

CHAPTER OVERVIEW

12: Key Players in the Courtroom

Now that we have familiarized ourselves with structure of the court system, we will learn about the positions within the system. In their 1977 book, *Felony Justice: An organizational analysis of criminal courts*, James Eisenstein and Herbert Jacob, coined the term “courtroom workgroup.” They specifically referred to the cooperative working relationship between **prosecutors, defense attorneys, and judges** in working together (as opposed to an adversarial relationship that the public might expect) to efficiently resolve most of the cases in the criminal courts. This chapter more generally uses the term to include all the individuals working in the criminal courts—judges, attorneys, and the variety of court staff.

The **accusatory phase** (the pre-trial phase) and **adjudicatory phase** (the trial phase) of the criminal justice process include individuals who regularly work together in the trial courts. The prosecutor files the accusatory instrument called either **an information or an indictment**, and represents the state in plea bargaining, on pretrial motions, during the trial, and in the sentencing phase. The defense attorney represents the defendant after charges have been filed, through the pre-trial process, in a trial, and during sentencing, and maybe on the appeal as well. Judges, aided by several court personnel, conduct the pretrial, trial, and sentencing hearings. Prosecutors, defense counsel, and judges perform different roles, but all are concerned with the judicial process and the interpretation of the law. These law professionals are graduates of law schools and have passed the bar examination establishing their knowledge of the law and their ability to do legal analysis. As persons admitted by the state or federal bar associations to the practice of law, they are subject to the same legal codes of professional responsibility, disciplinary rules, and ethical rules and opinions for lawyers. Although the American criminal justice system is said to represent the adversarial model, the reality is that prosecutors, defense attorneys, judges and court staff work with cooperation and consensus rather than conflict. This is understandable when considering the common goal of efficient and expedition case processing and prescribed and agreed upon rules for achieving those goals. Trial Judges: Misperceptions and Realities Trial court judges are responsible for presiding over pre-trial, trial and sentencing hearings, as well as probation and parole revocation hearings. They issue search and arrest warrants, set bail or authorize release, sentence offenders, engage in pre-sentence conferences with attorneys, work with court clerks, bailiffs, jail staff, etc. Trial judges have considerable, but not unlimited, discretion. In addition to the ethical and disciplinary rules governing all attorneys in the state, trial judges are subject to judicial codes of conduct. Judges are bound by the applicable rules of law when deciding cases and writing their legal opinions. Some rules governing judges are flexible guidelines while other rules are very precise requirements.

[12.1: Key Players in the Courtroom](#)

[12.2: Supreme Court Decisions](#)

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