

**Crusaders and Criminals, Victims & Visionaries**  
*Historic Encounter between Connecticut Citizens and the United States Supreme Court*  
David Bollier

## **Summary: *Griswold v. Connecticut***

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### **The Bill of Rights - First Amendment**

The First Amendment is one of the great bulwarks of freedom in this nation. Its language is simple, its interpretation is quite complex. In its entirety, the First Amendment reads:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Defining the precise meaning of the First Amendment for Americans today is an undertaking that falls to the Supreme Court. Relying on its previous decisions and its review of state and federal laws, the Court constantly refines its interpretations of the First Amendment as new circumstances arise.

As the language of the First Amendment suggests, its scope is quite large. It applies to diverse questions that affect daily life. When does a person's speech become so provocative that it can be suppressed? Can the government prevent a newspaper from publishing national secrets? In what circumstances can government contribute financially to religious groups? What constitutes obscenity and what forms of offensive expression are protected by the First Amendment? Do citizens have an inherent right of privacy?

The case *Griswold v. Connecticut*, which involves the right of married persons to obtain and use birth control devices, illustrates how Connecticut citizens have helped shape the meaning of the First Amendment as it stands today.

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### **Griswold v. Connecticut (1965)**

#### *Privacy becomes a constitutional right*

From their small, under-funded birth control clinic at 406 Orange Street, New Haven, a blue-blooded social reformer and a shy medical doctor decided in 1961 to become criminals by dispensing contraceptives to married couples. By getting arrested, Mrs. Estelle T. Griswold and Dr. C. Lee Buxton hoped to challenge the constitutionality of a Connecticut law that prohibited not just the sale but the *use* of contraceptives. Their distribution of birth control made them accessories to a crime.

Within 15 years, this simple act of civil disobedience would spark one of the most far-reaching revolutions in modern constitutional history. The 1965 Supreme Court decision of *Griswold v. Connecticut* marked a legal milestone both by overturning an archaic obscenity law and by defining

a new constitutional right of privacy. Henceforth the Constitution would limit the government's authority to invade a person's privacy in the context of marriage, family life, and procreation.

In 1954, when Estelle Griswold of Essex joined the Planned Parenthood League of Connecticut, the likelihood of such sweeping constitutional changes must have seemed remote. She had a far more basic goal: to repeal the so-called Comstock law banning the use of contraceptives.

While affluent women with private doctors could generally obtain contraceptives (illegally), and while drug stores sold condoms freely, the Comstock law remained a major obstacle to openly promoting family planning and distributing contraceptives. Uneducated and impoverished women, in particular, often did not know how to obtain birth control and could not afford to go to another state to obtain it. As one woman testified to the Legislature, "I can't see why us women have to be human incubators." She and her husband lived with ten children in a one-room apartment.

The Comstock law banning contraceptives was named for Anthony Comstock of New Canaan, who at age 29 began a four-decade campaign against all forms of obscenity. Comstock became nationally known as the "Puritan Strong Boy" because of his exploits as the chief spokesman for the Y.M.C.A.'s Committee for the Suppression of Vice.

His first major victory came in 1873 when he succeeded in pushing a bill through Congress which banned the use of the U.S. mails for distributing obscene materials. In the years that followed, he traveled to various state capitals lobbying for "little Comstock laws" that banned obscene materials.

In 1879, Comstock prevailed upon his native state to enact such an anti-obscenity law. With little apparent debate or public protest the bill breezed through the Connecticut legislature with the strong backing of Protestant clergymen and Bridgeport Representative Phineas T. Barnum, the bill's chief sponsor. Besides banning obscene pictures and books, the law prohibited the distribution of birth control information and devices. Specifically, section 53-32 stated: "Any person who uses any drug, medicinal article or instrument for the purpose of preventing conception shall be fined not less than fifty dollars or imprisoned not less than sixty days nor more than one year or be both fined and imprisoned," section 54-196 stated: "Any person who assists, abets, counsels, causes hires or commands another to commit any offense may be prosecuted and punished as if he were the principal offender." Comstock explained his motives: "Can't everybody, rich or poor, learn to control themselves?"

By the time of World War I, Comstock's philosophy of abstinence found little favor among the early feminists rallying for women's reproductive rights. After a friend of hers died from a back-alley abortion, Margaret Sanger, a New York City nurse, emerged as the leader of the modern birth control movement. Its chief goal was to undo the many laws that restricted access to contraceptives.

Inspired by Sanger, Connecticut feminists founded the Connecticut Birth Control League in 1923 - later Planned Parenthood of Connecticut - to promote the legal distribution of contraceptives and birth control advice, especially among the poor. Over the next four decades, 29 different bills were introduced in the General Assembly to repeal or modify the Comstock law. All were defeated. By the 1930s, after repeated failure in the legislature, Connecticut feminists openly defied the law by opening nine birth control clinics across the state.

The clinics operated without incident until 1939, when police raided a Waterbury clinic and arrested two doctors and a nurse for dispensing birth control information and devices. The arrests provided an opportunity to test the constitutionality of the law in the state courts. But the 1940 challenge, *State v. Nelson*, proved unsuccessful: the state Supreme Court upheld the law, saying that the General Assembly was entitled to legislate in this area on behalf of the public health and morals.

The state then cleverly prevented its opponents from appealing to the U.S. Supreme Court, and possibly overturning the law, by withdrawing the charges against them. This preserved the Connecticut Supreme Court ruling as the law of the state.

After this case, family planning advocates tried to exploit another crack in the law: What if a doctor wanted to prescribe contraceptives to women whose lives could be threatened by pregnancy or giving birth? In 1942, the Connecticut Supreme Court ruled by a 3 to 2 vote, in the case of *Tileston v. Ullman*, that the Comstock law did not allow for any exceptions, even in cases where life or serious injury to health could result. The U.S. Supreme Court dismissed an appeal on a narrow procedural ground - that the doctor did not have "standing" (a sufficient stake in the matter) to raise the issue; the proper party to challenge the law must be the patient whose life or health might be affected.

These two court decisions in the early 1940s resulted in the closing of all birth control clinics in the state for the next 20 years. Planned Parenthood continued to try to repeal or modify the Comstock law so that doctors could legally prescribe contraceptive devices "for health reasons" - or, as a later bill proposed, "when in the opinion of a physician, pregnancy would endanger life." But these minor changes, too, were rejected by the legislature.

Meanwhile, the general public - at least women - favored easier access to birth control. A *Fortune* magazine poll in 1943 revealed that nearly 85 percent of women nationwide believed birth control should be made available to all married women. While many repeal bills succeeded in the state House of Representatives (where rural Protestants were dominant), bills sent to the Senate (where urban Catholics were dominant) always went down to defeat. Throughout this period, the Catholic Church steadfastly opposed repeal of the Comstock law.

It was in this context that Estelle Griswold joined the Planned Parenthood League of Connecticut in 1954 and became its executive director several years later. (It is widely and erroneously believed that Mrs. Griswold was married to or somehow related to former Yale President A. Whitney Griswold. In actuality, she was married to Mr. Richard Griswold of Essex.) Mrs. Griswold had previously worked in Europe with the United Nations and the World Council of Churches helping find new homes for the refugees of World War II. That experience exposed her to the perils of overpopulation - and convinced her that better family planning was the answer.

Described by a reporter as "a thin, gray-haired woman, who resembles an English teacher or a librarian more than a crusader," Mrs. Griswold brought new vigor to her movement's quest for legalized birth control. Forbidden by the 1940s court cases from openly dispensing contraceptives, Planned Parenthood volunteers initiated "border runs" to shuttle women to birth control clinics in Rhode Island and New York, where such medical attention was legal. In 1957, more than 2,400 women made the trip to out-of-state clinics under Planned Parenthood's auspices.

In the late 1950's, Mrs. Griswold enlisted the support of Dr. C. Lee Buxton, the chairman of The Yale Department of Gynecology and Obstetrics. Although a shy, retiring man - *The New York Times* had dubbed him "a gentle crusader" - Dr. Buxton had a burning determination to strike down the Comstock law. His activism on birth control stood in ironic counterpoint to his medical specialty - the problems of fertility.

It was Dr. Buxton who helped find several patients who would wage the next great court challenge, *Poe v. Ullman*. (Once again, State's Attorney Abraham S. Ullman was the defendant.) One party to the suit had nearly died after her last pregnancy, and still suffered from partial paralysis and impaired speech. Another woman had given birth to three retarded children, each of whom died shortly after birth. Dr. Buxton believed that another pregnancy could be fatal to the first woman (who was given the alias Jane Doe) and seriously unhealthy for the second woman (who was given the alias

Jane Poe). Dr. Buxton joined the suit, claiming that his due process rights were being denied by the law.

Again, the U.S. Supreme Court relied on a procedural issue to dismiss the case. In the *Poe v. Ullman* decision, issued on June 20, 1961, Justice Felix Frankfurter called the constitutionality of the Comstock law a "dead letter" because the law had gone unenforced for so long. The Court "cannot be umpire to debates concerning harmless, empty shadows," he wrote.

On the very day of the Poe decision, Mrs. Griswold and Dr. Buxton vowed to open up a new birth control clinic at 79 Trumbull Street in New Haven. Their goal was to be arrested as criminals in order to force a constitutional test on the merits of the law. Three days after the clinic had opened, the New Haven police stopped by to investigate. Dr. Buxton and Mrs. Griswold helpfully gave them a tour of the facility, pointing out the contraceptives they were dispensing. A few days later, the two were arrested.

Their attorneys were Fowler V. Harper, a Yale Law School Professor, and Catherine Roraback, the granddaughter of a Connecticut Supreme Court justice. Waiving their right to a jury (to help ensure that they would be convicted), Mrs. Griswold and Dr. Buxton were convicted and fined \$100. Their attorneys appealed to the state Supreme Court, which predictably upheld the law.

From there it was on to the U.S. Supreme Court - again. Attorney Harper had died in 1963, so Yale Law professor Thomas I. Emerson, a noted First Amendment scholar, stepped in to help prepare the legal briefs. This proved to be a fateful turning point in the case, because Thomas Emerson had less confidence than Fowler Harper that the Supreme Court would invalidate the law using the First Amendment.

Over several months, Emerson and Roraback wrestled with the legal arguments they should present to the Supreme Court. At first, they toyed with the idea of invoking the First Amendment's protection of free speech, which should protect the right of doctors to provide medical information to their patients. Emerson and Roraback also thought that they might rely on the Due Process Clause, which requires that a law not be "arbitrary or capricious" and that it bear a "reasonable relationship" for a legitimate legislative purpose. The Comstock law, whose purpose was to prevent adultery and uphold public morality, could be considered "arbitrary and capricious" because its ban on contraceptives was not "reasonably related" to that goal.

In the end, however, Emerson and Roraback decided to argue that the Constitution includes an inherent right to privacy. As Emerson told the *Hartford Courant* in 1985, twenty years after the Court's decision:

The idea had been knocking around the American Civil Liberties Union legal staff, but it had never been fully explored and developed and presented to the Supreme Court in a way where they would have to pass on it...I was pretty optimistic. It seemed to me that the birth control statute was so absurd that they would stretch to find some way of declaring it unconstitutional...and the whole idea of creating a zone of privacy where governmental officials can't intrude was...an idea whose time had come, as they say.

The State of Connecticut, for its part, argued that the Legislature had a legitimate role in regulating birth control devices and information. In oral arguments before the Court, prosecutor Joseph B. Clark (who later became a Superior Court judge) defended the right of the Legislature to pass a law intended to "reduce the chances of immorality" and to "act as a deterrent to sexual intercourse

outside of marriage...married couples could still practice birth control, Clark said, because abstinence, withdrawal and the rhythm method are available to the married in Connecticut."

His argument did not sway the Court, however. On June 7, 1965, the Supreme Court issued its famous *Griswold v. Connecticut* decision and struck down Connecticut's 86-year-old Comstock law. By a vote of 7 to 2, the Court held that the law unconstitutionally invaded the privacy rights of married couples.

Justice William O. Douglas wrote the majority opinion, in which he "created" a new constitutional right of privacy based on the First Amendment (the right to free association), the Third Amendment (ban on the quartering of soldiers in homes), the Fourth Amendment (protection against unreasonable search and seizures), the Fifth Amendment (ban on compulsory self-incrimination), and the Ninth Amendment (which reserves all rights not enumerated in the Bill of Rights to the people). Each of these Amendments, wrote Douglas, have "penumbras" (shadows) which create "zones of privacy..." "These separate guarantees of privacy, taken together, give "life and substance" to a broad, inherent constitutional right of privacy against government intrusion.

Justices Stewart and Black dissented in the *Griswold* case, arguing that while the Connecticut law was "uncommonly silly," it was a matter for the legislature, not the courts, to reverse. "We are not asked in this case to say whether we think this law is unwise or even asinine," wrote Stewart. "We are asked to hold that it violates the United States Constitution. And that I cannot do."

So it was that a case aimed simply at overturning the Comstock ban on birth control ended up recognizing a sweeping new constitutional right. In 1972, the Court extended the right of privacy to unmarried minors seeking birth control in its *Eisenstadt v. Baird* ruling. Then in 1973 came the controversial *Roe v. Wade* decision, which held that the right of privacy first recognized in *Griswold* "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." The right of privacy has also been raised in cases dealing with homosexuality, personal appearance and lifestyles, and the "right to die."

To the end, Dr. Buxton kept his low profile. On the day of the Supreme Court's decision, he left for Europe, prompting one medical journal to call his role in the case "a performance of *Hamlet* without the prince." Dr. Buxton remained active in the family planning movement, and died at age 64 in 1969.

For Estelle Griswold, who died in 1981 at age 81, the Supreme Court's ruling vindicated her strong convictions on the worldwide importance of family planning. "How we answer the question of birth control and controlled population increase is going to be the answer to the question of what the quality of life for future generations will be," she once said.

Estelle Griswold and Dr. Buxton may have thought that their biggest achievement was overturning an archaic obscenity law. In truth, their most significant legacy was to have inaugurated a new body of constitutional law protecting individual privacy.

# *Packer v. Thomaston*

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## **Statute in Question**

Section 10-233d (a) (1) provides: Any local or regional board of education at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast."

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## *Article I* *The Hartford Courant*

### COURT HEARS EXPULSION CASE - ARGUMENTS CENTER ON DEFINING DISRUPTIVE SCHOOL BEHAVIOR

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by DAVID OWENS; Courant Staff Writer

March 27, 1998

During more than 90 minutes of arguments before the state Supreme Court Thursday over the Thomaston school board's decision to expel a student, one fundamental question kept reemerging.

How could Kyle P. Packer's September 24 arrest on a charge of possession of 2 ounces of marijuana in a secluded section of Morris be "seriously disruptive of the education process" at Thomaston High School?

Lawyers on both sides agreed Thursday the law is vague, with the school board's attorney and the state attorney general arguing the vagueness is necessary.

Packer's lawyer said the vagueness makes the law unfair.

Thomaston school officials decided the arrest was a serious disruption and on October 8 expelled Packer, a senior, for the rest of the first marking period. They also banned him from participating in all school activities except graduation.

Packer's family appealed the board's decision and Litchfield Superior Court Judge Walter M. Pickett Jr. ruled in January that the board was wrong when it expelled Packer. He had previously issued an order permitting Packer to return to school. Pickett also ruled that the law the board used to make its decision was so vague that it was

unconstitutional. The Thomaston board appealed Pickett's precedent-setting ruling and the Supreme Court heard the appeal Thursday in an expedited hearing.

State law permits school officials to expel students for off-campus crimes if the offense is determined to be a violation of school policy and is "seriously disruptive of the educational process." Schools throughout the state have used the law to expel students accused of crimes such as murder, assault, brandishing a handgun and drug possession.

"School officials need discretion and flexibility to decide how and when to discipline students who commit illegal and disruptive acts, especially with drugs or guns," Attorney General Richard Blumenthal said.

The vagueness is unfair, countered Packer's lawyer, William A. Conti of Torrington. The statute should spell out what would constitute serious disruption, Conti said. It's conceivable the legislature could have included in the law possession of marijuana as something that would cause serious disruption.

"In the real world of education you're not expecting the legislature to spell out every nuance?" Justice Flemming L. Norcott Jr. asked Conti.

No, Conti replied. But there must be some link between the offense and the alleged serious disruption, he said. Otherwise students could be subjected to arbitrary discipline.

Smoking is against school policy and it's conceivable a board could expel a student for smoking a cigar at his sister's wedding, Conti argued.

Justice Ellen A. Peters suggested Conti was going a little too far. "The school setting is different," she said, repeating an argument Blumenthal made. "A school board has discretion to determine what's disruptive because that's the only way the school process can go forward. What's wrong with that?"

A school board should have discretion, Conti replied. But not unfettered discretion.

The fundamental question remained, however. Did Packer's crime -- for which he is performing community service -- seriously disrupt the educational process? The board based part of its decision on comments by Thomaston High School Principal Robin Willink that teachers and students were talking about the arrest.

Justice Robert I. Berdon questioned whether talk among students and teachers constituted a serious disruption.

George J. Kelly Jr., the Thomaston board's lawyer, said the disruption stemmed from the overall effect the arrest had on the educational process at the school.

"This young man had a history of being involved in illegal substances -- both marijuana and alcohol," Kelly said. Although Packer had no prior arrests for such charges, "there was sufficient information in the record."

The arrest also created a disruption in the school's ability to teach respect for the law and authority, Kelly said. "The school has to set standards. This happened to be a very visible situation," he said. "The school had to say there would be ramifications for this kind of conduct."

Peters appeared unconvinced. "But the statute on which you're relying talks about disruption," she said.

What was disruptive was the message it sent to the students, that it doesn't matter what you do," Kelly replied.

## *Article II* **The Hartford Courant**

### COURT OVERTURNS EXPULSION - JUSTICES CLARIFY RULES ON DISRUPTIVE BEHAVIOR

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by LYNNE TUOHY; Courant Staff Writer

July 28, 1998

The state Supreme Court has ruled that students may be expelled for only that behavior off school grounds that "markedly interrupts or severely impedes the day-to-day operation of a school."

Such behavior would include phoning in a bomb scare or uttering threats to kill or hurt a teacher or student, the justices said, in a 6-1 ruling released Monday.

But the arrest in another town of Thomaston High School senior Kyle Packer for possession of 2 ounces of marijuana last September did not rise to that level.

"We do not mean to pin any medals on [Packer] or condone his destructive conduct in any way," Chief Justice Robert J. Callahan wrote. "The school expulsion statute, as applied to this set of facts, however, is simply too vague to be constitutionally enforceable."

The issue of what off-premises conduct warrants expulsion has vexed school administrators, who have expelled students for offenses including theft, burglary, drug possession, assault and murder. It also has been scrutinized by the Connecticut Civil Liberties Union, which filed a friend-of-the-court brief on Packer's behalf.

"The potential for abuse in enforcing expulsion statutes is great if the laws don't provide enough guidance for school officials," said CCLU lawyer Ann Parrent.

Monday's ruling gives school officials a sharper definition, and examples, of what constitutes conduct that is "seriously

disruptive of the educational process" -- a phrase that many school systems copied directly from the state law into their student handbooks. Thomaston's was among them.

Thomaston's student handbook states that "students are subject to discipline, up to and including suspension and expulsion, for misconduct which is seriously disruptive of the educational process and is in violation of a publicized board policy, even if such conduct occurs off school property and during non-school time."

While Packer's possession of marijuana -- for which he performed 16 hours of community service and has no criminal record -- violated school policy, the Supreme Court ruled it was not seriously disruptive of the educational process. Or, as the justices defined that phrase, it did not "markedly interrupt or severely impede the day-to-day operation of a school."

Packer was 17 when he was arrested in Morris on September 24, by a state trooper who originally stopped him for not wearing a seatbelt, then noticed a marijuana cigarette in the car's ashtray. A search of the car turned up 2 ounces of marijuana.

State law requires police to notify a school system of the arrest of any student, aged 7-21, who is charged with a Class A misdemeanor or any felony. The school board held a hearing October 8, at which Thomaston High School Principal Robin Willink testified that Packer's arrest had disrupted the educational process because Packer's younger brother was in the car at the time, the rest of the school had become

aware of the arrest and teachers had asked Willink what he intended to do.

The board voted to expel Packer for the remainder of the semester -- about four months.

Packer, an honor student and soccer star, and his family convinced Litchfield Superior Court Judge Walter M. Pickett to issue a temporary injunction ordering his return to school in early November. Pickett ruled the expulsion law was unconstitutionally vague.

The Supreme Court reversed Pickett on that count, however, and upheld the constitutionality of the statute. The high court ruled instead that the law's application in Packer's case was unconstitutional because it did not put Packer on notice that "possession of two ounces of marijuana in the trunk of his car, off the school grounds

in the town of Morris, after school hours, without any tangible nexus to the operation of Thomaston High School, would subject him to expulsion," Callahan wrote.

Justice Francis M. McDonald dissented, saying, "The majority finds that possession of marijuana might not be recognized by students as conduct 'seriously disruptive of the educational process.' To the contrary, it can be said that illegal drugs are disrupting America. Unfortunately, this decision serves neither the public interest in education nor students."

Attorney William Conti, who represented Packer, lauded the ruling, saying, "Just because you want to declare a war on drugs doesn't mean you declare war on the constitution."

# The Connecticut Court Process

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## Separation of Powers

Under our constitution, the courts are one of three branches of government. The **Legislative Branch** (the Senate and House of Representatives) is responsible for creating new laws. The **Executive Branch** (the governor and executive branch agencies) is responsible for enforcing them. The **Judicial Branch** is responsible for interpreting and upholding our laws.

## Role of the Courts

The judicial system in Connecticut was established to uphold the laws of the State. Our courts help to maintain order in our society by:

- determining the guilt or innocence of persons accused of breaking the law;
- resolving disputes involving civil or personal rights;
- interpreting new laws or deciding what is to be the law of the State when none exists for certain situations; and
- determining whether a law violates the Constitution of either the State of Connecticut or the United States.

## STATE COURTS VS. FEDERAL COURTS

In Connecticut, as throughout the United States, there are two judicial systems:

- 1) **The State Court System:** established in each state under the authority of the state constitution. Connecticut courts are courts of general jurisdiction. These courts handle most criminal matters and a variety of civil matters, including contracts, personal injury cases, dissolution of marriages and other legal controversies. In some instances, decisions of state courts may be appealed to the United States Supreme Court if a question of federal constitutional law arises.
- 2) **The Federal Court System:** established under the United States Constitution and regulated by the Congress of the United States. Federal courts have jurisdiction over matters arising under the U.S. Constitution (Federal Law). Other areas under federal jurisdiction include:
  - cases in which the United States is a party;
  - cases between two states or the citizens of two different state;
  - cases between a state and a foreign state or its citizens;
  - cases arising under treaties;

- admiralty and maritime cases; and
- cases affecting ambassadors and other diplomatic personnel.

The United States Constitution states only that:

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish." Article III, Section I.

Thus, the only indispensable federal court is the United States Supreme Court. The Congress has from time to time set up and also abolished various other federal courts.

## ORGANIZATION OF THE COURTS

Since July 1, 1978, Connecticut has had a unitary court system or one-tier court system. It consists of the Supreme Court, the Appellate Court, the Superior Court and Probate Courts.

### Supreme Court

The Supreme Court is the state's highest court. It consists of the Chief Justice and six Associate Justices. The Supreme Court reviews decisions made in the Superior Court to determine whether questions of law were properly decided. It also reviews selected decisions of the Appellate Court to determine questions of law.

Generally, a panel of five justices hears and decides each case. On occasion, the Chief Justice summons the court to sit "en banc" as a full court of seven, instead of a panel of five, to hear particularly significant cases or when requested by one or both parties to the case and agreed to by the court.

Generally, the Supreme Court does not hear witnesses or receive evidence. It decides each case on:

- the record of lower court proceedings;
- briefs, which are used by counsel to convey to the court the essential points of each party's case; and
- oral argument based on the content.

State law specifies which types of appeals may be brought directly to the Supreme Court from the Superior Court, thereby bypassing the Appellate Court. These cases include decisions where the Superior Court has found a provision of the state Constitution or a state statute invalid, and convictions of capital felonies. All other appeals are brought to the Appellate Court.

The Supreme Court may transfer to itself any matter filed in the Appellate Court and may agree to review decisions of the Appellate Court through a process called certification. Except for any matter brought under its original jurisdiction as defined by the state Constitution, the Supreme Court may transfer any matter pending before it to the Appellate Court.

The Supreme Court has eight two-week sessions over the period from September through June of each year. The Supreme Court courtroom is located in the State Library/Supreme Court Building at 231 Capitol Avenue in Hartford.

### Appellate Court

The Appellate Court consists of nine judges, one of whom is designated by the Chief Justice to be Chief Judge. Like the Supreme Court, the Appellate Court reviews decisions made in the Superior Court to determine whether questions of law were properly decided. Generally, a panel of three judges hears and decides each case. The Chief Judge of the Appellate Court may summon the court to sit en banc as a full court of nine. Like the Supreme Court, the Appellate Court does not hear witnesses, but renders its decision based upon the record, briefs and oral argument.

### Superior Court

The Superior Court hears all legal controversies except those over which the Probate Court has exclusive jurisdiction. (Probate Court matters may be appealed to the Superior Court).

The Superior Court has five principal trial divisions: civil, criminal, family, juvenile and housing.

- 1) A **civil case** is usually a matter in which one party sues another to protect civil, personal or property rights. Examples of typical civil cases are automobile or personal accidents, product or professional liability claims and contract disputes. In most civil cases, the accusing party (plaintiff) seeks to recover money damages from another party (defendant). Cases may be decided by the judge or by a jury, depending on the nature of the claim and the preference of the parties.

The Civil Division is divided into five parts:

- Landlord-tenant, including summary process;
- Small claims;
- Administrative appeals;
- Civil jury; and
- Civil non-jury.

- 2) A **criminal case** is one in which a party (defendant) is accused of violating the law. The state is the plaintiff in criminal cases because crimes are considered acts that violate the rights of the entire state.

The following types of cases are heard in the Criminal Division:

- Crimes
  - felonies - punishable by prison sentences of more than one year;
  - misdemeanors - punishable by prison sentences of not more than one year.
- Violations, including motor vehicle - punishable by fine only.

- Infractions - fine may be paid by mail without requiring a court appearance.

The Criminal Division consists of four parts:

- Part A: capital felonies, class A felonies and unclassified felonies punishable by sentences of more than twenty years;
  - Part B: class B felonies and unclassified felonies punishable by sentences of ten to twenty years;
  - Part C: class C felonies and unclassified felonies punishable by sentences of five to ten years; and
  - Part D: class D felonies and all other crimes, violations, motor vehicle violations and infractions.
- 3) A **family case** involves matters such as dissolution of marriage and the custody of children.
  - 4) A **housing case** involves landlord-tenant disputes, summary process and similar matters.
  - 5) A **juvenile case** includes delinquency, child abuse, neglect and termination of parental rights.

The state is divided into 13 Judicial Districts, 22 Geographical Areas and 13 Juvenile Districts. In general, major criminal and civil matters and family cases not involving juveniles are heard at Judicial District court locations. Other civil and criminal matters are heard at Geographical Area locations. Cases involving juveniles are heard at Juvenile Court locations. In districts where they have been legislatively created, housing matters are heard exclusively at Judicial District Housing Session locations on a separate docket. In other districts, they are part of the regular civil docket.

### *Probate Court*

In addition to the state-funded courts, Connecticut has Probate Courts, which have jurisdiction over the estates of deceased persons, testamentary trusts, adoptions, conservators, commitment of the mentally ill and guardians of the persons and estates of minors. Probate Judges are elected to four-year terms by the voters of the Probate District. Probate Judges need not be attorneys. They are paid for their services from Probate Court fees.

## **STEPS IN A JURY TRIAL**

### ***Selection of a Jury***

1. Administration of voir dire oath
2. Voir dire - questioning of prospective jurors by counsel
3. Challenges by counsel
  - for cause
  - peremptory - without cause
4. Completion of jury selection
  - civil trials and most criminal trials - 6 jurors, 2 alternates
  - certain offenses - 12 jurors, 2 alternates
5. Impaneling of jury - administration of juror's oath to those chosen for a particular case

### ***The Trial***

1. Opening statements - generally brief, made by counsel for each side
2. Presentation of evidence
  - testimony - direct and cross-examination
  - exhibits
3. Closing arguments

### ***Judge's Charge to the Jury***

1. Explanation of the relevant points of law
2. Review of the procedures to be used in reaching the verdict

### ***Jury Deliberation***

1. Presided over by jury foreman, who is elected by members of the jury
2. Free discussion by jurors, who listen with open minds

### ***The Verdict***

1. Must be unanimous in civil and criminal cases
2. Written in civil cases; oral in criminal matters
3. Presented to the court by the jury foreman

## **JUDGES - APPOINTMENTS AND TERMS**

Justices of the Supreme Court and Judges of the Appellate Court and the Superior Court are nominated for eight-year terms by the Governor from a list of candidates submitted by the Judicial Selection Commission. They serve eight-year terms and are eligible for reappointment. Judicial appointments require confirmation by the General Assembly.

To qualify for a judgeship, a person must be an attorney admitted to practice in Connecticut. The Connecticut Constitution provides that judges may hold their offices until reaching the age of 70.

At that time, they retire and become State Referees for the remainder of their terms. They are eligible for reappointment as State Referees during the remainder of their lives.

The Chief Justice may designate, from among the State Referees, State Trial Referees to whom cases of an adversary nature may be referred. Judges who retire from full-time active service prior to age 70 are known as Senior Judges.

## PARAJUDICIAL OFFICERS

Not all legal controversies are heard by judges. They may also be heard by the following:

***Small Claims Commissioners:***

Attorneys designated by the Chief Court Administrator to hear and decide small claims cases.

***Attorney State Trial Referees:***

Attorneys appointed by the Chief Justice to preside over civil non-jury matters. They may not render judgments, but rather make findings of fact and file proposed decisions with the court. The court thereafter may render judgment in accordance with these findings.

***Magistrates:***

Attorneys appointed by the Chief Court Administrator to hear small claims matters, infractions, and certain non-jury motor vehicle cases.

***Factfinders:***

Attorneys appointed by the Chief Court Administrator to hear certain contract cases.

***Arbitrators:***

Attorneys appointed by the Chief Court Administrator to hear any civil jury action in which the amount, legal interest or property in demand, is less than \$50,000.

## FUNDING FOR THE COURTS

The Judicial Branch receives its funding as part of the legislatively enacted state budget. This funding is provided to pay the salaries of judges and other judicial personnel, for computers and other equipment, for contractual services, to maintain courthouses and other judicial facilities, and for other necessary expenditures. All fines, fees and costs collected in the courts are deposited in the state's general fund and other funds established by the legislature.

## COURT ADMINISTRATION and OPERATIONS

The Chief Justice of the Supreme Court is the head of the Judicial Branch. Its administrative director is the Chief Court Administrator.

## **Judicial Functions**

The judicial functions of the branch are concerned with the just disposition of cases at the trial and appellate levels. All judges have the independent, decision-making power to preside over matters in their courtrooms and to determine the outcome of each case before them.

## **Administrative Operations**

The Chief Court Administrator is responsible for the administrative operations of the Judicial Branch. In order to provide the diverse services necessary to effectively carry out the Judicial Branch's mission, the following administrative divisions have been created:

### ***Administrative Services Division:***

Provides a wide array of centrally conducted, statewide services for the benefit of all divisions within the Judicial Branch, such as data processing, financial services, personnel matters, affirmative action and facilities management.

### ***Court Support Services Division:***

Provides pre-trial services, family services and offender sentencing and supervision options. Consists of *Intake/Assessment/Referral (IAR) units*, which conduct comprehensive evaluations and referrals, and *Supervision units*, which focus on effective supervision of clients involved with the court system. Two separate, but parallel, service delivery systems operate - one for adults and one for juveniles. The state has been divided into five regions for the delivery of services.

### ***External Affairs Division:***

Facilitates positive relationships between the Judicial Branch and members of the public, the Legislature, policy makers, news professional and community organizations. Serves as the primary source of information about the Judicial Branch and coordinates informational activities designed to inform and educate the public about the role and function of the Judicial Branch .

### ***Information Technology Division:***

The Information Technology Division is dedicated to designing, developing, implementing, and maintaining the Judicial Branch's complex data and information processing, storage, retrieval, dissemination and printing systems for the Judicial Branch, for customers in the legal community and for the public.

### ***Superior Court Operations:***

The Superior Court Operations Division includes the following:

- *Administration* - provides support services and guidance to all segments of the division by directing the administrative, strategic planning, staff training and business activities, and provides for court transcript services, interpreter services, and the preservation and disposition of seized property;
- *Centralized Court Services* - performs a variety of functions including the Centralized Infractions Bureau, jury administration and the maintenance, retrieval and destruction of records;
- *Court Operations* - ensures that the Superior Court Clerk's offices process all matters in accordance with Statutory, Practice Book and Judicial Branch policy provisions in an

efficient and professional manner through the provision of technical assistance and support services;

- *Judge Support Services* - ensures the prompt delivery of services and programs to Superior Court judges pertaining to law libraries, legal research, judicial performance evaluations, continuing education and support for technology;
- *Legal Services* - determines legal issues and provides support services in the areas of attorney ethics, discipline and bar admission;
- *Office of Victim Services* - advocates for victims of crime and arranges for or provides services and financial compensation;
- *Support Enforcement Division* - enforces reviews and adjusts family support orders in accordance with federal and state regulators, rules and statutes.

## **CRIMINAL COURT vs. CIVIL COURT**

**CRIMINAL COURT** decides whether a person accused of breaking a law is guilty or not guilty. In a criminal court, the government is the prosecution and the accused person is the defendant.

It is important to remember that under our system of justice every person accused of a crime must be considered innocent until proven beyond a reasonable doubt that the offender is guilty as charged.

Penalties in criminal courts require that offenders go to a correctional institution, be placed on probation under a suspended sentence, pay a fine, or any combination of these. In general, the purpose of the sentence is to protect the public, to punish the individual found guilty, to act as a warning to stop others from breaking the law, or a combination of these.

**CIVIL COURT** decides a case in which a person has a grievance against another person. In a civil lawsuit, the person taking legal action against another person is the **PLAINTIFF** and the person(s) defending against the complaint or suit of the Plaintiff is the **DEFENDANT**.

Disputes between private parties are settled in Civil Court. Some examples are domestic relations (family) disputes, disputes about business relations, or accidents. In these cases, the decision is made on the preponderance of the evidence. A jury of six may decide the facts in a civil case or a judge may render the decision.

Penalties may require the offender to pay money for damages or injuries, or the court may require the offender to do or not to do a specific act for, or to, the person bringing the suit. Some civil remedies are **RESTITUTION** (repayment), **COMPENSATION** (paying to make up for something), and **INJUNCTION** (a court order forbidding a certain action or ordering that a particular action be done).

## CIVIL COURT TERMS

**Answer:** A paper filed in court by a defendant which states his or her defense or denies the plaintiff's complaint. The answer may also admit undisputed facts.

**Appeal:** To ask a higher court to correct what is believed to be an error by the trial judge, such as a misapplication of the law in the case, or a judge's failure to assure a fair trial.

**Case dismissed without prejudice:** The case is dismissed but the plaintiff has the right to bring suit again on the same claim.

**Case dismissed with prejudice:** The case is dismissed on its merits. The plaintiff then has no right to bring suit or maintain action on the same claim.

**Complaint:** Papers filed in court by the plaintiff claiming a civil wrong was done by the defendant to the plaintiff (for example, a contract was broken or injury was done to the plaintiff's person or property).

**Counterclaim:** After a plaintiff has presented a complaint to the court, the defendant may present an opposing claim against the plaintiff. This is a claim for damages that the original defendant brings against the original plaintiff who must then present a defense against the counterclaim.

**Decision:** A finding by a judge, or a verdict by a jury.

**Deposition:** One method of pretrial discovery (attorney getting information prior to the trial) is by oral or written questions given under oath. A deposition is usually given in the presence of a lawyer and a stenographer. The written record then becomes part of the trial records.

## INTRODUCTION TO THE CRIMINAL JUSTICE SYSTEM

In the criminal justice system, a crime committed against a person or a person's property is a crime committed against all of the people of the State of Connecticut. The state, rather than the crime victim, brings criminal charges against the alleged criminal. If the case is prosecuted, the victim may become a witness.

The person employed by the state to bring criminal charges against people who are accused of committing crimes is called the prosecutor or state's attorney. The state's attorney has an equal responsibility to see that innocent persons are acquitted and that guilty persons are convicted.

A person accused of a crime is presumed by the law to be innocent until proven guilty. Because determination of guilt may lead to loss of liberty or even life, the state must make sure that the person accused of the crime in fact committed the crime. Therefore, the state must prove "beyond a reasonable doubt" that the person committed the crime.

The person who has been arrested and charged with committing a crime is the accused. In court, the accused is referred to as the defendant.

Most crimes are classified as either a felony or a misdemeanor. A felony is a crime for which the criminal may receive a sentence of imprisonment of longer than one year. Examples of felonies are murder, rape, kidnapping, burglary, and robbery. A misdemeanor is a crime punishable by sentence of imprisonment of one year or less. Examples of misdemeanors are shoplifting, breach of peace, disorderly conduct and criminal trespass.

The United States Constitution guarantees the defendant's right to the assistance of counsel in helping to prepare a defense. The defendant's lawyer is referred to as the defense counsel. If the defendant cannot afford a private attorney, the court will appoint a lawyer who is called a public defender. Public defenders, like prosecutors, are lawyers who are employed by the State of Connecticut. Public defenders serve only the interests of their client - the defendant.

In court, the defendant appears before a judge. The judge runs the courtrooms and decides all legal questions. The judge is aided in making decisions by the arguments presented by the prosecutor and defense counsel.

## **PRETRIAL RELEASE -THE RIGHT TO BAIL**

In all but a few instances, the defendant in a criminal case has the right to bail (to be released from custody while awaiting trial). The type of release set is based upon the likelihood that the defendant will appear in court to face the criminal charges.

### *WHO DETERMINES WHAT TYPE OF BAIL WILL BE SET?*

There are three different people who make a decision regarding the proper amount and type of bail: the police, the bail commissioner and the judge.

The police are the first entity who may decide the type of release. At booking, they will interview the accused for the purpose of setting bail. Information regarding the accused person's community ties, employment history, prior convictions and attendance at prior court appearances will help police determine the type of bail that will assure appearance in court.

An accused person who is unable to meet the bail conditions set by the police will be interviewed by a Court Support Services Division intake officer. The officer will investigate and verify the accused person's background and community ties and make an independent decision as to the bail conditions.

An accused person who is unable to secure release under the conditions set by the intake officer will be held by the police until the next scheduled court session. At the court session, the judge will hear arguments from counsel for and against the amount of bail and will review the conditions set for release of the accused. The specific factors a judge will consider are:

- The nature and circumstances of the offense insofar as they are relevant to the risk of non-appearance in court;
  - The weight of the evidence against the accused;
  - The accused person's prior criminal record, if any;
  - The accused person's past record of appearance in court after being admitted to bail;
  - The accused person's family ties;
  - The accused person's financial resources, character and mental condition; and
  - The accused person's community ties.

### TYPES OF RELEASE

After considering all available information about the accused, the judge will reach an independent decision regarding the type of release which is the least restrictive means of assuring that the individual will appear in court.

There are three basic types of release:

1. *Written Promise to Appear:*

If the accused's promise is enough to assure the required court appearances, the individual will be released after signing a written promise to appear.

2. *Non-Surety Bond:*

If the accused's promise is not enough to assure appearance in court, the individual may be asked to sign a non-surety bond. With this type of bond, the accused will not pay any money before being released. However, an accused person who fails to appear in court as scheduled will have to pay the dollar amount.

2. *Surety Bond:*

If there is a risk that the accused may not appear in court when required, a surety bond will be set. The surety bond will establish a dollar amount that must be paid by the accused before release. The amount of the bond is set according to a schedule provided by the court.

In order to be released under a surety bond, the defendant must either pay the amount of the bond or use personal property as collateral for the bond. If the defendant shows up in court each time required, the payment will be returned. If the defendant does not appear, the bond is forfeited.

If a judge decides that a surety bond is appropriate, the defendant may be allowed to post ten percent (10%) cash bail. The defendant pays the court ten percent (10%) of the amount of the bond. If the defendant has appeared in court as required, the money is returned when the case ends.

When a surety bond is set, the defendant may choose to hire a private bondsman. The defendant will then pay the bondsman a percentage of the value of the bond plus a fee. All money paid to a bondsman is kept by the bondsman and is not returned to the defendant.

### CONDITIONS OF RELEASE

The prosecutor may ask the judge to prohibit the accused from engaging in certain types of behavior while released and awaiting the disposition of the case. For example, the judge may order the accused not to have any contact with the victim or not to drink alcoholic beverages. Any violation of conditions placed upon release can cause the accused to be returned to jail and brought before the court to have conditions of the release reviewed.

### IF THE ACCUSED THREATENS THE VICTIM

If the accused threatens the crime victim while criminal charges are pending, the accused has committed a separate crime. The victim should tell the prosecutor about threats made by the accused. However, a victim who makes up a threat by the accused - when no such threat occurred - is guilty of the crime "False Statement."

## **COURT APPEARANCES**

When a defendant goes to court, the case will be given a name and docket number. Usually, the name of the case is State versus "the name of the defendant."

### ARRAIGNMENT

The defendant's first court appearance is called "arraignment." At the arraignment, the defendant's constitutional rights will be read, and a defendant who cannot afford a lawyer will be offered the services of a public defender (court-appointed attorney).

The criminal charge(s) against the defendant will be read, and the defendant will be asked to enter a plea of guilty or not guilty.

Most defendants plead not guilty at their arraignments. This is because individuals who plead guilty waive many constitutional rights, including the right to call witnesses accusing them of committing a crime, the right to call witnesses in their own defense, the right to have an attorney, and most importantly, the right to have the State prove guilt beyond a reasonable doubt.

### PRETRIAL CONFERENCE - PLEA NEGOTIATIONS

The defendant's next court appearance after arraignment is called pretrial conference. A pretrial conference is a meeting between the prosecutor and the defense attorney. At the pretrial conference, both sides try to resolve the case without going to trial. Some of the resolutions that might be reached are:

#### *1. Dismissal of Criminal Charges*

If the prosecutor or judge decides that the defendant's conduct was not criminal, the charge will be dismissed. Dismissal means that the defendant is no longer being prosecuted on the charges and the police and court records on the charges should be erased.

2. *Entering of a Nolle by a Prosecutor*

The prosecutor may "nolle" the charge against the defendant for a variety of reasons (for instance, if there is insufficient evidence in a case or if a witness to the crime is unavailable to testify). When the charge is nolle, it means the State does not wish to go ahead with the prosecution at this time. A prosecutor may reopen a nolle charge any time within 13 months after the nolle is entered. After 13 months, the nolle case may be erased on all police and court records. If a case is nolle, the charge against the defendant should be erased. This means there will be no public record of the offense.

3. *Alternative Sentencing*

The judge has the discretion to allow some defendants to participate in alternative programs, such as Accelerated Rehabilitation (AR), the Alcohol Education Program (AEP), the Family Violence Education Program, the Alternative to Incarceration Program (AIP), the Alternative Incarceration Center (AIC) and the Community Service Labor Program (CSLP). Each of these carries specific requirements for participant eligibility and in some instances will result in the eventual erasure of criminal charges if the defendant successfully completes the program.

4. *Pleading Guilty*

Almost ninety-five percent (95 %) of all convictions are the result of the defendant pleading guilty to criminal charges. After entering a "not guilty" plea at arraignment, the defendant may subsequently plead guilty to one charge and give up the right to trial in exchange for the State dropping other charges for allowing a guilty plea to a lesser crime than the one originally charged. This is called plea-bargaining and is the process by which both sides of the criminal case try to resolve the matter without going to trial. Final disposition of the case is thereby accelerated.

If the defendant pleads guilty, the case will not go to trial. Pleading guilty results in the same consequences as being found guilty by a judge or jury at trial.

Should the defendant plead guilty to a misdemeanor, the judge may sentence the defendant immediately. If the defendant pleads guilty to a felony, a sentencing hearing will be scheduled.

## THE TRIAL

If the defendant pleads not guilty and decides to go to trial, it may take a considerable period of time from the date of the arrest to the time of trial. This delay is due to many factors, including the large number of criminal cases awaiting trial and the need for both the State and the defense to investigate the facts and prepare the case for trial.

During the course of the trial, the State of Connecticut must establish that a crime has been committed and prove beyond a reasonable doubt that the defendant is the person who committed the crime. The State must prove this by presenting evidence. Evidence is most frequently either the testimony of people who were present during the crime, or physical evidence, such as stolen property or weapons used during the crime.

People who saw the crime and testify at trial are called witnesses. The victim may be a witness. Witnesses are notified by subpoena that they will be needed in court. A subpoena is a court order directing the person to be in court at a certain date and place.

Often there will be a notation on a subpoena that the person is on standby. If this notation appears, one should call the number listed to find out when he/she will be needed in court. Persons should bring their subpoenas with them to court when they testify.

On most occasions, witnesses are asked to stay out of the courtroom when they are not testifying. The judge may also order the witnesses not to discuss the testimony with anyone. This procedure is called sequestration: it is a regular court procedure that should be strictly observed.

Trials may not always take place as scheduled. A postponement could mean an unnecessary trip to court. To avoid such a trip, or to have any questions related to a court appearance answered, a witness should call the State's Attorney's Office.

When called as a witness, an individual will walk to the witness stand, which is located alongside the judge's bench. There the witness will be asked by a court official to "swear to tell the truth." After being sworn in, the witness will be asked to give his/her name and address for the official record. Anyone who prefers not to give his/her address in court should tell the prosecutor this before testifying.

After completion of testimony and before leaving the court, a witness should ask the prosecutor whether he/she will be needed again. One should also check with the clerk's office for any fees which a witness may be eligible to receive.

### TESTIMONY

After the courtroom has been called to order and the judge has directed the prosecutor to begin the State's case, the prosecutor will call witnesses to the stand, one at a time.

The prosecutor will ask each witness questions about the crime. This questioning is called direct examination. After the prosecutor has finished asking questions, the defense attorney may ask questions about the crime. This latter questioning is called cross-examination. After the defense attorney has completed cross-examination, it is possible that the prosecutor will question a witness again.

When the State has presented all its evidence, it will "rest its case" against the defendant. At this point, the defendant may present additional witnesses. The defendant need not present any evidence because the State bears the burden of proving beyond a reasonable doubt that the defendant is guilty of the crime. The defense is not required to prove the defendant's innocence.

### CLOSING ARGUMENTS

When all the evidence has been presented, the prosecutor and defense attorney will give their summaries of the case. These summaries are called "closing arguments." The prosecutor will have the option of speaking both before and after the defense gives its "closing argument" because the State is the party which bears the burden of proving the defendant's guilt.

## THE VERDICT

When closing arguments are finished in cases tried by jury, the judge will instruct the jurors about the law of the State of Connecticut in relation to the crime charged. The jury will then decide whether the defendant is guilty or not guilty of the crime. In cases involving several charges, it is possible that the jury may find the defendant guilty of one charge but not guilty of another. The jury will announce its verdict in court. Whatever the jury's verdict, it must be unanimous; all the jurors must agree that the defendant is guilty or not guilty. If the jury cannot reach a decision, a mistrial will be declared and the defendant will be tried again.

In cases of trial by judge, the judge alone will determine whether the defendant committed the crime as charged. The judge's verdict will be announced in court.

## **SENTENCING**

If the defendant has been found guilty of a misdemeanor, sentencing will take place immediately after the verdict is given.

### PRESENTENCE INVESTIGATION REPORT (P.S.I.)

If the defendant pleads to or is found guilty of a felony, in most cases the judge will order the Court Support Services Division to prepare a Pre-sentence Investigation Report (P.S.I.). Preparation of a P.S.I. will take approximately four to five weeks. A probation officer will interview the defendant regarding personal history, family history, prior criminal record and the offender's version of the crime. The probation officer will review state police records and may contact the defendant's family or employer. The probation officer will also contact the victim of the crime. The victim should provide the probation officer with factual information regarding the impact of the crime on his/her life, so that the court is made aware of the effects of the crime. An assessment or plan may also be included in the P.S.I.

### SENTENCING HEARING

At the sentencing hearing, the judge will have reviewed the P.S.I. along with any material submitted by the defendant's lawyer.

If the defendant has been tried and found guilty, the judge will consider the arguments of defense counsel and the state's attorney, and the information contained in the P. S.I. The judge will then independently arrive at a decision as to the appropriate sentence for the defendant.

If the defendant did not stand trial but pleaded guilty, the judge will ask the prosecutor to state the substance of the plea bargain which had been agreed to by the defendant and the prosecutor. The judge will then hear arguments from the defendant's attorney in support of the agreement. The judge may sentence the defendant according to the terms of the plea bargain or may elect not to sentence according to the terms of the plea bargain. If the latter occurs, the defendant may withdraw the guilty plea and the case begins again.

### SENTENCING WHICH MAY BE IMPOSED

The following are the basic sentences which can be imposed by a judge as punishment for a crime:

1. A Fine: The defendant may be fined a certain amount of money.
2. Imprisonment: The judge can send the defendant to jail or prison for a period of time.
3. Probation: The judge can place the defendant under the authority of the Court Support Services Division. This means that the defendant will be supervised by a probation officer for a certain period of time. A defendant who violated the conditions of probation can be made to serve a sentence in prison.
4. Conditional Discharge: The judge can release the defendant on conditional discharge, which means that the individual will stay out of jail as long as the conditions set by the judge are obeyed.
5. Unconditional Discharge: The judge suspends the sentence without imposing any conditions on the release.

The judge may sentence the defendant to a combination of the above sentences. For example, the judge might sentence the defendant to pay a \$30 fine and serve one month in jail to be followed by a year of probation.

### CAN A SENTENCE BE CHANGED ONCE IT IS IMPOSED?

A sentence may be changed through one of several procedures:

1. A defendant might seek a sentence correction or reduction. If such a request is made, a hearing will be scheduled and the defendant must show good cause why the sentence should be changed.
2. A defendant may seek a sentence review. In such a case, the defendant will have to show that the sentence should be changed because it is disproportionate or inappropriate compared with sentences given for similar crimes.
3. A defendant may appeal a conviction, claiming that the procedure was unfair or improper. If the appeal is successful, the defendant will most likely be granted a new trial.

### VICTIMS RIGHTS

Victims of crimes are afforded numerous rights under Connecticut law. These wide-ranging rights include:

- *Notification:* The state's attorney shall notify any victim of an offense, if the victim has requested notification and has provided a current address, of any judicial proceedings relating to the case, including: arrest of the defendant, arraignment of the defendant, release of the defendant pending judicial proceedings, and other proceedings in the prosecution, including: entry of plea of guilty, trial, and sentencing.
- *Input:* Whenever a re-sentence investigation is required, the probation officer shall inquire into, among other things, the attitude of the complainant or victim, or of the

immediate family, where possible, in cases of homicide, and the damages suffered by the victim, including medical expenses, loss of earnings and property loss.

- *Testimony*: The court shall permit the victim of most serious felonies, his or her legal representative, or a member of the deceased victim's immediate family (1) to make an oral statement to the court or (2) to submit a written statement explaining the effects of the crime prior to the sentencing of the defendant or the acceptance by the court of a plea of guilty or a plea of nolo contendere (Latin for "I will not contest" the charges) made pursuant to a plea agreement. The victim's statement shall relate solely to the facts of the case and the extent of any injuries, financial loss and loss of earnings directly resulting from the crime.