

**BEYOND CRIMINAL COURTS**

## INTRODUCTION

# Background on Criminal Courts

In the United States, criminal law and criminal procedure first emerged in the context of settler colonialism, chattel slavery, and racial capitalism.



It might seem strange to illustrate criminal court like a machine. But for the last hundred years, clear eye observers of criminal court have often remarked that processes in court remind them of an assembly line inside of a factory. The kind of justice people receive is impersonal, hasty, and mechanical. Criminal court is often glorified as a kind of hallowed institution. We want to show it for what it is: a workplace, where prosecutors, judges, court officers and police officers work hard to criminalize and control other people, specifically Black, Indigenous, disabled, migrant, poor, trans, and queer people.

Throughout each step of a case, we'll present common expectations versus what really happens. For example, we're told that "justice" lies in the center of the criminal system. But at its core, the criminal court system is not about settling disputes or truth-telling. It is not a benign pathway from arrest to incarceration. The process itself can inflict serious harm, including on people seeking justice for harm done to them, and it exacerbates racial, economic, ableist and gender oppression, control, and exploitation. What it successfully achieves is surveilling, disciplining, and punishing people, without producing safety.

When we use the term criminal court, we refer to the legal institutions, processes, procedures, and

actors that are involved in the progression of criminal cases. In criminal cases, the government, not the person who says they were harmed, is prosecuting individuals or institutions based on a possible violation of criminal law. If the prosecution is successful, the person accused is convicted and punished.

Criminal court involves both criminal law (what is a crime) and criminal procedure (the rules of criminal court), and each state defines its own law and procedures. That means that there are at least 52 distinct criminal legal systems in the United States (50 states and the District of Columbia, plus the federal criminal system). They are all supposed to follow the U.S. Constitution as interpreted by the Supreme Court. There are some differences across states, but here we've focused on the key general features that are shared across state-level systems in the United States. We won't go into the federal system, but many of the steps of the path of a case are the same.

When we describe the path a case takes through the criminal punishment system, we're mostly talking about how the rules of criminal procedure are applied.



Many people think the rules of criminal procedure are designed to make the process fair: to help guarantee that each side gets their chance to make their case, and that the outcome is determined in a way that is objective.



At best, these rules give the appearance of fairness, but they don't really deliver. The rules are rigged in favor of the prosecution and against the person accused of a crime. We'll point out exactly how this happens as we go through each step of the case.

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colonialism, chattel slavery, and racial capitalism. Like police, the courts protected white property and conquest and secured racial dispossession. This is consistent throughout this country's history as well as today. As we go through each step in the path of the case, keep in mind the layers of oppression built into the laws, rules, processes, and procedures we're often told are objective, neutral, and fair.

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**Source:** <https://beyondcourts.org/en/story/background-criminal-courts>

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