CHAPTER 13

Trial and Beyond
Chapter Agenda

- Describe the defendant's rights at trial.
- Summarize the offender's rights during sentencing.
Chapter Agenda

- Describe the various types of appeals and the offender's constitutional rights during the appellate state.
- Summarize the right to and restrictions on *habeas corpus*. 
Learning Objective

Summarize the right to a speedy trial.
Right to a Speedy Trial

- Consequence of violation is dismissal of charges
- The accusation rule
  - *United States v. Marion*

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Right to a Speedy Trial

- Criteria to determine when right has been violated
  - Too much delay between accusation and trial
  - Intentional delay
  - Whether the defendant asserts the right to a speedy trial
  - Whether the delay is prejudicial
Advantages to Speedy Trial

- *U.S. v. Ewell*
  - It prevents excessive incarceration.
  - It minimizes anxiety experienced by the accused as a result of a publicized accusation.
  - It prevents damage to the defendant's case resulting from too much delay.
Rationale for a Public Trial

• *In re Oliver*
  ▪ Review in a forum of public opinion is an effective restraint on possible abuse of power
  ▪ Without publicity - All other checks are insufficient
  ▪ May keep triers "keenly alive" to their sense of responsibility and to the importance of their function
Right to Trial by Impartial Judge

• No pecuniary interest in the outcome of a case
• Bench trial
  ▪ Judge decides fate instead of jury

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Right to Trial by Impartial Judge

- Jury trial
  - Judge acts solely as a trier of law.
- The right to a jury trial can be waived, in which case the defendant opts for a so-called bench trial.
Jury Trial

- Selection of potential jurors
  - Jury pool, master jury wheel, or jury list
    - Voter registration lists
    - Driver's license registration lists
    - Jury commissioners
    - Certain requirements

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Jury Trial

• Jury panel
  ▪ Exempted or excused
    • Law enforcement, military, and government

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Jury Trial

• Constitutional challenges to jury selection process
  ▪ Equal protection challenges
  ▪ Fair cross-section challenges

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Jury Trial

• **Voir Dire**
  - Preemptory challenges
  - Challenges for cause
    - Based on bias
    - Based on attitudes toward capital punishment
The Right to Confrontation

- An accused person can appear at his or her own trial.
- Face the live testimony of witnesses.
- Challenge witness testimony.
Compulsory Process

- The defendant can use subpoenas to obtain witnesses, documents, and other objects that are helpful to his or her defense.
  - *Washington v. Texas*
Double Jeopardy

- Tried twice for the same offense
  - Prohibited by the 5th Amendment
  - Reprosecuted after acquittal
  - Reprosecuted after conviction
  - Subjected to separate punishments for the same offense

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Double Jeopardy

- Does not apply to prosecutions brought by separate sovereigns
- Blockburger Rule

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Double Jeopardy

- Protects the following abuses
  - Second prosecution for the same offense after acquittal
  - Second prosecution for the same offense after conviction
  - Multiple punishments for the same offense
  - *U.S. v. Halper*
The Entrapment Defense

- That the idea of conspiracy came from the government official and not from the defendant
- That the government official persuaded or induced the defendant to commit the crime
- That before inducement, the defendant was not ready to commit the crime

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The Entrapment Defense

- Objective test
  - Model Penal Code
- Subjective test
  - Supreme Court
FIGURE 13-3 Summary of Key Trial Rights.

- speedy trial
- public trial
- impartial judge
- impartial jury
- confrontation
- compulsory process
- double jeopardy protection
- right to assert an entrapment defense
Learning Objective

Summarize the offender's rights during sentencing.
Offender's Rights during Sentencing

- The right not to be put twice in jeopardy
- The right to a reasonable punishment for his or her crime
  - The punishment should reflect the seriousness of the crime.
Offender's Rights during Sentencing

- The right to counsel at sentencing-related hearings, regardless of his or her ability to afford representation
Learning Objective

Describe the various types of appeals and the offender's constitutional rights during the appellate state
Appeals

• An appellate court examines a lower court's decision in order to determine whether or not the proper procedure was followed or the correct law was applied.
  - The court made an error
  - Guarantees challenge to conviction
  - Another judge will make decision

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Appeals

• Three types
  ▪ Appeals by the defense prior to adjudication
  ▪ Appeals by the defense after adjudication
  ▪ Appeals by the prosecution
Appeals

• Direct appeal
  ▪ Appeal of right
  ▪ Automatically granted by law
  ▪ Appellate court

• Discretionary appeal
Consequences of Appeal

- Appellate court either affirms or reverses the lower court's decision.
- Appellate court remands the case for further proceedings.

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Consequences of Appeal

• Trial de novo
  ▪ A new and independent trial at the appellate level
  ▪ Rare
The Appellate Process

- Notice of appeal
- Access to trial transcript
- Right to counsel
- Right to be free from government retaliation
Learning Objective

Summarize the right to and restrictions on habeas corpus.
Habeas Corpus Process

- The accused individual petitions one of the federal district courts and asks the court to issue a writ of habeas corpus.

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Habeas Corpus Process

• If the court decides to issue the writ, the petitioner is brought before the court so the constitutionality of his or her confinement can be reviewed.
  ▪ Given that the Supreme Court hears a limited number of cases each term, it is unlikely that it will issue a writ.
Habeas Corpus Process

• This leaves the defendant with the option of petitioning the federal district court.
  ▪ Petition limited to a constitutional claim

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Habeas Corpus Process

• The court that is petitioned has discretion to decide whether the writ will be issued.
Habeas Corpus Restrictions

• Restrictions by the Supreme Court
  ▪ Limit on the types of claims that can succeed
  ▪ May not be granted if the petitioner fails to submit a claim within the time frame specified by state law

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Habeas Corpus Restrictions

- Restrictions by the Supreme Court
  - Convicted individual must exhaust all state remedies before a federal habeas review will be granted
  - Filing of multiple *habeas* petitions