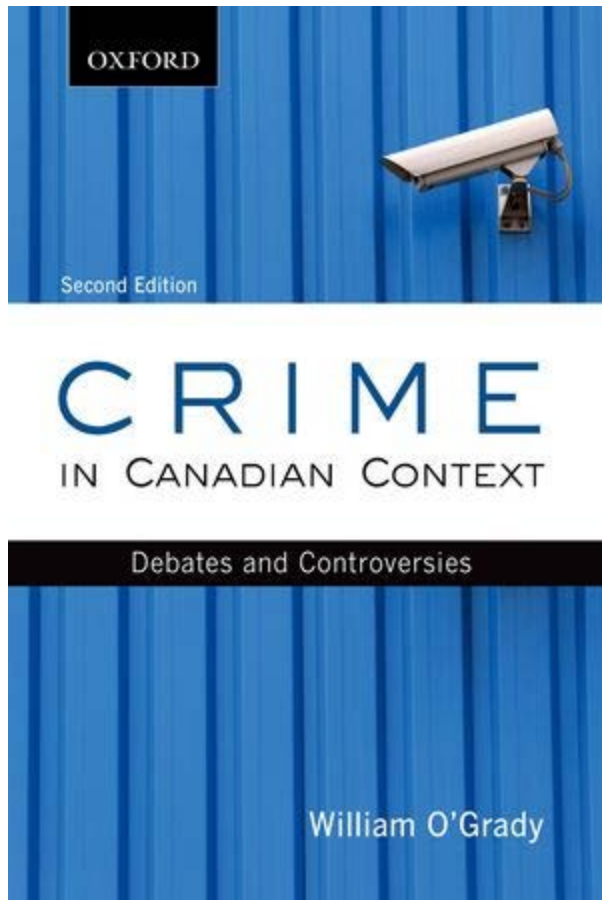


**FIGURE 1.2**

Relatively Few Crimes Result in Sentences to Federal Penitentiaries

Source: *Corrections and Conditional Release Statistical Overview*, Public Safety Canada, 2008. Reproduced with the permission of the Minister of Public Works and Government Services Canada, 2009.

# READINGS FOR NEXT CLASS



Textbook Chapter 6  
Crime and Social Exclusion

Victimology: Canadians in  
Context

Hannah Scott

Oxford University Press.  
2010

Chapter 13 Restorative  
Justice

(will be provided by  
professor)