Course Learning Outcomes for Unit I

Upon completion of this unit, students should be able to:

10. Interpret the Golden Rule of Evidence and its importance to the integrity of a criminal case.
   10.1 Explain evidence and the objectives of the rules of evidence.
   10.2 Describe the criminal justice system and its key participants.
   10.3 Outline the pretrial and trial process for criminal cases.

Reading Assignment

Chapter 1:
Introduction to the Law of Evidence and the Pretrial Process

Chapter 2:
The Trial Process

Unit Lesson

When someone hears the term criminal evidence, his or her mind usually connects with whatever direct observations they have with this matter. For example, someone born in the 1930s may think about the newspaper discussions on bootleggers or the various radio shows that depicted bandits and outlaws of the “Wild West.” However, someone born in the 1970s and 1980s may think of various TV dramas, such as Hawaii Five-0, Perry Mason, and Colombo. People born after the turn-of-the-century may think of reality TV shows, such as Court TV or TruTV. It’s fair to say that if anyone has access to any media outlet (print or audio-visual), then they have been exposed to some discussion about criminal evidence. As a result, there are numerous viewpoints and definitions about what actually constitutes evidence and how that understanding of the evidence is applicable to the criminal justice process.

Garland (2015) defines evidence as “information that people base decisions on. In a legal sense, evidence is the information presented in court during a trial that enables the judge and jury to decide a particular case” (p. 4). Evidence can take many forms. There are rules or laws of evidence that are guidelines for judges, attorneys, law enforcement officials, juries, witnesses, and others who participate directly and indirectly in a trial. The most common rule of evidence used is the Federal Rules of Evidence (FRE). The FRE is used in all federal courts in the United States and in states that have relied upon the FRE as a model for creating their own rules or laws of evidence (Garland, 2015).

The criminal justice system is not exempt from the application of rules of evidence. Cases enter into the system after a crime has been reported to or discovered by the police. An investigation follows the report or the discovery of a crime. Those arrested are booked and will later appear for an initial appearance. The next stage of the system involves prosecution and pretrial procedures in which preliminary hearings are held, and if the case is not processed out of the system, then it will proceed to an information hearing. From there, the case moves into the judicial processes stage of the criminal justice system. In this stage, there will be an arraignment, and if the case is not processed out of the system, then a trial will follow. After the trial, if the case is still not processed out of the system, then it enters into the final phase of the criminal justice system. This phase is called the sentencing and corrections stage. In this stage, a sentence is given, and if that sentence involves institutionalization, then the convicted parties will proceed to jail or prison.

Cases do not process through the criminal justice system on their own. There are participants in the criminal justice system who are involved in various aspects of the case, as it proceeds through every stage of the process. Law enforcement personnel are involved in all four stages of the criminal justice system from entry into the system to sentencing and corrections (Garland, 2015, Figure 1-1, pp. 10-11). For example, law
enforcement personnel receive the initial report of a crime, conduct an investigation, make arrests, and book suspects. Some law enforcement personnel also work in the courthouse and are engaged in the last three stages of the criminal justice system: prosecution and pretrial procedures, the judicial procedure, and sentencing and corrections. When providing testimony in a criminal case, law enforcement personnel are involved in the prosecution and pretrial procedures and the judicial procedure stages of the criminal justice system. In addition, as they supervise inmates in jail and prison, law enforcement personnel are also involved in the corrections aspect of the sentencing and corrections stage of the criminal justice system.

Prosecutors and defense attorneys are also involved in all four stages of the criminal justice system. They normally begin their involvement in a criminal case toward the end of the entry into the system stage and normally end their involvement at the beginning of the sentencing and corrections stage. However, the involvement of the prosecutor and defense attorney may continue beyond the sentencing and corrections stage due to appeals or other legal issues that may arise related to the case. There are multiple criminal justice agents that are only involved in specific stages of the criminal justice system. Judges are also involved in all four stages of the criminal justice system. Their involvement also normally begins toward the end of the entry into the system stage and ends after at the beginning of the sentencing and corrections stage of the criminal justice system. However, as previously indicated, the judge may continue his or her involvement in the case as other legal issues related to the case arise. There are also numerous criminal justice agents who are only associated with the corrections aspect of the sentencing and corrections stage of the criminal justice system. These agents work in correctional institutions and related agencies. They provide oversight for inmates in jail or prison.

Let’s shift our attention to specific aspects of the criminal justice system in which the rules of evidence are applied. The pretrial court process consists of:

1. arrest,
2. bail,
3. plea-bargaining,
4. charging a crime,
5. arraignment and plea, and
6. pretrial motions (Garland, 2015).

The trial court process consists of the identification of the trial type (jury or court). The following events occur during a trial:

1. opening statements,
2. making the record,
3. presentation of the prosecution’s case,
4. examination of witnesses,
5. defense presentation,
6. prosecution’s rebuttal,
7. defense’s surrebuttal,
8. closing arguments,
9. instructions or charge to the jury,
10. deliberation and verdict, and
11. sentencing the defendant (Garland, 2015).

Now let’s shift our attention to two key participants in the criminal justice system who are primarily responsible for applying the rules of evidence as they carry out their duties in the trial process. Judges play an integral role in cases. They are responsible for ensuring that defendants receive a fair trial. This responsibility is fulfilled by carrying out numerous duties, such as applying the appropriate law to the case and providing interpretations of the laws related to the case for the jury. (Garland, 2015).

In addition to the judge, the prosecution also plays an integral role in the court process. According to your textbook, "The progress of the trial is largely the responsibility of the prosecuting attorney, who assumes the leading role in the judicial process . . . Their duty is to prosecute the guilty and to see that the innocent are protected" (Garland, 2015, pp. 35-36). Once prosecutors make a decision to prosecute a case, one of the things they must do to fulfill this responsibility is to decide what evidence they will present in the case.
That decision is governed by the rules of evidence (e.g., exculpatory evidence, pretrial discovery, reasonable doubt).

Understanding how cases process through the criminal justice system from the pretrial process to a trial process can be slightly confusing when one is trying to understand the various outcomes that could result at each stage in the system. Let's look at a hypothetical situation to help us further understand how cases progress through the criminal justice system.

**Example:** Imagine in the town of Ordinary, a suspect named Gloomy Gray was reported to the police for intentionally playing loud music that he believed would alter the mood of his neighbors. Imagine that Officer Sunshine conducted an investigation of Gloomy Gray’s violation of the noise ordinance. Upon completing the investigation, Officer Sunshine found that Gloomy Gray had indeed violated the noise ordinance. Officer Sunshine also discovered that Gloomy Gray had an outstanding warrant for failure to appear in court for a similar charge related to the violation of noise ordinances at his previous residences. Officer Sunshine arrested Gloomy Gray and took him in for booking. At this point in the process, Officer Sunshine had completed most of his responsibilities related to the case.

For his initial appearance, Gloomy Gray appeared before Judge Nancy Neutral. Prosecutor Determined Derby decided not to drop or dismiss the charges because Gloomy Gray had been picked up on an outstanding warrant in which he had failed to appear in court for a similar charge. The case progressed through to the preliminary hearing stage. During the preliminary hearing, Derby still chose not to drop or dismiss the charges. Gray's defense attorney, Compassionate Charlie, requested that Judge Neutral release Gray on bail instead of detaining him. Prosecutor Derby petitioned Judge Neutral to detain Gray because he failed to appear on a similar charge. Even though the current charge would be considered a petty offense, Judge Neutral was concerned that Gray failed to appear in court for a similar petty charge. Therefore, Judge Neutral decided to give Gray a reasonable bail but also required that he wear an electronic monitoring device. Defense Attorney Charlie reminded Gray that he must show up for the information hearing to ensure that he was not issued another failure to appear in court that would result in his detainment in jail. Gray showed up for the information hearing, the arraignment, and the subsequent trial.

During the trial, Prosecutor Derby presented various forms of evidence that demonstrated how Gray had intentionally played mood-altering music at loud levels in all sixteen residences he had lived in since moving to the town of Ordinary. Prosecutor Derby also presented various witnesses who testified to the negative impact that Gray had on their well-being when he played the music at loud levels in their community. Defense Attorney Charlie presented evidence demonstrating how Gray believed that the mood-altering music was having positive effects on his neighbors because it reduced the amount of noise that he heard his neighbors making prior to playing the music. Charlie also introduced statements from witnesses in which they talked about the positive impact that Gray’s music had on them and others in the community. After the closing statements from both the defense and prosecuting attorneys, Judge Neutral found Gray guilty of violating the noise ordinance. As a result of the guilty verdict, the case processed through to the sentencing phase in which Gray was given a fine and required to pay it prior to leaving the courthouse. Gray paid the fine as ordered, and he was processed out of the system. This was just one of many ways in which a case could be processed through the criminal justice system.

In summary, the rules of evidence influence the processing of criminal cases through all stages of the criminal justice system. Participants in the criminal justice system have varying roles in the pretrial and trial processes that are also influenced by the rules of evidence. Ultimately, the effects of the rules of evidence can be found in every aspect of the criminal justice system.

**Reference**


**Suggested Reading**

The following articles bring some insight to the criminal justice foundation and criminal evidence. You are highly encouraged to review these articles to supplement the lesson content.

In order to access the resource below, you must first log into the myCSU Student Portal and access the Academic Search Complete database within the CSU Online Library.


The following interactive tutorials are a great enhancement tool to learn more about the roles of judges and the prosecution and defense.

- Click [here](#) to access the link below in Mycourse Tools for the Judges tutorial.
- Click [here](#) to access the link below in Mycourse Tools for the Prosecution and Defense tutorial.

**Learning Activities (Non-Graded)**

You may choose to perform one or both of these activities.

**Activity 1:**

In the United States, laws exist at the federal, state, and sometimes local levels. As a result, there can be both major and minor differences in how laws are written and applied. This also extends to laws of evidence. Research the laws of evidence in your state to determine how they differ from the laws of evidence that exist in a majority of American jurisdictions. You can accomplish this task using various strategies. For example, you can conduct an informational interview with local law enforcement. This can be accomplished by calling the non-emergency line of your local law enforcement agency and asking to speak to an officer who can discuss with you the laws of evidence that are applicable in your locality. Often this officer may be a community relations officer or an officer who is assigned to work with the court. You can also attempt to arrange informational interviews with the district attorney’s office, a defense attorney’s office, the clerk of courts, or a Municipal or Superior Court judge. This can also be accomplished by doing an Internet search to find the specific laws of evidence that apply to your state. States usually have a website that contains many of the laws that are applicable to that state. That website will usually also include information about the overall state structure (e.g., Governor, Senate, House of Representatives, Courts, and Departments). Once you’ve obtained this information you may also want to observe court cases and/or law enforcement activities (e.g., ride-a-longs, citizen academies, etc.)

**Activity 2:**

Contact your local court or search their website for dates and times that the court will be open for observation. Pick a day and time to observe at least two different court proceedings. Alternatively you can:

1. Search for a documentary in which a court proceeding is discussed in detail and includes, when possible, actual footage from the court proceedings;
2. Search for various court proceedings archived online; or
3. Watch a movie in which a court proceeding is dramatized throughout the entire movie or is a significant part of the movie.

Once you have had the opportunity to review the court proceedings through one of these three lenses, take the time to compare and contrast what you observed from what was discussed in the textbook. Think about the similarities and differences that you identified and why you think they exist. Make note of how the processes outlined in the textbook apply in real life situations or depicted in fictitious dramatizations or narrated in dramatizations that are based on real-life events.

Non-graded Learning Activities are provided to aid students in their course of study. You do not have to submit them. If you have questions, contact your instructor for further guidance and information.