

НАЦІОНАЛЬНА ЮРИДИЧНА АКАДЕМІЯ УКРАЇНИ
імені ЯРОСЛАВА МУДРОГО

**Посібник
з англійської мови
для студентів-юристів**

За загальною редакцією
професора *В. П. Сімонок*

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*Посібник підготовлено викладачами кафедри іноземних мов
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Посібник, призначений для самостійної роботи студентів-юристів, побудовано на оригінальному матеріалі, що знайомить їх із правовою системою США та Великої Британії. Поряд із вивченням основних положень англійської та американської законодавчих баз студенти засвоюють і мову оригіналу. Видання охоплює базовий лексичний мінімум.

Для студентів II-III курсів юридичних спеціальностей вищих навчальних закладів.

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ПЕРЕДМОВА

Пропонований посібник з англійської мови для студентів-юристів складено відповідно до навчальної програми з іноземних мов вищих навчальних закладів. Він призначений для студентів-юристів II-III курсів. Мета видання — навчити студентів за допомогою вправ та завдань оволодіти навичками читання та перекладу оригінальних англомовних текстів, а також засвоїти спеціальну лексику, пов'язану з різними галузями права.

Фахові тексти охоплюють історію виникнення та розвитку поліцейської системи у Сполучених Штатах Америки та Великій Британії, судоустрою та кримінального судочинства, криміналістики, ювенальної юстиції, пенітенціарних установ та окремих галузей цивільного права.

До кожного тексту надаються вправи на розуміння наведених лексичних одиниць. Тексти доповнюються поясненнями, що допоможуть подолати труднощі при перекладі.

Ефективність володіння спеціальною лексикою забезпечується її повторенням у межах як кожного окремого заняття, так і всього навчального посібника.

Unit 1

Classifications of Law

In order to understand many different aspects of law, it is helpful to look at various areas or classifications of law. Law is sometimes classified as substantive or procedural. The law that is used to actually decide disputes may be classified as substantive law. On the other hand, the legal procedures that provide how a lawsuit is begun, how the trial is conducted, how appeals are taken, and how a judgment is enforced are called procedural law. Substantive law is the part of the law that defines rights, and procedural law establishes the procedures whereby rights are enforced and protected. For example, A and B have entered into an agreement, and A claims that B has breached the agreement. The rules that provide for bringing B to court and for the conduct of the trial are rather mechanical and they constitute procedural law. Whether the agreement was enforceable and whether A is entitled to damages are matters of substance and would be determined on the basis of the substantive law of contracts.

Law is also frequently classified into areas of public and private law.

Public law includes those bodies of law that affect the public generally; private law includes the areas of the law that are concerned with the relationships between individuals.

Public law may be divided into 3 general categories:

(1) constitutional law which concerns itself with the rights, powers and duties of federal and state governments under the US Constitution and the constitutions of various states (2) administrative law, which is concerned with the multitude of administrative agencies, such as the Interstate Commerce Commission, the Federal Trade Commission, and the National Labor Relations Board; and (3) criminal law, which consists of statutes that forbid certain conduct as being detrimental to the welfare of the state or the people generally and provides punishment for their violation.

Private law is that body of law that pertains to the relationships between individuals in an organized society. Private law encompasses the subject of contracts, torts and property. Each of these subjects includes several bodies of law. For example, the law of contracts may

be subdivided into the subjects of sales, commercial paper, agency and business organizations.

The law of torts is the primary source of litigation in their country and is also a part of the total body of law in such areas, as agency and sales. A tort is a wrong committed by one person against another or his property. The law of torts is predicated upon the premise that in a civilized society people who injure other persons or their property should compensate them for their loss. The law of property may be thought of as a branch of the law of contracts, but in many ways our concept of private property contains much more than the contract characteristics. Property is the basic ingredient in our economic system, and the subject matter may be subdivided into several areas, such as wills, trusts, estates in land, personal property, bailments and many more.

Notes

1. substantive law — субстантивне право (стосується суті, а не форми)
2. procedural law — процесуальне право
3. to decide disputes — вирішувати спори
4. lawsuit — судова справа, процес, позов
5. to enforce a judgment — забезпечити виконання судового рішення
6. to enter into an agreement — укласти договір (угоду)
7. to breach an agreement — розірвати договір (угоду)
8. enforceable agreement — договір, забезпечений правовою санкцією
9. to be concerned with smth. — займатися, торкатися чогонебудь
10. tort — делікт, цивільне правопорушення
11. litigation — позов, судовий процес
12. Interstate Commerce Commission — комісія з торгівлі між штатами
13. Federal Trade Commission — федеральна комісія з торгівлі
14. Labor Relations Board — правління (комісія) з трудових відносин

Exercises

1) *Fill in the blanks by the words and expressions from the text above:*

1. Law is sometimes classified as...

2. Substantive law is the part of the law that...
3. Procedural law establishes...
4. Public law may be divided into 3 general categories, such as...
5. Private law pertains to...
6. The law of contracts may be subdivided into...
7. A tort is a wrong...
8. Property is the basic ingredient...

2) Match the following noun phrases with their Ukrainian equivalents:

- | | |
|--------------------------------------|--------------------------------------|
| 1. substantive law | 1. конституційне право |
| 2. procedural law | 2. кримінальне право |
| 3. Public law | 3. закон про цивільні правопорушення |
| 4. private law | 4. процесуальне право |
| 5. constitutional law | 5. сукупність правових норм |
| 6. administrative law | 6. публічне право |
| 7. criminal law | 7. приватне право |
| 8. welfare of the state | 8. закон про майно |
| 9. relationships between individuals | 9. субстантивне право |
| 10. Bodies of law | 10. відносини між особами |
| 11. the law of torts | 11. адміністративне право |
| 12. the law of property | 12. добробут країни |
| 13. Federal government | 13. уряд штату |
| 14. state government | 14. федеральний уряд |

3) Match the following verb phrases with their Ukrainian equivalents:

- | | |
|--------------------------|---|
| 1. to decide disputes | 1. завдавати шкоду особам |
| 2. to begin a lawsuit | 2. забезпечити виконання судового рішення |
| 3. to conduct a trial | 3. захищати права |
| 4. to enforce a judgment | 4. забороняти певну поведінку |
| 5. to define rights | 5. вчинити протиправну дію |
| 6. to protect rights | 6. компенсувати витрати |

- | | |
|--------------------------------|---------------------------------|
| 7. to enforce an agreement | 7. вирішувати спори |
| 8. to affect the public | 8. визначити права |
| 9. to forbid certain conduct | 9. починати судову справу |
| 10. to provide punishment | 10. впливати на суспільство |
| 11. to commit a wrong | 11. забезпечити виконання угоди |
| 12. to injure persons | 12. вести судовий процес |
| 13. to compensate for the loss | 13. передбачити покарання |

4) Translate the following words and word combinations:

aspects of law; areas of law; enforceable agreement; bodies of law; general categories; rights, powers and duties of the government; federal law; state law; multitude of administrative agencies; detrimental to the welfare of the state or the people; punishment for violation; organized society; primary source of litigation; contract characteristics; basic ingredient.

5) Give English equivalents for the following words and word combinations:

право; субстантивне право; процесуальне право; публічне право; приватне право; конституційне право; адміністративне право; кримінальне право; сукупність правових норм; суб'єкти продажу; комерційні папери; закон про делікти; закон про договори (контракти); приватне майно; заповіт; доручення.

6) Find answers to the following questions in the text above:

1. What is substantive law?
2. What do we call procedural law?
3. What is the difference between public and private law?
4. What does constitutional law concern itself with?
5. What is administrative law concerned with?
6. What does criminal law consist of?
7. What does private law encompass?
8. What is a tort?

7) Read the following sentences and decide if they are true or false:

1. Law is always classified as substantive or procedural law.
2. Procedural law establishes the procedures whereby rights are enforced and protected.

3. The legal procedures that provide how a lawsuit is begun, how the trial is conducted and how appeals are taken, are called substantive law.
4. Public law includes those bodies of law that affect the public generally.
5. The areas of the law concerned with the relationships between individuals in an organized society are included into private law.
6. Private law encompasses the subjects of contracts, torts and property.
7. A wrong committed by one person against another or his property is called a tort.
8. In a civilized society people who injure other persons or their property should compensate them for their loss.

Unit 2

Sources of Law

The unique characteristic of American law is that a very substantial part of it is not to be found in statutes enacted by legislatures but rather in cases decided by the courts.

The concept of decided cases as a source of law comes to us from England. It is generally referred to as the common law. Common law system of heavy reliance on case precedent as a source of law must be contrasted with civil law systems, which developed in the countries on European continent. Those countries have codified their laws — reduced them to statutes — so that the main source of law in those countries is to be found in the statutes rather than in the cases.

Under the common law system there is a large number of statutes, but these are only a part of the law. The statutes must be in keeping with the constitutions — federal and state — and the courts can overrule a statute that is found to violate constitutional provisions.

Statutes and constitutions are classified as «written law». Also included under this heading are treaties that by the federal constitution are also a part of the supreme law of the land. Case law, as opposed to written law, is not set forth formally but is derived from an analysis of each case that uncovers what legal propositions the case stands for. It is not proper to call this «unwritten» law because it is in fact in writing. However, it must be distinguished from statutory law in that it is not the product of the legislature but is rather the product of the courts. When a court decides a case, particularly upon an appeal from a lower-court decision, the court writes an opinion setting forth among other things the reasons for its decision. From these written opinions rules of law can be deduced and these make up the body of what is called case law or common law. The basic characteristic of the common law is that a case once decided establishes a precedent that will be followed by the courts when similar controversies are later presented.

A third source of law is administrative law. Federal, state and local administrative agencies make law by promulgating rules and regulations as well as by making decisions concerning matters under their jurisdiction.

In summary, the law comes from written laws such as constitutions, statutes, ordinances and treaties; from case law, which is based on judicial decisions; and from the rules and decisions of administrative agencies.

Notes

1. statute — статут, закон, законодавчий акт
2. legislature — законодавчий орган, влада
3. common law — загальне право
4. to be contrasted with — протиставитися
5. to be in keeping with — бути відповідним
6. to overrule a statute — скасовувати закон (статут)
7. case law — прецедентне право
8. statutory law — статутне право (яке відображено у законодавчих актах)
9. to write an opinion — писати висновок
10. lower-court decision — рішення нижчого суду

Exercises

1) *Fill in the blanks from the text above:*

1. A very substantial part of American law is not be found in statutes enacted by legislatures but rather...
2. Common law system must be contrasted with...
3. The statutes must be in keeping with...
4. As opposed to written law case law is...
5. A case once decided...
6. A third source of law is...
7. In summary, the law comes from...

2) *Match the following noun phrases with their Ukrainian equivalents:*

- | | |
|-----------------------|----------------------------|
| 1. Case law | 1. цивільне право |
| 2. written law | 2. загальне право |
| 3. administrative law | 3. джерело права |
| 4. common law | 4. прецедентне право |
| 5. substantial part | 5. повна довіра |
| 6. a source of law | 6. суттєва частина |
| 7. Civil law | 7. конституційні положення |

- | | |
|--------------------------------|--------------------------------|
| 8. statutory law | 8. вищий закон держави |
| 9. heavy reliance | 9. подібні спори |
| 10. constitutional provisions | 10. писане право |
| 11. supreme law of the land | 11. судові рішення |
| 12. product of the legislature | 12. статутне право |
| 13. similar controversies | 13. адміністративні органи |
| 14. judicial decision | 14. продукт законодавчої влади |
| 15. administrative agencies | 15. адміністративне право |

3) *Match the following verb phrases with their Ukrainian equivalents:*

- | | |
|--------------------------------|-------------------------------------|
| 1. to enact a statute | 1. вирішувати справу |
| 2. to decide a case | 2. написати висновок |
| 3. to codify laws | 3. установити прецедент |
| 4. to be in keeping with smth. | 4. обнародувати норми |
| 5. to overrule a statute | 5. кодифікувати закони |
| 6. to violate provisions | 6. відхилити закон |
| 7. to set forth | 7. скласти основу |
| 8. to be derived from | 8. представляти спори |
| 9. to be distinguished from | 9. приймати закон (статут) |
| 10. to write an opinion | 10. відрізнитися від |
| 11. to make up the body | 11. приймати рішення |
| 12. to establish a precedent | 12. бути відповідним до чого-небудь |
| 13. to present controversies | 13. порушувати положення |
| 14. to promulgate rules | 14. формулювати |
| 15. to make decisions | 15. походити від |

4) *Find answers to the following questions in the text above:*

1. What is the unique characteristic of American law?
2. Where does the concept of decided cases as a source of law come from?
3. What have the countries on European continent codified?
4. What must the statutes be in keeping with under the common law system?

5. What is the difference between case law and statutory law?
6. What is the basic characteristic of the common law?
7. What is the third source of law?

5) *Translate the following words and word combinations:*

substantial part; source of law; common law; written law; case law; unwritten law; statutory law; administrative law; legal provisions; constitutional provisions; statutes and constitutions; state constitution; federal constitution; court opinion; judicial decision; rules and regulations.

6) *Give English equivalents for the following words and word combinations:*

джерело права; загальне право; прецедентне право; статутне право; писане право; вирішувати справу; судові рішення; рішення нижчого суду; встановлювати прецедент; федеральні та місцеві органи; обнародувати норми та положення; статuti, ордонанси та договори; писати висновок.

7) *Ask questions to get the following answers:*

1. Common law system as a source of law must be contrasted with civil law system.
2. The courts can overrule a statute that is found to violate constitutional provisions.
3. Statutes and constitutions are classified as written law.
4. Case law is derived from an analysis of each case that uncovers what legal provisions the case stands for.
5. When a court decides a case, it writes an opinion setting forth the reasons for its decision.

Unit 3

The Basis of American Statehood

The Constitution of the United States is the central instrument of American government and the supreme law of the land.

For 200 years, it has guided the evolution of governmental institutions and has provided the basis for political stability, individual freedom, economic growth and social progress.

The American Constitution is the world's oldest written constitution in force, one that has served as the model for a number of other constitutions around the world. The path to the Constitution was neither straight nor easy. A draft document emerged in 1787, but only after intense debate and six years of experience with an earlier federal union.

The 13 British colonies declared their independence from England in 1776. A year before, war had broken out between the colonies and Great Britain, a war for independence that lasted for six bitter years. While still at war, the colonies — now calling themselves the United States of America — drafted a compact which bound them together as a nation. The compact, designated the «Articles of Confederation and Perpetual Union», was adopted by the Congress of the states in 1777 and formally signed in July 1777. In February 1787 the Continental Congress, the legislative body of the republic, issued a call for the states to send delegates to Philadelphia to revise the Articles. The Constitutional or Federal Convention convened on May 25, 1787 in Independence Hall, where the Declaration of Independence had been adopted 11 years earlier on July 4, 1776. Although the delegates had been authorized only to amend the Articles of Confederation, they pushed the Articles aside and proceeded to construct a charter for a wholly new, more centralized form of government.

The new document, the Constitution, was completed on September 17, 1787, and was officially adopted on March 4, 1789. The 55 delegates who drafted the Constitution, included most of the outstanding leaders, or Founding Fathers, of the new nation. All agreed on the central objectives expressed in the preamble to the Constitution: «We the people of the United States in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the

blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America».

Notes

1. statehood — державність
2. government — уряд, держава, влада, управління
3. constitution in force — чинна конституція
4. draft — проект
5. to bind — зв'язати, об'єднати
6. to issue a call — звернутися з закликом
7. to amend — вносити поправки
8. to push aside — відкинути
9. blessings — благословіння
10. posterity — нащадки
11. neither...nor — ні...ні

Exercises

1) *Fill in the blanks with the words and expressions from the box:*
model; statehood; debate; delegates; independence; constitution;
Founding Fathers; experience; a draft document; the legislative
body; the outstanding leaders

1. The basis of the American ... and the supreme law of the land is...
2. The American Constitution has served as the...for a number of other constitutions around the world.
3. After intense ... and six years of ...with an earlier federal union ... emerged in 1787.
4. In 1776 the 17 British colonies declared their... from England.
5. In February 1787 the Continental Congress... of the republic issued a call for the states to send ...to Philadelphia.
6. The 55 delegates who drafted the Constitution, included most of the ...or... of the new nation.

2) *Match the following noun phrases with their Ukrainian equivalents:*

- | | |
|------------------------|--------------------------|
| 1. supreme law | 1. форма управління |
| 2. political stability | 2. війна за незалежність |
| 3. economic growth | 3. головні цілі |
| 4. social progress | 4. законодавчий орган |
| 5. Central instrument | 5. загальний добробут |

- | | |
|----------------------------------|---------------------------------|
| 6. constitution in force | 6. політична стабільність |
| 7. war for independence | 7. економічне зростання |
| 8. perpetual union | 8. головний інструмент |
| 9. legislative body | 9. вищий закон |
| 10. declaration of independence | 10. преамбула конституції |
| 11. form of government | 11. соціальний прогрес |
| 12. Founding Fathers | 12. чинна конституція |
| 13. Central objectives | 13. декларація про незалежність |
| 14. preamble to the Constitution | 14. вічний союз |
| 15. general welfare | 15. батьки-засновники |

3) *Match the following verb phrases with their Ukrainian equivalents:*

- | | |
|----------------------------|----------------------------------|
| 1. to provide the basis | 1. підписати договір |
| 2. to serve as the model | 2. внести поправки до статей |
| 3. to declare independence | 3. звернутися з закликом |
| 4. to break out the war | 4. розпочати війну |
| 5. to draft a compact | 5. прийняти документ |
| 6. to issue a call | 6. забезпечити основу |
| 7. to sign a compact | 7. внести поправки до договору |
| 8. to adopt a document | 8. забезпечити спокій |
| 9. to amend the articles | 9. служити зразком |
| 10. to construct a charter | 10. проголосити незалежність |
| 11. to form a union | 11. формувати союз |
| 12. to establish a justice | 12. встановлювати справедливість |
| 13. to issue tranquility | 13. скласти статут |

4) *Find answers to the following questions in the text above:*

1. What is the central instrument of American government?
2. The American Constitution is the world's oldest written constitution in force, isn't it?
3. Was the path to the Constitution straight and easy?

4. When did the 13 British colonies declare their independence from England?
5. How long did the war for independence between the colonies and Great Britain last?
6. What kind of document did the colonies calling themselves the United States of America draft?
7. What central objectives are expressed in the preamble to the Constitution?

5) *Translate the following words and word combinations:*

the basis of statehood; supreme law; central instrument of government; evolution of governmental institutions; more centralized form of government; individual freedom; Articles of Confederation and Perpetual Union; the Continental Congress; Constitutional or Federal Convention; the Declaration of Independence; Independence Hall; most of the outstanding leaders; neither straight nor easy path.

6) *Give English equivalents for the following words and word combinations:*

чинна конституція; проект конституції; федеральний союз; політична стабільність; соціальний прогрес; гіркі роки; законодавчий орган; направити делегатів; створити більш централізовану форму управління; прийняти новий документ; внести поправки до статей Конфедерації; відкинути статті Конфедерації; погодитися з головними цілями; преамбула конституції.

7) *Read the following sentences and decide if they are true or false:*

1. The American Constitution provides the basis for political stability, individual freedom, economic growth and social progress.
2. The American Constitution is the world's oldest written constitution in force
3. The American Constitution has served as the model for a number of other constitutions around the world.
4. The path to the Constitution was straight and easy.
5. The Constitutional or Federal Convention convened on May 25, 1787 in Independence Hall, where the declaration of Independence had been adopted.
6. The American Constitution was officially adopted on May 4, 1789.
7. The 55 delegates including Founding Fathers of the new nation drafted the Constitution.

Unit 4

The Constitution as Supreme Law

The Constitution of the United States and the constitutions of the various states are the fundamental written law in those countries. The federal law must not violate the U.S. Constitution. All state laws must conform to or be in harmony with the federal Constitution as well as with the constitution of the state.

The U.S. Constitution is the basic document that gives authority to criminal justice agencies. It also sets the outer limits to their efforts, making sure that the system of crime control fits the form of government. All of the provisions of the Constitution apply to criminal control, though a number of amendments are system-specific. For instance, the Fourth Amendment prohibits illegal searches and seizures of evidence; the Fifth prevents self-incrimination during questioning; the Sixth guarantees the rights to jury trial; the Eighth provides for reasonable bail and prohibits cruel and unusual punishment; and the Fourteenth prevents from depriving anyone of liberty without due process of law.

Two very important principles of constitutional law are basic to the American judicial system. They are closely related to each other and known as the doctrine of separation of powers and the doctrine of judicial review.

The doctrine of separation of powers results from the fact that both state and federal constitutions provide for a scheme of government consisting of three branches — the legislative, the executive and the judicial. Separation of powers ascribes to each branch a separate function and a check and balance of the functions of the other branches. The doctrine of separation of powers infers that each separate branch will not perform the function of the other and that each branch is summarized as follows: the Senate retains the power to approve key executive and judicial appointments. The legislative branch exercises control through its powers to appropriate funds.

In addition, Congress can limit or expand the authority of the executive branch or the jurisdiction of the judicial branch in most cases. The executive has the powers to appoint judges (in some states the judiciary is elected). The judiciary has the powers to review ac-

tions of the executive and to review laws passed by the legislative branch to determine if such laws are constitutional.

The doctrine of judicial review is the heart of the concept of separation of powers. This doctrine and the doctrine of supremacy of the Constitution were established at an early date of the American history.

Notes

1. to violate the law — порушувати закон
2. to conform to smth. — відповідати чому-то
3. to be in harmony with — бути співзвучним з
4. criminal justice — кримінальне правосуддя
5. to give authority to — надавати повноваження
6. to fit smth. — відповідати чому-то
7. jury trial — суд присяжних
8. bail — застава
9. as well as — а також

Exercises

1) *Fill in the blanks from the text above:*

1. The Constitution of the United States is the fundamental written... of the country.
2. The federal law must not...the US Constitution.
3. The US Constitution gives authority to... ..
4. Two very important principles of constitutional law are basis to the American... ..
5. A scheme of government consists of three branches —
6. The Senate retains the power to approve key... and...appointments.
7. The executive has powers to
8. The judiciary has the powers to review...of the executive and to review ... passed by the to determine if such ... are ...

2) *Find answers to the following questions in the text above:*

1. What is the fundamental written law of the United States?
2. What does the US Constitution give authority to?
3. What are the examples of specific amendments to the US Constitution?
4. What are two very important principles of constitutional law basic to the American judicial system?

5. How many branches does a scheme of government consist of?
6. What does the doctrine of separation of powers infer?
7. What kind of power does the Senate retain?
8. What does the legislative branch exercise?
9. What is the power of the judiciary?

3) *Match the following noun phrases with their Ukrainian equivalents:*

- | | |
|--------------------------------------|-------------------------------|
| 1. supreme law | 1. закон штату |
| 2. Federal law | 2. суд присяжних |
| 3. state law | 3. судова система |
| 4. criminal justice | 4. обґрунтована застава |
| 5. searches and seizures of evidence | 5. жорстоке покарання |
| 6. self-incrimination | 6. федеральний закон |
| 7. jury trial | 7. розподіл повноважень |
| 8. reasonable bail | 8. кримінальне правосуддя |
| 9. cruel punishment | 9. обшук та вилучення доказів |
| 10. judicial system | 10. вищий закон |
| 11. separation of powers | 11. самообвинувачення |
| 12. judicial review | 12. законодавча гілка |
| 13. judicial branch | 13. судовий перегляд |
| 14. legislative branch | 14. виконавча гілка |
| 15. executive branch | 15. судова гілка |

4) *Match the following verb phrases with their Ukrainian equivalents:*

- | | |
|-----------------------------------|----------------------------------|
| 1. to violate the law | 1. виконувати функції |
| 2. to be in harmony with | 2. забороняти жорстоке покарання |
| 3. to give authority to | 3. бути співзвучним з |
| 4. to set limits to | 4. порушувати закон |
| 5. to fit the form of government | 5. приймати закон |
| 6. to provide for reasonable bail | 6. надавати повноваження |

7. to prohibit cruel punishment	7. встановлювати межі
8. to be related to each other	8. забезпечувати обгрунтовану заставу
9. to result from the fact	9. переглядати дії
10. to consist of 3 branches	10. відповідати формі правління
11. to perform the functions	11. призначати суддів
12. to approve appointments	12. бути відносним один одного
13. to exercise control	13. впливати з факту
14. to appoint judges	14. здійснювати контроль
15. to pass laws	15. схвалювати призначення
16. to review actions	16. складатися з 3 гілок влади

5) *Translate the following words and word combinations:*

intense debate; to draft a compact; criminal justice agencies; crime control; system-specific amendments; self-incrimination; to question a person; to deprive smb. of liberty; separation of powers; judicial review; separate function; to summarize; appropriate funds; in addition; key executive and judicial appointments; to limit the authority; jurisdiction of the judicial branch; the heart of the concept.

6) *Give English equivalents for the following words and word combinations:*

поділ влади; судовий перегляд; судова система; кримінальне правосуддя; форма правління; незаконний обшук та вилучення доказів; самообвинувачення; порушувати конституцію; конституція штату; федеральна конституція; законодавча (виконавча, судова) влада; призначати суддів; приймати закони; верховенство конституції; основа концепції поділу влади.

7) *Ask questions to get the following answers:*

1. The federal law must not violate the US Constitution.
2. The Fifth Amendment presents self-incrimination during questioning.
3. The Sixth Amendment guarantees the right to jury trial.
4. The Eighth prohibits cruel and unusual punishment.
5. Two basic principles of American constitutional law are the doctrine of separation of powers and the doctrine of judicial review.
6. The doctrine of supremacy of the Constitution was established at an early date of American history.

Unit 5

Contract Law

Contract law is perhaps the most basic area of civil law. Every transaction, be it oral or written, for the purchase or sale of goods, land or intangible personal property, involves principles of contract law.

Contract law is the foundation upon which other areas of law are built. For example, suppose that two persons want to establish a business. Whether they propose a partnership, a corporation or any other type of organization, their venture involves principles of contract law. If employees are to be hired, any agreement between employer and employees involves contract law.

The business must operate from premises and use of machinery and equipment, and each of these necessities may be purchased or perhaps leased. Either way, principles of contract law apply. When the organization begins transacting business it must purchase raw materials, and those purchases involve contract law. After the raw materials are processed into products, the manufacturer's sales to wholesalers, wholesalers' subsequent sales to retailers, and retailers' sales to consumers are all controlled by principles of contract law.

Notes

1. transaction — угода
2. intangible personal property — нематеріальне особисте майно (яке виражено у правах)
3. venture — підприємство
4. employee — робітник
5. employer — наймач
6. purchase — купівля
7. sale — продаж
8. whether...(conj.) — чи

Exercises

1) *Fill in the blanks by words from the text above:*

1. Contract law is perhaps the most basic...of civil law.
2. Every ... involves principles of contract law.
3. Contract law is the ...upon which other areas of law are built.

4. If employees are hired, any ...between employer and employees involves... .
5. When the organization begins... .., premises, machinery, equipment and raw materials may be... or... .

2) Match the following noun phrases with their Ukrainian equivalents:

- | | |
|---------------------------------|---------------------------------|
| 1. contract law | 1. угода |
| 2. civil law | 2. купівля товарів |
| 3. transaction | 3. нематеріальне особисте майно |
| 4. purchase of goods | 4. сировина |
| 5. sale of goods | 5. договірне право |
| 6. intangible personal property | 6. продаж товарів |
| 7. basic area | 7. головна галузь |
| 8. raw materials | 8. покупець |
| 9. manufacturer | 9. оптовик |
| 10. wholesaler | 10. роздрібник |
| 11. retailer | 11. виробник |
| 12. consumer | 12. угода між сторонами |
| 13. agreement between parties | 13. цивільне право |

3) Match the following verb phrases with their Ukrainian equivalents:

- | | |
|----------------------------------|-------------------------------|
| 1. to involve principles | 1. пропонувати партнерство |
| 2. to build areas of law | 2. орендувати приміщення |
| 3. to establish a business | 3. розбудовувати галузі права |
| 4. to propose a partnership | 4. придбавати обладнання |
| 5. to hire an employee | 5. застосовувати принципи |
| 6. to propose a corporation | 6. найняти робітника |
| 7. to purchase equipment | 7. розпочинати бізнес |
| 8. to apply principles | 8. купувати продукцію |
| 9. to begin transacting business | 9. залучати договірне право |
| 10. to purchase products | 10. контролювати продаж |

- | | |
|-----------------------------|---------------------------------------|
| 11. to control sales | 11. включати принципи |
| 12. to involve contract law | 12. розпочинати ділову угоду |
| 13. to lease premises | 13. пропонувати акціонерне товариство |

4) Answer the following questions:

1. What is the most basic area of civil law?
2. What may be the form of any transaction?
3. What is the foundation upon which other areas of law are built?
4. What does every transaction involve?
5. What must the organization do when it begins transacting business?
6. What do the principles of contract law control after the raw materials are processed into products?

5) Translate the following words and word combinations:

civil law; contract law; basic area of civil law; oral transaction; written transaction; purchase or sale of goods; venture; agreement between employees and employers; manufacturers; wholesalers; retailers; consumers; raw materials.

6) Give English equivalents for the following words and word combinations:

цивільне право; кримінальне право; договірне право; договір (угода); нематеріальне особисте майно; партнер; партнерство; підприємство; організація; акціонерне товариство; робітник; найняти робітника; розпочинати ділову угоду; купувати сировину, обладнання; орендувати приміщення; виробляти продукцію.

7) Complete the following sentences by translating the words and expressions in brackets:

1. Contract law is the most basic area of (цивільного права).
2. Every oral or written transaction involves principles of (договірного права).
3. Two persons propose a partnership, a corporation or any other type of organization when they want to (розпочати бізнес).
4. If employer wants to (найняти робітників), the agreement between them (застосовує принципи договірного права).
5. When the organization begins its transacting business it must (орендувати приміщення, придбавати сировину та обладнання).
6. The manufacturer's sales are controlled by principles of contract law after (сіровина перетворюється на продукцію).

Unit 6

Sources of Contract Law

Contract law stems from case law, the Uniform Commercial Code, and other state statutes. As noted in Chapter I all states have adopted the UCC except Louisiana, which has enacted only those parts of the UCC that do not conflict with its variation of the Napoleonic Code.

The common law governs some contract transactions or parts of them, while the Uniform Commercial Code governs others. If the contract involves the sale of land or the sale of services, traditional common-law rules will normally apply unless some specific state statutory law pertains to that transaction. If the transaction involves the sale of personal property, then any applicable provisions of the UCC will supersede the common-law rules.

The sale of land or services in transactions not covered by any specific state statutory law normally will be covered by the general contract rules summarized by the Restatement of Contracts. This Restatement is a treatise prepared by the American Law Institute. This Restatement is presented in an encyclopedia-like form, and gives the generally accepted rules of law on specific topics.

The Restatement is not the actual law, only a reference to the generally applied rules.

When confronted with new or difficult questions, or when prior cases have reached differing results, courts frequently use textbooks and law review articles. Such sources are not themselves the law, but they can assist a court in seeing the issues involved.

Notes

1. to stem from — походити від
2. the Uniform Commercial Code — Одноманітний Торговельний Кодекс
3. the Napoleonic Code — Кодекс Наполеона
4. common law rules — норми загального права
5. normally — звичайно
6. the Restatement of Contracts — Звід угод
7. treatise — науковий трактат

Exercises

1) *Fill in the blanks by words from the text above:*

1. Contract law stems from... ..., the, and other state statutes.
2. The common law governs someor parts of them, while thegoverns others.
3. This Restatement of ... is a ...prepared by the American... ..
4. The Restatement is not the actual law, only a ... to the generally applied rules.
5. Textbooks and law review articles are not themselves the law, but they can assist a ... in seeing the issues involved.

2) *Match the following noun phrases with their Ukrainian equivalents:*

- | | |
|----------------------------------|--------------------------------------|
| 1. statutory law | 1. особисте майно |
| 2. the Uniform Commercial Code | 2. загальне право |
| 3. law review articles | 3. попередні справи |
| 4. contract law | 4. продаж землі |
| 5. common law | 5. Звід угод (контрактів) |
| 6. the Napoleonic Code | 6. договірне право |
| 7. the sale of land | 7. конкретні питання |
| 8. the sale of services | 8. Кодекс Наполеона |
| 9. common-law rules | 9. продаж послуг |
| 10. personal property | 10. джерела договірної права |
| 11. transaction | 11. норми загального права |
| 12. the Restatement of Contracts | 12. угода |
| 13. specific topics | 13. Одноманітний Торговельний Кодекс |
| 14. difficult questions | 14. важкі питання |
| 15. sources of common law | 15. прецедентне право |
| 16. case law | 16. огляд правових статей |
| 17. prior cases | 17. статутне право |

3) Match the following verb phrases with their Ukrainian equivalents:

- | | |
|--|-------------------------------|
| 1. to stem from | 1. допомагати суду |
| 2. to adopt the UCC | 2. досягти результатів |
| 3. to conflict with | 3. походити від |
| 4. to apply rules | 4. бути представленим у |
| 5. to supersede | 5. прийняти ОТК |
| 6. to prepare a treatise | 6. суперечити |
| 7. to confront with questions | 7. застосовувати норми |
| 8. to present the Restatement of Contracts | 8. відмічати у |
| 9. to reach results | 9. використовувати підручники |
| 10. to use textbooks | 10. стикатися з питаннями |
| 11. to assist a court | 11. готувати науковий трактат |
| 12. to see issues | 12. замінити |
| 13. to be presented in | 13. підходити до |
| 14. to note in | 14. представляти Звід угод |
| 15. to pertain to | 15. розглядати питання |

4) Answer the following questions:

1. What does contract law stem from?
2. What is noted in Chapter I?
3. What does the common law govern?
4. In what case will common-law rules normally apply?
5. When will applicable provisions of the UCC supersede the common-law rules?
6. What is the Restatement of Contracts?
7. In what form are these Restatements presented?
8. Are the Restatements the actual law?
9. When do courts use textbooks and law review articles?
10. How can they assist a court?

5) Translate the following words and word combinations:

sources of contract law; the Uniform Commercial Code (UCC); common law; contract transactions; the sale of land; the sale of services; personal property; traditional common-law rules; applicable

provisions of the UCC; to apply common-law rules; to supersede the common-law rules; the Restatement of Contracts; to prepare a treatise; to give the generally accepted rules of law; to confront with a difficult question; to see the issues; to assist a court.

6) Give English equivalents for the following words and word combinations:

джерела договірної права; Одноманітний Торговельний Кодекс; прийняти закони штату; готувати науковий трактат; стикатися з важкими питаннями; допомагати судам; досягти протилежних результатів; бути поданим у формі енциклопедії; прецедентне право; загальне право; статутне право.

7) Read the following sentences and decide if they are true or false:

1. Contract law stems only from case law.
2. According to Chapter I all states have adopted the Uniform Commercial Code.
3. If the contract involves the sale of lands or the sale of services, traditional common-law rules will normally apply.
4. This Restatement of Contracts is a treatise prepared by the American Law Institute.
5. The Restatements give the generally accepted rules of law on specific topics.
6. Textbooks and law review articles are not themselves the law.

Unit 7

Definition of a Contract

The term contract has been defined in many ways by writers of legal texts and treaties and by judges in court decisions. While most definitions are sound, the prominence of the contract in our everyday life underscores our need for a simple uniform definition. The Uniform Commercial Code defines a contract as the «total legal obligation which results from the parties' agreement as affected by this Act and any other applicable rules of law.» The Uniform Commercial Code (UCC) defines an agreement as «the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in the Act.

Whether an agreement has legal consequences it is determined by the provisions of this Act if applicable otherwise by the law of contracts.

The agreement is simply the bargain agreed upon by the parties. It may or may not create legal obligations against the parties depending on the terms of the bargain and the applicable law.

For example, a promise between two friends to meet and to go to the movies constitutes an agreement since both parties agreed to meet at a certain time and place. However, the obligations created are only social and not legally enforceable as a contract. An agreement need not be in writing and signed by the parties. It can be oral; it can even implied from nonverbal actions of the parties. Oral contracts are fully enforceable, unless terms of the oral agreement conflict with the provisions of the Statute of Frauds. The Statute of Frauds requires that certain types of contracts be proved by a signed writing.

Notes

1. prominence — особливість
2. to underscore the need — підкреслювати потребу
3. bargain — угода
4. the course of dealing — звичайна практика ведення ділових операцій
5. to be legally enforceable — бути забезпеченим правовою санкцією
6. Statute of Frauds — закон про шахрайство

Exercises

1) *Fill in the blanks by words from the text above:*

1. The term «contract» has been defined in legal ... and ... and in
2. The prominence of the contract in our everyday life underscores our need for a simple, uniform
3. The agreement is simply the ... agreed upon by the parties.
4. The agreement may or may not create legal ... against the parties.
5. An agreement need not be in ... and signed by the
6. Certain types of contracts must be proved by a signed ... according to the ... of

2) *Match the words from the left and the right columns according to the meaning:*

sound	a contract
simple	definition
Court	law
definition of	decisions
Commercial	Code
bargain of	texts
certain	obligations
Terms of	dealing
Legal	bargain
Rules of	time
course of	consequences
	parties

правові тексти; судові рішення; визначення контракту; правові зобов'язання; просте визначення; норми права; Одноманітний Торговельний Кодекс; практика ведення ділових операцій; правові наслідки; договір сторін; умови договору; визначений час; переконливе визначення.

3) *Match the following verb phrases with their Ukrainian equivalents:*

- | | |
|------------------------------------|--------------------------|
| 1. to underscore the need | 1. визначати угоду |
| 2. to define an agreement | 2. становити угоду |
| 3. to determine legal consequences | 3. підписати угоду |
| 4. to create legal obligations | 4. суперечити положенням |

- | | |
|---|--|
| 5. to depend on the terms of the bargain | 5. впливати з угоди сторін |
| 6. to go to the movies | 6. встановлювати правові наслідки |
| 7. to constitute an agreement | 7. погодитись зустрітись у певному місці |
| 8. to conflict with the provisions | 8. створювати правозобов'язання |
| 9. to agree to meet at a certain place | 9. підкреслювати потребу |
| 10. to result from the parties' agreement | 10. піти до кіно |
| 11. to sign an agreement | 11. залежати від умов договору |

4) *Answer the following questions:*

1. Where has the term «contract» been defined?
2. What is the definition of a contract in the Uniform Commercial Code?
3. Are the obligations created between friends to meet and to go to the movies social or legally enforceable?
4. Can the agreement be oral or in writing?
5. What does the Statute of Frauds require?

5) *Translate the following words and word combinations:*

definition of a contract; a sound definition; a simple, uniform definition; everyday life; prominence of the contract; total legal obligation; the parties' agreement; applicable rules of law; the bargain of parties; other circumstances; usage of trade; law of contracts; legal consequences; applicable law; social obligations; legally enforceable obligations; oral agreement; written agreement; nonverbal actions.

6) *Complete the following sentences by translating the words and expressions in brackets:*

1. The term «contract» has been defined by (авторами) of legal texts and (наукових контрактів) and by (судьями) in court.
2. The prominence of the contract in our (повсякденному житті) underscores our need for a simple, uniform (визначення).

3. The agreement is simply the (договір) agreed upon by the (сторонами).
4. The agreement may or may not create (правові зобов'язання) against the parties depending on the (умов угоди) and the applicable (закону).
5. The social agreement need not be in (письмовій формі) and (підписаний сторонами).
6. The agreement can even be implied from nonverbal (дій сторін).
7. The Statute of Frauds requires that (певні типи контрактів) be proved by a signed writing.

7) *Using the words in the brackets ask questions to get the following answers:*

1. The prominence of the contract in our everyday life underscores our need for a simple, uniform definition (What).
2. The Uniform Commercial Code defines an agreement as «the bargain of the parties» in fact as found in their language or by implication from other circumstances as provided in the Act (What document).
3. A promise between two friends to meet and to go to the movies constitutes an agreement since both parties agreed to meet at a certain time and place (Why).
4. The obligations created between two friends to go to the movies are social but not legally enforceable as a contract. (What kind of obligations).
5. Oral contracts are fully enforceable unless terms of the oral agreement conflict with the provisions of the Statute of Frauds (When).

Unit 8

Basic Requirements of a Valid Contract

To be fully valid and enforceable, a contract requires four and sometimes five essential elements:

That an agreement be made between the parties. To have such an agreement, there must be an offer and acceptance.

The person making an offer is the offeror and the person to whom the offer is made is the offeree. Various legal rules govern what constitutes an offer; when and how long an offer is effective; if an offer can be revoked and if so, when; when an acceptance takes place; and what happens if there is a counteroffer.

That an agreement is supported by consideration. For example, I promise to buy you a new car for your birthday. You gladly accept my offer. Still, my promise is not legally enforceable. You, the offer-ee, did not suffer a legal detriment; you did not give up anything. Had I promised to give you a new car on your next birthday if you would quit smoking cigarettes, and if you accepted and did not quit smoking, the situation would be different. You would have performed the act the offeror requested and I could legally enforce my promise to buy you a new car on your birthday.

That there is legal capacity to contract. The parties must have legal capacity to contract, or the contract will be voidable by the party that lacks capacity. For example, suppose that a 16 year-old, a minor, purchases a motorcycle from a 22 year-old neighbor. The contract is legal; there was no fraud; no one took advantage of the other party. Yet under the law, the minor did not have full legal capacity to contract. The minor can change his or her mind and get a full refund from the seller at any time up until the minor reaches the age of majority and for a reasonable time thereafter.

That the purpose of the contract must be legal. A contract with a «hit man» to murder your spouse for the life insurance money is illegal and certainly would not be enforceable in court. However, the other three agreements were met: there was an offer and acceptance, thus an agreement there was consideration to be paid to the «hit man» and benefit to be derived by the offerer; and both parties are adults. Still, all four requirements are necessary for a valid contract.

That the agreement be in the form required by the applicable law. The fifth requirement for a valid contract applies only if the agreement is oral. That is the Statute of Frauds requirement mentioned earlier, which states that certain agreements must be in writing to be enforceable in a court of law.

Notes

1. valid contract — контракт, який має юридичну силу
2. to be voidable — не мати юридичної сили
3. to be enforceable — бути забезпеченим правовою санкцією
4. offer — пропозиція
5. offeror — оферент (особа, яка робить пропозицію)
6. offeree — офері (особа, якій робиться пропозиція)
7. acceptance — прийняття пропозиції

Exercises

1) *Fill in the blanks by words from the text:*

1. To be fully ... and ... a contract requires four, and sometimes, five essential elements.
2. To have the agreement between the parties there must be an ... and an
3. The person who makes the ... is called the
4. The person to whom the ... is made is called the
5. The agreement must be supported by
6. The parties must have to contract.
7. The contract will be ... by the party that lacks
8. The purpose of the contract must be
9. The agreement must be in the form required by the

2) *Match the words from the left and the right columns according to the meaning:*

valid	rules
basic	offer
legal	car
enforceable	contract
effective	requirements
new	detriment
applicable	situation
next	insurance

reasonable	law
life	birthday
different	capacity
necessary	time

контракт, який має юридичну силу; головні вимоги; контракт, який забезпечений правовою санкцією; правові норми; ефективна пропозиція; нова машина; юридична втрата; наступний день народження; відмінна ситуація; дієздатність; придатний час; страхування життя; необхідні вимоги; закон, що застосовується.

3) Match the following verb phrases with their Ukrainian equivalents:

- | | |
|----------------------------------|--|
| 1. to be valid | 1. анулювати пропозицію |
| 2. to make an offer | 2. підтримувати угоду |
| 3. to revoke an offer | 3. відмовитися від |
| 4. to be enforceable | 4. робити пропозицію |
| 5. to constitute an offer | 5. бути забезпеченим правовою санкцією |
| 6. to support an agreement | 6. виконувати дію |
| 7. to buy a new car | 7. прийняти пропозицію |
| 8. to accept an offer | 8. становити пропозицію |
| 9. to suffer a legal detriment | 9. не мати юридичної сили |
| 10. to quit smoking cigarettes | 10. мати юридичну силу |
| 11. to give up | 11. бути дієздатним |
| 12. to perform the act | 12. купити нову машину |
| 13. to have legal capacity | 13. купити мотоцикл |
| 14. to take advantage of | 14. скористатися перевагою |
| 15. to be voidable | 15. зазнати юридичної втрати |
| 16. to purchase a motorcycle | 16. припинити курити сигарети |
| 17. to reach the age of majority | 17. досягти повноліття |

4) Answer the following questions:

- How many essential elements are required for the contract to be fully valid and enforceable?
- What does the word «offeror» mean?

- What is the offeree?
- What is the agreement supported by?
- What must the parties have to contract?
- When will the contract be voidable?
- What is the form of the agreement required by?

5) Complete the following sentences by translating the words and expressions in brackets:

- There are 5 basic (вимог) of a valid contract.
- To have an agreement between the (сторонами) there must be an (пропозиція) and a (прийняття пропозиції).
- (Оферент) is the person who makes the (пропозицію).
- (Офері) is the person to whom the (пропозиція) is made.
- (Угода) is supported by (обговоренням).
- The parties must have (дієздатність) to contract.
- The contract will be (не мати юридичної сили) by the party that lacks capacity.
- (Мета) of the contract must be (правовою).
- The agreement must be in (формі) required by the (законом, який застосовується).

6) Translate the following words and word combinations:

basic requirements; the requirement mentioned earlier; certain agreements; a court of law; a hit man; to murder a spouse; a promise between two friends; a promise to buy a new car; to be in writing; to be signed by the parties; terms of oral agreements; counteroffer; a minor; an adult; a seller; the Statute of Frauds; legal contract; illegal contract.

7) Read the following sentences and decide if they are true or false:

- The person making the offer is the offeror.
- The person to whom the offer is made is also the offeror.
- Various legal rules do not govern what constitutes an offer.
- The agreement between the parties is supported by consideration.
- There is no legal capacity to contract.
- Under the law, the minor does not have full legal capacity to contract.
- The purpose of the contract must be legal.
- The contract with a «hit man» to murder somebody is illegal and is not enforceable in court.
- The agreement between parties may be in any form (written or oral).

Unit 9

The Police

Americans have developed great expectations of the police, and regardless of the time of day, the weather, or the inconvenience citizens expect them to respond to calls for assistance. A detailed listing of the expectations placed on the police is not possible here, but in general people want them to function in the following ways:

To prevent and control «serious crime», that is, any conduct widely recognized as threatening our lives or property

To assist and protect victims of crime, especially those in danger of physical harm

To protect constitutional guarantees, including those of free speech and assembly

To facilitate the movement of people and vehicles

To assist addicts mentally ill, physically disabled, old, young, and others who cannot care for themselves.

To resolve conflict between individuals, groups, and anyone in conflict with the government.

To identify problems before they become more serious for individuals, police, or the government.

To create and maintain a feeling of security in the community

If police did not exist to take complaints on a continual basis, 24 hours a day and 7 days a week, to whom would citizens turn? What techniques do police traditionally employ to handle citizens' complaints? How did the police come to be, and what is the legacy of American policing? Can police departments be better organized so as to better serve the public and solve crime-related problems?

We attempt to answer these questions. We describe the history of the American police, examine the most common function of policing (patrols), discuss police detectives, examine the way police respond to incidents in the community, and so on.

Many of our perceptions of how police functioned in the past have been created by novels, television, and the movies. Yet what the police actually do and what they are properly expected to accomplish in American society differ significantly from the popular representations. Most of us have had dealings with the police. We have called

on them for assistance, or perhaps we have been arrested. And depending on the nature of our personal experiences with them, each of us has formed opinions about the police.

Notes

1. inconvenience – незручності
2. a call for assistance – прохання про допомогу
3. to threaten one's life – загрозувати життю
4. free speech and assembly – свобода слова та право збиратися мирно
5. an addict – наркоман
6. mentally ill – божевільний
7. physically disabled – інвалід
8. a feeling of security – почуття безпеки
9. legacy – спадщина
10. policing – поліцейська охорона суспільного порядку, поліцейське патрулювання

Exercises

1) *Answer the following questions:*

1. To whom would citizens turn in time of need?
2. How do Americans expect police to respond to calls for assistance?
3. What are the main functions of the police?
4. What are the most important functions of the police to your mind?
5. What questions would we discuss in the texts?
6. How have our perceptions of police functioning been created?
7. In what cases do most of us deal with the police?
8. How are our opinions about the police formed?

2) *Give Ukrainian equivalents of the following:*

expectations, regardless of the time of day; inconvenience; an assistance; in general; a serious crime; a conduct; to threaten; property; a victim; a danger; physical harm; constitutional guarantees; free speech; assembly; a vehicle; an addict; mentally ill; physically disabled; security; a community; a complaint; techniques; to handle complaints; a legacy; policing; a crime-related problem; police de-

tectives; an incident, a perception; a society; popular representations; to have dealings with smb.; a personal experience;

3) Find in the text the English equivalents for the words and phrases below.

сподівання; незручності; незважаючи на прохання про допомогу; попереджувати злочини; поведінка; загрожувати життю; майно (власність); допомагати жертвам насильства; знаходитись під загрозою фізичного насильства; конституційні гарантії; свобода слова; сприяти; транспортні засоби; наркоман; інвалід; божевільний; подбати про кого-небудь; уряд; почуття безпеки; суспільство; скарги; спадщина; поліцейське патрулювання; поліцейські підрозділи; детективи; звертатися по допомогу, заарештувати; залежно від...; власний досвід.

4) Match the following English and Ukrainian noun phrases:

- | | |
|--|--|
| 1. a conduct threatening one's life and/or property | 1. конституційна гарантія свободи слова та право збиратися мирно |
| 2. a constitutional guarantees of free speech and assembly | 2. поліцейське патрулювання |
| 3. a feeling of security | 3. поведінка, яка загрожує життю та (або) майну |
| 4. Policing | 4. відчуття безпеки (захищеності) |
| 5. a call for assistance | 5. рух пішоходів та транспортних засобів |
| 6. a victim of a crime | 6. прохання про допомогу |
| 7. a movement of people and vehicles | 7. жертва злочину |
| 8. a legacy of American policing | 8. особистий досвід |
| 9. popular representations | 9. популярні уявлення |
| 10. a personal experience | 10. накопичений досвід поліцейського патрулювання в Америці |

5) Match the following English and Ukrainian verb phrases:

- | | |
|-------------------------------------|---|
| 1. to respond to calls | 1. бути під загрозою фізичного насильства |
| 2. to prevent crimes | 2. піклуватися про когось |
| 3. to assist and protect victims | 3. вирішувати проблеми |
| 4. to be in danger of physical harm | 4. створити почуття захищеності |
| 5. to assist physically disabled | 5. попереджувати злочини |
| 6. to care for smb. | 6. реагувати на виклики |
| 7. to resolve conflicts | 7. визначати проблеми |
| 8. to identify problems | 8. мати справу зі скаргами громадян |
| 9. to create a feeling of security | 9. допомагати та захищати потерпілих |
| 10. to handle citizens' complaints | 10. допомагати інвалідам |
| 11. to solve crime-related problems | 11. вирішувати проблеми, що стосуються злочинів |

6) Fill in the blanks according to the text:

- American police is to assist victims of crime, especially
- In general people want police to protect ..., to resolve conflicts between ..., to create and maintain a feeling of
- Police exists to take complaints on a continual basis,
- Many of our perceptions of how police functioned in the past have been created by
- What the police actually do differs significantly from
- Each of us has formed opinions about the police depending

7) Find words and expressions in the text that mean:

- Some action which is considered to be harmful to society as a whole
- A person who is hurt by a crime
- Organization or body through which control or administration is exercised
- That which one has or may have as a possession

- To seize or take into custody by legal authority

8) *Work in pairs*: Imagine that you are a journalist from Ukraine asking an American policeman about his everyday work. Discuss the following points:

- Functions of the police
- Powers of the police in executing its functions

9) *Render into English*:

Американці покладають великі сподівання на свою поліцію. Вони очікують від неї: попередження злочинів, захисту та допомогу потерпілим від злочинної діяльності, захисту конституційних гарантій, вирішення конфліктів у суспільстві тощо. Діяльність поліції повинна створювати і підтримувати почуття захищеності у кожного члена суспільства. Але існують певні розбіжності між уявленнями людей про діяльність поліції і тим, чим вона дійсно займається. Багато міфів про діяльність поліції створено завдяки телебаченню, книжкам та художнім фільмам.

Unit 10

English Antecedents

Police do not originate in America. Like much of our common law tradition, many of our modern police practices had their origins in early English history. Before the Norman Conquest (in 1066) there were no police. Every citizen was held responsible for aiding neighbors who might be plagued by outlaws and thieves. This was known as the pledge system. People were pledged to help protect their neighbors, and in turn their neighbors were pledged to help protect them.

In early England, ten families (called a tithing) were bound together by the pledge, each promising to cooperate in policing their own problems. Ten tithings were grouped into a hundred, directed by a constable (appointed by the local nobleman) who, in effect, became the first police officer, that is, the first official with law enforcement responsibility greater than simply helping neighbors.

Just as the tithings were grouped into hundreds, after nearly a century the hundreds were grouped into shires, which were similar to our counties. For each shire the king appointed a supervisor, whose duty was to ensure that order would be kept. The supervisor was known as a shire reeve and was the forerunner of our modern sheriff.

A century later (in the 1300s) a watch system was created to protect the larger cities and towns. Appointed night watchmen patrolled the cities at night to be on the lookout for thieves and disturbances. These watchmen reported to the constable, who became the central law enforcement officer. In the early 1300s the office of justice of the peace was created to assist the shire reeve in controlling his territory. The local constable and the shire reeve became assistants to the justice of the peace, supervised the night watchmen, served warrants, and took prisoners into custody for appearance before justice of the peace courts. This was the first formal relationship between the police and the judiciary and this system continues to the present day.

Originally constables were appointed from the gentry, and the position was more or less honorary; since constables could not function solely on their own, they in turn hired assistants. These constables' assistants became the first paid police officers. By the seventeenth century a combination of night watchmen, constables and their as-

sistants, and justices of the peace made up the first criminal justice system. The sheriff functioned then as now as the chief enforcement officer in rural areas and small towns.

With the industrial revolution came the first large cities (built around the factories) throughout England. For the first time congested, urban populations required more sophisticated policing activities than could be provided by a constable and watchman. In 1829 Sir Robert Peel, the British Home Secretary, organized the first metropolitan police force in London. This force was composed of over a thousand men and was structured along semimilitary lines. For the first time, police officers in England wore uniforms but were not, and generally still are not, armed. These early police were directed by two judges who eventually came to be known as «commissioners». Police officers in England are still called «Bobbies» in honor of Sir Robert Peel. Peel's experiment in London was so successful that by 1856 every borough and county in England was required to form its own police force.

Notes

1. antecedent – попередник
2. common law – загальне право
3. to plague – турбувати, докучати
4. an outlaw – вигнанець, людина поза законом
5. a pledge system – система кругової поруки
6. to be pledged to do smth. – бути зобов'язаним зробити що-небудь
7. a tithing – десятина
8. a nobleman – дворянин, титулована особа
9. a shire – графство
10. a supervisor – інспектор, контролер
11. a shire reeve – головний магістрат (міста або округу)
12. a watch system – вартова система
13. a watchman – вартовий
14. to be on the lookout for – ретельно стежити за ...
15. a law enforcement officer – судовий виконавець
16. a justice of the peace – мировий суддя
17. to serve warrants – виконувати накази, розпорядження
18. to take into custody – заарештувати, взяти під варту
19. judiciary – судоустрій
20. gentry – нетитуловане дворянство
21. metropolitan police – столична поліція

22. to be structured along semimilitary lines – структурно бути упорядженим як напіввійськове угруповання
23. a commissioner – комісар, уповноважений
24. a borough – місто або район, який має самоврядування

Exercises

1) Answer the following questions:

1. Where did American police originate?
2. What were people pledged to do?
3. Who appointed a supervisor for each shire?
4. What were the functions of a supervisor?
5. What were the functions of night watchmen?
6. Whom were night watchmen accountable to?
7. When was the office of Justice of the Peace created?
8. What are the functions of a Justice of the Peace?
9. Who became the first paid police officers?
10. What was the composition of the first criminal justice system?
11. What were the reasons for appearance of more sophisticated policing activities?
12. Who organized the first metropolitan police force in London?
13. What was the composition of the first metropolitan police force?
14. Who directed these early police?

2) Find in the text the English equivalents for the words and phrases below.

попередник; традиції загального права; надокучати; злодій; вигнанець; система кругової поруки; десятина; офіцер поліції; посадова особа; обов'язки з запровадження закону; графство; округ; інспектор; підтримувати порядок; головний магістрат; нічний вартовий; ретельно стежити за...; заворушення; судовий виконавець; мировий суддя; виконувати накази; приводити під вартою до суду; система кримінального правосуддя; столична поліція; напіввійськова; носити уніформу; комісар; місто або район, який має самоврядування.

3) Give Ukrainian equivalents of the following:

common law; modern police practices; to be plagued by outlaws and thieves; to protect smb's neighbors; to cooperate in policing problems; a tithing; a police officer; responsibility; a county; a supervisor;

to ensure an order; a shire reeve; a forerunner of a sheriff watch system; disturbances; a central law enforcement officer; a Justice of the peace; a warrant; a prisoner; to take into custody; a judiciary; gentry; the first paid police officer; criminal justice system; more sophisticated policing activities; a metropolitan police force; to be armed and wear a uniform; a judge; a borough; to form a police force.

4) Match the following English and Ukrainian noun phrases:

- | | |
|-----------------------------------|---|
| 1. a common law tradition | 1. місцевий дворянин |
| 2. a pledge system | 2. попередник сучасного шерифа |
| 3. a local nobleman | 3. мировий суддя |
| 4. a law enforcement officer | 4. поліцейський, який одержує зарплатню |
| 5. a forerunner of modern sheriff | 5. традиції загального права |
| 6. a justice of the peace | 6. нічний вартовий |
| 7. a paid police officer | 7. промислова революція |
| 8. a night watchman | 8. система кругової поруки |
| 9. an industrial revolution | 9. міське населення |
| 10. urban population | 10. діяльність поліції |
| 11. policing activities | 11. судовий виконавець |

5) Match the following English and Ukrainian verb phrases:

- | | |
|---------------------------------------|--|
| 1. to have one's origins | 1. підтримувати порядок |
| 2. to be pledged to help | 2. забезпечувати порядок |
| 3. to be bound together by the pledge | 3. бути пов'язаними порукою |
| 4. to keep an order | 4. походити з ... |
| 5. to ensure an order | 5. звітувати кому-небудь |
| 6. to be on the lookout for... | 6. здійснювати нагляд за нічними вартовими |
| 7. to report to smb. | 7. заарештовувати |
| 8. to supervise night watchmen | 8. бути зобов'язаним надати допомогу |
| 9. to take into custody | 9. забезпечувати поліцейське патрулювання |
| 10. to provide policing | 10. ретельно стежити за... |

6) Read the following sentences and decide if they are true or false.

1. Much of our law tradition had their origins in early English history.
2. The police existed before the Norman Conquest.
3. In early England every citizen was held responsible for aiding neighbors who might be plagued by outlaws.
4. A constable appointed by the local nobleman became the first police officer.
5. The supervisor was known as constable and was the forerunner of our modern sheriff.
6. Originally constables were appointed from the gentry.
7. With the industrial revolution more sophisticated policing activities came.
8. Sir Robert Reel organized the first metropolitan police force in London in 1300.
9. Peel's experiment was unsuccessful.

7) Complete the following text by translating the words and expressions in brackets.

Tudor and Stuart Times (AD 1485-1714)

Life in England became very different (в ті часи). The Barons and the Church became very (впливовими). (Мирові судді) together with the Parish Council took over the (міське самоврядування).

(Констебль) was still not given any pay or uniform. He was an ordinary citizen (обраний) to do a special job. He had to catch those (хто вчинив злочин) and carry out (покарання) as well.

In 1663, the City of London began to employ paid watchmen to (охороняти) streets (вночі). In later years these men (стали називати) Charlies. They carried a bell, a lantern and (були озброєні) with a staff.

8) Read the following text and pick up sentences which contain a new information. Translate them into Ukrainian.

In early times Britain was the subject of waves of different invaders who settled there. Among the last of these were the Anglo-Saxons who lived in small communities of villages. According to Anglo-Saxon custom if someone broke the law it was not just a crime against the victim but a crime against the whole community. It was also the duty of every citizen to see that the law was not broken, and if it was,

to catch the offender. All the males of the community between the ages of 12 and 60 were responsible for the duty. They were organized in groups of about ten families and each group was called a tithing and their leader was known as a tithing man. Each member of the group was responsible for the good behavior of the others. If one committed a crime the others had to catch him and bring him before a Court. If they failed to do so, they were all punished. If anyone saw a crime, they raised a hue and cry and all men then had to join the chase to catch the criminal, in order to bring them before the Court.

9) Find in the text the explanation of the meaning of the following words and expressions:

- a pledge system
- a tithing
- a hundred
- a constable
- a shire reeve
- a watch system
- «Bobbies»
- metropolitan police force

10) Copy the following table into your notebooks. Write as many words and expressions as you can think of to complete it. There is not necessarily a «correct» position for a particular word. The choice is personal.

a tithing	a watch system	a justice of the peace
a pledge	a night watchman	a local constable
***	***	***

11) Work in pairs. Express your opinions about a pledge system and a watch system, using the words given:

- I think that... - That's just what I think
- In my opinion... - I think so too
- To my mind... - I'm afraid I can't agree with you
- If you ask me...

12) Render into English:

Багато сучасних правових традицій бере початок в англійській історії. Спочатку діяла система кругової поруки. Люди

були повинні допомагати своїм сусідам, а ті в свою чергу – їм. Зі збільшенням міст виникла необхідність у вартовій системі. Нічні вартові охороняли міста. Внаслідок промислової революції виникли великі перенаселені міста, які потребували більш складної охорони. Діяльності вартових та констеблей було замало. У 1829 р. були організовані перші столичні поліцейські загони. Цей експеримент був вдалим, і вже до 1856 р. такі загони були сформовані у кожному місті.

Unit 11

The Legacy of American Police

The history of police in the United States is incoherent. Every town, village, and hamlet has police, counties are policed by sheriffs and deputies, highways are patrolled by state troopers, and the Federal Bureau of Investigation (FBI) investigates federal crimes. Each level of policing has a different history, and in the various sections of the country the history varies greatly. Our Founding Fathers evidently feared a strong, centralized police apparatus more than they feared crime, for by leaving policing to local governments they guaranteed that police would be dispersed, unorganized and ineffective. With thousands of police agencies developing simultaneously in every sector of the country, with several layers of jurisdictions, and with different political contexts in different parts of the country, it perhaps should come as no surprise that no consensus exists as to how police have evolved in the United States.

To a great extent, colonial America's policing followed the British model. The county sheriff was the most important law enforcement agent as long as the colonies remained small and primarily rural. The sheriff had many duties other than apprehending criminals. In fact, at first he had no patrol function, but acted only upon complaints of citizens. Sheriffs were paid by a fee system, that is, they were given a fixed amount for every arrest made or subpoena served and for each court appearance. The primary function of sheriffs was tax collecting, rather than law enforcement, and since the sheriffs received higher fees based on the taxes they collected, law enforcement was not one of their primary concerns.

In the early American towns, the British-style constable was eventually replaced by a town marshal, who often called on vigilante groups to assist him in his law enforcement duties. But as cities grew, it became increasingly difficult for the marshal to enforce the law effectively. We can trace the history of American policing through three stages: the political era, the reform era and the community problem-solving era.

Notes

1. a legacy – спадщина
2. incoherent – непослідовний

3. a hamlet – поселення
4. a trooper – рядовий кавалерист
5. to apprehend – затримувати, заарештовувати
6. a subpoena – виклик до суду
7. a court appearance – з'явлення до суду
8. a tax – податок
9. a marshal – начальник поліцейського відділка
10. a posse – загін поліцейських
11. vigilante group – загін швидкового реагування

Exercises

1) Read and translate the following words:

- incoherent – cohere (v) – coherence (n) – coherent (a),
 to investigate – investigator (n) – investigation (n) – investigative (a),
 crime – criminal (n),(a) – criminality (n) – to incriminate (v) – incriminating (a) – incriminatory (a),
 jurisdiction – jurisdictional (a),
 enforcement – to enforce (v) – enforceable (a) - enforceable (a) – to force (v) – forced (a) – forcedly (adv) – forceful (a) – forceless (a) – forcible (a)- forcibly (adv) – forcing (n),
 to apprehend – apprehended (a) – apprehendingly (adv)- apprehensibility (n) – apprehensible(a) – apprehension (n) – apprehensive (a) – apprehensively (adv. – apprehensiveness (n).

2) Answer the following questions:

1. Why is the history of police in the United States incoherent?
2. Why does no consensus exist as how police have evolved in the United States?
3. What were the functions of the sheriff?
4. Why was the tax collecting the primary function of the sheriff?
5. What stages do historians trace the history of American policing through?

3) Match the following English and Ukrainian noun phrases:

- | | |
|--|------------------------------------|
| 1. the Federal Bureau of Investigation | 1. органи місцевого самоврядування |
| 2. a centralized police apparatus | 2. політична ситуація |

3. a local government	3. органи поліції
4. political contexts	4. збирання податків
5. police agencies	5. федеральне бюро розслідування
6. apprehending criminals	6. обов'язки із запровадження закону
7. tax collecting	7. загін швидкого реагування
8. a vigilante group	8. затримання злочинців
9. law enforcement duties	9. централізований поліцейський апарат
10. a fee system	10. система фіксованої оплати праці

4) Match the following English and Ukrainian verb phrases:

1. to investigate federal crimes	1. заарештувати злочинця
2. to be patrolled by troopers	2. патрулювати кавалеристами
3. to come as no surprise	3. з'являтися до суду
4. to follow the British model	4. працювати зі скаргами громадян
5. to apprehend criminal	5. привести до суду
6. to appear before a court	6. не бути несподіванкою
7. to act upon complaint of citizens	7. збирати податки
8. to serve subpoena	8. наслідувати британську модель
9. to collect taxes	9. розслідувати федеральні злочини
10. to enforce the law	10. запроваджувати закон

5) Find in the text the English equivalents for the words and phrases below:

спадщина; поселення; округ; шериф; шосе; кавалеристи; патрулювання; ФБР; федеральний злочин; централізований поліцейський апарат; місцеве самоврядування; наслідувати модель; працівник правоохоронних органів; затримувати (заареш-

товувати) злочинця; скарги громадян; фіксована оплата праці; виклик до суду; з'явлення до суду; першочергова функція; збирання податків; начальник поліцейського відділка; загін швидкого реагування; запроваджувати закон; загін поліцейських; розвиток.

6) Give Ukrainian equivalents of the following:

- to leave policing to local government
- to be patrolled by state troopers
- to investigate federal crimes
- to come as no surprise
- to follow the British model
- to apprehend criminals
- to have no patrol functions
- to act upon complaints of citizens
- to be paid by a fee system
- to make an arrest
- to serve subpoena
- to collect taxes
- to enforce the law, effectively
- to be of primary concern
- to assist smb. in law enforcement duties
- to trace the history of American policing.

7) Ask questions to get the following answers:

1. Colonial America's policing followed the British model.
2. The county sheriff was the most important law enforcement officer.
3. The sheriff had no patrol function, but acted only upon complaints of citizens.
4. The primary function of sheriff was tax collecting, rather than law enforcement
5. As cities grew, it became increasingly difficult for the marshal to enforce the law effectively.

8) Find words and expressions in the text that mean:

a serviceman who patrolled highways;
 a body which investigates federal crimes;
 the most important law enforcement agent in small and primarily rural colonies;
 a group of people assisting marshal in his law enforcement duties.

9) Complete the following text by translating the words and expressions in brackets. Pick up the new information from the text.

Thomas Jefferson wrote: «the office of sheriff is (найбільш важлива) of all the executive offices of the country. (Посада шеріфа) is certainly significant, and was in fact the (перша посада в окрузі) established in the United States. Some (дуже видатних) Americans have held the office of (шеріфа округу).

The Sheriffs of America (відігравали) a significant role in the history (нації). The position of sheriff was filled through (призначення). Since 1800's, sheriffs have been elected (на рівні штату) by the people they serve. (Ця посада) has become the oldest law enforcement position in the United States. It is the only remaining law enforcement office which is filled (виборчим шляхом). He is charged with the responsibility of (підтримку суспільного порядку) and protecting the (життя та власність) of all citizens. His (першочерговими обов'язками) are to provide common pleas court services and corrections and full police (захист громадян).

10) Render into English:

Історія розвитку поліції Сполучених Штатів Америки складна. В кожному місті, селищі або поселенні є поліція, в окрузі – шеріф та його помічники. ФБР розслідує федеральні злочини. Історія розвитку всіх цих служб різна. Не має єдиного погляду щодо розвитку поліції у США. Значною мірою поліція колоніальної Америки наслідувала британську модель розвитку. Найбільш важливою правоохоронною посадою була посада окружного шеріфа. В історії американської поліції можна виділити три етапи: політичну еру, реформаторська еру та еру розв'язання суспільних проблем.

Unit 12

The Political Era

American police in the nineteenth century represented the local politicians who placed them in power and gave them their resources and authority. Those local politicians were uniformly male and white. In northern cities the local ward boss and the local political machine recruited police. As representatives of the local political powers, the police provided a variety of services to citizens such as collecting garbage, finding work and lodging for recent immigrants etc. And, importantly, the police helped the local politicians maintain their positions by encouraging citizens to vote for them, discouraging any opposition or any voting for opposition candidates, and occasionally even rigging elections. If new local politicians did happen to be elected, the police too were replaced. Cities were divided into precincts and each police precinct operated autonomously under the direction of the ward leaders. Precincts hired, fired, managed, and deployed personnel, usually on foot patrols (walking a beat), and in this decentralized fashion responded to the demands of local citizens.

This is not to say that the police in America's northern cities in the nineteenth century did not work to prevent crime and maintain order – they did both. While on foot patrol they handled disorderly conduct and other minor problems as well as responded to more major crimes. Call boxes were placed at strategic locations on an officer's beat to allow him to maintain contact with precinct headquarters. Unfortunately, although police worked at close quarters with the community and provided many useful services to its members, the lack of supervision sometimes led to corrupt practices such as taking bribes, and rather frequently to racial discrimination and violence. Night sticks were used to enforce «curbstone justice».

Boston created the first «professional» police department in 1838, and New York City established its own in 1844, using Peel's London Metropolitan Police as a model. Philadelphia followed in 1854. Slowly, night watchmen were replaced by police officers, and sheriffs were relegated largely to serving court orders and running local jails and lockups. The marshal system moved westward with the frontier, eventually disappearing, except in the federal system where marshals still

play a law enforcement role, usually by serving federal arrest warrants and transporting and protecting prisoners and witnesses. In the mid-1800s, the Boston police set up the first detective bureau, as the chief searchers for criminals.

In the south the local political structure was different. There the institution of slavery existed. Indeed, some police historians contend that American policing began in the southern «slave patrols» of the 1740s. The fear of slave revolts among plantation owners and the rest of the southern white populace led to the enactment of laws providing for the surveillance of all blacks, free and slave. The slave patrols had complete power to break open houses, punish runaway slaves, whip any slave who interfered with or resisted arrest, and arrest and take any slave suspected of any crime before the closest magistrate. These slave patrols enforced the southern laws that forbade blacks to move freely, keep guns, or strike a white person.

Even later Illinois, Ohio, Indiana, Iowa, and California did not allow blacks to testify in court if whites were involved in the case, and Oregon forbade blacks to own real estate, file lawsuits, or make contracts. Massachusetts outlawed interracial marriage and enforced segregation in hotels, restaurants, public transportation and theaters. And freed slaves had to register and carry «freedom papers» which could be inspected in any city north or south or by any suspicious white.

After the War Between the States, change came very slowly. The black officers were assigned in or near black neighborhoods and were restricted as to what they could do. In Miami black police were called «patrolmen, and whites were called »policemen», in St. Louis black officers worked «black beats,» and in Los Angeles they were assigned to a special «black watch». As late as 1961 many police departments throughout the United States restricted the power of black police to make arrests, generally forbidding them from arresting white suspects.

Notes

1. to rig elections – фальсифікувати вибори
2. precinct – поліцейська або виборча дільниця
3. ward boss (leader) – голова адміністративного району міста
4. a call-box – телефон-автомат
5. a beat – район
6. curbstome justice – вуличне правосуддя
7. lock up – тимчасове приміщення для арештів

8. marshal – (судовий виконавець) начальник поліцейського відділка
9. a surveillance – нагляд
10. to whip – карати

Exercises

1) Answer the following questions:

1. What services did the police provide to citizens in the 19th century?
2. What happened if new local politicians were elected?
3. What created conditions for corrupt practices and racial discrimination and violence?
4. When was the first «professional» police department created?
5. What happened with the marshal system?
6. When was the first detective bureau set up?
7. Why was the local political structure different in the south?
8. What led to the enactment of laws providing for the surveillance of all blacks, free and slave?
9. What powers had the «slave patrols»?
10. What did the southern laws forbid blacks to do?
11. When did changes come?
12. Did the black police officers and white police officers have equal powers?

2) Match the following English and Ukrainian noun phrases:

- | | |
|--|--|
| 1. representatives of the local political powers | 1. незначні правопорушення і тяжкі злочини |
| 2. a variety of service to citizens | 2. у тісному контакті із суспільством |
| 3. finding work and lodging | 3. компактне проживання чорношкірого населення |
| 4. Minor problems and major crimes | 4. знаходження роботи і помешкання |
| 5. at close quarters with the community | 5. різноманітні послуги населенню |
| 6. the lack of supervision | 6. представники місцевої політичної влади |

7. racial discrimination and violence	7. захист заарештованих та свідків
8. protection of prisoners and witnesses	8. інститут рабства
9. the institution of slavery	9. відсутність керівництва
10. the enactment of laws	10. керівництво поліцейським відділком
11. precinct headquarters	11. расова дискримінація та насильство
12. black neighborhoods	12. спеціальний "чорний" патруль
13. a special black watch	13. прийняття законів

3) Match the following English and Ukrainian verb phrases:

I	I
1. to place in power	1. надавати різноманітні послуги
2. to provide a variety of services to	2. наділяти повноваженнями
3. to rig an election	3. реагувати на потреби
4. to hire, fire and deploy personnel	4. наймати, озброювати і розташовувати особовий склад
5. to respond to the demands	5. фальсифікувати вибори
5. to handle disorderly conduct	6. мати справу з неправомірною поведінкою
7. to maintain contact with...	7. підтримувати зв'язок з ...
8. to take a bribe	8. утримувати місцеві в'язниці та тимчасові приміщення для арештів
9. to run local jails and lockups	9. брати хабар
10. to set up a detective bureau	10. засновувати детективне агентство
II	II
1. to serve a court order	1. приймати закон
2. to protect witnesses	2. виконувати постанови суду

3. to enact a law	3. перешкоджати арешту
4. to interfere with arrest	4. захищати свідків
5. to suspect of a crime	5. запроваджувати закон
6. to enforce a law	6. подавати позов
7. to own real estate	7. підозрювати у вчиненні злочину
8. to file lawsuits	8. не визнавати законними міжрасові шлюби
9. to make contracts	9. укладати угоди
10. to outlaw interracial marriages	10. володіти нерухомістю

4) Find in the text the English equivalents for the words and phrases below:

повноваження; політик; представник; громадянин; місце проживання; голосувати; вибори; фальсифікувати; поліцейська дільниця; патруль; попереджувати злочини; підтримувати порядок; неправомірною поведінкою; телефон-автомат; голова адміністративного району міста; корупція; хабар; «вуличне правосуддя»; нічний патруль; в'язниця; свідок; злочинець; рабство; запровадження законів; карати; чинити опір при арешті; підозрювати у вчиненні злочину; заколот; давати свідчення у суді; володіти нерухомістю; подавати позов; змішані шлюби; призначати на посаду; місця компактного проживання чорношкірого населення; підозрюваний; обмежувати повноваження; забороняти.

5) Give Ukrainian equivalents for the following words and expressions:

a local politician; to place smb. in power; authority; a local ward boss; to recruit police; to provide services; a lodging; to maintain one's positions; to vote in the election; to discourage any voting for opposition; to rig an election; a police precinct; to operate autonomously; foot patrols; to respond to the demands of citizens; to prevent crime; to maintain order; to handle disorderly conduct; call boxes; precinct headquarters; the lack of supervision; corrupt practices; a bribe; a racial discrimination; to serve court orders; a local jail; a prisoner; witnesses; a detective bureau; «slave patrols»; to have complete power; to suspect; to testify in court; to own real estate; to fill law-

suits; to make contracts; an interracial marriage; «freedom papers»; black neighborhoods; white suspects.

6) Complete the following sentences with the words from the box

1. When blacks were appointed ... police officers in Philadelphia, several white officers quit ... protest.
2. The black police officers were assigned ... or ... black neighborhoods. 3. ... late ... 1961 many police departments ... the United States restricted the power of black police to make arrests.
4. American police in the 19th century represented the local politicians who placed them ... power.
5. A variety of services ... citizens are provided ... the police.
6. Each police precinct operated autonomously ... the direction ... the ward leader.
7. Call boxes were placed ... strategic locations ... an officer's beat.
8. Before the mid – 1800s amateur bounty hunters were the chief searchers ... criminals.

in
as
as...as near
throughout
to
by
under
at
on
for

7) Fill in the blanks according to the text:

1. New York city established the first professional using Peel's London Metropolitan Police as a
2. Slowly, night watchmen were replaced by
3. In the federal system marshals played a role, usually by serving federal arrest ... , and transporting and protecting ... and
4. In the south the local was different.
5. The institution of slavery existed in ... states.
6. In some states blacks were not allowed to ... in court if whites were involved in the case.
7. Freed slaves had to register and carry «...».

8. Little attention was given by ... to the needs of areas populated by
9. The first black police officer in the north was appointed in ... in 1872.

8) Read the following sentences and decide if they are true or false?

1. In northern cities the local politicians recruited police.
2. American police in the 19th century were uniformly male and white.
3. The police helped the local politicians to maintain their positions.
4. Each police precinct operated autonomously.
5. Police worked in close contact with the community and provided many useful services to its members.
6. Unfortunately, the lack of experience sometimes led to racial discrimination and violence.
7. The first «professional» police department was created in 1983 in New York
8. In the mid-1800s, the Boston police set up the first detective bureau.
9. In the south the local political structure was the same as in the north.
10. The slave patrols had limited power to break open houses, punish runaway slaves and take any suspected slave before the closest magistrate.
11. The oppression of blacks was not limited to states or cities where slavery was legal.

9) Match the words from the box with the definitions below:

1. place where justice is judicially administered
2. one who is suspected, especially of having committed a crime
3. any place of confinement
4. an enactment made binding by the sanction of official authority;
5. person confined in a prison;
6. criminal activity; violation of law;
7. one who testifies in a court of law under oath.

a crime
a witness
a suspect; a jail
a prison
a court
law

10) Find words and expressions in the text that mean:

- one who immigrates
- act of discriminating
- racial, religious, political or other group differing in some way from the larger group of which it is a part
- one who is the property of another and is under that person's complete domination
- permanent resident
- one who is active in politics, especially one holding public office

Unit 13

The Reform Era

As noted earlier, police represented powerful political leaders during the «political era» of police history, and their duties included maintaining the segregated American social structure. Despite lingering racial imbalances and prejudices, however, dissatisfaction with abuses of power, corruption, and political favoritism on the part of the police led to pressures from inside and outside police departments for reform, and police work entered a reform era.

Not only was American policing inefficient in that it was disjointed, with little information passed from one jurisdiction to another, but critics pointed out that the decentralized nature of its authority contributed to a lack of leadership and discipline. They noted that the police were more the private servants and cronies of local political bosses than anything else, and that they spent much of their time running political errands and guarding private plants, docks, or railway stations; they charged that police chiefs were lackeys of local political machine bosses – lackeys who showed little policing know-how and had little authority.

By the 1850s various technological improvements, such as call boxes, were being introduced into urban policing. Moreover, structural changes were introduced, such as police administrative boards, which were created in many cities in an effort to cut down on police corruption and to curb political influence.

At first such reforms met with little success. But the need for change became increasingly clear. For example, there was a long, bloody, and costly police strike in Boston in 1919. The police there, dissatisfied with their salaries, attempted to become affiliated with the American Federation of Labor (AFL). They were opposed by the city and they struck on September 9, 1919. Looting broke out and rioting occurred. Governor Calvin Coolidge called in the state militia to take over the city, the police received little public support, and the strike was broken. But the events stirred an interest in police reform.

Another important stimulus was J. Edgar Hoover becoming the director of a federal bureau of investigation in 1924 and transforming it from a discredited and corrupt agency into prestigious Federal

Bureau of Investigation, with a sterling reputation for honesty and integrity. Hoover raised eligibility standards for and implemented training of agents, and established the bureau's reputation for professionalism. He kept his agents out of narcotic investigations, which could have had a corrupting influence on them, and created the image of an incorruptible crime-fighting organization always presented by the media in the most favorable light. Local police now had a role-model for professionalism.

It should be noted, however, that reform efforts did not significantly address the residual effects of racism. Police agencies began to raise their standards for police recruits, and improved police salaries and benefits, civil service examinations, which put people denied access to quality education at a disadvantage, often eliminated blacks from consideration. And background investigations of police applicants also put blacks at a disadvantage since many departments eliminated people with arrest records, those who had changed jobs too often, or those who had associated with known criminals. The net result was that minorities were largely excluded from police work throughout much of the twentieth century.

An atmosphere of hostility between blacks and whites was reinforced by the widespread belief among blacks that the police used a double standard in dealing with minority communities, and that white society created the black ghetto, white police maintained it, and white institutions condoned its continued existence.

Since the late 1960s, a number of reforms have been instituted designed to reduce the tensions between the police and inner city blacks and other minorities. More black officers patrol the streets, and there are strict rules against police brutality, discourtesy, the use of weapons. More needs to be done, but police work today is finally becoming more representative of the heterogeneity of American society.

In addition to the changes already mentioned, the reform era produced several other effects. Police departments were restructured in a quasimilitary fashion, so that they became hierarchical organizations with centralized authority which passed directives down through a chain of command. Officers were selected according to competitive procedures. Police work became routinized «professional» crime fighting.

Notes

1. to segregate – відділяти, ізолювати
2. lingering – тривалий, затягнутий
3. an abuse of power – зловживання владою
4. a crony – близький приятель, товариш
5. an errand – доручення, завдання
6. a lackey – лакей
7. to affiliate – приєднуватися, ставати членом
8. a looting – пограбування
9. sterling – бездоганний
10. heterogeneity – неоднорідність
11. eligibility – право бути обраним
12. brutality – жорстокість
13. discourtesy – брутальність

Exercises

1) Answer the following questions:

1. Whom did police represent and what were its duties during the «political era»?
2. Why did police work enter a reform era?
3. What did critics say about the police work at that time?
4. What changes were introduced into urban policing by the 1850s?
5. What do you know about a police strike in Boston in 1919?
6. Why was the strike broken?
7. What do you know about J. Edgar Hoover?
8. What did he do?
9. How do you think why reform efforts did not significantly address the residual effects of racism?
10. Why were minorities largely excluded from police work throughout much of the 20th century?
11. Why was an atmosphere of hostility between blacks and whites reinforced?
12. What has been done to reduce the tensions between police and blacks and other minorities?
13. What other effects did the reform era produce?

2) Match the following English and Ukrainian verb phrases:

- | | |
|-------------------------------------|--------------------------|
| 1. to run political errands | 1. покінчити з корупцією |
| 2. to show little policing know-how | 2. не мати успіху |

- | | |
|--|---|
| 3. to cut down on corruption | 3. придушити заколот |
| 4. to meet little success | 4. подавати у найбільш сприятливому світлі |
| 5. to break the strike | 5. ставити в нерівні умови |
| 6. to present in the most favorable light | 6. виконувати політичні замовлення |
| 7. to put people at a disadvantage | 7. не мати достатніх навичок поліцейської роботи |
| 8. to eliminate smb. from consideration | 8. багато ще чого треба зробити |
| 9. to use a double standard in dealing with smb. | 9. не розглядати чиясь кандидатуру |
| 10. more needs to be done | 10. не використовувати подвійний стандарт щодо когось |
| 11. to pass directives down through a chain of command | 11. передавати накази за командою |
| 12. to select according to competitive procedure | 12. обирати на конкурсній основі |

3) Give Ukrainian equivalents for the following words and expressions:

political leaders; a segregated social structure; racial prejudices; an abuse of power; corruption; political favoritism; a police department; jurisdiction; a decentralized nature; authority; political errands; to be charged with; urban policing; structural changes; a police administrative board; political influence; salaries; the American Federation of Labor; a looting; public support; an important stimulus; a federal bureau of investigation; a discredited agency; a prestigious agency, a sterling reputation; eligibility standards; a corrupting influence; an incorruptible crime-fighting organization; the media; residual effects of racism; police recruits; benefits; denied access to quality education; police applicants; an arrest record; minorities; a double standard; tensions; police brutality; discourtesy; verbal harassment; the heterogeneity of a society; a quasimilitary fashion; a hierarchical organization; a chain of command.

4) Find in the text the English equivalents for the words and word combinations below:

могутні політичні лідери; соціальна структура; расові упредження; зловживання владою; корупція; тиск; поліцейські департаменти; неефективна поліцейська система; юрисдикція; децентралізований характер влади; приятель; доручення; охороняти; політичні накази; технологічні вдосконалення; структурні зміни; поліцейська адміністративна рада; успіх; оплата праці; стати членом (вступити до ...); пограбування; заколот; закликати; підтримка суспільства; ФБР; бездоганна репутація; право бути обраним; вплив; підготовка агентів; створити імідж; засоби масової інформації; привілеї; всебічне вивчення; меншини; «подвійний стандарт»; патрулювати вулиці; брутальність; жорстокість; неоднорідність; напіввійськове формування; організація з ієрархічною структурою; централізована влада; право бути обраним; бездоганна репутація; боротьба зі злочинністю.

5) Read the following sentences and decide if they are true or false?

1. During the «political era» of police history, police represented powerful political leaders.
2. By the 1850s various technological improvements were being introduced into urban policing.
3. At first structural changes met great success.
4. Police strike in Boston in 1919 stirred an interest in police reform.
5. Hoover raised eligibility standards for and implemented training of agents, and established the FBI's reputation for professionalism.
6. Since the late 1960s, a few black officers patrol the streets.
7. During the reform era police departments were restructured in a quasimilitary fashion.

6) Complete the following text with the words and expressions from the box:

1. In the aftermath of the Boston ..., various crime commissions, including some of the national ... began to investigate the extent of American ... and the ability of the police to deal with it.
2. There was no intensive effort made to educate, train, or discipline police ... or to eliminate those who were incompetent. ... forces

suffered from inadequate methods of communications and had poor

3. An early pioneer in ... was August Vollmer.
4. He was a police ... in California, and he instituted university training as an important part of the ... of the young officer cadre of his police.
5. The work of Vollmer, and others did a great deal to upgrade the standards of American
6. With their innovations and the introduction of various technological ... (including the radio, the patrol car, and new techniques in forensic science and criminalistics) major rapidly moved toward the scientific control of

strike equipment development officers chief crime police agencies level policing advances
--

7) *Work in pairs. Discuss the following points:*

1. What led to pressures from inside and outside police departments for reform?
2. Why was American policing inefficient at that time?
3. Lingering effect of racism.

Use the following words and expressions:

- Well, ...
- Talking about ...
- Frankly speaking ...
- To tell the truth ...

8) *Read the text. Try to understand it and be ready to answer the questions.*

A great deal of policing has historically been performed not by government-sponsored police departments but by private police agen-

cies. Perhaps the best known of the private agencies is the earliest, Pinkerton's, which was founded in Chicago in 1850 by Allan Pinkerton, a Scottish immigrant and Chicago detective. Pinkerton's is still a major private police agency with over 100 offices in the United States and Canada. The company supplies private security guards, consultants, electronic surveillance equipment, and undertakes investigations. The term «Private eye» can be traced back to a Pinkerton advertisement, which shows an unblinking eye with the caption «We Never Sleep».

- A. Answer the teacher's questions (Books closed)
- B. Give a short summary of the text

9) *Express your opinion as to the changes in American police during Reform Era, using the words given:*

- I think that ...
- In my opinion ...
- To my mind ...
- If you ask me ...

Unit 14

Police Patrol

The cop on the beat has been and continues to be the mainstay of policing. The patrol function is so fundamental to law enforcement that the need for it seems beyond dispute. Patrol remains basic to all but the most specialized police agencies such as the FBI. Indeed, to many citizens, the ever-present force of officers dispersed throughout the community, in uniform and armed, on call 24 hours a day, is policing. All other police activities are service functions, seen by many people as necessary but as secondary in importance to working the beat. This attitude is a bit extreme, yet there is some truth to it. The patrol officer is the generalist of law enforcement and the most visible embodiment of authority, of law and order, in our communities. And there is little doubt that the success or failure of law enforcement depends in great part on the quality of patrol officers and the ways in which they are used by their commanders.

In contrast to the village constable of yesteryear, who walked a beat and came to know the citizens of his small area, the typical patrol officer today covers a beat in a marked, radio-equipped patrol car. The patrolman comes to see the city through a windshield and hear about it over the police radio. Thus preventive patrol became a popular policing technique – that is, police officers cruising in squad cars through the community as an omnipresent deterrence to potential criminals. Already by the 1950s preventive patrol was well entrenched.

Not all patrolling today is done in cars, however. Some techniques are still used going back to the time of the village constable. Foot patrols are used in certain areas of some cities and in recent years some new experiments have been done to measure the effectiveness of foot patrol. Horse-mounted police officers are familiar sights in some of our larger cities and common in our most desolate outlands. And there are also newer techniques that do not involve car patrols. Occasionally officers use motorcycles or small motorbikes. In some communities, officers patrol waterfronts and parks with dogs (called K-9 squads), and large police agencies often have small air forces with both planes and helicopters on patrol. Depending on location and need, some police agencies have miniature navies for river and harbor patrol.

Patrol functions

Patrol officers represent the full authority of police power and are expected to perform all the functions involved in general law enforcement as well as to achieve specific objectives set by their own departments. Patrol, in all forms, has three primary purposes: (1) the answering of calls for assistance; (2) the maintenance of a police presence in the community; and (3) the probing of suspicious circumstances.

In precincts characterized by high crime rates and other social problems, patrolling officers may spend most of their on-duty time responding to calls. In smaller communities and less busy precincts – and even in high crime areas at certain times – calls for assistance may be infrequent, leaving much time for officers to patrol the area.

The pattern followed during any particular police patrol depends on a variety of factors. In some cases the routes to be followed by patrol cars may be prescribed by patrol regulations and monitored by a supervising sergeant. In this way, police departments try to achieve the deterrent function of making the police presence known in the area being patrolled.

Although there may be regulations requiring a precinct to be «fully covered» during each tour of duty, the actual routes taken by cruising patrol cars are more commonly left to discretion of individual officers. Indeed, it is expected that an experienced officer will vary the patterns of patrol, selecting areas of emphasis based on current conditions in the precinct, a knowledge of «trouble spots», and past experiences with incidents occurring at particular checkpoints.

Of course patrol patterns are broken when unusual circumstances are observed and must be investigated, when suspicious characters are stopped for questioning and when calls for assistance are received. The motorized beat officer is constantly within radio range of a police dispatcher and, in fact, the dispatcher-patrol officer relationship is central to policing.

Notes

1. mainstay – опора
2. a generalist – той, кого ми бачимо найчастіше
3. a windshield – щит від вітру
4. omnipresent – завжди присутній
5. to entrench – закріплюватися

6. a prowl car – патрульна машина
7. to cruise – здійснювати рейси

Exercises

1) Answer the following questions:

- Who has been and continues to be the mainstay of policing?
- What remains basic to almost all police agencies?
- What is policing to many citizens?
- What is the most visible embodiment of police authority?
- What does the success or failure of law enforcement depend on?
- What is the difference between the typical patrol officer today and the village constable of yesteryear?
- What became a popular policing technique?
- Where are foot patrols and horse-mounted police officers used?
- What other types of patrol do you know?
- What are patrol officers expected to perform?
- What are the primary purposes of patrol?
- What does the pattern followed during any particular police patrol depend on?
- Who chooses the actual routes taken by cruising patrol cars?
- Under what circumstances are patrol patterns broken?

2) Match the English verb phrases with their Ukrainian equivalents:

- | | |
|--|--|
| 1. to be on call 24 hours a day | 1. відповідати на прохання про допомогу |
| 2. to cover a beat in a patrol car | 2. підтримувати присутність поліції у суспільстві |
| 3. to be omnipresent deterrence to potential criminals | 3. діяти за власним розсудом |
| 4. to answer (to respond) the calls for assistance | 4. патрулювати район на патрульній машині |
| 5. to maintain a police presence in the community | 5. зупиняти підозрілих осіб для допиту |
| 6. to probe suspicious circumstances | 6. завжди бути стримуючим фактором для потенційних злочинців |

- | | |
|--|---|
| 7. to be left to the discretion of smb. | 7. розслідувати підозрілі обставини |
| 8. to stop suspicious characters for questioning | 8. знаходитись у межах радіозв'язку з диспетчером поліції |
| 9. to be within radio range of a police dispatcher | 9. знаходитись на зв'язку цілодобово |

3) Give Ukrainian equivalents for the following words and expressions:

a cop; a beat; policing; mainstay; law enforcement; a specialized police agency; FBI; a community; service functions; a generalist; authority; law and order; a success; a failure; quality; a village constable; a typical patrol officer; a radio-equipped patrol car; a patrolman; a popular policing technique; a squad car; an omnipresent deterrence; a criminal; foot patrols; a horse-mounted police officer; outlands; car patrols; waterfronts; air forces; miniature navies; a harbor; a specific objective; a purpose; maintenance; circumstances; a precinct; on-duty time; calls for assistance; a variety of factors; patrol regulations; a supervising sergeant; routes; an incident; a checkpoint; suspicious characters; questioning; a police dispatcher; relationship.

4) Find in the text the English equivalents for the words and word combinations below:

поліцейський; патрульні функції; спеціалізований поліцейський підрозділ; федеральна служба безпеки; носити форму і бути озброєним; знаходитись на звязку; поліцейська охорона суспільного порядку; поліцейський район; втілення влади; правопорядок; правоохоронна діяльність; маркірована радіофікована патрульна машина; щит від вітру; здійснювати рейси; попередження; піший патруль; кінний патруль; гелікоптер; порт; основна мета; допомога; підозрілі обставини; рівень злочинності; патрульна машина; функція утримання; маршрут патрулювання; досвічений офіцер; незвичайні обставини; взаємодія.

5) Ask questions to get the following answers:

- The patrol function is fundamental to law enforcement.
- The ever-present force of officers in uniform and armed, on call 24 hours a day, is policing.

3. The patrol officer is the generalist of law enforcement.
4. The typical patrol officer today covers a beat in a marked, radio-equipped patrol car.
5. In recent years some new experiments have been done to measure the effectiveness of foot patrol.
6. Occasionally officers use motorcycles or small motorbikes.
7. In some communities, officers patrol waterfronts and parks with dogs.
8. Some police agencies have miniature navies for river and harbor patrols.
9. Patrol officers represent the full authority of police power.
10. Patrol, in all forms, has three primary purposes.
11. Sometimes patrolling officers may spend most of their on-duty time responding to calls.
12. The pattern followed during any particular police patrol depends on a variety of factors.
13. Patrol patterns are broken when unusual circumstances are observed.
14. The dispatcher-patrol officer relationship is central to policing.

6) Complete the following text with the words and expressions from the box:

Cowboys

The chief of ... of a large metropolitan ... department had available three special tactical ... which he assigned nightly to unannounced and randomly selected ... areas with instructions to conduct widespread field interrogations, frisks and ... to «get the weapons and junk off the street». All three tactical units, called «Cowboys» by regular ..., operated every night, year-round. They would sweep into an area – some officers in ..., some in ... clothes, some in ... cars, some in unmarked cars – and stop pedestrians, particularly by groups of young males, and, usually at gunpoints, interrogate and ... them.

patrol police high-crime search patrolmen uniform units civilian

7) Read the text. Try to understand it and be ready to answer the questions.

Crime Scenes

A police officer and her prowl car partner jointly worked out a series of major checkpoints on their patrol route which they were careful to visit at unpredictable times. These checkpoints included an alley containing rear doors to a number of warehouses, a schoolyard where youth gangs were known to congregate, a subway station where a homicide had occurred some 2 years earlier, an isolated bus stop, and a pawn shop that had often been burglarized in the past. When not responding to calls, their patrol duties were otherwise random within their precinct, but these checkpoints were always visited at least twice during each tour of duty.

Choose the correct answers. Don't use the text.

1. A patrol (prowl) car was to visit a series of major checkpoints on their patrol route at:
 - a) fixed times,
 - b) unpredictable times,
 - c) predictable times.
2. These checkpoints included:
 - a) a schoolyard where youth gangs were known to congregate,
 - b) a big supermarket,
 - c) an isolated bus stop.
4. These checkpoints were always visited at least:
 - a) twice during each tour of duty,
 - b) once during each tour of duty,
 - c) 4 times during each tour of duty.

8) Complete the following sentences by translating the words and expressions in brackets:

- 1) It seems reasonable that the visible (присутність поліції) will deter some (потенційних порушників закону).
- 2) It is also evident that (кількість і види злочинів) that can be so deterred are limited.
- 3) Many of the (злочинів) most feared by the public, like (вбивство та розбійний напад), are customarily committed indoors, out of the sight of roving patrols.

- 4) Common street crimes (розбій, торгівля наркотиками, зґвалтування і навіть вбивства) – do not occur in equal distribution throughout a community.
- 5) In most instances of aggressive preventive patrol, the police (зупиняє, опитує та проводить обшук) the individuals.
- 6) Citizens have (забезпечене конституцією право) to be freed from (невмотивованих обшуків та вилучень) and aggressive patrol tactics (порушує) this right.
- 7) Although the police do not deny the extra-legal nature of aggressive patrolling, they often (виправдовують) its use (на підставі) that there are no alternatives.

9) *Work in pairs:*

Imagine that you are a police officer from Ukraine, asking your American colleague about types of patrol in America. Do similar institutions exist in your law-enforcement system, with comparable functions?

Unit 15

Detectives

If uniformed police officers are the frontline troops of law enforcement, civilian-clad police detectives are not far behind, and make up the second wave in crime control efforts. Most city police departments of any size have detective units, distinct from but in close working relationships with the patrol force. In specialized instances, like the FBI and similar governmental enforcement agencies that have no routine patrol functions, both frontline officers and most of their superiors are detectives.

In general, detectives occupy a higher status and enjoy more prestige than uniformed officers, both within and outside the police department. This does not necessarily mean that a detective occupies a higher rank than a patrol officer; in fact, rank in the paramilitary structure of most police agencies has little to do with whether an officer is a member of the patrol force or a detective in a special investigating unit. Typically in large departments, patrol officers of different ranks from rookie through various «grades» to sergeant, lieutenant, captain, and so forth, are under the command of a chief of patrol. In terms of functions, working conditions, privileges, and prestige, becoming a detective at any rank is ordinarily considered a promotion. Detective status is normally earned after an officer has served on patrol or in some other uniformed capacity.

The real nature of police work on all levels is only dimly understood by most outsiders, but of all police activities, that of the detective has been the most romanticized, to the point where common notions about it have almost nothing to do with the reality. A detective «mystique» exists which consists of nonsense written and televised about detectives and which sometimes affects the detectives' own behavior and obscures their real role.

It is hard to convince most people that crime investigation is not a very scientific enterprise, that the work of detectives is no more important than the work of patrolmen, that being a detective is not very exciting, and that not all crimes can be solved by detective work. The mystique persists, and yet detectives themselves report that most of their activities are routine and simple, involving a lot of paperwork,

and are often less demanding and less challenging than situations handled by police officers on patrol. Most working detectives admit that their ability to solve crimes is grossly exaggerated and that luck rather than skill or training is often the most important element in solving cases.

The public in general and criminal juries in particular expect detectives to employ elaborate scientific investigative devices, like fingerprints, lie detectors, ballistics reports, and spectrographic analysis of physical evidence. Latent fingerprints, voice patterns, bloodstain analysis, and the like rarely provided the basis for identifying a suspect. But the detective is caught in a bind. Juries are reluctant to convict in cases where there are no fingerprints or other bits of «hard» scientific evidence, and crime victims often feel cheated if a detective fails to look for physical «clues».

Detective «strike forces», which are units of detectives assigned temporarily to contend with a specific problem (such as a rash of armed robberies), sometimes have significant potential to make arrests when concentrated on a few difficult target offenses which they are uniquely qualified to investigate.

Detectives are distributed within police organizations in a variety of ways, depending on the administrative preferences of top police officials. In some police departments, especially smaller ones, it is customary to have *generalist detectives* assigned to perform a wide range of investigative duties, primarily follow up investigations of cases originated by patrol officers.

If a city is large enough and presents sufficiently complex enforcement problems, specialized detective units (intelligence, burglary, homicide, robbery, and similar crime-specific squads) may be distributed throughout the detective divisions and housed in decentralized offices.

Detectives assigned to specialized units like organized crime intelligence units may perform a good many duties similar to those of patrol officers. They may be assigned to stake out premises, street corners, hotel lobbies, or other suspicious sites, keeping them under surveillance for extensive periods of time. Or they may be required to tail suspects, to act as bodyguards for dignitaries, or to go out and look for crimes in the community like patrol officers do.

Detective work often entails visiting the scene of a crime to look for clues, interrogating victims and witnesses, and making a record of the nature of the loss and the harm done. Contrary to popular con-

ceptions, there is ordinarily little a detective can do at the scene of a crime, for there is rarely much fresh information to be gathered at such a site after the initial visit by the patrol officers. With very serious crimes, such as murders, bombings, and safecrackings, detectives may call on crime laboratory experts to dust for fingerprints, analyze bloodstains, recover and analyze bomb fragments, or otherwise collect physical evidence that eventually may be used against the perpetrator. In more routine, less serious offenses, however, detectives normally can do little more than look around and make a record of the crime, often primarily to help victims fill out their insurance claims.

The greatest tool of detective work, and the technique most commonly employed, is *interrogation*. Usually detectives simply question crime victims and any witnesses to confirm information already gathered by the patrol officers who first arrived on the scene. But occasionally detectives also carry out postarrest interrogations of suspects.

Notes

1. civilian-clad – одягнутий у цивільне
1. paramilitary – напіввійськовий
2. a rookie – молодий солдат, новобранець
3. clue – доказ
4. to follow up – наполегливо переслідувати, доводити до кінця
5. organized crime intelligence unit – відділ з вивчення організованої злочинності
6. to stake out – стежити за ким-небудь
7. dignitary – сановник
8. safecracking – вскривати сейф

Exercises

1) Answer the following questions:

1. What departments have detective units?
2. What enforcement agencies have no routine patrol functions?
3. What status do detectives occupy?
4. Who is the commander of patrol officers of different ranks?
5. Why is becoming a detective considered a promotion?
6. When is detective status normally earned?
7. Why does a detective «mystique» exist?
8. Is the work of detectives more important than the work of patrolmen? Why do you think so?

9. What are detectives' activities?
10. What elaborate scientific investigative devices do detectives employ?
11. Do these devices always provide the basis for identifying a suspect?
12. What are detective «strike forces»?
13. How are detectives distributed within police organizations?
14. What specialized detective units do you know?
15. What duties do detectives assigned to specialized units perform?
16. When may detectives call on crime laboratory experts?
17. What is exclusively a detective function?

2) Give Ukrainian equivalents for the following words and expressions:

a uniformed police officer; law enforcement, civilian-clad police detectives; crime control efforts; police departments; detective units; relationship; patrol force; governmental enforcement agencies; routine patrol functions; superiors; a paramilitary structure; a special investigating unit; common notions; to solve a crime; elaborate scientific investigative devices; identifying a suspect; jury; crime victims; physical clues; difficult offences, fingerprints, voice patterns; bloodstain analysis; top police officials; generalist detectives, investigative duties; complex enforcement problems; intelligence, burglary, homicide; robbery; organized crime; surveillance; suspects, bodyguards; dignitaries, the scene of a crime; witnesses, victims, the nature of loss and harm, fresh information; murder, bombings, safe-cracking, crime laboratory experts; a perpetrator; a record of the crime; insurance claims; an interrogation, post arrest interrogation.

3) Find in the text the English equivalents for the words and phrases below

правозастосовна діяльність; зусилля щодо контролю над злочинністю; детективний (слідчий) підрозділ; взаємодія; напіввійськова структура; новобранець; підвищення; загальноіснуючі поняття; поведінка; розслідування злочину; здатність розкривати злочин; присяжні; відбитки пальців; балістична експертиза; речові докази; підозрюваний; жертви злочину; тимчасово; пограбування із застосуванням зброї; правопорушення; спеціалізовані детективні підрозділи; помешкання; стежити за підозрюваним; охоронець; сановник; місце вчинення злочину; допитувати свідків; заподіяна шкода; вбивство; правопорушник (злочинець); страховий позов; допит; збирати речові докази.

4) Match the following English and Ukrainian noun phrases:

- | | |
|---|--|
| 1. to be under the command of smb. | 1. встановити особу підозрюваного |
| 2. to solve a crime | 2. стежити за помешканням |
| 3. to identify a suspect | 3. розкрити злочин |
| 4. to perform a wide range of investigative duties | 4. скласти протокол про заподіяну шкоду |
| 5. to stake out premises | 5. підкорятися чиймсь наказам |
| 6. to keep smb. under surveillance | 6. тримати кого-небудь під наглядом |
| 7. to make a record of the harm done | 7. виконувати різноманітні слідчі обов'язки |
| 8. to gather fresh information | 8. знімати відбитки пальців |
| 9. to dust for fingerprints | 9. збирати нову інформацію |
| 10. to collect physical evidence | 10. допитувати свідків для підтвердження зібраної інформації |
| 11. to question witnesses to confirm information already gathered | 11. проводити допит підозрюваних після арешту |
| 12. to carry out postarrest interrogation of suspects | 12. збирати речові докази |

5) Match the words from the left and right columns according to the meaning. Make sentences of your own.

A	B
enforcement	detectives
civilian-clad	agency
uniformed	devices
patrol	officers
crime	investigation
investigative	duties
to stake out	problems
to tale	premises, other suspicious cites
to look for	suspects
to dust for	crimes
to collect	clues
	fingerprints
	physical evidence

6) Write as many grave crimes as you know. Give their Ukrainian equivalents.

7) Read the following sentences and decide if they are true or false?

1. In general, detectives occupy a higher status and enjoy more prestige than uniformed officers.
2. A detective always occupies a higher rank than a patrol officer.
3. The most police agencies have the paramilitary structure.
4. Detective status is normally earned after an officer has served a month on patrol.
5. The work of detectives is no more important than the work of patrolmen.
6. The public in general and criminal juries in particular expect detectives to employ elaborate scientific investigative devices.
7. Detectives are assigned to perform a wide range of investigative duties, primarily follow up investigation of cases originated by patrol officers.

8) Find words in the text that mean:

- careful seeking for facts or information
- act of interrogating
- an act that violates a criminal statute
- whatever may properly be submitted to a court or jury to explain an issue or prove a fact. Includes the testimony of witnesses and other exhibits.

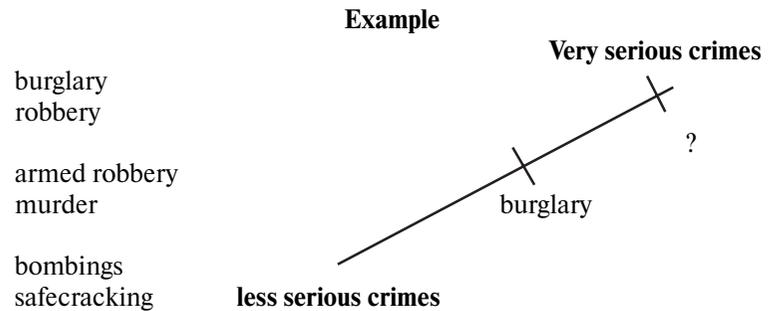
9) Match the words from the box with the definitions below:

victim
witness
expert
suspect
jury

- body of twelve persons who give a decision on issues of fact in a case in a court
- one who has personally seen or heard something and can therefore give a first-hand account of it
- one who is suspected, especially of having committed a crime

- one who is badly injured, ruined or killed
- one having special skill or knowledge in something.

10) Draw a word ladder starting with the serious crimes and ending with the very serious



11) Copy the following table into your notebooks. Write as many words and expressions as you can think of to complete it:

detectives	crime laboratory experts
to interrogate	to analyze bloodstains
to investigate	to dust for fingerprints
...	...

12) Work in pairs. Imagine you are a detective. Tell a journalist about the problems of crime solution. Use the following words and expressions:

- I'm rather worried about...
- I've got a lot of problems
- That's too bad.
- To my mind...
- I think...

Unit 16

Problem-Oriented Policing

This approach centers on removing the police from the isolation of patrol cars and placing them among the people in the community in intimate continuous way.

Professor Herman Goldstein is identified as the developer of the problem-oriented approach to policing.

Problem-oriented policing involved a process of (1) identifying the problem, (2) analyzing the problem, and (3) developing an effective response to the problem.

The first step, identifying the problem, requires the police to develop a series of questions regarding the actors involved in the problem. The actors include victims, offenders, witnesses and other «third parties». Then, a series of inquiries about the incidents that make up the problem must be developed, for example, inquiries into the sequence of events, the physical context of the events, and the effects of the events. Finally, the police examine the responses to the problem by the police themselves and by other community institutions.

After the problem has been identified and the appropriate questions have been developed, an in-depth analysis is carried out. The sources of information for this step include relevant literature, official police reports and other data, even the problem makers themselves, the suspected offenders. Also, the analysis can include inquiries outside the local region or state to see how other communities have dealt with similar problems. Analysis is a difficult and time-consuming process, and requires the best investigative efforts the officer or department can put into it to ensure that it is sufficiently thorough.

Then, after the problem has been identified and analyzed, the final step is developing alternative strategies to cope with the problem. In some cases proposed solutions may eliminate or significantly reduce the problem, or perhaps may minimize the harm it causes. In others they may lead to better police techniques for dealing with the problem, or maybe even to a decision to remove it from police consideration.

In the modern era, the police must be flexible. They must be able to respond effectively to sudden crises and emergencies of a non-crim-

inal nature while carrying out their routine crime control duties.

Police must be able to assist other government agencies as well as keep public order during tornadoes, earthquakes, floods and other natural disasters. Moreover, in many crisis situations like street riots, bombings, and acts of terrorism, the police are expected to do more than assist other agencies. They often have sole responsibility of dealing with the problem.

Crises may involve some changes in routine and a reduction in the numbers and sizes of regular patrols as officers are assigned to the crisis site, as that would leave the rest of the city unprotected. Police are commonly called on to conduct intelligence operations focused on organized crime and vice in the community.

Such routine problems are unending, and many, like family disputes and public intoxication, are chronic concerns that cannot be resolved by the usual process of arrest, fine, and release.

The range of special responses demanded of the police is almost infinite. And the ingenuity shown by many police agencies in developing special strategies and tactics is admirable. The development of responses, though, is sometimes slow and painful, since responses effective in one situation do not necessarily apply to others.

Police, we have seen, do much more than merely enforce the law. In many ways, we can conclude, the police task is too large, too difficult, too complex for any single agency. Perhaps the emergence of private police with very narrow responsibilities – guarding a warehouse, delivering a valuable package, monitoring conversations, watching for shoplifters – has occurred for this very reason.

But whatever the techniques employed, the police can expect to continue facing a variety of situations, for it is certain they will continue to be involved in handling whatever crises occur.

Notes

1. vice – вада, зло
2. vice-squard – загін поліції для боротьби з проституцією та гральними домами
3. public intoxication – перебування у стані сп'яніння у громадському місці
4. ingenuity – винахідливість
5. warehouse – склад, оптовий магазин
6. shoplifter – магазинний злодій

Exercises

1) Answer the following questions:

1. What does problem-oriented policing center on?
2. Who is the developer of the problem-oriented approach to policing?
3. What steps does problem-oriented policing involve?
4. What is the first step? What does it involve?
5. What is the second step?
6. What are the sources of information for this step?
7. What can the analysis also include?
8. What is the final step?
9. What may proposed solutions do?
10. Why must the police be flexible in the modern era?
11. What agency often has sole responsibility of dealing with sudden crises and emergencies of a non-criminal nature?
12. What crises situations and emergencies do you know?
13. What are police commonly called on?

2) Give Ukrainian equivalents for the following words and expressions:

policing; an approach; a community; identifying the problem; an effective response; an inquiry; an incident; the sequence of events; the physical context of events; the effects of events; in-depth analysis; data; a suspected offender; a time-consuming process; an alternative strategy; harm; a non-criminal nature; routine crime control duties; tornadoes; earthquakes; floods; natural disasters; a responsibility; intelligence operations; organized crime; vice; public intoxication; an arrest; a fine; a release; ingenuity; a private police; a shoplifter.

3) Find in the text the English equivalents for the words and phrases below:

підхід; поліцейське патрулювання; ізоляція; суспільство; творець; визначення проблеми; аналіз; ефективні відповідні заходи; жертва; правопорушник; свідок; послідовність; подія; зміст; наслідки; підозрюваний; альтернативна стратегія; шкода; некримінальний характер; повсякденні обов'язки; суспільний порядок; торнадо; землетрус; повинь; заколот; тероризм; відповідальність; незахищений; розшукові операції; організована злочинність; вади суспільства; арешт; штраф; запроваджувати закон; склад; магазинний злодій.

4) Match the words from the left and right columns according to the meaning. Make sentences of your own:

the problem-oriented	a problem
to identify	approach to policing
inquiries	a criminal
to cope with	outside the local region or state
to minimize	the problem
to respond to	into the sequence of events
	the harm done
	about the incidents
	crisis situations
	emergency

5) Ask questions to get the following answers:

1. The police are to develop a series of questions regarding the actors involved in the problem.
2. The actors include victims, offenders, witnesses and other «third parties».
3. The sources of information include relevant literature, official police reports and other data.
4. Analysis is a difficult and time-consuming process.
5. In the modern era, the police must be flexible.
6. Responding to emergencies requires careful planning and skillful deployment of staff.
7. The types of crisis situations change from time to time.

6) Complete the following sentences by translating the words and expressions in brackets:

1. We have explored some of the history of the (американської поліцейської системи), from its English (попередників) to contemporary (підходів до вирішення проблем) and crisis response.
2. In a cursory way we have explored the (розвиток американської поліції) through the political era, with its precinct ward bosses (на півночі) and slave patrol (на півдні).
3. We have discussed (протиріччя) and problems surrounding such (традиційну поліцейську діяльність) as patrol.

4. Police do much more than merely (запроваджувати закон).
5. The police task is too large, (складна і важка) for any single agency.
6. Perhaps (виникнення) of private police with very narrow (обов'язками) has occurred for (саме з цієї причини).
7. The responsibilities of private police are: (охорона) a warehouse, delivering a valuable package, watching for (магазинними злодіями).

7) Match the words from the box with the definitions below:

policing witness offender fine shoplifter terrorist
--

- one who steals goods from a shop,
- one who uses violence for political reasons,
- sum of money exacted as penalty for an offence,
- one who commits an offence,
- one who testifies in a court of law under oath,
- to patrol, regulate or maintain order in by means of police.

8) Translate this text into Ukrainian. Give your considerations as to the problem.

During the spring 1995 the city of Gainesville, Florida experienced a dramatic increase in the number of robberies in convenience stores. Gainesville police conducted a detailed analysis of the problem, searched the country for knowledge about the problem and strategies to deal with it. This analysis led them to focus attention on characteristics of the stores, especially whether they had one clerk or two on duty at the time of robbery. They concluded that stores with only one clerk on duty at night were more vulnerable to robbery during the night hours. Although the store management did not agree with police findings, the police department was able to secure independent research which confirmed the police conclusion that the presence of two clerks was the primary factor in deterring convenience store rob-

beries in Gainesville. The nation-wide study of the problem also discovered several communities which had reached the same conclusion and had enacted ordinances which required convenience stores to have more than one clerk on duty at night. With these precedents and local data the police approached the city council with the proposal that a local regulation be established which requires two clerks on duty in convenience stores during certain hours. This was challenged in the courts, but the regulation was upheld, in large measure because of the careful analysis of the problem which the police documented. And, a follow-up study revealed that convenience store robberies dropped by 65 percent immediately after the new ordinance was adopted.

Unit 17

Juvenile Crime and Juvenile Justice System

Then in the early industrial years of American society, primarily the decades immediately after the Civil War, there started a movement to set up a separate juvenile justice system aimed more at rehabilitating young offenders than punishing them. This was part of a larger series of efforts collectively known as the *child-savers' movement*, in which prominent American citizens – often women – set about improving the general living conditions of poor urban youngsters. Among other issues such as child labor and the treatment of orphans, these «child savers» felt that trying young offenders in adult criminal courts and imprisoning them in adult jails, workhouses, and penitentiaries was unnecessary and even counterproductive. Young offenders, they felt, were not yet hardened in their criminality - there was some hope that, if treated with a helping hand rather than a brutalizing one, they might reform and escape a life of crime.

The result of these efforts was the creation and establishment of the juvenile criminal justice system as we know it today, which began with the first juvenile court in Illinois in 1899 and spread from there to all the states.

No system of state intervention ever built had higher hope or more noble purposes. In contrast to the adult criminal justice system, which is punitive in its intent and stern and somber in its operations, the juvenile justice system was intended from the start to be «beneficent» to help youthful offenders, not punish them. Treatment, education, rehabilitation were its battle cries.

But the creation of a new system of justice is fraught with such problems as defining what crimes and what individuals are to be covered by it, what procedures to be used, and what outcomes from it are to be hoped for versus the outcomes actually realized. Moreover, in our society it involves the creation of a set of laws and procedures that ultimately must meet the various tests of Constitutionality under our system of government.

It is necessary also to examine issues such as the cutoff point between juvenile and adult, to note an important evolution of the sys-

tem into two processes: one for dealing with children who commit acts that would be criminal if performed by adults, and one for dealing with children simply in need of state supervision or intervention.

Whether the high hopes of the early child savers have been realized is still being debated. Today, we preserve the philosophy of separate norms for juvenile justice but we must deal realistically with serious violent crimes committed by young people where juvenile processing seems too lenient on the one hand and too little able to protect the rest of us on the other. There are conflicting views as to whether juvenile delinquency should be dealt with separately from adult criminality, and if so, to what extent juvenile criminals should be handled more or less harshly than adult criminals.

Notes

1. penitentiary – виправний заклад, в'язниця (тюрма)
2. intervention – втручання
3. punitive – каральний
4. stern – суворий
5. somber – безрадісний, похмурий,
6. beneficent – милосердий
7. fraught – повний
8. ultimately – максимально
9. constitutionality – конституційність.

Exercises

1) Answer the following questions:

1. When was a movement to set up a separate juvenile justice system started?
2. What was the aim of this movement?
3. What do you know about the child-savers' movement?
4. What were the main purposes of this movement?
5. Under what conditions might young offenders reform?
6. What was the result of these efforts?
7. Which in its intent is the adult criminal justice system?
8. What was the juvenile justice system intended to be?
9. What were the battle cries of the juvenile justice system?
10. What problems did the new justice system face?
11. What does the new system of justice involve in our society?

12. What issues is it necessary to examine and take into consideration?
13. What is still being debated?
14. What philosophy do we preserve today?
15. What are conflicting views as to the problem of juvenile delinquency?

2) Give Ukrainian equivalents for the following words and expressions: juvenile crime; juvenile justice system; industrial years; to rehabilitate; to punish; serious of efforts; child-savers; prominent; to set about; living conditions; urban; issues; an orphan; an offender; an adult criminal; to imprison; a jail; a workhouse; penitentiaries; criminality; a helping hand; a brutalizing hand; to escape; creation; a state intervention; noble purposes; punitive; stern; somber; beneficent; battle cries; a crime; procedures; an outcome; a set of laws; tests; constitutionality; issues; a cutoff point; evolution; a state supervision; a violent crime; juvenile processing; juvenile delinquency; harshly.

3) Find in the text the English equivalents for the words and phrases below:

роки інтенсивного розвитку промисловості; в основному; громадянська війна; окремих; система правосуддя для підлітків; неповнолітній правопорушник; карати; рух за рятування дітей; видатний; опікуватися; умови життя; міські підлітки; дитяча праця; сироти; суди для дорослих; в'язниця; виправна установа; злочинність; злочинне життя; суд, який розглядає справи неповнолітніх; державне втручання; каральний; милосердний; гасло; процесуальні норми; результати; низка законів; перевірки на конституційність; урядова система; державний нагляд; тяжкі насильницькі злочини; м'який.

4) Match the English phrases with their Ukrainian equivalents:

- | | |
|----------------------------|-------------------------------------|
| 1. juvenile justice system | 1. кримінальні суди для дорослих |
| 2. adult criminal courts | 2. бути каральним за замислом |
| 3. a life of crime | 3. система правосуддя для підлітків |

- | | |
|--|---|
| 4. to be punitive in intent | 4. створення низки законів |
| 5. the creation of a set of laws | 5. злочинне життя |
| 6. to meet the various tests | 6. діти, які потребують державного нагляду |
| 7. children in need of state supervision | 7. м'які процесуальні норми для неповнолітніх |
| 8. lenient juvenile processing | 8. відповідати різним вимогам |
| 9. juvenile delinquency | 9. дорослі злочинці |
| 10. adult criminals | 10. злочинність неповнолітніх |

5) Read the following sentences and decide if they are true or false?

1. A movement to set up a separate juvenile justice system started immediately after the Civil War.
2. The aim of this movement was more to rehabilitate young offenders than to punish them.
3. This was part of a larger series of efforts in which prominent American citizens set about improving child labor.
4. Trying young offenders in adult criminal courts and imprisoning them in adult jails, workhouses and penitentiaries was counterproductive.
5. Young offenders who were not hardened in their criminality might reform and escape a life of crime.
6. The first juvenile court was created in Illinois in 1899.
7. The adult criminal justice system is not punitive in its intent.
8. The juvenile justice system was intended from the start to punish youthful offenders.
9. The main problem of this new system was to define what crimes and what individuals were to be covered by it.
10. The laws and procedures must meet the various tests of Constitutionality

6) Match the words from the left and right columns according to the meaning. Make sentences of your own:

- | | |
|------------|-------------------|
| • juvenile | • youngsters |
| • criminal | • criminal courts |

- living conditions of
- adult
- to escape
- the system of
- to be covered by
- the creation of
- tests of
- evolution of
- dealing with
- justice system
- a life of crime
- state intervention
- a set of laws
- constitutionality

7) Find words and expressions in the text that mean:

- young person, youth,
- grown man or woman, mature person,
- court of law having special jurisdiction over children or adolescents under special age,
- antisocial or illegal behavior by children or adolescents,
- any place of confinement

8) Read the text:

The first landmark U.S Supreme Court case to deal directly with the right of juveniles was *Kent v. United States*, decided in 1966.

In this case, Kent, a 16-year-old boy, was charged with robbery, rape and burglary. The juvenile judge transferred Kent out of juvenile court and he was tried and convicted as an adult. Maximum confinement by the juvenile court would have been for « a period of time not to exceed his 21st.birthday», or about 5 years. As an adult he faced maximum sentence of death, although the court sentenced him to 30 to 90 years in prison. According the District of Columbia statutes, there should have been a waiver hearing* to determine whether Kent should be transferred to the adult Court, but none was held. It was on this basis that the Supreme Court reversed** Kent's conviction. The consequence of Kent is that waiver hearings are now provided in juvenile courts across the land.

* a *waiver hearing* – судове засідання, де суддя вирішує питання про передачу справи неповнолітнього до кримінального суду, який розглядає справи повнолітніх.

** *to reverse* – скасувати.

Choose the best answer:

1. Kent was
 - a) a juvenile
 - b) an adult
 - c) an old man
2. Kent was tried at
 - a) a juvenile criminal court
 - b) an adult criminal court
 - c) a civil court
3. Maximum confinement by the juvenile court would have been
 - a) about 7 years
 - b) to 30 years in prison
 - c) about 5 years
4. Kent was sentenced to
 - a) 30 to 90 years in prison
 - b) the sentence of death
 - c) a period of time not to exceed his 21st birthday
5. There should have been
 - a) a waiver hearing
 - b) a preliminary hearing
 - c) an administrative hearing
6. The Supreme Court
 - a) reversed Kent's conviction
 - b) upheld Kent's conviction
 - c) sent him to prison.

Study the following words and phrases:

1. juvenile justice system
2. young offenders
3. adult criminals
4. adult criminal court
5. juvenile criminal court
6. adult jails
7. workhouses
8. penitentiary
9. treatment
10. education
11. rehabilitation
12. a set of laws and procedures

Do similar institutions and notions exist in your system, with comparable functions and characteristics?

Unit 18

Juvenile Delinquency and the Conservative and Liberal Crime Control Models

Conservatives believe that lenient handling of juvenile offenders contributes to high rates of adult criminality. Much crime, they believe, is committed by a relatively small number of juvenile delinquents who believe they can get away with it because of their age. Conservatives point out that the seriousness of juvenile offences has increased in recent years. No longer is juvenile delinquency a form of normal adolescent adventurism. Rather, serious crimes are committed by juveniles emboldened by their belief that, if caught, they will suffer only the wrist slap of a lenient juvenile justice system.

The conservative answer to this problem is to deter potential juvenile offenders by treating more harshly those who get caught. Detention of delinquents for longer periods of time in secure facilities, transfer of juvenile cases to the adult criminal justice system for more serious treatment, the removal of privacy protections for juvenile offenders, and a renewed commitment to discipline in the schools will help reduce the high rates of juvenile crime and will lessen the likelihood that juvenile offenders will become adult criminals. In the conservative view, even capital punishments for youthful criminals, should be used as a deterrent.

According to the liberal view, juveniles who come to the attention of the police and juvenile authorities are deprived educationally and economically and lack opportunities to succeed legitimately. Liberals point out that most juveniles who are arrested have committed only minor offences – often infractions so minor they would not even be considered illegal if committed by adults. But once arrested they are labeled delinquent by the police and other authorities in society, and then treated as criminals. Not only does this promote poor self-images for such youthful offenders, but it creates an atmosphere of antagonism between juveniles and adult authority figures. And incarcerating juveniles in adult institutions only escalates their fall into criminality.

The answer to the serious problem of juvenile delinquency proposed by liberals is to divert youthful offenders away from damaging effects of the justice system, especially those produced by confinement facilities. Problem children should be treated through rehabilitating programs. An expanded use of juvenile probation programs staffed by caring, professional child care workers will reverse the harmful environmental effects the delinquent youngsters have encountered in their neighborhoods and families. In their liberal view, juveniles have been treated badly by the law historically, and are entitled to the full protection of due process and other Constitutional guarantees that are the right of every citizen.

Notes

adolescent – підліток
to embolden – заохочувати
wrist slap – докоряти
in secure facilities – під охороною
privacy protection – захист конфіденційності
to deprive – обмежувати
to divert away from – вивести з-під

Exercises

1) Answer the following questions:

1. What is the conservative point of view on lenient handling of juvenile offenders?
2. Why is much crime committed by a relatively small number of juvenile delinquents?
3. What is the conservative answer to the problem of juvenile delinquency?
4. What is the liberal view on juvenile delinquency?
5. What do Liberals point out?
6. What happens with a delinquent once arrested?
7. What escalates juvenile delinquents' fall into criminality?
8. What is the answer to this problem proposed by liberals?
9. What will reverse the harmful environmental effects the delinquent youngsters have encountered in their neighborhoods and families?
10. What is the right of every citizen?

2) Give Ukrainian equivalents for the following words and expressions:

lenient handling; juvenile offenders; adult criminality; juvenile delinquents; seriousness of an offence; a normal adolescent adventurousness; serious crimes; to suffer the wrist slap; a lenient justice system; to treat more harshly; detention; secure facilities; a serious treatment; removal of privacy protections; a renewed commitment; the capital punishment; a deterrent; to succeed legitimately; minor offences; to be labeled delinquent; to incarcerate a juvenile; damaging effects; rehabilitation programs; professional child care workers; harmful environmental effects; guarantees.

3) Find in the text the English equivalents for the words and phrases below:

поводження; високий рівень; злочинність; неповнолітній правопорушник; підліткова злочинність; молодіжний авантюризм; тяжкий злочин; заохочувати; відбутися докорами; утримувати м'якосерде потенційних правопорушників; утримання під охороною; захист конфіденційності; основний підхід до дисципліни; вірогідність; дорослий злочинець; обмежувані емоційно; не мати можливості; незначні правопорушення; вища міра покарання; вивести з-під...; ув'язнення неповнолітніх; програма реабілітації; шкідливі наслідки; повний захист; конституційні гарантії.

4) Match the English phrases with their Ukrainian equivalents:

- | | |
|-----------------------------------|---|
| 1. handling of juvenile offenders | 1. неповнолітній правопорушник |
| 2. a juvenile delinquent | 2. уникнути |
| 3. to get away | 3. ставлення до неповнолітніх правопорушників |
| 4. juvenile offences | 4. злочинність неповнолітніх |
| 5. juvenile delinquency | 5. утримання під охороною |
| 6. adolescent adventurousness | 6. високий рівень підліткової злочинності |

- | | |
|-----------------------------------|---|
| 7. to suffer the wrist slap | 7. злочини, вчинені неповнолітніми правопорушниками |
| 8. detention in secure facilities | 8. захист конфіденційності |
| 9. privacy protection | 9. молодіжний авантюризм |
| 10. high rates of juvenile crime | 10. відбутися докорами |
| 11. capital punishment | 11. вища міра покарання |
| 12. minor offences | 12. незначні правопорушення |
| 13. Damaging effects | 13. шкідливий вплив |

5) Complete the following sentences with the words from the box. Translate these sentences.

away of out in for as to away from through

- 1) Some juvenile delinquents believe they can get ... with punishment because ... their age.
- 2) Conservatives point ... that rates of juvenile crime has increased ... recent times.
- 3) Detention ... delinquents ... longer periods of time ... secure facilities will reduce the high rates of juvenile crime.
- 4) Once arrested a delinquent was treated ... a criminal.
- 5) The arrest promoted poor self-image ... the youthful delinquent.
- 6) The answer ... this serious problem is to divert offenders damaging effects of their neighborhood.
- 7) Problem children should be treated ... rehabilitation programs.
- 8) Juveniles are entitled ... the full protection ... due process and other Constitutional guarantees.

6) Complete the following text by translating the words and expressions in brackets:

The sad fact is that (молодь) – teenagers and those even younger – can and do commit (ті самі види злочинів) as adults. Homicides, assaults, (згвалтування, пограбування), burglaries – are found in juvenile as well as adult (кримінальні суди). Indeed, (значний відсоток) of the total (кримінальної діяльності) reported in the official measures of crime involve (підлітків). The official arrest data show that (участь неповнолітніх у злочинах) is great. Persons (у віці від 12 до 19) have the highest rate per 1000 of those who are (жертви) of (пограбувань, розбійних нападів та згвалтувань).

7) Find in the text words that mean:

- Young person, youth,
- Antisocial or illegal behavior by children or adolescents,
- Person between puberty and adulthood,
- Having attained maturity, fully grown.

8) Find arguments for and against the conservative and liberal points of view as to juvenile delinquency and crime control models.

In the discussion use the following forms of agreement and disagreement:

- I quite agree with you,
- You are right,
- Certainly,
- That's right,
- I disagree with you,
- I am afraid you are mistaken,
- Nonsense,
- Nothing of the kind.

9) Express your opinions using the words given:

- I think that ..
- In my opinion ..
- To my mind ..
- If you ask me ...

Unit 19

Pretrial Detention

Jails, Prisons and Lockups

The jail may be the most misunderstood institution in the criminal justice system. »Jail and prison are often thought of as synonymous terms by citizens who use them interchangeably (e.g. He was sentenced to 5 years in jail).

Even those who should know better- newspaper columnists and politicians – confuse these terms.

Prisons – are state or federal institutions for the confinement of sentenced felons who have at least 1 year to serve; jails are local county or city institutions for the temporary detention of persons awaiting indictment, arraignment, trial or sentencing and for person, serving short-time misdemeanor sentences (less than a year). In some cases jails also hold material witnesses – that is, witnesses to a crime who might flee or move away before the trial if they are not detained – as well as parole violators awaiting return to prison.

Virtually, every city, county and town in the United States has a facility for the confinement of arrested persons and the incarceration of misdemeanants. Village or town jails often consist of now more than a few cells for locking up six to eight persons. On the other hand, major citing jails have hundreds of large group cells as well as individual cells.

Police stations have lockups, small holding cells, for the temporary detention of persons under investigation or being processed for their initial appearance. Persons placed in lockup cells must be screened for medical or psychological problems which may threaten their own safety.

Jails, in the pure sense, are not correctional facilities; typically jails have little if any correctional capability in terms of recreation-libraries, educational programs, and the like. Because most jail inmates are awaiting trial, and therefore presumed «innocent», correctional programs are inappropriate.

The average length of stay in jail is 11 days, but many persons will be confined not much more than 24 hours, or until friends or relatives raise bail or make other release arrangements. This is especially

true of police lockups, where release is often arranged prior to arraignment or transfer to jail.

Most veteran prisoners agree that jail time is much more difficult to serve than a prison sentence. Jail terms are usually shorter, typically the jails themselves are not equipped with outside recreation facilities. They are often crowded, dirty, unsafe and populated by an unstable mixture of felons, drunks, misdemeanants – those considered the «dregs of society».

In comparison to jails, most prison facilities provide a great deal of stimulation in the form of hobby activities, vocational training, educational opportunities, movies, religious programs. Holding a person in custody implies a responsibility to provide care for that person who, by virtue of being incarcerated, is no longer able to fully provide for his or her own needs. When the police agency arrests someone, even for the individual own protection, the responsibility for that person's safety and health lies with the police. Therefore in properly managed jails and lockups, medical screening is provided. Guards are trained to recognize threatening behavioral characteristics, policies require routine standards of care, and officers are trained and equipped to render aid quickly and expertly in any emergency.

Notes

1. «dregs of society» – покидьки суспільства
2. sentenced felons – засуджені за тяжкий злочин
3. parole violators – порушники, умовно-достроково звільнені «під чесне слово»
4. material witness – важливий свідок (свідчення якого мають істотне значення)
5. correctional facility – виправна установа
6. recreation facilities – можливості для відпочинку та виправлення

Exercises

1) Find the answers to the following questions in the text above:

1. What is a prison?
2. What is a jail?
3. What are material witnesses?
4. What do police stations have for a temporary detention of persons?

5. Can we regard a jail a kind of a correctional facility?
6. What is an average length of stay in jail?
7. Why do most veteran prisoners agree that a jail time is more difficult to serve than a prison sentence?
8. How do prison facilities differ from those in jails?
9. What responsibility does holding a person in custody imply?

2) Fill in the blanks using words and phrases given in brackets below:

1. — — are state or federal institutions for the confinement of sentenced felons who have at least one year to serve.
2. Every city, county and town in the US has — for confinement of arrested persons.
3. Holding a person — implies a responsibility to provide care for that person.
4. Persons placed in lock-up cells must be screened for —.
5. Police station have small holding cells, called —, for temporary — of persons under investigation (prisons, detention, jail, facility, medical or psychological problems, lock-ups, in custody).

3) Find words and expressions in the text that mean:

1. local county or city institutions for the temporary detention of persons awaiting indictment, arraignment or trial;
2. a person convicted of felony;
3. state or federal institutions for sentenced felons;
4. witnesses for a crime who might free or move away before trial if they are not detained;
5. a person convicted of misdemeanor;
6. people who are often considered «dregs of society»;
7. small holding cells for the temporary detention of persons under investigation.

4) Match the English noun phrases with their Ukrainian equivalents:

- | | |
|----------------------------|----------------------------------|
| 1. criminal justice system | 1. вирок до тюремного ув'язнення |
| 2. sentenced felons | 2. окрема камера |
| 3. temporary detention | 3. середня тривалість |

- | | |
|----------------------------|--------------------------------------|
| 4. individual cell | 4. мешканці тюрем |
| 5. correctional facilities | 5. професійна підготовка |
| 6. jail inmates | 6. термін ув'язнення |
| 7. average length | 7. засіб виправлення |
| 8. term of imprisonment | 8. тимчасове ув'язнення |
| 9. prison sentence | 9. засуджений за тяжкий злочин |
| 10. vocational training | 10. система кримінального правосуддя |

5) Match the English verb phrases with their Ukrainian equivalents:

- | | |
|-------------------------------|---|
| 1. to hold in custody | 1. переводити до тюрми |
| 2. to provide care | 2. помістити людину в камеру |
| 3. to render aid | 3. тримати під вартою |
| 4. to confuse the terms | 4. передбачати невинним |
| 5. to serve a sentence | 5. призначати заставу |
| 6. to await indictment(trial) | 6. сплутувати строки |
| 7. to lock a person in a cell | 7. чекати обвинувального акту великого журі (судового розгляду) |
| 8. to presume innocent | 8. відбувати строк покарання |
| 9. to raise bail | 9. надавати допомогу |
| 10. to transfer to jail | 10. забезпечити нагляд |

6) Find in the text the English equivalents for the words and phrases below:

медичне обстеження; засуджені злочинці; короткий строк; ув'язнення за менш тяжкий злочин; професійна підготовка; відбувати строк покарання; очікувати судового розгляду; людина, яка вчинила незначне правопорушення (тяжкий злочин); засуджений до ув'язнення в тюрму; строк до одного року; поліцейський відділок; камера тимчасового утримання.

7) Complete the following text with words and phrases given below:

At 2 a.m. in a small — police officers on routine — observed two young males passing items through a — window of an apartment complex.

When — approached the two men — a television set and ran.

The officers caught the two after a brief foot —, determined that an apartment had been broken into —, and after —, took the two men to — and booked them.

(ground floor; a city; patrol officers; illegally; an investigation; a jail; to drop; a chase; patrol)

8) Explain in English the meaning of these notions:

jail; prison; material witnesses; felon; misdemeanor; jailed defendant; lockups

9) Talk on pretrial detention using the following key words and phrases:

to confuse the terms «jail» and «prison»; federal institutions for confinement; local county or city institutions; temporary detention; short term misdemeanor sentence; material witness; facilities for the confinement of arrested persons; large group-cells; individual cells; to lock up persons; correctional facilities (capabilities); the average length of stay in jail; to raise bail; to make release arrangements; veteran prisoners; vocational training; religious programs; to be incarcerated; to render aid quickly and expertly; in any emergency.

10) Read the following episode and render it into Ukrainian:

Police officers on routine patrol observed a car and conducted a routine traffic stop. The driver was asked to step out of the car and show identification and car registration, which he did. A passenger began to talk loudly to the officers questioning their motives and generally harassing them. The officers repeatedly instructed the passenger to be quiet and not to interfere with the performance of their duties. Finally, one officer threatened to take the passenger to jail if he did not stop interfering. And when he continued with his belligerence, the officer took him to jail and booked him for obstruction of justice.

Notes

1. belligerence — войовничість
2. obstruction of justice — перешкоди відправленню правосуддя

Unit 20

Pretrial Release

1. Initial Appearance

When the police bring a person they have arrested to jail, for booking, the suspect is taken before a magistrate for an initial appearance, usually within 24 hours of arrest. This is the first time the suspect appears in court. Sometime during this same 24-hour period the case materials are turned over to the prosecutor for the consideration of formal charges. At this point in the criminal justice process, the police task is done. Of course the officers may be required to testify later at a trial, if the case goes that far, but in the majority of instances the police role is over after this initial appearance before a magistrate.

At the initial appearance several matters are resolved. First, the defendant is informed of the arrest charges, often by the reading of the complaint, although he or she is not asked to plead to them. Second, the defendant is again informed of his or her Constitutional rights, including those that pertain to self-incrimination and legal representation. Third, an attorney is assigned to indigent defendants, if they desired one, or the public defender's office is officially notified that the case will proceed to trial.

But the fourth issue resolved, and the one that most immediately affects the person in police custody and charged with a crime, is decided by the judge — that is, whether to release the individual pending further processing, or to detain the individual in jail pending further processing. This step is called, in shorthand, «bail or jail,» and the judge's decision depends on many factors. Police have arrested the person on evidence of criminal behavior. The person may even have been caught in the act of committing the crime. And the prosecutor has stated the intention to prosecute, to secure a conviction either through a guilty plea or trial. Is it safe to allow the accused to remain in the community at large? What was the nature of the crime? What are the best interests of the accused? If the judge allows the individual to go free pending further processing, it is known as pretrial release. If the judge does not allow it, pretrial release has been denied.

2. Bail

Several pretrial release options are used by the courts today making most defendants, regardless of economic status, eligible for release pending trial.

The most commonly known method for pretrial release is bail, an amount of money the posting of which a judge deems necessary for pretrial release. The bail money is posted to assure the defendant's later appearance at trial. Bail has roots in the British tradition of surety. Whereby accused persons were required to place some real property against their failure to appear at a future trial. The traditional purpose of bail has been to assure the later appearance of defendants at trial, that is, to prevent or discourage flight. That implies that bail should only be set at an amount necessary to achieve this purpose.

Four different types of money bail (or bond, as it is sometimes called) are used: (1) **fully secured bail**, in which the defendant must post the full amount of bail with the court; (2) **privately secured bail**, in which a bail bondsman signs a promissory note for the full amount for the defendant in exchange for a fee of 10 percent of the full amount; (3) **deposit bail**, in which the court allows the defendant to post 10 percent of the full amount with the court, which is usually refunded when the defendant appears for trial (the full amount is due if the defendant does not show); and (4) **unsecured bail**, in which the defendant pays no money to the court but is liable for the full amount of bail if he or she fails to appear for trial.

In addition to financial bail, alternative release options exist including (1) **release on recognizance (ROR)**, in which the defendant is released on the promise to appear for trial; (2) **conditional release**, in which the court releases the defendant with specific requirements, such as that he or she attends a drug rehabilitation program or meets some other special condition; (3) **third-party custody**, in which the defendant is released into the custody of another individual or agency on the promise that his or her later appearance will be assured; and (4) **citation release**, in which the arresting officer grants the defendant a release through a written order, or citation, for his or her first court appearance.

Notes

1. If the case goes that far...- якщо справа заїде так далеко
2. release pending trial — звільнення з-під варти в очікуванні розгляду справи в суді

3. to book – зареєструвати (в поліції)
4. third-party custody – звільнення під опіку третьої сторони

Exercises

1) Find the answers to the following questions in the text above:

1. When does a suspect appear in court for the first time?
2. When is the police role over?
3. What matters are resolved at the initial appearance?
4. What issue, which most immediately affects the person in police custody charged with a crime is decided by a judge?
5. What does an expression «bail or jail» mean?
6. What is bail and its traditional purpose?
7. What are the four different types of money bail?
8. What are the alternative release options?

2) Say whether these statements are true or false:

1. When the police bring a person to jail, for booking, the suspect is taken before a grand jury.
2. Within a 24-hour period the materials of the case are turned over to the prosecutor for the consideration of formal charges.
3. If the judge does not allow the person to go free pending further processing it is known as initial appearance.
4. The traditional purpose of bail is to prevent or discourage defendant's flight and to assure the later appearance of the accused at trial.
5. The police role is not over after the initial appearance.

3) Match the English noun phrases with their Ukrainian equivalents:

- | | |
|-----------------------------|--|
| 1. initial appearance | 1. умовне звільнення |
| 2. arrest charges | 2. досудове звільнення |
| 3. indigent defendants | 3. заява про провину |
| 4. public defender's office | 4. певні вимоги |
| 5. further processing | 5. обвинувачення, висунуті при арешті |
| 6. criminal behavior | 6. звільнення під заставу |
| 7. guilty plea | 7. обвинувачені, що зазнають нестатків |
| 8. pretrial release | 8. офіс громадського захисника |

- | | |
|---------------------------|-----------------------------|
| 9. conditional release | 9. кримінальна поведінка |
| 10. specific requirements | 10. перше з'явлення до суду |
| 11. release on bail | 11. подальший процес |

4) Match the English verb phrases with their Ukrainian equivalents:

- | | |
|--|--------------------------------------|
| 1. to turn over the case to the prosecutor | 1. звільнити особу |
| 2. to resolve a matter | 2. вирішити справу |
| 3. to release an individual | 3. призначити заставу |
| 4. to proceed the case to trial | 4. обвинуватити в злочині |
| 5. to charge with a crime | 5. захопити під час вчинення злочину |
| 6. to catch in the act of committing a crime | 6. запобігти втечі |
| 7. to discourage flight | 7. передати справу до суду |
| 8. to set a bail | 8. передати справу прокурору |

5) Find in the text the English equivalents for the words and phrases below:

грошова застава; підозрюваний; реєструвати; перше з'явлення до суду; досудове звільнення; певні вимоги; звільнення «під чесне слово»; з'явитися до суду; кримінальне судочинство; обвинувачення, що призвели до арешту; визнання себе винним; злочинна поведінка; тримати підозрюваного у тюрмі; застава, гарантована в повному обсязі; застава, гарантована опікувачем; негарантована застава; застава під завдаток; письмове розпорядження про досудове звільнення; умовне звільнення.

6) Give Ukrainian equivalents to words and phrases below:

release on recognizance (ROR); third-party custody; first court appearance; public defender's office; conditional release; in exchange for a fee of 10 percent; a guilty plea; in shorthand; to post a bail(or bond) with a court; to assure a later appearance; to be taken before a magistrate; to testify at a trial; police custody.

1. bail	1. the court allows the defendant to post 10 percent of the full amount with the court and is usually refunded when the defendant appears for trial.
2. initial appearance	2. a bail bondsman signs a promissory note for the full amount for the defendant in exchange of a fee of 10 percent.
3. citation release	3. the defendant must post the full amount of bail with the court.
4. (ROR) release on recognizance	4. to take the suspect before a magistrate within 24 hours of arrest for the first time to inform him of arrest charges.
5. deposit bail	5. the defendant is released into the custody of another individual or agency.
6. fully secured bail	6. the defendant is released on the promise to appear for trial.
7. conditional release	7. an amount of money posting of which the judge deems necessary for pretrial release.
8. privately secured bail	8. a judge allows the individual to go free pending further processing.
9. pretrial release	9. the court releases the defendant with specific requirements, such as he/she must attend rehabilitation program, etc.
10. third-party custody	10. the arresting officer grants the defendant a release through a written order or citation.

7) Match the words and phrases from the left with the corresponding explanations from the right column

8) Complete the following text by choosing corresponding words and phrases from the box:

release on own recognizance; jail; pretrial release; judge; officer; bail; arrest; indigent; employment; investigator, investigation; shoplifting; charges

An 18 year-old girl arrested for ... requested claiming to be indigent. A field ... showed that she lived with an unemployed boyfriend, had no steady ..., had dropped out of school in the eleventh grade, and was indeed She had one prior ... for shoplifting but the ... had been dismissed for reasons not known. On her prior arrest she had posted ... of \$ 200 and this was returned when the charges were dropped. The ROR ... recommended but the ... remanded her to municipal ... to await arraignment.

Note

shoplifting – крадіжка в магазині

9) Talk on pretrial release using the following key words and phrases: to bring a person to a jail for booking; initial appearance; to turn over materials of a case to a prosecutor; to bring formal charges; to be informed of the arrest charges; «bail or jail»; to go free pending further processing; pretrial release; four different types of bails release or own recognizance; conditional release; rehabilitation program; third-party custody; citation release; written order.

10) Read the following episode and render it into Ukrainian:

A 40-year old male was arrested for fraud and forgery. He was accused of posing as a representative of a roofing company, talking some homeowners into ordering new roofing from a fictitious firm and forging a false name to endorse their initial deposit checks. Actually, he was employed half-time as a car salesman, lived in his own home with his wife and three young children, and had one prior conviction for drunk and disorderly behavior, resulting in a fine of \$ 75, which he had paid. An ROR investigation showed him to be unable to post bail. He was a lifelong resident of the city and was well thought of by the car dealer for whom he worked. The magistrate granted him pre-trial release on recognizance.

Notes

1. fraud and forgery – обман та підлог
2. roof – дах

Unit 21

Defense Lawyer

«You are entitled to have an attorney... If you cannot afford an attorney, one will be appointed to represent you.»

These are famous Miranda warning words on the right to legal counsel which police must provide to all arrested suspects prior to their interrogation. They are perhaps better known than the words of the Sixth Amendment right which they express: «In all criminal prosecutions, the accused shall enjoy the right to have the assistance of counsel for his defense».

The Role of the Defense Lawyer

As soon as a person is arrested he or she needs a defense attorney, and the role of the defense attorney begins almost as soon as an arrest occurs, for the accused needs the assistance of a counsel to make sure interrogation and other pretrial procedures are conducted in a Constitutional manner. After that point, the defense counsel role is to review the documents and other evidence the police have accumulated against the accused, and to interview or question the arresting officer and others involved in the case. The defense attorney may interview witnesses to the crime, and may even conduct an independent investigation.

Important work of the defense attorney is done in conversations with the prosecutor. Defense attorneys usually have dealt previously with the prosecutors assigned to their particular cases. Thus, defense and prosecuting attorneys know each other.

At bail hearings and in plea negotiations defense attorneys represent the accused. They prepare pretrial motions and often argue them in pretrial conferences and hearings. Then, if all fails and the case goes to trial, the defense attorney prepares the defense material for trial.

At trial defense attorneys question prospective jurors, cross-examine prosecution witnesses, and generally represent the accused. If cases result in conviction, the defense attorneys help those convicted gain the best possible sentences. Then, sometimes appeals may be pursued, which can entail written documents arguing for reversal of the decisions or sentences.

Defense attorneys are involved in every stage of the criminal justice system beginning with the arrest. And throughout all of the stages of criminal justice decisions they are responsible for protecting the accuser's Constitutional rights, to be sure their clients are not treated unfairly or improperly. Everyone accused of a crime needs a good defense attorney.

Right to a Free Defense Attorney

Defendants who are financially able can hire lawyers to represent them at trial. Poor defendants, however, have to rely on state-paid attorneys existing in each jurisdiction.

In some states there were provisions to assign counsel to any defendant unable to afford a lawyer; in others the assistance of state-paid counsel was limited to very serious cases, usually those involving capital offences. For many years, the US Supreme Court took the position that this was a «state's right» issue that there was no federal Constitutional requirement that states must provide counsel for the defense.

In 1932 the US Supreme Court considered the appeal of an Alabama court decision known as the «Scottsboro Rape Case» in which nine young black men had been convicted of raping two white women and were subsequently sentenced to death. The Court held that the advice of counsel was essential as a Constitutional matter in such capital cases. Thus, for the first time in state trials involving a possible death sentence defense lawyers were required, if requested by defendants and at state expense, if the defendants were too poor to pay attorney fees.

Ten years later in 1942 in *Betts v. Brady* the Supreme Court again held that states, as a matter of federal Constitutional rights, did not need to appoint lawyers for the poor in non-capital cases. It was only in 1963, that the Supreme Court again confronted a case concerning the right to counsel. That case, *Gideon v. Wainwright* proved a landmark decision, probably having a greater impact on the criminal court process than any other single Supreme Court decision.

Clarence Earl Gideon was charged in a Florida state court with having broken and entered a poolroom with intent to commit a misdemeanor. That offence was a felony under Florida law. Appearing in court without funds and without counsel, Gideon asked the court to appoint a lawyer to represent him. Gideon was referring to the Sixth Amendment to the US Constitution, which states in part «In all criminal cases the accused shall enjoy the right to have the assistance of

counsel for his defense.» Today free defense counsel is provided to indigent defendants either through public defender programs, or contracts between courts and law firms. In addition persons charged with serious misdemeanors are now included in the right to counsel rulings, expanding the right to counsel to any defendant, who seriously faces the possibility of incarceration.

A word should be said about the rather rare instances where a defendant refuses the assistance of court-appointed lawyers, or public defenders, and asks the judge for permission to act as his or her own defense lawyer. This is permitted, since the state cannot force an attorney on a defendant who intelligently waives the right to representation of counsel.

Notes

- intelligently waives the right – свідомо ухиляється від права бути представленим адвокатом
- plea – заява
- a plea to «nolo contendere» (лат.) – «Я не бажаю оспорювати» (заява обвинуваченого про те, що він не оспорує висунуті йому обвинувачення)
- pretrial motions – досудові клопотання
- accuser – скаржник

Exercises

1) Find the answers to the following questions in the text above:

- What does the Sixth Amendment to the Constitution express?
- When does role of the defense attorney begin?
- What does a defense attorney do after an accused has been arrested?
- Did defense and prosecuting attorneys know each other at previous stages of criminal proceedings?
- What responsibilities does a defense attorney have during bail hearing and plea negotiations?
- What does a defense attorney do at a trial?
- In what cases can state-paid attorneys be assigned to any defendant unable to afford a lawyer?
- What case proved a landmark decision concerning the right to counsel?
- What does a court do if a defendant refuses the assistance of court-appointed lawyers?

2) Say whether these statements are true or false:

- Police must provide the right to legal counsel after their investigation.
- As soon as the accused is arrested he needs the assistance of a defense counsel.
- The defense attorney has no right to conduct an independent investigation.
- If an accused is convicted, the defense attorney helps him to gain the best possible sentences.
- Defense attorneys are involved only in the first steps of criminal investigation.
- Poor defendants have to rely only on state-paid attorneys existing in each jurisdiction.

3) Fill in the blanks using words and phrases given in the box:

counsel	suspects	to review
law firms	interrogation	documents
defense attorney	evidence	crime
indigent defendants	accused	courts
public defender programs	prosecutor	

- The police must provide the right to to all arrested ... prior to their
- One of the functions of a defense counsel is and others ... the police have accumulated against
- Important work of a defense attorney is done in his conversations with
- Everyone accused of ... needs a good
- Today free defense counsel is provided to either through or contracts between ... and

4) Match the English noun phrases with their Ukrainian equivalents:

- | | |
|-------------------------|---|
| 1. arrested suspects | 1. скасування рішення (вироку) |
| 2. criminal prosecution | 2. той, хто проводить незалежне розслідування |
| 3. pretrial procedure | 3. в дусі конституції |

- | | |
|---|--|
| 4. in a constitutional manner | 4. заарештовані підозрювані |
| 5. arresting officer | 5. безоплатний адвокат |
| 6. a witness to a crime | 6. судове переслідування |
| 7. an independent investigator | 7. захисник |
| 8. defense attorney | 8. слухання про заставу |
| 9. prosecuting attorney | 9. адвокат, діяльність якого сплачує штат |
| 10. bail hearing | 10. злочин, за який передбачено смертну кару |
| 11. a reversal of the decision (sentence) | 11. досудове провадження |
| 12. a free defense attorney | 12. обвинувач |
| 13. state-paid attorney | 13. свідок злочину |
| 14. capital offence | 14. поліцейський, що здійснює арешт або затримання |

5) Match the English verb phrases with their Ukrainian equivalents:

- | | |
|---|--|
| 1. to appoint an attorney | 1. розглянути апеляцію |
| 2. to have an assistance of counsel for defense | 2. поводитися (не)справедливо |
| 3. to accumulate evidence | 3. проводити допит |
| 4. to conduct an investigation | 4. викликати свідка захисту |
| 5. to interview witnesses | 5. отримати найменш суворий вирок |
| 6. to cross-examine prosecution witnesses | 6. справляти великий вплив |
| 7. to call a defense witnesses | 7. допитувати свідків обвинувачення на перехресному допиті |
| 8. to gain the least possible sentence | 8. опитувати свідків |
| 9. to treat (un)fairly | 9. зібрати докази |
| 10. to consider an appeal | 10. користуватися послугами адвоката |
| 11. to have a great impact | 11. призначити адвоката |

6) Find in the text the English equivalents for the words and phrases below:

допит; заарештований; підозрюваний; тиснути на захисника; незалежне розслідування; слухання про заставу; підготувати матеріали по захисту для судового слухання; допитувати свідків; призначити прокурора у конкретній справі; захищати конституційні права обвинуваченого; захисник, призначений судом; серйозні правопорушення; справи, які (не)передбачають смертне покарання; гонорар адвоката.

7) Talk on the work of a defense lawyer using the following words and phrases in your own sentences:

the right to have an attorney; arrested suspects; accused; the first steps of pretrial procedures; as soon as an arrest occurs; to review documents; to question arresting officers; to conduct an independent investigation; to prepare defense materials for trial; to examine (cross-examine) prosecution (defense) witnesses; to argue for reversal of decisions or sentences; to be sure the clients are not treated unfairly; state-paid attorney; to be unable to afford a lawyer.

8) Complete the following text by translating words and phrases in brackets:

In a (справа, яка передбачає смертний вирок) where (обвинувачений) cannot (захищати) himself or herself because of ignorance, feeble-mindedness, illiteracy, or the like, and where he or she is unable (найняти адвоката), the court should (призначити захисника). Fundamental (неупередженість) and the due process of law (вимагає) that (бідні) defendants have (безоплатний захисник, призначений судом) if they cannot otherwise provide for counsel.

9) Give all possible variants for the word «захисник» and use them in your own sentences.

10) Read the following text. Give a brief summary of it in English (Ukrainian):

Who Defends the Poor?

States have developed three primary models for providing legal help for poor defendants. Those are public defender programs, assigned counsel systems, and contract systems.

The public defender may be attached to either statewide agency or a local agency. Several states have public defenders systems headed by a person who is responsible for providing defense in the various counties in that state. The rest of the states have local systems which are autonomous. The public defender, much like the state attorney, is usually a government employee.

Assigned counsel systems involve private attorneys who are appointed by a judge to provide legal defense. A minimum fee is usually paid by the state for the legal services.

Contract system involves the government contracting with individual attorneys, bar associations, or private law firms to provide services for a specified dollar amount. Contract systems can be found in both small counties and very large ones.

Unit 22

Prosecutor

Charge or no charge.

The police have concluded, based on their investigation and the evidence obtained that an individual is guilty of a crime. After arresting and booking that person, various decisions must be made as to what should be done next. The prosecutor is that decision-maker, and the decisions involve whether or not to move the case forward through formal charges seeking an indictment or filing an information, etc.

As a matter of fact, a large percentage of arrests do not result in prosecution. The prosecutor, or district attorney, can for any number of reasons or for no obvious reasons- decide not to prosecute.

The most common reasons for deciding not to prosecute or for dismissal of charges are the following:

1. Insufficient evidence, which results from a failure to uncover enough evidence to link a suspect to the crime.
2. Witness problems, which arise when a witness fails to appear, gives unclear or contradictory statements, refuses to testify, or is unsure of the identity of the offender. Also, a major cause of witness problems is a prior relationship between the victim and the defendant.
3. The interests of justice, which lead the prosecutor to conclude that certain offenses violate the letter of law but not the spirit of law.
4. Due process problems, which involve violations of constitutional requirement in the obtaining of evidence.
5. A plea on another charge, or guilty pleas, whereby the accused is charged in several cases or on several counts and the prosecutor agrees to dismiss or drop some charges in exchange for guilty pleas on others. (This is the largest category of reasons for dismissal).
6. Pretrial diversion, in which the prosecutor and the court agree to drop charges when the accused complies with some condition, such as completion of a drug rehabilitation program.
7. Referral for other prosecution, such as when an accused person is charged with more serious crimes in another jurisdiction and the decision is made to transport him / her to that jurisdiction for processing.

2. Determining the Initial Charge.

If a district attorney decides to proceed to prosecution the specific charge or charges to bring must be decided. If more than one offence is contained in the complaint, or more than one defendant is involved in the crime, the prosecutor must decide whether to join offences and offenders in a single prosecution or to sever them to separate charges and trials. In routine cases the district attorney's initial charging determination is made in the absence of the suspect, who at this point may be out on bail or held in jail awaiting further processing. The prosecutor may interview the arresting officer and perhaps the complainant or available witnesses. Upon request the prosecutor may talk with the suspects, defense attorney if one has been hired or appointed at this time. In certain «hot» cases – generally those involving very serious crimes or notorious suspects, or cases that otherwise have generated a good deal of publicity – the prosecutor may interrogate the suspect. These are comparatively rare occurrences; usually the initial determination to charge or not is made without contact with the subject.

Notes

1. sever – роз'єднувати
2. publicity – гласність
3. out on bail – звільнений під заставу
4. available witness – наявний свідок

Exercises

1) Find the answers to the following questions in the text above:

1. Who decides whether or not to move the case forward through formal charges after arresting and booking an individual guilty of a crime?
2. Do a large percentage of arrests result in prosecution?
3. What are the most common reasons for the prosecutor to decide not to prosecute? Name them.
4. What does insufficient evidence result from?
5. When do witness problems arise?
6. What violations do due process problems involve?
7. What is a pretrial diversion?
8. What must a prosecutor decide if more than one offence is contained in the complaint or more than one defendant is involved in the crime?

9. How is initial charging determination made by the district attorney in routine cases?

2) Say whether these statements are true or false:

1. The prosecutor is a decision-maker, he decides whether or not to move the case forward through formal charges.
2. A large percentage of arrests result in prosecution.
3. A major cause of witness problems is a prior relationship between the victim and the prosecutor.
4. Sometimes the prosecutor can drop some charges if the accused is charged in several cases in exchange for guilty plea for others.
5. An accused person who committed more serious crime in another jurisdiction cannot be transported to that jurisdiction for processing.
6. Usually the district attorney makes initial charge determination in the presence of the suspect.
7. In cases involving very serious crimes or notorious suspects, or cases that created a good deal of publicity – the prosecutor may interrogate the suspect.

3) Fill in the blanks using words and phrases given in the box:

1. If a district attorney decides ... a specific charge or charges must be decided.
2. If an accused agrees to comply with some conditions, e.g. ... the prosecutor and ... agree to drop charges.
3. The suspect may be out on bail or ... awaiting further ...
4. Usually the initial determination ... or not is made without contact with ...
5. ... results from a failure to uncover enough evidence to link a suspect with ...

court	processing
charge	insufficient evidence
subject	to be held in a jail
suspect	drug rehabilitation program
crime	to proceed to prosecution

4) Match the English noun phrases with their Ukrainian equivalents:

- | | |
|----------------------|----------------------------------|
| 1. a decision maker | 1. дух закону |
| 2. district attorney | 2. підозрюваний |
| 3. obvious reasons | 3. суперечливі заяви (свідчення) |

4. dismissal of charges	4. особа правопорушника
5. insufficient evidence	5. буква закону
6. unclear statements	6. відхилення обвинувачень
7. contradictory statements	7. невиразні заяви (свідчення)
8. a suspect	8. неприйнятні докази
9. identity of an offender	9. очевидні причини
10. the letter of law	10. той, хто приймає рішення
11. the spirit of law	11. районний прокурор

5) Match the English verb phrases with their Ukrainian equivalents:

1. to refuse to testify	1. висунути обвинувачення
2. to file an information	2. роз'єднати обвинувачення
3. to drop charges	3. відмовлятися давати свідчення
4. to comply with the conditions	4. допитати свідка
5. to bring a charge	5. бути звільненим під заставу
6. to join offenses and offenders	6. змиритися з обставинами
7. to sever the charges	7. зняти обвинувачення
8. to be out on bail	8. допитати офіцера, який здійснив затримання
9. to interview an arresting officer	9. скласти заяву про обвинувачення
10. to interrogate the suspect	10. об'єднати злочини та злочинців в одну справу

6) Find in the text the Ukrainian equivalents for the words and phrases below:

charge; formal charge; to seek an indictment; for no obvious reasons; dismissal of charges; to link a suspect to the crime; interests of justice; due process problems; constitutional requirements; to obtain evidence; a guilty plea; pretrial diversion; to refer for other prosecution; to proceed to prosecution; complaint; initial charging determination; a complainant; rare occurrences.

7) Find the corresponding notions in the text to the following factors that may influence a prosecutor's choice not to prosecute:

1. The prosecutor's doubt the accused is in fact guilty.
2. The extent of the harm caused by the offense.
3. The disproportion of the authorized punishment in relation to the particular offense or the offender.
4. Possible improper motives of a complainant.
5. Reluctance of the victim to testify.
6. Cooperation of the accused in the apprehension or conviction of others.
7. Availability and likelihood of prosecution by another jurisdiction.

8) Complete the following text by translating words and phrases in brackets:

The first formal (обов'язок) of the prosecutor involves (визначити) whether the defendant should be (обвинувачений) with a crime. Even if (докази) clearly (вказують на провину) of a suspect, the prosecutor is free to decide (порушувати справу) or not.

In some cases (кримінальний процес) begins with (заява) made directly by (прокуратура). The prosecutor may seek (ордер на арешт) from a judge and direct the police (затримати підозрюваного) if the alleged criminal is named by (заявник). In cases in which a complainant (звертається із скаргою) as to a specific subject directly to the police, the police may obtain an arrest warrant by showing probable cause to a judge for taking the suspect into custody.

9) Talk on the work of a prosecutor using and additional information given below:

In a routine case the suspect, having been arrested by the police, is in jail or out in the community on pretrial release after a bail hearing. The police have records of all the evidence they have accumulated including the names of witnesses and the identity of the victim or complainant if there is one. They pass this information on to the prosecutor along with a written report of their investigation of the crime and reasons to believe the defendant committed it. The prosecutor receives this written information from the police and in routine cases does not interview or confront defendants at this point. Instead, as a lawyer, he or she translates the factual situation given by the police into what appears from the record to be illegal behavior involved.

For instance, in considering all the elements of a theft, the prosecutor determines whether the defendant's conduct may be regarded as larceny, burglary, or robbery and then determines the degree of the crime (Grand larceny, robbery in the second degree, etc) that is likely and provable by the evidence in hand and any evidence that may be found later.

10) Read the following episodes. Give a brief summary of it in English (Ukrainian):

Episode 1: True Love

Police arrested a man on the complaint of his wife that he had cut her with a knife during a family argument. The husband was arrested for felonious assault, could not make bail, and was held in the police lockup overnight. The next morning his wife appeared at the prosecutor's office and requested that the charges against her husband be dropped. The assistant district attorney who interviewed her commented on the seriousness of the assault based on the number of bandages on the wife's arms and the deep scratches on her face. He told her he thought it was foolish for her not to press the complaint since she might be endangered in the future. Nevertheless, the wife insisted that she did not wish her husband charged with a crime. Finally the prosecutor agreed and the husband was released from custody.

Notes

assault – напад

to be endangered – наражатися на небезпеку

Episode 2: We Had Him First

Police arrested a 32-year-old man for breaking and entering a vending machine at 2 a.m. at the local bus station. He was transported to the jail and booked, and the case was referred to the state attorney's office for possible prosecution. Further investigation revealed the man had given a false address, and the name and other information he had given the police proved to be false as well. Upon checking with the National Crime Information Center (NCIC) and finger print files, the prosecutor learned the man was wanted in a neighboring state for violation of parole. When the parole officer was notified, she said «We had him first – send him home and we will proceed with revocation of parole and have him sent back to prison.» The prosecutor agreed,

decided not to prosecute on the breaking and entering charge, and arranged the man's return.

Notes

to be wanted – розшукуватись

to violate parole – порушувати умови умовно-дострокового звільнення під «чесне слово»

vending machine – автомат для продажу дрібних речей

Unit 23

Bringing Formal Charges

Assuming the initial decision is to prosecute, the next step in the charging process is to seek a final formal charge that the defendant must answer. This may be done in one of two ways, depending on the law in particular jurisdictions. One involves seeking an indictment from a grand jury and, in some instances, to test it for probable cause at a preliminary hearing before a judge.

The Grand Jury Indictment Process

A grand jury is commonly (but not in all places) composed of twenty- three members but may act with a quorum of sixteen present. An indictment is issued upon the vote of twelve members. Members are usually drawn from voter registration rolls, although in some states drivers' license lists are used. And, unlike a trial jury which sits only as long as the trial lasts, usually only a few days, grand juries may be empanelled for extended periods, sometimes months or even a year or more.

Grand jury proceedings are secret, not only from the public and the press, but also from the defendant. Defense counsel is likewise excluded from these hearings. With the permission of the trial judge, the transcribed minutes of grand jury deliberations may be shown, in part or in whole, to the defense counsel immediately before or during the trial. However, transcripts are usually made available only if the defendant can show a « particularized need » to obtain the testimony or other evidence presented to the grand jury in order to prepare a defense for a later trial.

After the American Revolution, the grand jury was incorporated into the Constitution as a key part of our system of criminal justice. The Fifth Amendment reads as follows: «No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury»

The federal government is required to prosecute by grand jury, then. But in the states today, the grand jury serves two purposes. The first is to screen cases brought by the prosecutor. The other is to conduct independent investigations of possible criminal conduct in the community even when no defendant is brought to the jury by the prosecutor.

If the prosecutor brings a case and the grand jury finds probable cause to believe a crime was committed and that the defendant committed it, grand jury members issue an indictment, a formal charging document. If on their own investigation they find a probably guilty person, they issue a presentment, which is a charging document just like an indictment but which is generated by the grand jury itself.

How the Grand Jury Works

When a grand jury is assembled for the first purpose, to screen a case for possible formal charging, the district attorney appears before it and requests an indictment. The prosecutor needs only show sufficient evidence to convince a majority of the jury's members that there is «probable cause» to hold the defendant for trial. There is no requirement at this stage to reveal all of the state's evidence or bring forth all the witnesses. Furthermore, in most places, evidence presented to the grand jury need not conform to trial standards of admissibility.

Because grand jurors hear only the state's evidence without any opportunity for defense or rebuttal or contradiction, it is to be expected that they will honor the prosecutor's request for an indictment in most cases.

The investigatory role of grand juries is perhaps a more important function: investigating possible crimes, corruption, and assorted wrongdoings of citizens, public officials, and agencies. Generally, investigatory grand juries are assembled for this purpose and are separate entities from charging grand juries, but this is not always the case. All grand juries can pursue almost unlimited investigations if they wish and may level charges on their own motions if they uncover crimes. The investigatory grand jury has traditionally played a particularly important role in organized crime investigations and official inquiries into such matters as police corruption and forceful state reactions to mass disorders, prison riots, and so on. While the charging function of grand juries may be waning, their investigatory functions are likely to remain important within the criminal justice system. Many jurisdictions that have abandoned the use of grand juries in charging retain them for investigatory purposes.

The Preliminary Hearing /Information Process

Today the major way by which felony charges are formally brought against defendants is by the prosecutor drafting an information, a formal document noting in statutory language the highest crime charged and the number of charges against the defendant. In some instances,

the prosecutor tests the case for probable cause to support the charges at a preliminary hearing before a judge. The information is equivalent to an indictment for most purposes, although prepared and tested differently.

The preliminary hearing differs from grand jury proceedings in several significant ways:

1. The defendant has a right to be present at the preliminary hearing and currently, even if indigent, has a Constitutional right to a lawyer.
2. Unlike the grand jury indictment process, the preliminary hearing may be waived (refused) by the defendant.
3. The preliminary hearing is open to the public, and the testimony or evidence presented is available to the press and other media.
4. Hearsay evidence is not usually permitted over the defendant's objection at a preliminary hearing.

At the preliminary hearing the defendant is not asked to plead to any charge and need do nothing but listen to the evidence presented by the prosecutor. However, independently or through counsel, the defendant may cross-examine state's witnesses and otherwise challenge evidence introduced by the prosecutor.

Because the defendant has a right to cross-examine state's witnesses even though he or she may choose not to do so, testimony presented at the preliminary hearing may be used at the trial, if for a valid reason the witness is unavailable later.

Furthermore, unlike grand jury proceedings, the defendant may waive (choose not to have) the preliminary hearing, in effect accepting the information as drafted by the prosecutor, and have his or her case go directly to pleading.

Notes

1. to pursue almost unlimited investigation – проводит майже необмежене розслідування
2. to cross examine state's witnesses – чинити перехресний допит свідку обвинувачення

Exercises

1) Find the answers to the following questions in the text above:

1. In what ways is the final formal charge done?

2. Whom is the grand jury composed of?
3. What purposes does the grand jury serve in the states?
4. What is an indictment?
5. What is a role of a prosecutor in a grand jury work?
6. What is an information?
7. What is the difference between preliminary hearing and grand jury proceedings?
8. Is a defendant asked to plead to any charge at the preliminary hearing?
9. Is a defense counsel usually present at a grand jury proceedings?

2) Fill in the blanks using words and phrases given in the box:

1. All grand juries can pursue almost ... if they wish.
2. The prosecutor has only ... a majority of grand jury's members that there is a «probable cause» ... a defendant ...
3. Members of grand jury are usually drawn from ...
4. Grand jury proceedings ... , not only from the public and the press but also from ...
5. Unlike the grand jury... , the preliminary hearing may be refused by ...
6. The preliminary hearing ... , and the testimony or evidence presented ... to the press and other ...
7. The defendant has a right to be present at ... , and even if ... , has a Constitutional right ...

to convince	to be secret
a defendant	to hold for the trial
an offender	voter registration rolls
media	to be open to the public
indictment process	to be available
lawyer	unlimited investigation
indigent	preliminary hearing

3) Match the English noun phrases with their Ukrainian equivalents:

- | | |
|------------------------|--------------------------------------|
| 1. formal charge | 1. протоколи засідання великого журі |
| 2. initial decision | 2. список зареєстрованих виборців |
| 3. preliminary hearing | 3. тяжкий злочин |

4. indictment process	4. формальне обвинувачення
5. voter registration roll	5. докази, отримані з чужих слів
6. high crime	6. попереднє рішення
7. prison riots	7. процедура пред'явлення обвинувачення
8. Hearsay evidence	8. попереднє слухання
9. minutes of grand jury deliberations	9. тюремні бунти

4) Match the English verb phrases with their Ukrainian equivalents:

1. to draft an information	1. домагатися обвинувального акта
2. to uncover crimes	2. відмовитися від попереднього слухання
3. to seek an indictment	3. розкривати злочин
4. to challenge evidence	4. відмовитися від послуг великого журі
5. to waive a preliminary hearing	5. скласти заяву про обвинувачення
6. to transcribe the minutes	6. вчинити перехресний допит свідка обвинувачення
7. to abandon the use of grand juries	7. відхилити докази
8. to cross-examine state's witnesses	8. зробити письмову копію протоколу

5) Explain in English the meaning of these notions:

- indictment
- information
- presentment
- investigatory grand juries

6) Find the appropriate word given in brackets for the following definition:

1. a group of people composed of twenty-three members drawn from voter registration rolls or from drivers license lists

2. a formal charging document issued by a grand jury
3. a formal charging document which is generated by grand jury itself
4. a formal document noting in statutory language the highest crime charged and the number of charges against a defendant (*indictment, grand jury, presentment, information*)

7) Complete the following text by translating words and phrases in brackets:

The middle stages of criminal justice process is where (підозрюваний), after being taken into police custody, (обвинувачується у вчиненні злочину) by a prosecutor. At this point the suspect becomes (обвинувачений). The major official involved in these middle stages is a prosecutor, known as D.A. (районний прокурор). He or she has a job of translating (фактичні докази) brought by police into a formal, legally correct (кримінальне обвинувачення) as defined in criminal statutes.

8) Give English equivalents to the following words and phrases:

процес винесення обвинувального акту великим журі; велике журі, яке проводить розслідування; велике журі, яке виносить обвинувальний акт; заява прокурора про обвинувачення; попереднє слухання; офіційне розслідування про корупцію в поліції; розкрити злочин; зняти із розгляду докази; відмовитися від попереднього слухання.

9) Read the following episode. Give a brief summary.

«I Didn't Mean to Have Her Killed»

Robert L. Ammidown was charged with first-degree murder and conspiracy to commit murder in the death of his wife. He admitted that a month prior to her killing he had arranged to have her murdered at a department store parking garage. At last minute he changed his mind, because he did not want his son, who was to accompany his mother that day, to witness the murder. So, according to his confession, Ammidown and an associate, Richard Anthony Lee, devised a plan whereby Lee would abduct Mrs Ammidown and by threat to her life extort a sum of money to be used by Ammidown and Lee to purchase a club in Maryland. According to the plan, Ammidown was to

take his wife to a restaurant and after dinner Lee would halt Ammidown's car at a specified intersection near the restaurant and abduct Mrs. Ammidown.

At the prearranged spot Lee jumped into the car and directed Ammidown to drive to a certain location where Lee dragged Mrs Ammidown from the car and raped her, as planned, to impress her with the «seriousness of the threat.» However, at this point, Lee killed Mrs Ammidown.

Ammidown denied complicity in the murder. Prior to the trial, the U.S. Attorney and Ammidown entered into an agreement that Ammidown would plead guilty to second degree murder and the first-degree murder charge would be dismissed. In return Ammidown agreed to testify against Lee, who was believed by the prosecution to be involved in still another murder.

The trial judge, however, refused to accept the lesser plea on the basis that public interest required that the defendant be tried on the greater charge. Ammidown then pleaded not guilty to first-degree murder but at trial was convicted of first-degree murder and felony murder and sentenced to two consecutive terms of life imprisonment.

Unit 24

Courts

1. Federal and State Courts

The federal court system is made up of trial and appellate courts. The *federal district courts* are the trial courts for violations of federal law and crimes committed on federal property. Ninety-four federal district courts in the United States are presided over by federal judges who, like all federal judges, are appointed for life by the President of the United States with the advice and consent of the U.S. Senate. Federal district judges in turn sometimes appoint federal magistrates who hear pretrial motions and misdemeanor cases.

The *U.S. Courts of Appeals* sometimes called the «Federal Circuit Courts of Appeals,» are located in 12 geographic circuits, with one additional federal circuit court in Washington DC. The circuit courts hear appeals from the district courts. Usually a three-judge panel in a circuit court votes either to affirm or reverse a lower-court decision. The U.S. Supreme Court is the highest court in the land. The nine justices can review the decisions of federal courts and many of the decisions of the highest state courts. The Supreme Court has the last word in applying the U.S. Constitution to criminal justice practices.

Each state has its own system of *state courts* that handle the overwhelming majority of the criminal prosecutions in the United States. Each state system includes both trial and appellate courts.

2. Trial Courts

The trial courts in the states conduct the day-to-day prosecutions of criminal defendants. They are presided over by judges who are elected and serve set terms of office.

However, the judge in any given court is not the only individual involved in the arraignment and trial processes. The following are also major players in the formal pleading and trial stages of the criminal justice process: the defendant, the prosecutor, the defense lawyer, and the trial jury. Others involved include the bailiff, the court clerks, the court reporters, and the witnesses for the defense and for the prosecution, who offer testimony about the facts in the case. In some cases, «expert» testimony is given by expert witnesses who have established expertise about a particular issue involved in the trial. For in-

stance, a ballistics expert can testify whether a bullet fragment was fired by a particular weapon, or fingerprint experts can testify as to the «match» between prints found at the crime scene and those of the defendant.

Also, since pleadings and trials are public (unlike grand jury proceedings), citizens uninvolved in the case may be present in the courtroom as observers. And press reporters, who, with some exceptions, are representatives of the print media, may be present. In recent years, as well, a number of states have allowed television cameras in courtrooms for news purposes. Federal rules ban cameras from federal courts however.

The formal pleading hearing, called an arraignment, and the trial are the most formal stages in the criminal justice process.

Pleas available to a defendant at arraignment are (1) not guilty, (2) guilty and in some places, (3) not guilty because insane, and (4) nolo contendere (no contest).

If a defendant stands mute (do not respond) or otherwise refuses to answer the charges, a not guilty plea is entered.

If the defendant pleads not guilty, the arraignment ends by setting a date for a trial. Once again release on bail or release on recognizance (ROR) is considered. If a defendant pleads guilty (or nolo contendere) and if after examination in open court, the judge accepts the plea, the defendant stands convicted of a crime just as much as if he or she had been found guilty in a full-scale jury trial. After the plea is accepted by the court, the defendant is bound over for sentencing, that is a date is set for the imposition of the sentence. Except in a few instances of very minor offenses (traffic violations where a fine is the maximum punishment) and more serious offenses that carry prison terms, that date is usually a few weeks or a month after arraignment, which gives the probation officers attached to the court time to conduct an investigation into the social and criminal background of the offender, his or her personal traits, employment, educational history – information for the judge to use in making the sentencing decision.

Notes

1. print media – друковані засоби масової інформації
2. criminal background – досьє злочинця
3. nolo contendere (lat.) - «не оспорюю»

Exercises

1) Find the answers to the following questions in the text above:

1. What courts is the federal court system made up of?
2. How many federal district courts are there in the US?
3. Who presides over the federal trial?
4. Who appoints federal judges and for what term?
5. How many circuit courts are there in the US court system? What are their jurisdiction?
6. Who affirms or reverses a lower-court decision?
7. What is the highest court in the US? What is its jurisdiction?
8. What courts handle the overwhelming majority of the criminal prosecutions in the US?
9. Whom are state trial courts presided by?
10. Who are the major players in formal pleadings and trial stages of criminal justice process?
11. What happens when a defendant stands mute or does not respond to the plea (pleads guilty)?
12. What is the role of a probation officer in making the sentencing decision?

2) Say whether these statements are true or false:

1. Federal judges are appointed for life by the President with the consent and advice of the Supreme Court.
2. The Supreme Court has the last word in applying the US Constitution to criminal justice practice.
3. The judge in any given court, federal or state is the only major participant in the trial.
4. Judges of trial courts in states are elected and serve set terms of office.
5. Unlike grand jury proceedings, pleadings and trials are open to the public and the citizens uninvolved in the case may be present as observers.
6. Federal courts allows cameras during the court proceedings.
7. If a defendant pleads guilty or nolo contendere the defendant stands convicted, he's bound over for sentencing, i.e. the date is set for the imposition of the sentence.

3) Match the English noun phrases with their Ukrainian equivalents:

- | | |
|-------------------------------|--|
| 1. major participants | 1. досудові слухання |
| 2. criminal background | 2. місце злочину |
| 3. a guilty plea | 3. кримінальне минуле (досьє злочинця) |
| 4. a non guilty plea | 4. звільнення під заставу |
| 5. a three judge panel | 5. повноцінний суд з присяжними |
| 6. violations of federal laws | 6. головні учасники |
| 7. pretrial motions | 7. визнання себе невинним |
| 8. full-scale jury trial | 8. визнання себе винним |
| 9. crime scene | 9. склад із трьох суддів |
| 10. release on bail | 10. порушення федеральних законів |

4) Match the English verb phrases with their Ukrainian equivalents:

- | | |
|-------------------------------------|--|
| 1. to carry prison term | 1. прийняти визнання |
| 2. to set a date | 2. прийняти рішення про покарання |
| 3. to enter a plea | 3. не відповідати (на запитання суддів, чи визнає себе (не)винним) |
| 4. to be insane | 4. відмовити в рішенні |
| 5. to make a sentencing decision | 5. бути психічно хворим (неосудним) |
| 6. to serve set terms of office | 6. затвердити рішення суду нижчої інстанції |
| 7. to stand mute | 7. висунути обвинувачення |
| 8. to affirm a lower court decision | 8. перебувати на посаді установлений строк |
| 9. to refuse a decision | 9. призначити дату (судового засідання) |

5) Read and try to find out who these persons are:

- a person who can testify whether a bullet was fired by a particular weapon
- a person who are asked to give testimony by a defense attorney
- a person who gives testimony on behalf of the government
- a person who establishes expertise about a particular issue involved in the trial

- a person who can testify as to the «match» between prints found at the crime scene and those of the defendant

6) Give Ukrainian equivalents to the following words and phrases: misdemeanor case; criminal prosecution; to establish expertise; witnesses for the prosecution; arraignment; no contest; observers; print media; to enter a plea; release on recognizance (ROR); to consider a release on bail; full-scale jury trial; personal traits; social and criminal background.

7) Give English equivalents to the following words and phrases:

суд; федеральний суд; федеральний районний суд; суд першої інстанції; апеляційний суд; федеральний округ апеляційного суду; судовий розгляд справи; учасники судового розгляду; свідок захисту; свідок обвинувачення; судовий клерк; судовий секретар; підсудний; винести вирок; дуже незначні порушення.

8) Complete the following text with the words and phrases given in the box:

The judge ... and is seated on an elevated Everyone in the courtroom ...

When the judge ... or ... the courtroom; ... sits to one side in a ... , members of the press are seated at a separate table. The trial procedures are controlled by ..., tradition and by a judge. Defendants either become free citizens again or move on to the status of offender, of All of the earlier decision steps in the criminal justice process taking ... into custody, charging him or her with ... - lead to these moments, where guilt ... enter into the ... of the criminal justice process, sentence ... and sentence

to enter	to be robbed
to exist	to rise
found guilty	a crime
convicted criminals	imposition
the jury box	execution
the suspect	law
to be determined	bench
the jury	

9) *Dramatize the dialogue. Translate it into Ukrainian:*

Accepting a Guilty Plea at Arraignment

Speak up!

Judge: You are Bernie Rogers?

Defendant: Yes sir

Judge: Mr. Schuffstal, how does your client wish to plead?

Counsel: Guilty of burglary, Your Honor.

Judge: Mr. Rogers, you have just heard your attorney say you wish to plead guilty to burglary. Is that how you wish to plead?

Defendant: Yes sir.

Judge: Before I can accept your plea, I must ask you certain questions and tell you certain things. If you don't understand, stop me and I'll explain. If at any time you want to talk to your lawyer, let me know. I'll stop and you can talk with him privately for as long and as often as you want while we are doing this. You have been placed under oath and if you make any statements that are false, they can later be used against you in a prosecution for perjury. Do you understand what this means?

Defendant: Yes sir.

Judge: How old are you?

Defendant: 26.

Judge: Have you ever been treated for mental problems?

Defendant: No sir.

Judge: Are you now under the influence of any alcohol, drugs, or medication of any kind?

Defendant: No.

Judge: You do not have to plead guilty. You have the right to plead not guilty and have the following rights at trial: the rights to a jury, to see and hear witnesses testify and have your lawyer question them for you, to call witnesses and present evidence you want the jury to consider and to present any defense you might have to the jury; the right to testify yourself or not to testify; the right to require the prosecutor to prove your guilt by the evidence beyond a reasonable doubt before you can be found guilty. Do you understand these rights?

Defendant: Yes sir.

Judge: Do you understand that if I accept your plea, you give up each of these rights, that there will be no trial and all I have to do is sentence you, and that you give up your right to an appeal?

Defendant: Yes sir.

Judge: Mr. Schuffstal, have any agreements been made between the state and the defendant relative to any plea or any sentence?

Counsel: Yes, your Honor. My client has agreed to plead guilty to a single charge of burglary in exchange for the prosecution's promise to drop additional charges and to recommend a guideline sentence.

Judge: Mrs. Prosecutor, is this correct?

Prosecutor: Yes, Your Honor.

Judge: Mr. Rogers, has anyone, including your lawyer, or the prosecuting attorney, or anyone else forced or pressured you into entering this plea?

Defendant: No sir.

Judge: Are you pleading guilty because you are guilty?

Defendant: Yes sir.

Judge: What actually did you do?

Defendant: Well, I took these tires from the gas station.

Judge: Did you use forcible entry to break into the gas station?

Defendant: Yes sir.

Judge: And how do you plead?

Defendant: Guilty.

Judge: Do you realize that by pleading guilty you could be sent to prison for 3 years?

Defendant: Yes sir.

Judge: And you still wish to so plead?

Defendant: Yes, I do.

Judge: Very well, I accept your plea of guilty. I am ordering a Pre-sentence Investigation Report and set the date for sentencing 3 weeks hence, that is, at 10 a.m. on August 15.

10) *Read the following episodes. Give a brief summary.*

1: Self-Defense

In a preliminary hearing on charge of second-degree murder, the prosecution produced three witnesses to a tavern fight which had led to the killing. Each testified that the defendant shot the deceased. The defendant did not personally testify but was allowed to place three defense witnesses on the stand, each of whom testified that the defendant shot the deceased only when the latter was lunging toward him with a knife, after the defendant had attempted to break up a fight between the deceased and another customer. After the testimony of the third defense witness, the judge dismissed the case against the defendant.

2: Run for Daylight

At a preliminary hearing the prosecutor introduced only one witness, the arresting officer. The police officer testified that he saw the

defendant with packages under each arm leaving the rear door of a department store which was closed for the night. The officer said he chased and caught the defendant about two blocks from the scene of the alleged burglary. The officer was subjected to vigorous cross-examination as to the darkness of the night, how clearly, he saw the defendant, whether the defendant was in his sight for the whole two-block chase, and the route taken in the alleged escape. Although the officer testified that it was very dark and he did not get a perfectly clear view of the defendant's features until he stopped him two blocks away, the judge decided to bind the defendant over for trial on the burglary charge.

Unit 25

Stages in the Criminal Trial

After a jury has been selected and seated, the trial begins with an opening statement by a prosecutor, which is an attempt to tell the jury what crime the defendant is charged with and how all the necessary elements proving guilt will be demonstrated. The defense may then make its own opening statement, and often does so if the defense attorney feels the opening statement of the prosecutor was particularly harmful to the defense case; however, the opening statement of the defense may be deferred until it presents its own evidence. Upon completion of the opening statement, the prosecutor presents his or her evidence — physical evidence such as fingerprints; testimonial evidence of witnesses or experts as to how, when, and where the physical evidence was obtained; eyewitness evidence; and any circumstantial evidence (the defendant being seen with a gun near the scene of shooting, for example). This is done through direct examination or questioning of state's witnesses.

After each witness for the prosecution has testified, defense counsel may carry out a cross examination in an attempt to cast some reasonable doubt on the evidence by questioning the manner in which the evidence was obtained or analyzed, or by questioning a witness's memory, or by showing inconsistencies in testimony, or perhaps by challenging the credibility or expertise of the witness. The prosecution then is allowed to question the witness again on redirect examination in order to give the witness an opportunity to clarify any issues raised in the cross examination. Then this may be followed by a re-cross examination, that is, the defense counsel may again put questions to the witness based on redirect testimony.

After all the prosecutor's witnesses have presented their evidence and been cross-examined, and after the prosecution has presented all its other evidence, the state rests its case.

The defendant through his or her attorney, then introduces witnesses or other evidence that favor the defendant's claim of being not guilty. The defense may begin with an opening statement by counsel, but is not required to do so. Normally, defense witnesses are sworn in and subjected to direct examination by the defense lawyers, then cross

examination by the prosecutor. After all the defense witnesses have been examined, cross-examined, and examined again on redirect examination, the defense rests its case. There may be some further witnesses called by both sides, in order, and cross-examined in a process called rebuttal. Rebuttal witnesses may be called to dispute the testimony of the prosecution's rebuttal witnesses. After the final cross-examination, the evidence phase of the trial is finally concluded.

Usually at this point a recess is taken in the proceedings to allow the judge to prepare instructions to the jury. A conference is often held in the judge's chambers and the attorneys for each side submit proposed instructions for the jury. The judge decides what the instructions will be and informs the attorneys of what they will be, after which the attorneys prepare their own closing remarks with an eye to the content of the judge's instructions.

Following this, first the defense and then the prosecution sum up by making closing statements. The defense tries to cast doubt on the prosecutor's evidence, or some of it, and the prosecutor – allowed the last word because the entire burden of proof is on the state – normally tries to show how the evidence introduced proves the defendant guilty «beyond the reasonable doubt.»

After the closing statements, the judge charges the jury, instructing them in the applicable points of the law, in the nature and meaning of evidence they have seen or heard, and about the meaning of «reasonable doubt.» The jury then retires to another location to deliberate the guilt or innocence of the accused. If agreement among jury members is reached, they return to the courtroom and notify the judge of their decision. The defendant then is asked to stand to hear the verdict of the jury. If the verdict is guilty, the judge sets a time for sentencing, usually some date in the future to allow time for a presentence investigation.

If unanimity is required for a verdict and, after an extended period of time for deliberation, jury members find they cannot achieve such a consensus, they report their dilemma to the court. The judge then may suggest strongly that the jury deliberate further or may instead conclude that they are a «hung jury,» one that cannot reach a unanimous decision about guilt or innocence. If the jury cannot reach a verdict, the judge declares a mistrial. If that happens, the defendant may be tried for the same crime again before a different jury without the prohibition against double jeopardy applying.

Normally, after the verdict is announced, the judge dismisses the jury. Judges often use this occasion as an opportunity to thank the jurors for the important service they have rendered and to make a brief speech about the American system of justice. Remember, judges are politicians too.

Notes

1. to defer – відкласти
2. circumstantial evidence – непрямий доказ
3. to cast some reasonable doubt on the evidence – піддавати розумним сумнівам докази
4. the state (defense) rests its case – обвинуваченню (захисту) немає що додати
5. in order – по черзі
6. inconsistencies in testimony – непослідовність у свідченнях
7. expertise of the witness – обізнаність свідків
8. credibility – довіра до свідків
9. rebuttal – спростування
10. rebuttal witness – свідок, який виступає з контрдоказами (спростовує докази попередніх свідків)
11. with an eye to the content – з посиланням на зміст
12. to infer – зробити висновки про наміри

Exercises

1) Find the answers in the text above:

1. What does a trial begin with after the selection of jurors?
2. Who usually pronounces an opening statement first?
3. What type of evidence does a prosecutor usually present at a trial?
4. Is it always necessary for a defense to make its own opening statement after a prosecutor's speech?
5. What is direct and cross-examination?
6. When does the state (defense) rest its case?
7. What does a process called «rebuttal» mean?
8. What usually happens during a recess?
9. Why is prosecutor allowed the last word?
10. What follows the prosecutor's last word?
11. What happens when jury members cannot achieve a consensus whether an accused is guilty or innocent?
12. What is a final phase in a criminal trial?

2) Say whether these statements are true or false:

1. The defense always begins the trial with an opening statement.
2. Cross-examination is an attempt to cast some reasonable doubt on the testimony of the opponent witnesses.
3. Defense witnesses are sworn in and subjected to cross-examination by the defense lawyers.
4. During a recess in the proceedings the judge prepares instructions to the jury.
5. If the jury's verdict is «not guilty» the judge declares a mistrial.
6. After the closing statements the judge instructs the jury in the law, in the nature and meaning of evidence they have seen or heard.
7. The evidence phase is finally concluded after opening statements.

3) Explain in English the meaning of these notions:

opening statement; closing statement; (re)direct examination; (re)cross examination; instructions to the jury; «hung jury»; rebuttal.

4) Match the English noun phrases with their Ukrainian equivalents:

- | | |
|---------------------------------|--|
| 1. physical evidence | 1. інший склад присяжних |
| 2. reasonable doubt | 2. обізнаність свідків |
| 3. inconsistencies in testimony | 3. свідок, який виступає з контрдоказами |
| 4. credibility of witnesses | 4. свідок підсудного |
| 5. expertise of the witnesses | 5. стадія розгляду доказів |
| 6. rebuttal witness | 6. непрямі докази |
| 7. defendant's witness | 7. докази очевидця |
| 8. evidence phase | 8. речові докази |
| 9. eyewitness evidence | 9. довіра до свідків |
| 10. circumstantial evidence | 10. непослідовність у свідченнях |
| 11. a different jury | 11. розумні сумніви |

5) Match the English verb phrases with their Ukrainian equivalents:

- | | |
|-------------------------------------|--|
| 1. to dismiss a jury | 1. підбити підсумки |
| 2. to prove the guilt | 2. призначити час для винесення вироку |
| 3. to compose the closing statement | 3. відкласти вступну промову |

- | | |
|-------------------------------------|--|
| 4. to carry out a cross-examination | 4. довести винність |
| 5. to achieve a consensus | 5. завершити заключну промову |
| 6. to set a time for sentencing | 6. звільнити присяжних від обов'язків (розпустити присяжних) |
| 7. to show inconsistencies | 7. проводити перехресний допит |
| 8. to sum up | 8. наставляти присяжних |
| 9. to defer an opening statement | 9. досягти угоди |
| 10. to charge a jury | 10. виявити непослідовність |

6) Give Ukrainian equivalents to the following words and phrases:

to charge with a crime; fingerprints; physical evidence; testimonial evidence; eyewitness; the scene of shooting; a gun; a recess; in order; to swear in; to clarify an issue; without any reasonable doubt; state's witness; redirect examination; testimony; evidence phase of the trial; further witness; «a hung jury», to deliberate further.

7) Give English equivalents to the following words and phrases:

заклучна промова; вступна промова; спростування; перерва у засіданні; обізнаність; з посиланням на зміст; непослідовність у свідченнях; довіра; контрдокази; контрсвідок; піддавати розумним сумнівам докази; поставити запитання; винести вердикт; подякувати присяжним; зробити коротку промову; розпустити присяжних.

8) Find an appropriate word or phrase given in brackets to the following definitions:

1. an attempt of the prosecutor to tell the jury what crime the defendant is charged with and how all the necessary elements proving guilt will be demonstrated.
2. a group of people taking part in the proceeding that cannot reach a unanimous decision about guilt or innocence of the defendant.
3. any evidence from which a fact can be reasonably inferred.
4. a finger touch on the surface of an object.
(fingerprint; prosecutor's opening statement; «hung jury», circumstantial evidence.)

9) Complete the following text with words and phrases given below:

Presentence Investigation and Sentencing

If convicted by ..., a defendant is held pending ... and then brought before ... for The ... attached to the court conducts a presentence investigation into the social and criminal ... of the offender, his or her ... , employment, education, etc. ... information for ... to use in making Presentence investigation (PSI) are required by ... in many states for all felony The judge must receive ... but is not required to base his or her ... on any information contained in it. However, in ... cases most judges rely on ... to help them ... , taking into account not only the ... involved, but the offender's ... , current status in ..., personality traits, and any other information that is deemed relevant not only to past but to the future of

attitude	impose a just sentence
trial	presentence investigation (PSI)
hearing	court sentence
defendants	guilty plea
law	to impose a just sentence
crime	past record
report	sentence hearing
offender	probation officer
decision	personal traits
background	sentence decision
community	a report
judge	

10) Talk on the stages of the criminal trial using the additional information given in the text above.

Unit 26

Jury Selection and Voir Dire

1. Jury Selection

Historically trial juries, have been composed of 12 members. Some states (about 14) and the federal jurisdictions require 12 – member juries in all felony cases: the remaining states allow smaller bodies except in cases involving the death sentence.

Jury members are ordinarily selected by chance, from a list of persons in the community where the trial will take place. Today the list is based on local voter registration rolls. There is no law that all citizens must register to vote. Indeed various studies have shown that perhaps as many as 40 percent of those eligible to vote do not register to do so, and it is believed that some people choose not to register to vote simply to avoid being called for jury duty. So some states now base their lists for jury duty on drivers' license lists, in the belief that a greater section of citizens will be represented.

No matter how the original polling list is established, there are always some exclusions. For example, literacy is usually required, minors are excluded, persons with felony convictions, those hospitalized for mental illness or for serious medical conditions and those who are members of essential occupations, such as firefighters, police officers, physicians, nurses, legislators, clergymen, and in many places attorneys, teachers and professors. People who are called for jury duty may be excused, usually for some cause such as illness or childcare responsibilities.

2. Voir Dire

Once a panel of potential jurors willing and able to serve has been selected, some may still be excused from a particular case upon the request of the prosecutor or the defense counsel. These exclusions can take one of two forms: peremptory challenge and for-cause removal. A peremptory challenge is the informal dismissal of a potential juror upon the whim or trial sense of the prosecutor or defense lawyer; no explanation need be given or any cause demonstrated. Statutes or court rules usually limit the number of peremptories allowed, and once used up, potential jurors can only be removed for cause. That is, the prosecutor or defense attorney must prove to the judge that

there is some factor in the potential juror's background or attitudes likely to bias his or her eventual decision in the case, upon which basis the judge then grants a dismissal.

Peremptory challenges and removals for cause are both normally based on potential jurors' responses to *voir dire* questioning. The *voir dire* («to speak the truth») examination allows attorneys for both sides to question each potential juror in order to decide whether that person is suitable for the case from a prosecution or defense point of view. In general, *voir dire* focuses on the juror's previous familiarity with the case, his or her association with anyone involved in the case, his or her attitudes toward certain types of crimes, people, and punishments, any preconceived ideas about the guilt or innocence of the defendant, and any similar matters likely to affect the juror's eventual decision in the case.

In theory, the purpose of *voir dire* is to ascertain if a potential juror can render a fair and impartial verdict. In practice, neither peremptory nor cause jury exclusions based on the *voir dire* examinations are really designed to obtain an impartial jury. Both sides use both forms of exclusion tactically in attempts to build a *partial jury*, favorable to the sides of the case the attorneys represent. One side or the other may want more or fewer women on the jury, may wish to build the jury around some age span thought to be advantageous, or may try to equalize or slant the racial mix of jurors.

Notes

1. *voir dire* – «казати правду» (старофранц.), допит судом присяжного з метою з'ясувати його неупередженість
2. *peremptory challenge* – відвід присяжного без пояснень
3. *for-cause removal* – відвід присяжного за конкретною вказівкою
4. *bias* (n) – упередженість, справляти вплив (на) (v)

Exercises

1) Find the answers to the following questions in the text above:

1. How many persons is the trial jury composed of?
2. Do some states allow smaller bodies of jury?
3. How are jury members selected?
4. Why do people often choose not to register to vote?

5. In what cases do some states base their lists for jury duty on drivers license list?
6. Who is usually excluded from a list of potential jurors?
7. What does the term «voir dire» mean?
8. What are the two forms of exclusions made by a prosecutor or a defense attorney?
9. What is a purpose of voir dire in theory (in practice)?

2) Say whether these statements are true or false:

1. There is a special law that all citizens must register to vote.
2. There are no constitutional requirements as to a number of jurors in criminal cases.
3. Some states and federal jurisdiction require 12- member jury bodies in all felony cases.
4. Jury members are ordinary people selected by chance.
5. Various studies have shown that all of those eligible to vote register to do so.
6. Firefighters, nurses, teachers, police officers and also those hospitalized for serious medical conditions are excluded from the list of potential jurors.

3) Match the English noun phrases with their Ukrainian equivalents:

- | | |
|--------------------------------|---|
| 1. trial jury | 1. список водіїв, які мають посвідчення |
| 2. voter registration rolls | 2. безсторонній вердикт |
| 3. eligible to vote | 3. засудження за вчинення тяжкого злочину |
| 4. drivers' license list | 4. склад присяжних |
| 5. felony conviction | 5. ті, хто мають право голосувати |
| 6. mental illness | 6. списки зареєстрованих виборців |
| 7. impartial verdict | 7. обов'язки по догляду за дитиною |
| 8. body of jury | 8. розумова хвороба |
| 9. child care responsibilities | 9. суд присяжних |

4) Match the English verb phrases with their Ukrainian equivalents:

- | | |
|--------------------------------|--|
| 1. to select by chance | 1. винести вердикт |
| 2. to bias a decision | 2. зрівняти расові відмінності |
| 3. to excuse the jury | 3. відбирати наздогад |
| 4. to respond to questions | 4. підходити до справи |
| 5. to exclude minors | 5. відповідати на запитання |
| 6. to render a verdict | 6. виключити меншість |
| 7. to be suitable for the case | 7. звільнити присяжного (від обов'язків) |
| 8. to equalize the racial mix | 8. справляти вплив на рішення |

5) Give Ukrainian equivalents to the following words and phrases:

juror; trial juror; jury; body of jury; to require a 12- member body of jury; to call for jury duty; death sentence; community; polling list; literacy; minors; essential occupation; firefighters; physicians; upon the whim; trial sense; age span; punishment; preconceived ideas about guilt or innocence.

6) Give English equivalents to the following words and phrases:

«казати правду»; відбір присяжних; суд присяжних; списки виборців; священник; законодавець; хірург; медсестра; примха; смертна кара; знайомство зі справою; виключити із списку; безстороннє журі; впливати на рішення присяжних; пожежник; небезстороннє журі.

7) Find words and phrases in the text that mean:

- examination which allows attorneys for both sides to question each potential juror to decide whether that person is suitable for the case from a prosecution or defense point of view.
- the informal dismissal of a potential juror upon the whim or trial sense of the prosecutor or defense lawyer without giving any explanations or demonstrating any cause.
- the prosecutor or defense attorney must prove to the judge that these are some factors in the potential juror's background or attitudes likely to bias his or her eventual decision in the case.
- members of essential occupations who are usually excluded from a list of potential jurors.

8) Fill in the blanks using words and phrases given in the box. Render the text into Ukrainian:

No matter how the original is established there is always some In theory the purpose of is to ascertain if can render ... and ... verdict. Unlike ... there is no limit to ... for This is why may take so long. If the ... has been heinous and the defendant is ... , finding ... local ... who can be truly impartial in hearing the case may be difficult. It remains a question whether the use of peremptory or negates the formation of There have been two interesting decisions on this point from In 1965 in Swain V. Alabama the court ... the practice of using peremptory challenges to exclude jurors for reasons of race. However, in 1986 the court in Batson V. Kentucky held that ... may not be excluded from a jury because ... believes they may ... a defendant of their own race. Thus, the Court held in Batson that a prosecutor cannot peremptorily ... potential jurors solely on or assumption that as a group will be unable to impartially ... the prosecutor's case against

fair	on account of race	exclusions
impartial	notorious	jury selection
US Supreme Court	peremptory	notorious
to favor	polling list	peremptory
to consider	voir dire	challenge
to uphold	a black defendant	potential jurors
to challenge	for-cause challenge	removals for cause
a jury	blacks	twelve citizens

9) Read the text. Render it into Ukrainian:

Jury selection has always been a controversial problem. In the colonial period, for example, when the United States was a country of towns and villages, selecting a jury of peers, «equals» in the common meaning of this term, could not be achieved, for major segments of the population, including women and slaves, were excluded from jury duty. And even today, after black emancipation and in the era of «women's rights», there is a question of whether the «peer» ideal can be approximated, not only in metropolitan courts but in smaller jurisdictions. Moreover, the issue is by no means limited to the under representation of blacks or women on juries.

Part of the problem is caused by jury selection practices, primarily certain exclusion provisions, which by law or custom keep those

who do not own property or who do not have a permanent residence (often members of ethnic and racial minorities) of jury panels. Because criminal defendants are often poor, transient, and members of minority groups, such exclusions are left to weaken the spirit, if not the letter, of the law regarding peer judgment. Although the law does not require juries to mirror all the economic, social, and personal characteristics of a defendant – in fact, a «peer» is generally held to be any other citizen – systematic exclusion practices have tended to weaken the philosophy of the jury trial.

10) Talk on jury selection using additional information given in the text above.

Unit 27

The Criminal Trial

The Sixth Amendment to the Constitution reads:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, and to be informed of the *nature* and *cause* of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor and to have the assistance of counsel for his defense.

In most places, defendants who plead not guilty to felony charges can opt for either a jury or a bench trial, the latter meaning the judge acts alone as the fact finder. In general, jury trials in felony cases can be waived if both the defendant and the defense counsel agree. In some states, the prosecutor must consent to such a waiver. In about one-third of state jurisdictions, the jury cannot be waived in *any* felony matter.

And in still others, a waiver is permitted in all but *capital* cases.

Bench Trials.

In *most* cases, a defendant can choose to stand trial before a judge sitting alone. This is a **bench trial** for the word «bench» is commonly used as a synonym for «court» or «judge». Generally, jury trials are waived by defendants as a *tactical matter* in cases involving highly technical legal issues. The judge, being a lawyer, understands and is accustomed to considering fine and subtle points of law, whereas jurors are «civilians» and may not fully understand important legal matters in a technical defense. On the other hand, jury trials are eagerly sought in cases that have intense emotional overtones, where the outcome is more likely to rest on jury sympathies than on fine points of the law. For instance, a defendant accused of a complex fraud or charged with a conspiracy to commit a crime may choose a bench trial because of the legal complexities involved in proving such crimes. On the other hand, a defendant charged with the homicide of a fatally ill relative who wishes to enter a defense of «mercy killing» may perhaps prefer to be tried by a jury.

The comparative tactical advantages and disadvantages of bench versus jury trials have generated a good deal of discussion. Waiver of jury trial is often believed to be advantageous to a defendant when (1) the case has been the subject of a great deal of adverse publicity, (2) a highly tech-

nical defense will be utilized, or (3) it is believed that jurors are likely to be unsympathetic to the defense. Studies of jury behavior have demonstrated that while judges and juries agree on the outcome of cases about 75 percent of the time, juries are significantly more lenient – more likely to acquit – than judges in the remaining 25 percent of cases.

Jury Trials

The right to a **jury trial** in felony cases is absolute, but in cases where a lesser offense is charged, jury trials are not always available. Constitutional provisions in many jurisdictions do not extend the right to jury trial to cases involving «petty offenses» unless the offense carries a potential punishment of more than 6 months in jail. Petty offenses include the least severely punished misdemeanors and violations, such as disorderly conduct, other public – order crimes, and minor traffic violations. In some states the trial judge is required to file a memorandum in support of the finding of guilt after a bench trial. In contrast, juries do not give reasons for their findings of guilt or innocence. A jury decision to convict, however, may be set aside by the trial judge if the judge believes that evidence failed to meet the «beyond a reasonable doubt» test.

The judge's power to overrule the jury is one directional only. No matter how convinced the judge is that the defendant is guilty the judge cannot order a jury to convict, nor can a judge set aside an acquittal. The presumption of innocence is no longer just a presumption if either the jury or the judge so finds. And a finding of innocence cannot be overturned; only a conviction can be reversed by judicial action. The fact remains, however, that most jury trials result in the conviction of the accused for some offense.

Notes

1. ... can opt for either a jury or a bench trial – можуть вибирати між судом присяжних та судом без присяжних
2. a jury trial ... can be waived – можна відмовитися від суду присяжних
3. «mercy killing» – «вбивство з милосердя»

Exercises

1) Find the answers to the following questions in the text above:

1. What shall the criminal trial be according to the Sixth Amendment to the US Constitution?

2. When may a trial jury in a felony case be waived?
3. Is a waiver permitted in capital cases?
4. What does the word «bench» mean?
5. What is a bench trial?
6. What are advantages and disadvantages of bench trials?
7. When is the right to a jury trial absolute?
8. What are petty offenses?
9. Can a judge order the jury to convict the defendant or aside an acquittal?

2) Read the following statements and say whether these statements are true or false:

1. In most places, the defendant who pleads not guilty to a felony charge chooses either a jury or a bench trial.
2. In some states the prosecutor's consent is not obligatory to a waiver from a jury trial in a felony case.
3. The right to a jury trial in felony cases is absolute.
4. Juries do not give reasons for their findings of guilt or innocence.
5. If the judge believes that the evidence failed to meet the »beyond a reasonable doubt « test he or she may set aside a jury decision to convict.
6. A defendant cannot choose a bench trial in most cases.
7. In a bench trial a judge acts alone as a fact finder.
8. A word «bench» is commonly used as a synonym for a «jury».

3) Fill in the blanks using words and phrases given in the brackets:

1. In all the accused is enjoyed the right to a ... and ... trial.
2. The accused must be confronted with the ... against him/her.
3. The accused must have for obtaining witnesses in his/her favor.
4. The accused must be informed of ... and ... of the accusation.
5. The accused must have the assistance of
(*compulsory process; criminal cases; witnesses; public; nature; counsel for the defense; cause; speedy*).

4) Match the English noun phrases with their Ukrainian equivalents:

- | | |
|----------------|---------------------|
| 1. bench trial | 1. вбивство |
| 2. jury trial | 2. засудити винного |

- | | |
|-----------------------------|---|
| 3. to waive a jury trial | 3. справа, яка передбачає вищу міру покарання |
| 4. a fact finder | 4. суд присяжних |
| 5. capital case | 5. таємна умова |
| 6. a homicide | 6. суд без присяжних |
| 7. a conspiracy | 7. шахрайство |
| 8. a fraud | 8. відмовитися від суду присяжних |
| 9. presumption of innocence | 9. бути смертельно хворим |
| 10. to convict an accused | 10. той, хто вирішує факти |
| 11. to be fatally ill | 11. презумпція невинуватості |

5) Give Ukrainian equivalents to the following words and phrases: to obtain witnesses in one's own favor; an impartial jury; felony charges; to give a consent to a waiver; to be advantageous; technical legal issues; to be unsympathetic to the defense; to acquit; to be lenient.

6) Give English equivalents to the following words and phrases: незначні правопорушення; дрібне хуліганство; вбивство; таємна змова; провина; невинність; засудити; смертна кара; скасувати рішення журі; тяжкий злочин; менш тяжкий злочин; вибирати; відмовлятися від суду присяжних; поправка до конституції.

7) Find words and phrases in the text which mean:

1. a crime that carries a penalty of more than a year in prison
2. a person called upon by either side in a criminal trial to give testimony before a judge or jury
3. a court proceeding in which a judge, sitting alone decides the facts
4. the least severely punished misdemeanors and violations

8) Talk on tactical advantages and disadvantages of bench versus jury trials completing the following statements:

1. A defendant guilty of felony charges can opt ...
2. A jury trial may be waived if ...
3. A bench trial is ...
4. A defendant accused of complex fraud...
5. Waiver of jury trials is often advantageous to a defendant when ...

6. Juries do not give reasons ...
7. A jury decision to convict ...
8. A finding of innocence cannot be overturned ...
9. Most jury trials result ...

9) Read the following text. Explain, what the term «Speedy trial» means.

Speedy Trial

The «time to trial» is the time that elapses between the arrest of a suspect and the commencement of the trial, which, in our system of justice, must be «speedy.» The time does not begin to count until an arrest has been made. Thus a suspect who has fled and cannot be located can hardly claim denial of a speedy trial when caught later and eventually tried.

Speedy trial provisions, however, relate not to absconders but to defendants already under arrest. Today, with the courts in many jurisdictions crowded, the time between arrest and trial is often very long even when both sides, state and defense, wish to get on with it. The court calendar problem is such that trial justice is routine but slow. This remains a major problem for our criminal justice system, particularly in crowded metropolitan court districts.

Speedy trial provisions, found today in most state statutes, seek to prevent undue delay in bringing cases to court, to prevent person from being held for extended periods of time in custody awaiting final judgment.

Delaying a trial has advantages and disadvantages for both sides in criminal litigation. The state can continue to accumulate evidence and, in cases in which the defendant is being held in jail, can in effect punish the accused before trial by extending pretrial custody. The defense, on the other hand, might want a delay so that publicity about the crime cools down and witnesses' memories fade.

Unit 28

Appeals and Post-Conviction Remedies

The appeal of criminal conviction in US jurisdictions must be requested by the convicted defendant (now an offender) and granted at the discretion of the higher court. Exceptions include the military system of justice, which provides for automatic appeals. Appeals by the defendant must be instituted within a specified time after conviction, although for good cause appellate courts in some jurisdictions may extend this period.

Generally there are two classes of appellate review sought by defendants. The first involves appeal of conviction by trial, including appeal of denial of pretrial motions to suppress certain evidence. Usually appeals of guilty plea convictions are not permitted because a guilty plea waives this right. The second class involves challenge of the conditions of custody; this follows conviction and is referred to as post-conviction relief. Appeals of convictions proceed in various ways, with a few jurisdictions requiring approval by the trial court first. But more commonly they proceed by a writ of error (requiring the appellate court to review the trial court or to arrest record for errors) or other writs submitted to the appropriate appellate court. Appeal of custody is commonly initiated by a writ of habeas corpus (literally «you have the body,» that is, the person in custody who must be presented to the court).

The appellate process may ultimately involve the entire range of state and federal courts, eventually reaching the U.S. Supreme Court. Currently, before appeals move from state to federal review, state remedies must be exhausted.

Appeals and other postconviction remedies are usually decided on the basis of relevant records and briefs, including written presentations of arguments. Frequently appellate arguments are presented orally before the appellate court by counsel with the petitioner not physically present. This is an expensive process, beyond the means of most petitioners. However, a series of U.S. Supreme Court cases has substantially expanded the right of poor petitioners to obtain court transcripts and the assistance of counsel at state expense, at least on first appeal. In effect, under these decisions, if the state allows an ap-

peal, then an indigent defendant has the right to free counsel for this purpose and the transcripts are provided without cost. In addition, public defenders frequently pursue appeals available to their clients as well.

Some states also allow appeals by prosecution, under certain restricted conditions. The state cannot appeal a trial court finding of not guilty, because the defendant is protected from retrial by Constitutional prohibitions against double jeopardy. But a few states allow rather broad but «moot» prosecution appeals. These have the possible effect of settling a legal controversy raised by the case, but no consequences for the individual defendant. Usually such appeals deal with (1) dismissal charges, indictments, information; (2) suppression of evidence before trial including confessions, admissions, and evidence obtained by search and seizure; (3) an award of a new trial by the court; (4) an illegal sentence; or (5) discharge of the defendant on speedy trial grounds.

Notes

1. at the discretion of – за розсудом
2. for good cause – з вагомої причини
3. remedies – засоби судового захисту
4. to seek (sought) – просити, домагатися, добиватися
5. a writ of habeas corpus – судовий наказ з'явитися до суду
6. relief – звільнення, допомога
7. motions – клопотання, пропозиції
8. court findings – вирок суду
9. briefs – резюме, записки адвоката

Exercises

1) Find the answers in the text above:

1. Who must request the appeal of criminal conviction?
2. What are the exceptions of granting an appeal to an offender?
3. What are the two classes of appellate review sought by a defendant?
4. In what cases do appeals move from state to federal courts?
5. On what basis are appeals and other postconviction remedies usually decided?
6. What right has an indigent defendant?

7. Under what conditions do some states allow prosecution appeals?
8. What does the 5th Amendment to the US Constitution prohibit?
9. What do prosecution appeals often deal with?

2) Say whether these statements are true or false:

1. The appellate process involves only state courts.
2. Appeals of guilty plea convictions are not usually permitted.
3. Appellate courts in some jurisdictions may extend the specific period of time passed after conviction.
4. Court transcripts are always provided without cost.
5. Oral presentations of arguments are briefs.
6. The appeals of criminal conviction must be requested by a higher court.
7. The appellate process may eventually reach the U.S. Supreme Court.

3) Match the English noun phrases with their Ukrainian equivalents:

- | | |
|------------------------------|---|
| 1. criminal conviction | 1. післясудове звільнення |
| 2. convicted defendant | 2. перегляд справи в федеральному апеляційному суді |
| 3. pretrial motions | 3. пред'явлення аргументів |
| 4. conditions of custody | 4. письмова копія протоколу судового засідання |
| 5. postconviction relief | 5. засуджений, обвинувачений |
| 6. federal review | 6. апеляція, яку подає обвинувачення |
| 7. presentation of arguments | 7. кримінальне засудження |
| 8. court transcript | 8. умови перебування під вартою |
| 9. prosecution appeal | 9. досудові клопотання |

4) Match the English verb phrases with their Ukrainian equivalents:

- | | |
|-----------------------------------|--------------------------------------|
| 1. to suppress a certain evidence | 1. звільнити обвинуваченого |
| 2. to waive the right | 2. забороняти розгляд певного доказу |

- | | |
|--|--|
| 3. to require an appeal | 3. захищати від перегляду судової справи |
| 4. to present an appellate argument | 4. відмовляти в праві |
| 5. to expand a specific period of time | 5. вирішувати правовий спір |
| 6. to pursue appeals | 6. вимагати санкції |
| 7. to protect from retrial | 7. подавати апеляції |
| 8. to settle a legal controversy | 8. надавати докази по апеляції |
| 9. to dismiss charges | 9. збільшити певний проміжок часу |
| 10. to discharge a defendant | 10. знімати обвинувачення |

5) Find in the text the words and phrases which mean:

1. a process at which an issue of fact is examined before a court in accordance with applicable law.
2. the penalty imposed by a judge upon conviction of the defendant.
3. a convicted defendant.
4. a person accused of a crime.
5. a written account of all the acts and proceedings in a case.
6. an opportunity for a defense counsel to summarize his or her position in a case and answer the judge's questions.

6) Give Ukrainian equivalents to the following words and phrases:

remedy; offender; conviction; for good cause; pretrial motions; a writ of error; a writ of habeas corpus; appeal of custody; appeal of conviction by trial; postconviction relief; records and briefs; petitioner; at state expense; without cost; legal controversy; dismissal of charges; indictment; confession; testimony; admission of evidence; search and seizure; an award; speedy trial.

7) Give English equivalents to the following words and phrases:

апеляція; злочинець; за розсудом суду; прохач; засудження; судовий наказ; протокол судового засідання; записки адвоката до апеляційного суду; забороняти певні докази; домагатися; рішення про нове судове слухання; звільнення обвинуваченого; письмове подання аргументів; обмежені умови; скорий суд; двічі наражати людину на перегляд судового рішення за той самий злочин.

8) Complete the text translating words and phrases given in brackets. Use the corresponding words and phrases given in the below:

Pretrial Motions

Before (судовий розгляд) is completed, several important (рішення) are made by (суддя) in response to written requests, called (досудові клопотання), on behalf of (обвинувачення та захист). Several motions are available to (кожна з сторін), the most common are:

Motion to dismiss. A defendant may (подати клопотання) to dismiss a case based on the failure of the prosecution (підтвердити наявність злочину) because the documents (зібрані обвинуваченням) are inaccurate. Usually (суд) grants the motion to dismiss, the prosecution (надається час) to refile (обвинувачення) and correct documents.

Motion to determine the competency of the accused to stand trial. Usually this motion is filed if the defense believes the defendant (психічно хворий), or if (захист, побудований на неосудності особи) is planned.

Motion to suppress evidence. Three types of (заборони доказів) are common. First, the defense may (домагатися) to exclude (докази) obtained through (обшук та вилучення) if it appears the search (проводився без ордеру) or if the legality of it was questionable. Second, the defense can move to exclude (свідчення та заяви) made to the police by the defendant if it appears they were not made (добровільно). Third, the defense may (відмовитися від) the pretrial (отождження) of the accused, if it appears that (процедура в поліції) violated (відповідні процесуальні норми).

trial	to carry out	due process standards
evidence	to seek	defense of insanity
confession	to challenge	due process
identification	to allege a crime voluntary	each side
judge	to grand time	police procedure
statements	to suppress evidence	pretrial motions
court	to file by prosecution	
warrant	to file a motion	
decisions	to be mentally ill	
charges		
prosecution		
defense		
search and rescue		

9) Give some information on ...

1. Types of appellate review sought by a criminal defendant.
2. Grounds for appeals instituted by prosecution.
3. Types of pretrial motions.

Unit 29

Criminal law and procedure

As a society of approximately 250 million persons, the United States has an established system of law, procedures and punishments designed to provide for social order. America has a criminal justice system to enforce the laws, to protect individuals and the community. The system operates by identifying, apprehending, prosecuting, convicting and sentencing those who violate the laws of the nation and of its various states.

In theory, the American criminal justice system operates in the following manner. When a crime has been committed and it becomes known to the police, the police investigate and attempt to find who did it. If they are successful, the suspect is then arrested, informed of his constitutional rights and «booked» when the police officially enter the arrest in their records. The accused is next taken before a judge or magistrate. If the offence is minor, however, the accused is held for further action and bail may be set. Bail is an amount of money given to the court by the suspect in order to be released from custody and to guarantee his/ her return for trial.

Responsibility for charging the accused with the violation of a specific law or laws belongs to a prosecuting attorney who is an employee of the government. If the prosecutor believes the police have sufficient evidence, he prepares a complaint, identifying the accused and specifying the charge or charges against him.

At a preliminary hearing, a prosecutor presents the charges and evidence against the accused before a judge. If the judge determines that there is sufficient evidence to believe it is probable that the accused has committed the offence, the judge will send the case to a grand jury, the next step in the process.

At the grand jury stage, the prosecutor presents the evidence to a grand jury, a group of citizens drawn from the community. The grand jury meets in secret. The accused has no right to be present or to defend himself before the grand jury. The purpose of this proceeding is for a group of citizens to determine if sufficient evidence exists for them to believe it is probable that a crime has been committed and that the accused has committed it. If the members of the grand jury

find this to be the case, the accused will be formally charged with the crime (indicted).

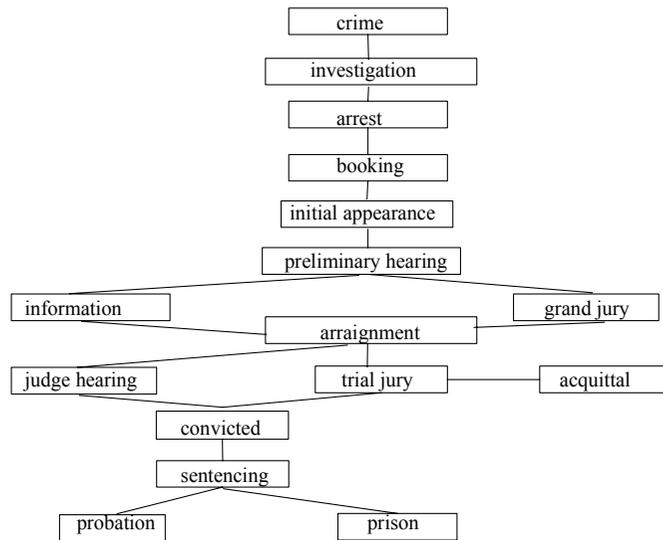
Once indicted, the accused is brought before the trial court, informed of the charges against him and advised of pleas he might enter – not guilty, guilty or «no contest». A «no contest plea» is one in which the accused does not dispute the facts but argues that the facts do not support a criminal charge. This step in the process is known as an arraignment. If the accused pleads not guilty, a date for his trial is set by the judge.

At the trial the job of the prosecuting attorney is to present those facts and witnesses which establish the guilt of the accused beyond a reasonable doubt. If he is unable to do this, the charges against the accused will be dismissed. The prosecutor, acting on behalf of the state, must prove guilt. The accused does not have to prove his innocence since he or she is assumed to be innocent until proved guilty. The accused may be represented by an attorney whose job is to present facts that support the defendant's version of the events. This is known as the adversary system, in which each side presents evidence before an impartial judge and jury. The judge supervises the trial and tries to ensure that each side fairly presents the evidence to the jury. Finally, it is the job of the jury (or the judge, if there is no jury) to decide the question of innocence or guilt.

If the accused pleads guilty or «no contest», or if he is found guilty at the trial, the judge will impose punishment. Depending upon the nature of the offense, the judge may fine and / or sentence the offender to prison (or even to death if the state permits capital punishment). The judge may also suspend a jail sentence and place the offender on probation. If put on probation, the offender will remain out of jail but he is required to live a law-abiding life and report to a probation officer on regular basis. If sentenced to prison, the offender may obtain an early release by being granted parole by the state parole board. The conditions for parole are similar to those for probation.

The basic rules that guide and govern the workings of the American criminal justice system are contained in the Constitution of the United States. Its essence is the Fifth Amendment, which guarantees that no person shall «be deprived of life, liberty or property without due process of law», and the Fourteenth Amendment, which ensures that none of the fifty states may deprive a citizen of that guarantee.

The American Criminal Justice System



Notes

1. to enter the arrest in the records – вносити питання про затримання до протоколу
2. to book the suspect – зареєструвати підозрюваного
3. to set bail – встановити заставу
4. to release from custody – звільнити з-під арешту
5. a prosecuting attorney – прокурор
6. a «no contest» plea – безумовне виправдання
7. an arraignment – обвинувачення
8. an adversary system – змагальна система
9. to suspend a jail sentence – відкласти вирок
10. to place an offender on probation – помістити правопорушника під нагляд інспектора
11. to grant parole – умовно-достроково звільнити

Exercises

1) Answer the following questions:

1. What is the aim of the criminal justice system of the United States?

2. How does this system operate?
3. What are the functions of the police at the first stage of the investigation?
4. When is it possible to set bail?
5. What is the role of a judge in the process?
6. What responsibility does a prosecuting attorney have?
7. When will the judge send the case to a grand jury?
8. What actions or steps are undertaken at the grand jury stage?
9. What step is known as an arraignment?
10. What do you know about the adversary system?
11. Who imposes punishment?
12. What punishment may be imposed by a judge?
13. Where are the basic rules of the American criminal justice system contained?
14. What do the Fifth and the Fourteenth Amendments of the USA Constitution guarantee to the American citizens?

2) Ask questions to get the following answers:

1. America has a criminal justice system to enforce the laws, to protect individuals and the community
2. If the offence is minor bail may be set.
3. Bail is an amount of money given to the court by the suspect in order to be released from custody and to guarantee his/her return for trial.
4. If the police have sufficient evidence, the prosecutor prepares a complaint, identifying the accused and specifying the charge or charges against him.
5. A prosecutor presents the charges and evidence against the accused before a judge.
6. The judge will send the case to a grand jury.
7. The accused will be formally charged with the crime.
8. The job of the prosecuting attorney is to present those facts and witnesses which establish the guilt of the accused beyond a reasonable doubt.
9. The prosecutor, acting on behalf of the state, must prove guilt.
10. The judge supervises the trial and tries to ensure that each side fairly presents the evidence to the jury.
11. The judge will impose punishment.
12. The conditions for parole are similar to those for probation.

3) Match the words and expressions from the left and the right columns according to the meaning.

I		I	
1. arrest, apprehending	2. suspected person, suspect	1. судочинство	2. покарання
3. prosecutor	4. bail	3. встановлення особи	4. арешт
5. complaint		5. переслідувати у судовому порядку	
6. jail, prison	7. guilt	6. засудження	7. підозрюваний
8. court procedure	9. punishment	8. правопорушення	9. застава
10. prosecution	11. offence	10. прокурор	11. докази
12. arraignment	13. identification	12. скарга	13. в'язниця (тюрма)
14. evidence		14. пред'явлення обвинувачення	
15. sentencing		15. провина, вина	
II		II	
1. criminal justice system	2. sufficient evidence	1. обвинувачення у кримінальній справі	2. розумні сумніви
3. preliminary hearing	4. criminal charge	3. певний судовий процес	4. смертна кара
5. reasonable doubt	6. on behalf of the state	5. законослухняне життя	6. офіцер, який наглядає за пробацією
7. the defendant's version of events	8. an impartial judge and jury	7. кримінальна судова система	8. версія випадку зі слів обвинуваченого
9. the question of innocence or guilt	10. capital punishment	9. від імені держави	10. попереднє слухання
11. a law-abiding life		11. питання вини та невинності	

12. a probation officer	13. due process of law	12. достатньо доказів	13. безпристрасні суддя та присяжні
III		III	
1. to enforce the law	2. to identify a person	1. відпускати під заставу	2. винести обвинувачення обвинуваченому
3. to violate the law	4. to obtain an early release	3. встановити особу	4. підтримувати обвинувачення у кримінальній справі
5. to enter the arrest into the records	6. to set bail	5. призначити пробацію	6. надати відстрочку від виконання покарання
7. to release from custody	8. to charge the accused	7. достроково звільнити із ув'язнення	8. визнати себе винним
9. to present the charges	10. to bring before the court	9. накласти покарання	10. порушувати закон
11. to support the criminal charge	12. to plead guilty	11. довести невинність	12. здійснювати нагляд за судовим процесом
13. to prove one's innocence	14. to supervise the trial	13. запроваджувати закон	14. встановити вину
15. to impose punishment	16. to suspend a jail sentence	15. представляти обвинувачення	16. звільнити з-під варти
17. to put on probation	18. to support the criminal charge	17. вносити питання про затримання до протоколу	18. предстати перед судом

4) Translate the following sentences, paying attention to the modal verbs and their equivalents:

1. An American criminal justice system has to enforce the laws to protect individuals and the community.

2. After the commission of the crime the police must investigate the case and find who did it.
3. They can arrest the suspect, inform of his constitutional rights and «book» when the police enter the arrest in their records.
4. If the offence is minor, bail may be set.
5. The suspect will be able to be released from custody if the bail is set.
6. The accused will not be allowed to be present or to defend himself before the grand jury.
7. The accused is advised of the pleas he might enter not guilty, guilty, or «no contest».
8. A «no contest» plea is one in which the accused cannot dispute the facts but he can argue that the facts do not support a criminal charge.
9. At the trial the prosecuting attorney is to present those facts and witnesses which establish the guilt of the accused beyond a reasonable doubt.
10. If he is unable to do this, the charges against the accused will be dismissed.
11. The prosecutor, acting on behalf of the state must prove the guilt.
12. The accused does not have to prove his innocence since he or she is assumed to be innocent until proved guilty.
13. The accused may be represented by an attorney whose job is to present facts that support the defendant's version of the events.
14. Depending upon the nature of the offence, the judge may fine or sentence the offender to prison. He may also suspend a jail sentence and place the offender on probation.
15. The offender may obtain an early release by being granted parole by the state parole board.

5) Finish the sentences by the suitable parts given below:

1. The aim of a criminal justice system of the USA is... ..
2. A prosecuting attorney is responsible for... ..
3. The prosecutor prepares a complaint which... ..
4. The task of the proceeding at the grand jury stage is... ..
5. The job of the prosecuting attorney is... ..
6. The accused may be represented by an attorney whose job is... ..
7. It is the job of the jury (or the judge if there is no jury)... ..
8. The judge will impose punishment if the accused pleas... ..

9. The essence of the American criminal justice system is contained... ..
 1. ... for a group of citizens to determine if sufficient evidence exist for them to believe it is probable that a crime has been committed and that the accused has committed it.
 2. ... to enforce the laws, to protect individuals and the community
 3. ... in the Fifth and Fourteenth Amendments.
 4. ... to decide the question of innocence or guilt.
 5. ... charging the accused with the violation of specific laws.
 6. ... guilty or «no contest», or if he is found guilty at the trial.
 7. ... identifies the accused and specifies the charge or charges against him.
 8. ... to present those facts and witnesses which establish the guilt of the accused beyond a reasonable doubt.
 9. ... to present facts that support the defendant's version of the events.

6) Complete the following sentences by translating into English the words and expressions in brackets:

1. In the United States of America the social order is provided by (встановленою системою права).
2. A criminal justice system is operated by (встановленням особи, затриманням, переслідуванням, покаранням та засудженням тих, хто порушує закони нації).
3. After the commission of a crime, the police (розслідує справу, намагається знайти того, хто вчинив злочин, потім заарештовує його).
4. A prosecuting attorney has the right (висунути обвинувачення проти злочинця, підготувати позов щодо нього).
5. It is the judge that (вирішує, чи достатньо доказів для того, щоб бути впевненим, що злочин вчинено).
6. At the grand jury (обвинувачений не має права захищати себе сам).
7. The purpose of grand jury (виявити, чи існує достатньо доказів, щоб повірити, що обвинувачений дійсно вчинив злочин).
8. A date for repeated trial is set by the judge (якщо обвинувачений не визнає себе винним).
9. The task of the prosecuting attorney is (пред'явити ті факти та тих свідків, які допоможуть встановити вину обвинуваченого поза всякими сумнівами).

10. It is the job of the jury (вирішувати питання вини чи невинності).
11. The judge imposes punishment (якщо обвинувачений визнає себе винним на судовому розгляді).
12. The Fifth Amendment of the American Constitution guarantees (що жодна людина не може бути позбавлена життя, свободи чи майна інакше як за законом).

7) Find the best suitable definition of the following words and expressions, given below and translate into Ukrainian:

- | | |
|-----------------|----------------------------|
| 1. an accused | 14. a witness |
| 2. a judge | 15. a defendant |
| 3. bail | 16. a trial |
| 4. a prosecutor | 17. a guilt (to plea) |
| 5. an attorney | 18. to charge |
| 6. the police | 19. to be guilty |
| 7. a suspected | 20. to put on probation |
| 8. parole | 21. a probation officer |
| 9. an offence | 22. to grant parole |
| 10. a sentence | 23. a prosecuting attorney |
| 11. a crime | 24. a grand jury |
| 12. a custody | 25. the adversary system |
| 13. an evidence | 26. a «no contest plea» |

1. *an amount of money given to the court by the suspect in order to be released from custody and to guarantee his/ her return for trial.*
2. *in which the accused does not dispute the facts but argues that the facts do not support a criminal charge.*
3. *judicial examination of a case in a court of law; process or procedure used to ascertain a result.*
4. *a person against whom a civil or criminal action is brought in a court of law.*
5. *to bring an accusation against or lay blame upon, to accuse.*
6. *subjected to an accusation; a person or persons charged with an offence; a person who commits a crime.*
7. *an attorney empowered to represent the government in instituting and conducting criminal prosecution.*
8. *a person who presents facts that support the defendant's version of the events. A person authorized by another to act in his place; one*

- whose profession is representing clients in lawsuits and advising them in other legal matters.*
9. *one who institutes and conducts a legal action, especially criminal prosecution; a person who presents the charges and evidence against the accused before a judge.*
 10. *a group of citizens drawn from the community; a body of persons selected according to law to hear evidence on a matter submitted to them in a court of law and to render a decision or make a presentment according to the law and the evidence.*
 11. *a person before whom the accused is brought for trial; a person invested with authority to decide what is true in a contest or controversy by weighting the evidence fairly.*
 12. *a system in which each side presents evidence before an impartial judge or jury; a system in which the persons or groups are hostile or competing.*
 13. *action or practice of allowing a person convicted of a minor or first offence to go free under close supervision and on the condition that her or his behaviour be exemplary.*
 14. *criminal activity; violation of law; act forbidden by law; or omission of a duty prescribed by law, for which the offender is liable to punishment by the state.*
 15. *period of such conditional release; conditional freedom granted instead of imprisonment.*
 16. *that which is legally presented to a court, as a document or the testimony of a witness for the purpose of proving or disproving an issue in question, that which makes something evident.*
 17. *official force or department established and empowered usually by a local government; to prevent and detect crime, enforce the law, and maintain public order, peace and safety.*
 18. *to give conditional release of a prisoner before the expiration of his full sentence.*
 19. *one, who is suspected, especially of having committed a crime, a person with lack confidence in.*
 20. *act of breaking or violating a moral or social code of conduct: act of breaking the law.*
 21. *judgment by a court or judge setting the punishment of a defendant after conviction; the punishment itself.*
 22. *state of being kept by or in the charge of officers of the law.*
 23. *officer appointed to supervise a probation.*

24. *answer which the defendant in a criminal or civil action makes to the charge or allegation against him; state or fact of having done wrong, especially, of having committed a crime.*
25. *to be convicted of a crime*
26. *one who has personally seen or heard something and can therefore give a first hand account of it; one who testifies in a court of law under oath either orally or by deposition.*

Unit 30

Legal Definition of Crime and Criminal

1. Legally a crime is an act made punishable by law. A criminal is one who has committed such a legally forbidden act. Yet there are other criteria which determine whether a person may be dealt with as a criminal.

Regardless of his act, he must be of competent age. Under English common law a child under 7 could not commit a crime because he was held not capable of mens rea – of feeling a sense of guilt- and so was not responsible. In American states the age of criminal responsibility is fixed by statute or constitutionally, considerably above the common law limit. Very young children may of course be dealt with in juvenile courts. They may be punished as well as treated constructively under the fiction that the court acts as a parent would act and in the best interests of the child.

2. Criminal acts must also be voluntary and engaged in without compulsion. Compulsion as defined by courts must be evident and immediately related to a particular criminal act. Impulsion towards a life of crime may help to explain why a child becomes criminal. It may have extended over a long period of time in the form of influence of parents, associates or conditions.

3. Especially in the case of serious crimes, the criminal must be shown to have had criminal intent: he must have meant to do wrong. Usually criminal intent is tested in terms of his knowledge of right and wrong, and his knowledge of the nature and consequences of his behaviour. If it can be shown that a man who killed another did not know that it is wrong to kill, he will be judged irresponsible, being without mens rea.

4. Criminal law also often recognizes degrees of intent as necessary to constitute particular crimes. Thus to carry a heavy penalty an assault may have to be shown to have been perpetrated «maliciously», or a personal injury to have resulted from negligence. Clearly such degrees of responsibility are extremely difficult to prove since they require an estimate of the accused's mental processes and attitudes at the time of the crime.

5. Finally, to constitute a crime an act must be classed legally as an injury to the state and not merely as a private injury or tort.

Crimes

Crimes are generally divided into the subdivisions of felonies and misdemeanors. The felonies are generally classed as the most serious and more heinous crimes, indictable and punished by severe penalties. The misdemeanors are lesser violations.

The Constitution of the United States provides that «no person shall be subject for the same offence to be twice put in jeopardy of life or limb». This means that no person can be subjected to a second prosecution for a crime for which he has been tried and duly convicted or acquitted. But a defendant may generally be tried by both a federal court and state court for the identical offense if statutes of both the state and the federal government were violated by the specific crime.

An arrest is the taking a person into custody to be held to answer for a crime and it is made by the actual restraint of the person or by his submission to custody. A peace officer generally has the right to make an arrest without a warrant for a crime committed in his presence; when the person arrested has committed a felony although not in his presence; or when a felony has actually been committed and there is reasonable cause to believe the person to be arrested has committed it.

In most jurisdictions a private person has the right to arrest a person without a warrant if the person has attempted or committed a crime in his presence.

A complaint, or an information as it is sometimes called, is the allegation made to a judge, magistrate, commissioner, or other proper official, stating that a person is guilty of some designated crime. If sufficient facts appear in the complaint tending to establish the commission of a crime, the official to whom it is submitted will issue a warrant for the arrest of the person charged with it. The warrant must be directed to an executed by a peace officer. A private person may not execute a warrant of arrest, although he may be called upon to aid the peace officer in its execution. In the federal courts either United States commissioners or federal judges issue warrants of arrest to United States marshals for execution.

The information or complaint made to the proper official issuing the warrant may be lodged by either a peace office or a private person. Investigators are often called upon to file complaints in order to obtain warrants.

An indictment is an accusation in writing, presented by a grand jury to a court, formally charging a person with committing a crime.

The grand jury itself is a body of men varying in number from twelve to twenty-four, whose duty is after hearing evidence against a defendant to decide whether a sufficient case has been made out against him to warrant holding the accused for trial by an ordinary or petit jury. A warrant of arrest is issued upon the indictment, and the defendant is apprehended and held for trial. The investigator who has testified before the grand jury loses his status as an accuser, and in effect the grand jury becomes the accuser.

Evidence of corpus delicti must always be present in order to effect a legal conviction. Corpus delicti is the body of the offense, the commission of which must be established before the accused can be legally convicted. An accused cannot be convicted legally upon his unsupported confession. A court cannot consider the confession of an accused as evidence against him unless there be in the record other evidence, either direct or circumstantial, showing the offense charged has been committed. In other words, there must be evidence of the corpus delicti other than confession itself.

Habeas corpus means literally that «You have the body». It is a writ issued by the court to bring the person seeking the benefit of it before the courts or judge to determine whether or not he is legally detained. It is a summary remedy for unlawful restraint of liberty. If an arrested person is held arbitrarily without hearing, he has the right to apply for a writ of habeas corpus which compels his jailer or keeper to produce him before the judge for determination of the legality of the restraint.

There are many presumptions in law, but the most important one for the investigator is to remember that a defendant in a criminal action is presumed to be innocent until proved guilty. A defendant in a criminal action may testify as a witness in his own behalf, but his refusal to take the witness stand and testify does not create any presumption against him.

The term venue means the locality in which an act is done, or where a cause of action arises and from which place the jury is picked to hear the evidence in the trial of the case. Crimes must be tried in the venue where they were committed, although changes of venue will be granted from one county to another in the same state if it can be shown that the defendant cannot receive a fair and impartial trial in the county where the cause of action arose.

Notes

1. criminal responsibility – кримінальна відповідальність
2. mens rea – вина, провина
3. juvenile courts – суди у справах неповнолітніх
4. criminal intent – злочинний намір
5. consequences of the behaviour – наслідки поведінки
6. to carry a penalty – здійснювати покарання
7. corpus delicti – склад злочину
8. habeas corpus – судовий наказ про супроводження особи до суду
9. the term venue – місце вчинення злочину

Exercises

1) Translate the words and word combinations with the same roots.

1. to punish; punishment; punishable
2. crime; to constitute a crime; a criminal; to commit a crime; a commission of a crime; criminology; criminality; criminalistics; criminal responsibility; criminal behaviour; criminal act; criminal courts; criminal judges; criminal intent; criminal law; criminal procedure; criminalist
3. to accuse; an accused; an accusation; an accuser
4. to violate; violation; a violator
5. a warrant; to issue a warrant; to execute a warrant; a warrant for the arrest; to lodge the warrant; to obtain the warrant
6. to convict; a convict; conviction
7. to respond; responsibility; to be responsible for; irresponsible

2) Translate given expressions into Ukrainian:

a legally forbidden act; to be of competent age; feeling of sense of guilt; consequences of the behaviour; to recognize degrees of intent; to carry a heavy penalty; a personal injury; to prove the degrees of responsibility; the accused's mental processes; to subject to a second prosecution; to take a person into custody; to make an arrest; to make an allegation to a judge; to issue a warrant for the arrest; to establish the commission of a crime; to be called upon, to make a complaint; to charge a person with committing a crime; evidence of corpus delicti; to effect a legal conviction; direct or circumstantial evidence; unlawful restraint of liberty; a writ of habeas corpus; to create any presumption against somebody; a fair and impartial trial

3) Answer the following questions:

1. What is a crime? What is a criminal? Give the definition.
2. Where is the age of criminal responsibility fixed?
3. How is compulsion defined by courts?
4. What must the criminal have meant in the case of serious crimes?
5. How must an act be classed to constitute a crime?
6. How are crimes generally divided? Give the definition of felony and misdemeanor.
7. What does the Constitution of the United States provide?
8. Who makes an arrest?
9. Who issues a warrant for the arrest?
10. What is the duty of the grand jury?
11. What must be present in order to effect a legal conviction?
12. In what case does an arrested person have the right to apply for a writ of habeas corpus?
13. What is the most important presumption of law?
14. Where must crimes be tried?

4) Ask questions to get following answers:

1. A crime is a commission of a wrongful act, punishable by law.
2. A criminal is a person who has committed a legally forbidden act.
3. A criminal must be of competent age.
4. Very young children must be dealt with juvenile courts.
5. Criminal law recognizes degrees of intent as necessary to constitute particular crimes.
6. The felonies are generally classed as most serious crimes.
7. Misdemeanors are lesser violations.
8. The statement of the Constitution of the US means that no person can be subjected to a second prosecution for a crime for which he has been tried.
9. A private person has the right to arrest a person without a warrant if the person has committed a crime in his presence.
10. In the federal courts either United States commissioners or federal judges issue warrants of arrest to United States marshals for execution.
11. An indictment is an accusation, formally charging a person with committing a crime.
12. A defendant in a criminal action may testify as a witness on his own behalf, but his refusal to testify does not create any presumption against him.

5) Ask your comrades to explain: what does it mean? They may find their answers in the text.

1. age of criminal responsibility
2. to deal with juvenile courts
3. compulsion as defined by courts
4. why a child becomes criminal
5. to have criminal intent
6. mens rea
7. felonies and misdemeanors
8. an arrest
9. a complaint
10. a warrant
11. an indictment
12. the grand jury
13. evidence of corpus delicti
14. habeas corpus
15. the presumption of innocence
16. the term venue

6) Match the words and expressions from the left and the right column according to the meaning:

- | I | I |
|-------------------|--|
| 1. mens rea | 1. поведінка |
| 2. compulsion | 2. недбалість |
| 3. impulsion | 3. тяжкий злочин |
| 4. associates | 4. незначний злочин |
| 5. behaviour | 5. ордер на обшук, на арешт |
| 6. penalty | 6. вина, провина |
| 7. assault | 7. судовий наказ про супроводження особи до суду |
| 8. negligence | 8. здійснення вироку |
| 9. responsibility | 9. примушувати |
| 10. tort | 10. обвинувачення |
| 11. felony | 11. обвинувач (свідок звинувачення) |
| 12. misdemeanor | 12. друзі |

- | | |
|--------------------|----------------------------|
| 13. allegation | 13. місце вчинення злочину |
| 14. execution | 14. відповідальність |
| 15. warrant | 15. склад злочину |
| 16. indictment | 16. спонукання, мотив |
| 17. accuser | 17. напад |
| 18. corpus delicti | 18. правопорушення |
| 19. habeas corpus | 19. заява, обвинувачення |
| 20. term venue | 20. покарання |

II

- | | |
|------------------------------------|---|
| 1. legally forbidden act | 1. ушкодження особи |
| 2. juvenile courts | 2. законне засудження |
| 3. criminal intent | 3. презумпція невинуватості |
| 4. personal injury | 4. справедливий та безсторонній судовий розгляд |
| 5. degree of responsibility | 5. дія, заборонена законом |
| 6. identical offence | 6. речові докази |
| 7. reasonable cause | 7. сумарний засіб судового захисту |
| 8. peace officer | 8. незаконне позбавлення волі |
| 9. legal conviction | 9. обґрунтувати мотив |
| 10. consequence of one's behaviour | 10. ступінь відповідальності |
| 11. circumstantial evidence | 11. кримінальний намір |
| 12. Unsupported confession | 12. подібне правопорушення |
| 13. summary remedy | 13. посадова особа |
| 14. unlawful restraint of liberty | 14. наслідки поведінки |
| 15. Presumption of innocence | 15. не підтримане визначення вини |
| 16. fair and impartial trial | 16. суди у справах неповнолітніх |

III

- | | |
|--------------------------|-------------------------------|
| 1. to commit a crime | 1. призначати тяжке покарання |
| 2. to constitute a crime | 2. зробити заяву |

III

3. to carry a heavy penalty	3. видати ордер
4. to prove the guilt	4. бути покликаним на допомогу
5. to be subjected to	5. отримати ордер
6. to take a person into custody	6. затримати обвинуваченого
7. to make an arrest	7. давати свідчення як свідок
8. to make the allegation	8. стати свідком обвинувачення
9. to establish the commission of a crime	9. подавати заявку на ордер
10. to issue a warrant	10. підлягати чомусь
11. to charge a person with	11. розглядати визнання вини
12. to execute a warrant of arrest	12. заарештувати
13. to be called upon to aid	13. складати злочин
14. to make a complaint	14. презюмувати невинуватість
15. to obtain a warrant	15. подавати позов
16. to hear evidence	16. обвинуватити особу в чомусь
17. to apprehend the defendant	17. довести вину
18. to become an accuser	18. видавати суворий наказ
19. to consider the confession	19. реєструвати позов
20. to lodge the warrant	20. вчинити злочин
21. to file complaint	21. встановити факти вчинення злочину
22. to issue a writ	22. вислухати свідчення
23. to presume to be innocent	23. заарештувати за ордером
24. to testify as a witness	24. заарештувати особу

7) Translate the following sentences, paying attention to the modal verbs and their equivalents:

- Very young children may be dealt with only in juvenile courts. And the young criminal must be of competent age.
- In the case of serious crimes the criminal must be shown to have had criminal intent; he must have meant to do wrong.
- To constitute a crime an act should be classified legally as an injury to the state and not merely as a private injury or tort.
- No person shall be subject for the same offence, to be twice put in jeopardy of life and limb.
- No person can be subjected to a second prosecution for a crime for which he has been tried.
- Any defendant may be tried by both a federal court and a state court for the same offense if laws of both the state and the federal government were violated by the specific crime
- If sufficient facts appear in the complaint tending to establish the commission of a crime the official to whom it is submitted will be able to issue a warrant for the arrest of the person charged with it.
- The warrant must be directed to and executed by a peace officer.
- A private person may not execute a warrant of arrest, although he may be called upon to aid the peace officer in its execution.
- Investigators have to file complaints in order to obtain warrants.
- Crimes must be tried in the venue where they were committed.
- Evidence of corpus delicti should always be present in order to effect a legal conviction.
- The commission of a crime must be established before the accused can be legally convicted.
- An accused cannot be convicted legally upon his unsupported confession.
- A court cannot consider the confession of an accused as evidence against him unless there be in the record other evidence, either direct or circumstantial, showing the offense charged has been committed.

8) Finish the sentences by the suitable parts given below:

- A criminal is one
- The courts define compulsion as evident and relate
- Impulsion may help to explain
- In the commission of serious crimes, the criminal must be shown to have had

5. The degrees of responsibility are extremely difficult to prove since ...
6. The Constitution of the United States provides that ...
7. A defendant may be tried by both ...
8. As a rule a peace officer has the right to make an arrest ...
9. A complaint is the allegation made to a judge, magistrate or other proper official, stating ...
10. Investigators are often called upon ...
11. The investigator who has testified before the grand jury ...
12. The court cannot consider the confession of an accused as evidence against him unless ...
13. There are many presumptions in law, but the most important one for the investigator to remember is ...
14. The term venue means...
 - 1) ... to file complaints in order to obtain warrants.
 - 2) ... that a person is guilty of some designated crime.
 - 3) ... there be in the record other evidence, either direct or circumstantial, showing the offence charged has been committed.
 - 4) ... who has committed a legally forbidden act.
 - 5) ... the locality in which an act is done.
 - 6) ... why they require an estimate of the accused's mental processes and attitudes at the time of the crime.
 - 7) ... without a warrant for a crime committed in his presence.
 - 8) ... to a particular criminal act.
 - 9) ... criminal intent.
 - 10) ... that a defendant in a criminal action is presumed to be innocent until proved guilty.
 - 11) ... why a child becomes a criminal.
 - 12) ... «no person shall be subject for the same offence to be twice put in jeopardy of life or limb.»
 - 13) ... a federal court and a state court for the identical offence if statutes of both the state and the federal government were violated by the specific crime.

9) Find the appropriate words given below to the following definition:

1. one, who investigates as a detective.
2. oral statement or declaration made under the oath by a witness in a court of law, usually in response to questioning by a lawyer.
3. any of several crimes, as murder, rape, or burglary, designated by statute to be graver than a misdemeanor, commonly punishable

4. in the United States by a minimum penalty of imprisonment in a penitentiary for at least a year and a maximum penalty by death.
 5. intention; aim; act or fact of intending.
 6. judicial examination of a case in a court of law; process or procedure used to ascertain a result.
 7. physical object upon which a crime has been committed; the victim's body in a murder case; essential fact or facts proving that a crime has been committed.
 8. person guilty or convicted of a crime; guilty of crime.
 9. locality where a crime is committed; county, district, or locality from which a jury must be called and where a trial must be held.
 10. unlawful attempt or threat to do physical violence to another without the actual accomplishment of the intended attack.
 11. act of confessing; acknowledgment of guilt.
 12. state or quality of being negligent.
 13. punishment established or imposed for violating a law or regulation; sum of money required to be paid as punishment for a violation committed; fine.
 14. any private or civil wrong or injury not involving breach of contract, for which the wrongful party may bring civil suit.
 15. illegal act less serious than a felony, usually punishable by a fine or a short term of imprisonment; misbehaviour.
 16. act of presuming; something taken for granted; evidence leading to a probability.
 17. legal document ordering the person or persons named therein to perform or refrain from performing some act.
 18. writ or order commanding that a person imprisoned or detained be brought before a court or judge to determine if he is being imprisoned or detained lawfully; you may have the body.
1. a criminal
 2. intent
 3. an assault
 4. penalty
 5. negligence
 6. tort
 7. felony
 8. misdemeanor
 9. investigator
 10. trial

11. *confession; presumption; testimony*
12. *writ*
13. *corpus delicti*
14. *habeas corpus*
15. *venue*

10) Complete the following sentences by translating into English the words and expressions in brackets:

1. There must be an apparent possibility (вчинити злочин).
2. To render an act criminal a wrongful intent (повинен завжди бути присутнім).
3. An arrest of a person may be conducted by (посадовою особою, яка має ордер на арешт).
4. If the person has committed the felony in the presence of the peace officer (він має право затримати цю особу без ордеру на арешт).
5. In order to obtain warrants the investigators are often called upon (підшити скаргу до справи).
6. A Grand jury presents an indictment to a court, which is formally charging a person with (вчиненні злочину).

11) Translate sentences paying attention to the Latin terms:

1. Mens rea – is the mental part of the crime, it means guilty mind.
2. Mens rea is essential in India and acts committed on grave and sudden provocation are either not punishable or are mitigating circumstances.
3. Corpus delicti is necessary to establish the guilt of the accused.
4. Prima facie presumption is an inference that the law will draw without proof, unless and until the contrary can be shown: for example, that one is presumed to be innocent until proven guilty.
5. Prima facie evidence is evidence which, standing alone, unexplained or uncontradicted, establishes the proposition or conclusion to support which it is introduced. For example, prima facie of a debt is evidence to the contrary, establishes the existence of the debt.
6. Res gestae doctrine means that words spoken or written about an event, and so soon after it that there was no time to fabricate, may be regarded as part of the event itself, though hearsay, they may be restified to by another as evidence of the fact.

7. The acts, that are so unquestionably bad that they are treated with utmost seriousness under common law were called mala in se. Other crimes such as trespass or vagrancy were termed mala prohibita, these are acts that are illegal because the law prohibits them, not because of their inherent wickedness.
8. Actus reus means a criminal act. It represents the heart of the usual criminal case. It is the actual committing of the criminal behaviour, such as killing, stealing or molesting.
9. Accurate knowledge of a state of affairs, sometimes called scienter, is often important in determining whether a defendant intended to commit a crime.
10. Law breaking is excuse under a number of special conditions that are said to nullify, or negate, the possibility of showing mens rea.
11. The writ of habeas corpus is the opportunity for those imprisoned to have the legality of their detention reviewed by the court.

Unit 31

Criminalistics Introduction

Part I

All criminal investigation is concerned either with people or with things. Only people commit crimes, but they invariably do so through the medium of things. It is these things that together constitute the broad field of physical evidence.

A balanced approach to criminal investigation must be dual, that is, it must concern itself both with people and with things that are involved in the crime. Both the police inspector and the detective-fiction-writer concern themselves primarily with people. The former at least must also take cognizance of the physical evidence if he is to achieve a satisfactory performance in a large percentage of the crimes he investigates. Many investigators have failed in some degree to make the most efficient use of this balanced approach to the investigation of crime. Their failures are often caused by insufficient realization of the enormous potentialities of physical evidence. The investigator to realize his maximum goal, must understand: a) what physical evidence is; b) how to collect and preserve it; c) how to obtain from it the information it carries; and d) how to interpret the information so obtained.

Physical evidence cannot be wrong; it cannot be wholly absent. Only its interpretation can err. Only human failure to find it, study and understand it, can diminish its value. The laboratory must be devoted to this study and understanding if the all important traces which can speak so eloquently of guilt or innocence are to be heard. An increasing but still wholly inadequate amount of effort, time and money is being supplied to this end in the administration of criminal justice in this and other countries. Large number of criminals still escape daily because the physical evidence is not fully understood and utilized. At the same time, innocent men may be accused of crimes of which they would be instantly cleared if the physical evidence were allowed to tell its story of what happened and who was present.

It is well that most police officers have long passed the days when they were capable of doing as one did. Arriving at the scene of a street shooting immediately after it had occurred, he grabbed the abandoned gun from the sidewalk, looked at it, and thrust it in his pocket to de-

liver to the station. Today, nearly every officer knows the value of the fingerprints. Even the laboratory investigator who should appreciate the value of such evidence more than any ordinary police officer, frequently destroys it quite casually. He is often confronted with evidence of a type whose examination is unfamiliar to him. His first reaction may be to avoid attempting what to him is impossible. The temptation to destroy it first so as to avoid embarrassment later, is unfortunately sometimes indulged. If he is really conscientious he should at least explore the possibility that some other laboratory worker can utilize the evidence and thus not lose the solution of the crime.

Another temptation in some cases is to destroy evidence because there is too much of it and it is confused with filth, blood or some other material which would make difficult its preservation and examination. This is likely to, happen in a murder case because the first reaction to a bloody and unsightly scene is to clean it and restore order. In one such murder, most of the debris which must have contained significant evidence was burned immediately in a bonfire. In another, the officer in charge detailed a deputy to scrub the room in which death had occurred. Many blood spots which were washed off subsequently appeared to have great evidential value. As long as law-enforcement officers devote any part of their attention to cleaning up and destroying the very indications that may hold the solution of a crime, they can justly be accused at the very least of incompetence, and of the most of malfeasance. Yet such occurrences are commonplace and are usually accepted as normal human failures.

It can be stated categorically that more laboratory failures are due to inadequate collection of the existing evidence than are caused by the failure of the laboratory to examine it properly. It must be remembered that all laboratory findings are related to a probability, and that a single piece of evidence is rarely sufficient in itself to establish proof of guilt or innocence.

Perhaps the most important function of the police laboratory is to train the police investigators as to what constitutes physical evidence, how it is to be found, collected, preserved, and delivered to the proper laboratory investigator.

Part II

The study of physical evidence has a twofold purpose. First, and most important, it is often the decisive factor in determining guilt or

innocence. Thus, the testimony of the scientific expert should be sufficient to determine the final decision of a court. It can do this by supplying the demonstrable facts, thus resolving discrepancies in ordinary testimony, and amplifying the information of the court to a point at which a true and just decision of guilt or innocence may be rendered, unclouded by divergent statements of uncertain or perhaps prejudiced witnesses. Second, the study of physical evidence can be a material aid in locating the perpetrator of a crime.

Physical evidence is often very useful to the police investigator before he has a suspect in custody, or in fact, before he even has suspicions of a possible perpetrator. If, for instance, the laboratory can describe the clothes worn by the criminal, give an idea of his stature, age, hair color, or other similar information, the officer's search is correspondingly narrowed.

It is not uncommon for police inspectors to feel that the laboratory investigator is invading his territory when the latter desires to collect his own evidence, or when he asks questions which are not obviously connected directly with the laboratory examinations. Such an attitude is regrettable. When the laboratory worker wishes to collect his own evidence it demonstrates only that he is not satisfied with the manner in which it has been gathered previously, a fault of the investigating officer rather than over-ambition of the criminalist. Questions, which to the police officer may not seem relevant, may actually be most vital in serving to direct the emphasis of the laboratory study, or to interpret the results. Thus, if a finding may be interpreted in two different ways, the answer to a single question may completely eliminate the interpretation and point irrevocably to the second.

It must be remembered that many laboratory examinations are lengthy and some are expensive. The efficiency of the laboratory usually bears a direct relationship to the willingness of the police officer to keep the laboratory workers informed of all pertinent facts. Complete frankness and confidence between the two types of investigators is most desirable and profitable- and unfortunately is not so common as it might be. Only good understanding, by both, of their reciprocal functions can completely eliminate this barrier to the realization of the full benefits of a well-managed crime laboratory.

It is not always understood that the term «physical evidence» embraces any and all objects, living or inanimate, solid, liquid or gas, and the relationships between all such objects as they pertain to the problem in question, e.g., a crime. A knife, gun, signature, or burglar

tool is immediately recognized as constituting physical evidence. Less often it is considered that dust, microscopic fragments of all types, bacteria, even an odor, may equally be physical evidence, and often the most important of all. It is, for example, well established that the most useful types of physical evidence are generally microscopic in dimensions, that is, not noticeable by the eye, and therefore most likely to be overlooked both by the criminal and by the investigator. For this reason alone, the microscopic evidence persists at the scene of a crime long after all the visible and obvious evidence has been removed. In several instances, crimes have been solved by collecting the microscopic evidence and examining it, even months or years after all other evidence had been removed and found to be indecisive.

Notes

1. physical evidence – речові докази
2. to take cognizance – брати до уваги
3. to avoid embarrassment – уникати збентеження
4. temptation to destroy – спокуса знищити, ліквідувати
5. to utilize the evidence – використати докази
6. to destroy evidence – знищити докази
7. a bloody scene – криваве місце злочину
8. malfeasance – правопорушення, посадовий злочин
9. piece of evidence – доказ
10. to establish proof of guilt or innocence – встановити винність чи невинуватість
11. to resolve discrepancies – вирішувати розбіжності
12. prejudiced witnesses – упередженні свідки
13. to bear a direct relationship – підтримувати прямі стосунки
14. complete frankness and confidence – повна ширість та довіра
15. burglar tool – інструмент крадія
16. the visible and obvious evidence – видимі та очевидні докази
17. microscopic fragments – мікроскопічні фрагменти

Exercises

1) Translate the words and word combinations with the same roots:

1. to investigate; an investigator; an investigation; the laboratory investigator; the police investigator
2. innocence; an innocent man; the presumption of innocence; to establish proof of innocence; to determine innocence.

3. to suspect; a suspected person; suspicion; a suspect.
4. to decide; a decision; a decisive factor; to be indecisive.
5. to demonstrate; a demonstration; a demonstrable facts.
6. a burglar; burglar tool; a burglary.
7. evident; evidence; physical evidence; the value of evidence; to destroy evidence; to utilize the evidence; significant evidence; evidential value; the existing evidence; a single piece of evidence; to collect the evidence; the microscopic evidence; the visible and obvious evidence

2) Translate given expressions into Ukrainian:

to constitute physical evidence; the detective-fiction writer; to take cognizance; insufficient realization; to diminish the value of physical evidence; to supply time and money to this end; administration of criminal justice; the value of the finger-prints; to explore the possibility; a murder case; to be burnt in a bonfire; to scrub the room; blood spots; the solution of a crime; commonplace occurrences; normal human failures; to establish proof of guilt and innocence; to resolve discrepancies in ordinary testimony; divergent statements of prejudiced witnesses; the perpetrator of a crime; over ambition of the criminalist; lengthy and expensive laboratory examination; the willingness of the police officer; complete frankness and confidence; a well-managed crime laboratory; not noticeable by the eye.

3) Match the words and expressions from the left and the right columns according to the meaning:

I	I
1. evidence	1. тлумачення
2. goal, purpose, end	2. провина, вина
3. perpetrator	3. відбитки пальців
4. interpretation	4. покидьки
5. traces	5. кров
6. guilt	6. мета, намір
7. innocence	7. арешт, затримання
8. station	8. невдача
9. fingerprints	9. взаємовідносини
10. value	10. діляниця

11. temptation	11. невинуватість
12. filth	12. спокуса
13. blood	13. підпис
14. murder	14. докази
15. bonfire	15. сліди
16. failure	16. злочинець
17. probability	17. вбивця
18. custody	18. можливість
19. relationship	19. вогнище
20. signature	20. цінність

II

1. physical evidence	1. високий відсоток
2. satisfactory performance	2. помилка людини
3. large percentage	3. криваве місце злочину
4. enormous potentialities	4. цінність доказу
5. human failure	5. звичайні помилки людей
6. innocent man	6. можливий злочинець
7. bloody scene	7. важливий доказ
8. significant evidence	8. повна ширість
9. evidential value	9. суперечливе твердження
10. solution of a crime	10. інструмент крадія
11. normal human failures	11. речові докази
12. existing evidence	12. невинуватий
13. divergent statement	13. наявні докази
14. prejudiced witnesses	14. видимі та очевидні докази
15. possible perpetrator	15. задовільне виконання
16. complete frankness	16. мікроскопічні частки
17. burglar tool	17. розкриття злочину
18. microscopic fragments	18. упереджені свідки
19. visible and obvious evidence	19. великі можливості

III

1. to involve in a crime	1. зменшити цінність доказу
2. to take cognizance	2. уникнути збентеження
3. to diminish the value of evidence	3. відновити порядок
4. to accuse of a crime	4. розширити інформацію

- | | |
|--|--|
| 5. to appreciate the value of evidence | 5. використати можливості |
| 6. to avoid embarrassment | 6. додержуватись прямих стосунків |
| 7. to explore the possibility | 7. встановити винуватість чи невинуватість |
| 8. to utilize the evidence | 8. втягувати у злочин |
| 9. to destroy evidence | 9. використати докази |
| 10. to restore order | 10. готувати слідчих поліції |
| 11. to scrub the room | 11. тлумачити наслідки |
| 12. to establish proof of guilt and innocence | 12. обвинуватити у злочині |
| 13. to train the police investigators | 13. усунути видимі та очевидні докази |
| 14. to amplify the information | 14. знищити докази |
| 15. to interpret the results | 15. вичистити кімнату |
| 16. to bear a direct relationship | 16. оцінити цінність доказів |
| 17. to remove the visible and obvious evidence | 17. брати до уваги |

4) Answer the following questions:

1. What constitutes the field of physical evidence?
2. How do you understand the balanced approach to criminal investigation?
3. Can physical evidence be wrong?
4. Who can diminish its value?
5. What do the police officers do arriving at the scene of a street shooting?
6. Does every officer know the value of the fingerprints? What can happen with the fingerprints at the scene of a crime?
7. What is another temptation in some cases?
8. In what case may law-enforcement officers be accused of incompetence and of malfeasance?
9. What must be remembered to establish proof of guilt or innocence?
10. What is the most important function of the police laboratory?
11. What purposes does the study of physical evidence have? Name them.

12. Why is physical evidence very useful to the police investigator?
13. What are the most desirable and profitable between the two types of investigators?
14. What does the microscopic evidence mean?
15. Is it important to collect the microscopic evidence and examine it? Explain why?

5) Ask questions to get following answers:

1. Only people commit crimes.
2. Both the police inspector and the detective-fiction writer concern themselves primarily with people.
3. Laboratory must study if the all important traces which can speak so eloquently of guilt and innocence are to be heard.
4. Innocent men may be accused of crimes of which they would be instantly cleared if the physical evidence were allowed to tell its story of what happened and who was present.
5. Arriving at the scene of street shooting immediately after it had occurred the police officer grabbed the abandoned gun to deliver it to the station.
6. Today every officer knows the value of the fingerprints.
7. The cases of law-enforcement officers' incompetence and malfeasance are commonplace and are usually accepted as normal human failures.
8. A single piece of evidence is rarely sufficient in itself to establish proof of guilt and innocence.
9. The most important function of police laboratory is to train the police investigators as to what constitutes physical evidence, how it is to be found, collected, preserved and delivered to the proper laboratory investigator.
10. The study of physical evidence has a twofold purpose.
11. Physical evidence is often very useful to the police investigator before he has a suspect in custody, or before he even has suspicion of a possible perpetrator.
12. Many laboratory examinations are lengthy and some are expensive.
13. Only good understanding by the two types of investigators can completely eliminate the barrier to the realization of the full benefits of a well-managed crime laboratory.
14. The most useful types of physical evidence are generally microscopic in dimensions, that is not noticeable by the eye and there-

fore most likely to be overlooked both by the criminal and by the investigator.

6) Ask your comrades to explain, what it means. They may find their answers in the text.

1. physical evidence
2. a balanced approach to criminal investigation
3. the value of the fingerprints
4. to utilize the evidence
5. the officer in charge
6. a twofold purpose of study of physical evidence
7. the testimony of the scientific expert
8. to have a suspect in custody
9. the criminalist
10. a well-managed crime laboratory
11. constituting physical evidence
12. microscopic in dimensions
13. the scene of a crime
14. malfeasance
15. incompetence

7) Translate the following sentences, paying attention to the modal verbs and their equivalents:

1. A balanced approach to criminal investigation must be dual, that is it must concern itself both with people and with things that are involved in the crime.
2. The detective-fiction- writer has to take cognizance of the physical evidence if he is to achieve a satisfactory performance in a large percentage of the crimes.
3. Physical evidence cannot be wrong: it cannot be wholly absent. Only its interpretation can err. Only human failure to find it, study and understand it, can diminish its value.
4. The laboratory must be devoted to the study of all important traces which can speak of guilt or innocence.
5. Innocent men may be accused of crimes of which they would be instantly cleared, if the physical evidence were allowed to tell its story of what happened and who was present.
6. As long as law-enforcement officers devote any part of their attention to clearing up and destroying the very indications that may

hold the solution of a crime, they can be accused at the very least of incompetence, and of the most of malfeasance.

7. The police investigators must know how physical evidence is to be found, collected, preserved to the proper laboratory investigator.
8. The testimony of the scientific expert should be sufficient to determine the final decision of a court.
9. The study of physical evidence can be a material aid in locating the perpetrator of a crime.
10. Dust, microscopic fragments of all types, bacteria, even an odor, may equally be physical evidence and often the most important of all.
11. Complete frankness and confidence between the two types of investigators is most desirable and profitable and unfortunately is not so common as it might be.

8) Finish the sentences by the suitable parts given below:

1. The police inspector and the detective - fiction writer concern themselves primarily
 2. Many investigators have failed in some degree to make the most efficient use of
 3. The laboratory must be devoted to the study of all traces which can speak of
 4. Any innocent person may be accused of a crime of which he would be instantly cleared if
 5. Arriving at the scene of a street shooting immediately after it had occurred the police officer grabbed the abandoned gun, looked at it and thrust it in his pocket in order
 6. Even the laboratory investigator who should appreciate the value of the fingerprints more than any ordinary police officer
 7. He is often confronted with evidence of a type
 8. The first reaction to a bloody and unsightly scene is
 9. In one case of murder the officer in charge detailed a deputy
 10. The most important function of the police laboratory is
 11. Physical evidence is often very useful to the police investigator before he has
 12. It must be remembered that many laboratory examinations
 13. The term «physical evidence» embraces any and all objects
1. ...whose examination is unfamiliar to him
 2. ...living or inanimate, solid, liquid or gas, and the relationships

- between all such objects as they pertain to the problem in question, e.g., a crime
3. ...to train the police investigators as to what constitutes physical evidence, how it is to be found, collected, preserved and delivered to the proper laboratory investigator
 4. ... with people
 5. ... guilt or innocence
 6.a suspect in custody
 7.to scrub the room in which death had occurred
 8. ...the balanced approach to the investigation of a crime
 9. ...the physical evidence were allowed to tell its story of what happened and who was present
 10. ...frequently destroys it quite casually
 11. ...are lengthy and some are expensive
 12. ...to deliver to the station
 13. ...to clean it and restore order

9) Find the appropriate words given below to the following definition:

1. Act forbidden by law, or the omission of a duty prescribed by law, for which the offender is liable to punishment by the state.
2. That which is legally presented to a court, as a document or the testimony of a witness for the purpose of proving or disproving an issue in question.
3. Careful seeking for facts or information; thorough examination.
4. Being unable to achieve something attempted, desired or expected.
5. Something left behind as evidence of the existence of some person, place, thing or event.
6. State or fact of having done wrong, especially of having committed a crime.
7. State, quality or fact of being innocent.
8. Subjected to an accusation; person or persons charged with an offence, especially the defendant or defendants in a criminal law.
9. Impression of the markings on the inner surface of the tip of a finger or thumb, especially, such an impression made with ink and used for purposes of identification.
10. Performance of a wrongful act, especially by a public official; official misconduct.
11. Evidence sufficient to establish a fact or induce belief.

12. One who has personally seen or heard something and can therefore give a first-hand account of it; one who testifies in a court of law under oath or affirmation, either orally or by deposition.
13. One, who commits a crime.
14. State of being kept by or in the charge of officers of the law; confinement; imprisonment.
15. Act or instance of suspecting, something wrong or bad with little or no proof.

1. investigation	8. malfeasance
2. perpetrator	9. witness
3. crime	10. custody
4. guilt	11. accused
5. proof	12. failure
6. suspicion	13. trace
7. evidence	14. innocence
	15. fingerprint

Unit 32

Evidence. Part I

Evidence is proof of allegations. It may be: a) direct; b) indirect, which includes circumstantial evidence; or c) hearsay.

Direct evidence is simply that which the senses perceive. Any fact to which a witness testifies based on what he saw, heard, smelled, touched or tasted, is direct evidence.

It frequently happens that no witness was present at the commission of an act which is sought to be re-enacted or explained in court room. The necessity of resorting to other means of proof is obvious. Crimes are secret. Most persons engaged in criminal or questionable activities seek the security of secrecy, darkness, and remoteness to cloak their misdeeds. It becomes necessary therefore to use all other available modes of evidence in addition to direct testimony. Circumstantial evidence is therefore brought into play. It is evidence which seeks to establish a conclusion by inference from proved facts.

As an illustration, assume that a pedestrian walking down the street heard a scream come from the store. The pedestrian entered the store and found a woman on the floor dead, her throat cut. In this case the only direct evidence to which the pedestrian could testify would be that he saw a person run from the store holding a bloody knife. He did not see the woman killed, nor could he state positively that the fleeing man was the killer. Yet the prosecutor would seek to establish the conclusion that the man with the knife was the killer by inference from the proved facts which were the events actually witnessed by the pedestrian.

Admissible evidence is that evidence which a court may properly receive in a trial. Both direct evidence and circumstantial evidence may be admitted as testimony.

The relevancy of testimony must be established before it is admitted into evidence. Anything tending to prove or disprove the issue is logically relevant. No evidence is admissible unless it is relevant. Evidence is irrelevant if it is not applicable to the issue joined. In other words, evidence is irrelevant and therefore inadmissible when it does

not tend to establish or create a belief about the existence or non-existence of facts in issue.

Hearsay evidence is a statement made by a witness on the authority of another, and not from personal knowledge or observation. Hearsay evidence is inadmissible with certain well-defined exceptions. Some of the more common exceptions to the rules of exclusion generally applicable to hearsay evidence are declarations against interest, *res gestae*, reputation, public records, and statements made at a prior time.

Every witness is subject to the right of cross-examination. This method is universally recognized as the most efficacious test for the discovery of truth. One of the reasons for generally excluding hearsay testimony is because the declarant whose statements are offered by another cannot be subjected to the test of cross-examination. The right to cross-examine a witness does not have to be exercised, and the witness may leave the stand without being subjected to cross-examination.

Notes (part I)

1. allegation — обвинувачення
2. circumstantial evidence — непрямий доказ
3. hearsay evidence — показання з чужих слів, свідчення
4. to engage in criminal activity — займатися кримінальною діяльністю
5. to cloak one's misdeeds — маскувати свої вчинки
6. to bring into play — вступати в силу
7. admissible evidence — допустимі докази
8. irrelevant evidence — докази, що не стосуються справи
9. well defined exceptions — добре сформульовані винятки
10. cross examination — перехресний допит
11. the most efficacious test — найбільш ефективний тест
12. discovery of truth — виявлення правди
13. declarant — заявник, позивач
14. *res gestae* (lat.) — обставини, пов'язані з фактом, який становить зміст спору

Exercises

- 1) Translate the words and word combinations into Ukrainian:
evidence; proof of allegations; circumstantial evidence; hearsay; to testify evidence; obvious means of proof; the security of secrecy; darkness and remoteness; to cloak one's misdeeds; to bring into play;

to establish a conclusion; proved facts; to give testimony; the killer; admissible evidence; the relevancy of testimony; relevant evidence; inadmissible evidence; to create a belief; the existence of facts; to make a statement; well defined exceptions; dying declaration; reputation; res gestae; the right of cross-examination; the most efficacious test; to discover truth; the declarant; to subject to the test.

2) Answer the following questions:

1. What is evidence?
2. What is direct evidence?
3. Why is it necessary to use all available modes of evidence?
4. What is circumstantial evidence?
5. What facts were witnessed by the pedestrian?
6. What is admissible evidence?
7. When must the relevancy of testimony be established?
8. When evidence is considered to be irrelevant?
9. What is hearsay evidence?
10. What are the exceptions in the hearsay evidence?
11. What method is universally recognized as the most efficacious for the discovery of truth?

3) Ask your comrades to explain, what it means. They may find their answers in the text:

1. direct evidence
2. circumstantial evidence
3. admissible evidence
4. testimony
5. the relevancy of testimony
6. irrelevant evidence
7. inadmissible evidence
8. hearsay evidence
9. the right to cross examination

4) Match the words and expressions from the left and the right columns according to the meaning:

- | | |
|---------------|-------------------|
| I | I |
| 1. allegation | 1. віддаленість |
| 2. proof | 2. правопорушення |
| 3. darkness | 3. винятки |

- | | |
|----------------|---------------------|
| 4. remoteness | 4. позивач |
| 5. misdeed | 5. обвинувачення |
| 6. inference | 6. проблема |
| 7. scream | 7. докази |
| 8. relevancy | 8. виключення |
| 9. issue | 9. припущення |
| 10. exceptions | 10. темрява |
| 11. exclusion | 11. обґрунтованість |
| 12. declarant | 12. крик |

II

- | | |
|-------------------------------|--|
| 1. circumstantial evidence | 1. перехресний допит |
| 2. direct evidence | 2. пряме свідчення |
| 3. obvious proof | 3. докази, які (не) стосуються справи |
| 4. security of secrecy | 4. добре обґрунтоване виключення |
| 5. direct testimony | 5. (не)допустимі докази |
| 6. (in)admissible evidence | 6. обставини, пов'язані з фактом, який становить зміст спору |
| 7. (ir)relevant evidence | 7. непрямий доказ |
| 8. hearsay evidence | 8. забезпечення тайни слідства |
| 9. well defined exception | 9. найбільш ефективне випробування |
| 10. res gestae | 10. очевидні докази |
| 11. cross examination | 11. прямий доказ |
| 12. the most efficacious test | 12. докази з чужих слів |

III

- | | |
|-----------------------------|-----------------------------|
| 1. to perceive the senses | 1. втягувати у діяльність |
| 2. to resort to the means | 2. допустити свідчення |
| 3. to engage in activity | 3. затвердити питання |
| 4. to cloak the misdeeds | 4. підкорятися праву |
| 5. to bring into play | 5. звертатись до засобів |
| 6. to assume | 6. приховати правопорушення |
| 7. to admit evidence | 7. допускати, припускати |
| 8. to (dis) prove the issue | 8. відчувати |
| 9. to subject to the right | 9. вступати в силу |

5) Comment on the difference in the meaning of the words «evidence» and «testimony» in the following sentences. Translate them into Ukrainian:

1. He is not able to provide any circumstantial evidence about her guilt.
2. The commission is to be represented at the forthcoming trial and will contribute evidence to the indictment.
3. The accused is also permitted to put questions and even to make speeches in an effort to refute the testimony.
4. The judge reminded the jury that if there was a conflict of evidence they should decide in favour of the defence.
5. In this case, accused of capital punishment, there was not a particle of evidence that he was suffering from a disease of mind.
6. The testimony of all the available witnesses was highly unsatisfactory.

6) Finish the sentences by the suitable parts given below. Translate these sentences into Ukrainian:

- 1) Direct evidence is any fact to which a witness testifies...
 - 2) Circumstantial evidence is admissible...
 - 3) It is a grave responsibility for the jury...
 - 4) Because of the inherent nature of his work the investigator must have...
 - 5) To be relevant, the evidence must be...
 - 6) In cases when the witness is cross-examined and asked to indicate the person in the court room who is the subject of his testimony...
1. ... material, and it must have an effective bearing on the question in issue
 2. ... to consider and evaluate circumstantial evidence
 3. ... based on what he saw, heard, smelled, touched or tasted
 4. ... he may frequently indicate the person by the lawyer's side
 5. ...for consideration by the jury
 6. ...a working knowledge of the laws of evidence and the necessary components of the more common crimes

7) Find the sentences with modal verbs and their equivalents in the text and translate these sentences into Ukrainian.

8) Find the appropriate words given below to the following definition:

1. Evidence given by a witness proceeding from what another person has told him rather than personal knowledge.
2. Protection from danger, as of loss or attack. State of being certain or guaranteed. Measures taken to guard, as against espionage or crime.
3. State of being kept secret. Ability or practice of keeping secrets.
4. Wicked, immoral or criminal act.
5. One who travels on foot; walker.
6. Place or establishment in which a variety of goods are kept for sale.
7. One who or that which kills.
8. One who institutes and conducts a legal action especially criminal proceedings; one who prosecutes.
9. Oral statement or declaration made under oath by a witness in a court of law, usually in response to questioning by a lawyer.
10. General or public estimation of something or someone.
11. To be in a specific state or condition, to assume a particular attitude; adopt a certain course.

1. pedestrian
2. killer
3. stand
4. hearsay evidence
5. secrecy
6. misdeed
7. reputation
8. testimony
9. security
10. prosecutor
11. store

Unit 33

Evidence. Part II

In addition to direct, indirect, and hearsay evidence, there is still another mode of submitting evidence, and this latter method of evidencing a fact is known as «real evidence», the presentation of the object itself, to which the testimony refers, for personal observation by the court and jury. Such objects, when it is convenient, are brought into the courtroom, although occasionally the jury is permitted to go out to inspect an object or a scene not capable of being produced in the courtroom. Evidence thus acquired by self-observation is real or tangible, and it presents the most satisfactory and natural proof.

Most state courts rule that evidence such as books, papers or other evidential proof which have been unlawfully obtained or seized illegally in violation of the Fourth Amendment to the Constitution, which provides against unlawful search and seizure, may still be admitted. In the federal courts, however, documents or other articles illegally seized by federal agents may not be used as evidence.

Writings offered for testimony are in general divided into two classes, public and private documents. The former consist of records made by public officers while in the performance of their duties. All other writings are private documents. When public documents are sought to be admitted into evidence, they must be properly authenticated in conformity with the rules of the jurisdiction. Authentication may be effected by certification or exemplification of the document. Before a private document may be accepted in evidence, the party offering it must prove that it was executed by the person who is declared to have done so.

Proof of the handwriting of one of the alleged signers of a document may be submitted by a witness who can prove he has sufficient knowledge of the handwriting of the person in question. It may also be proved by a comparison of the disputed documents with the conceded or genuine handwriting. Such comparisons may be made by the expert witness, usually the handwriting expert, or by the jury itself.

The investigator should ascertain, if possible, the relationship of the witness to the interested party on whose behalf he is testifying, his interest in the results of the case, and whether or not he is being paid for testifying.

Notes (part II)

1. to submit evidence – надати докази
2. real evidence – речові докази
3. natural proof – докази, які не мають сили позову
4. evidential proof – докази, що мають значення
5. violation of the Fourth Amendment to the Constitution – порушення четвертої поправки до Конституції
6. to obtain unlawfully – отримати щось незаконно
7. to seize illegally – конфіскувати неправомірно
8. authentication – встановлення відповідності оригіналу
9. certification – легалізація
10. exemplification – офіційно завірена копія

Exercises

1) Translate the words and word combinations into Ukrainian:

real evidence; the presentation of the object; satisfactory and natural proof; evidential proof; proof obtained unlawfully; seized illegally; violation of the Amendment to the Constitution; to provide unlawful search and seizure; writings; public and private documents; to authenticate the documents; in conformity with; certification; exemplification of the documents; signers of a document; to have sufficient knowledge; handwriting; the disputed documents; to ascertain the relationship.

2) Answer the following questions:

1. What is real evidence?
2. What objects are brought into the courtroom?
3. What presents the most satisfactory and natural proof?
4. What rules may be admitted by most state courts?
5. Where may not documents and other articles illegally seized be as evidence?
6. How are the writings offered for testimony divided into?
7. What is the difference between public and private documents? Explain, please.

8. Who may submit the proof of the handwriting?
9. What should the investigator ascertain?

3) Ask your comrades to explain, what does it mean. They may find their answers in the text:

1. real evidence
2. the presentation of the object
3. real and tangible evidence
4. violation of the Fourth Amendment to the Constitution
5. writings
6. public documents
7. private documents
8. authentication
9. certification
10. exemplification
11. proof of the handwriting
12. the handwriting expert

3) Match the words and expressions from the left and the right columns according to the meaning:

I		I	
1. self-observation		1. поправка	
2. search		2. встановлення відповідності оригіналу	
3. seizure		3. порівняння	
4. amendment		4. конфіскація	
5. writings		5. легалізація	
6. records		6. самообслідування	
7. performance		7. розшук	
8. authentication		8. офіційно завірена копія	
9. certification		9. справа, протокол	
10. exemplification		10. виконання, поведінка	
11. handwriting		11. юридичний документ	
12. comparison		12. почерк	
II		II	
1. real evidence		1. особистий огляд	
2. personal observation		2. доказ почерку	

- | | |
|------------------------------------|------------------------------|
| 3. evidential proof | 3. оригінальний почерк |
| 4. proof of the handwriting | 4. речові докази |
| 5. alleged signer | 5. докази, дані як свідчення |
| 6. sufficient knowledge | 6. підписи обвинувачених |
| 7. expert witness | 7. понятий при експертизі |
| 8. conceded or genuine handwriting | 8. повне знання |

III

- | | |
|------------------------------------|--|
| 1. to submit evidence | 1. отримувати незаконно |
| 2. to bring into the courtroom | 2. конфіскувати незаконно |
| 3. to inspect the scene of a crime | 3. подавати докази |
| 4. to obtain something unlawfully | 4. використати документи як свідчення |
| 5. to seize illegally | 5. платити за свідчення |
| 6. to ascertain the relationship | 6. приносити в кімнату судового розгляду |
| 7. to pay for testifying | 7. встановити співвідношення |
| 8. to use documents as evidence | 8. оглядати місце злочину |

III

5) Comment on the difference in the meaning of the words «evidence» and «testimony» in the following sentences. Translate them into Ukrainian.

1. A joint defendant in a conspiracy case will often be prevailed upon to turn state's evidence and become a witness for the prosecution against the other violator.
2. There are certain well-defined rules pertaining to the admissibility of evidence.
3. The investigator should also review the testimony before the trial with the witnesses he has previously interviewed.
4. Under certain circumstances it may be advisable for one witness to be excluded from the court-room during the testimony of another.
5. Properly authenticated photographs are admissible in evidence whenever they are competent to describe a person, place or object.
6. Visual evidence of any sort has great psychological effect on a jury.

6) Finish the sentences by the suitable parts given below. Translate these sentences into Ukrainian:

1. Real evidence is the presentation of the object itself ...
2. Such evidential proof as books, papers which have been unlawfully obtained or seized illegally in violation of the Fourth Amendment to the Constitution ...
3. In the federal courts, however, such illegally seized articles ...
4. Specific instances of vicious, immoral or criminal conduct may be used on cross-examination in an effort ...
5. A witness may be impeached by showing ...
6. An arrest or indictment may not be shown ...
 1. ... that he has been convicted of crime
 2. ... may not be used as evidence
 3. ... may still be admitted in the most state courts
 4. ... because these are based upon nothing more than accusation
 5. ... to destroy the credibility of the witness
 6. ...to which the testimony refers for personal observation by the court and jury

7) Find the sentences with modal verbs and their equivalents in the text and translate these sentences into Ukrainian.

8) Find the appropriate words given below to the following definition:

1. Formal change or revision, as by parliamentary or constitutional procedure.
2. To look through, inspect, or explore carefully and thoroughly in order to find something.
3. Act of seizing.
4. Person vested with authority to represent or act for another.
5. Known facts about activity or achievement; history of criminal behaviour; official written account of public acts or proceedings.
6. Act of confirming; Act of establishing as legally valid, as claims or authorship.
7. Official document attesting to the truth of the facts contained therein.
8. Act of exemplifying; illustration; example.
9. Writing done by hand, as distinguished from typewriting or printing.
10. Familiarity, understanding, awareness, or information acquired through experience, study or observation.

11. One having special skill or knowledge in something; specialist, authority.

1. seizure
2. records
3. authentication
4. search
5. exemplification
6. expert
7. amendment
8. knowledge
9. certification
10. handwriting
11. agent

Unit 34

What is the Investigation?

An investigation is a search for the truth by the use and development of many arts. The field of investigation is manifold. Volumes have been written on the complex scientific aspects of subjects like moulage, ballistics, handwriting, fingerprinting, microscopy, blood analysis and ink analysis. The fields of criminology are so varied that they are divided into specific categories in which specially trained experts function. Thus, in a large city, there will be found police officers who investigate nothing but forgery. Officers operate only on homicide cases, automobile deaths, others work on juvenile cases and so on.

Similarly, commercial investigating, as distinguished from criminal investigation, is so interwoven with the economic life of the nation that it is difficult to see how normal commercial life could function without the investigative framework upon which every enterprise is based and which is integrated into its main body.

In commercial work, the foremost field of investigation is in the multibillion dollar insurance business. Volumes could be written on the multifarious investigative specializations required by this industry. To name a few: automobile accidents, fires and thefts, fraudulent death claims, embezzlers' and defaulters' bonds, arson, burglary, workmen's compensations, health, property damage and so forth.

The great field of personal investigation is much larger than is generally realized. The degree of the investigation and the methods employed vary with the type of work the prospective employee is to do, and the amount of importance attached to the job.

The field of finance today presents investigative problems of terrific import. The entire industry of time payment, loans, instalment buying, and collection is based on efficient investigation.

The government employs tens of thousands of investigators, but specialization is very evident here also. A narcotic agent may spend a lifetime in the Narcotic Bureau of the Treasury Department. In the same department there are special agents perfecting the technique of catching up with income-tax violators. The Treasury Department has operatives who are charged with apprehending counterfeiters and protecting the currency. There are specialists in tariff laws, whose

main function is to discourage smuggling. The Federal Bureau of Investigation has its own National Bank auditors, its espionage specialists, its white-slave investigators, as well as examiners of questioned documents, fingerprint classification experts, microscopy experts, and other laboratory technicians.

The hundreds of thousands of investigations conducted by social service agencies yearly and the great number of investigations conducted by law offices daily all leave their indelible impression on the communal life.

The investigator should not be timid about the tackling these complex cases presenting seemingly unsolvable problems. The investigator should know that all humans are different. No two persons are exactly alike. Differences in blood counts, fingerprints, physiognomies and cellular structure prove that. In the same way, no two cases are identical. There is no room for complacency in investigation. The investigator must be eternally alert and vigilant and open-minded to new developments.

Notes

handwriting – почерк
fingerprinting – відбитки пальців
forgery – підроблення
homicide – вбивство
cellular structure – структура клітини
complacency – самозадоволення
fire – пожежа
theft – пограбування
claim – скарга
arson – підпал
burglary – крадіжка зі зломом
property damage – пошкодження майна
payment – виплата
loan – позика
violator – порушник
smuggling – контрабанда

Exercises

- 1) Translate the words and word combinations with the same roots:
1. to investigate; an investigation; an investigator; the police investigator; criminal investigation; commercial investigation; inves-

tigative framework; investigative specialization; investigative problems; white-slave investigators; the Federal Bureau of Investigation.

2. to employ; an employer; an employee; an employment.
3. finance; financial.
4. science; scientist; scientific.
5. crime; criminal; criminalistics; a criminal.

2) *Translate given expressions into Ukrainian:*

the scientific aspects of subjects; to investigate; nothing but forgery; the foremost field of investigation; the multifarious investigative specialization; fraudulent death claims; embezzler's and defaulter's bonds; the field of personal investigation; the prospective employee; the field of finance; investigative problems of terrific import; income-tax violators; apprehending counterfeiters; tariff laws; to discourage smuggling; the Federal Bureau of Investigation; National Bank auditors; fingerprints classification experts; laboratory technicians; social service agencies; indelible impression on the communal life; room for complacency; to be eternally alert; to be vigilant and open-minded.

3) *Answer the following questions:*

1. What is an investigation?
2. Where do the specially trained experts function?
3. What is the commercial investigation interwoven with?
4. What investigative specializations does the multibillion dollar insurance business require?
5. What does the field of finance present today?
6. What is it based on?
7. What investigators does the Narcotic Bureau of the Treasury Department have?
8. What does the Federal Bureau of Investigation have apart of the Treasury Department?
9. What should the investigator know?
10. Who leaves the indelible impression on the communal life?

4) *Ask questions to get the following answers:*

1. An investigation is a search for the truth by the use of many arts.
2. The fields of criminology are divided into specific categories in which specially trained investigators function.

3. The multifarious investigative specializations may be required by the insurance business in such cases as: automobile accidents, fire and thefts, fraudulent death claims, embezzlers' and defaulters' bonds, arson, burglary, property damage and so forth.
4. The great field of personal investigation is much larger than is generally realized.
5. The entire industry of time payment, loans is based on official investigation.
6. The narcotic agents and the special agents, perfecting the technique of catching up with income-tax violators, currency and apprehending counterfeiters are employed by the Narcotic Bureau of the Treasury Department.
7. The Federal Bureau of Investigation employs such specialists as the National Bank auditors, white-slave investigators, examiners of questioned documents, fingerprint classification experts, microscopy experts, laboratory technicians and espionage specialists.
8. The investigator should know that all humans are different.
9. The investigator must be eternally alert and vigilant.

5) *Match the words and expressions from the left and the right columns according to the meaning:*

I	I
1. moulage	1. нещасний випадок
2. forgery	2. позов
3. homicide	3. той, хто не виконує свої обов'язки
4. framework	4. крадіжка зі зломом
5. interprise	5. підроблення
6. insurance	6. частина
7. accident	7. пошкодження
8. fire	8. структура
9. theft	9. фальшивомонетник
10. claim	10. муляж
11. embezzler	11. пожежа
12. defaulter	12. вбивство
13. arson	13. крадіжка
14. burglary	14. фізіономія

15. damage	15. страхування
16. installment	16. самозадоволення
17. violator	17. розкрадач
18. counterfeiter	18. підприємство
19. physiognomy	19. порушник
20. complacency	20. підпал
II	
1. blood, ink analyses	1. неправдивий позов щодо смерті
2. Automobile deaths	2. великий імпорт
3. juvenile cases	3. невирішені проблеми
4. commercial life	4. компенсація працівникам
5. investigative framework	5. фахівці по шпигунству
6. multibillion dollar insurance business	6. комерційне життя
7. Automobile accidents	7. місце для самозадоволення
8. fraudulent death claims	8. дорожно-транспортна пригода
9. workmen's compensation	9. слідчі, які мають справу з торгівлею «білими рабами»
10. property damage	10. агент по роботі з наркотиками
11. terrific import	11. пошкодження майна
12. narcotic agent	12. смерть внаслідок автомобільної аварії
13. income-tax violators	13. багатомільярдне страхування бізнесу
14. espionage specialists	14. клітинна структура
15. white-slave investigators	15. експерти по відбитках пальців
16. indelible impression	16. неплатники податків
17. Unsolvable problems	17. неймовірне враження
18. fingerprints experts	18. аналіз крові, чорнил
19. cellular structure	19. справи неповнолітніх
20. room for complacency	20. структура роботи слідчого

III	
1. to investigate nothing but forgery	1. займатися чим-небудь
2. to operate on homicide cases	2. затримувати фальшивомонетників
3. to work on juvenile cases	3. вирішувати складні справи
4. to vary	4. припиняти контрабанду
5. to present investigative problems	5. змінювати
6. to employ investigators	6. бути схожим, подібним
7. to be charged with	7. нічого не розслідувати, крім підробки
8. to protect the currency	8. доказати розбіжності
9. to apprehend counterfeiters	9. бути насторожі
10. to discourage smuggling	10. бути упередженим
11. to be timid	11. становити слідчі проблеми
12. to tackle the complex cases	12. захищати валюту
13. to present unsolved problems	13. наймати слідчих
14. to be alike	14. справи про вбивство
15. to prove differences	15. бути пильним
16. to be identical	16. залишати враження
17. to be alert	17. становити невирішені проблеми
18. to be vigilant	18. бути нерішучим
19. to be open-minded	19. розглядати справи неповнолітніх
20. to leave the impression	20. бути схожим
<i>6) Ask your friends to explain, what does it mean. They may find their answers in the text:</i>	
1. hand writing	
2. fingerprint	
3. automobile deaths	
4. juvenile cases	

5. The Narcotic Bureau of the Treasury Department
6. The Federal Bureau of Investigation

7) Translate the following sentences, paying attention to the modal verbs and their equivalents:

1. The fields of criminology may be divided into specific categories in which specially trained experts function.
2. It is difficult to see how normal commercial life could function without the investigative framework upon which every enterprise is based.
3. Volumes could be written on the multifarious investigative specializations required by the insurance business.
4. The degree of the investigation and the methods employed vary with the type of work the investigator is to do.
5. A narcotic agent may spend a lifetime in the Narcotic Bureau of the Treasury Department.
6. The investigator should not be timid.
7. He should know that all humans are different.
8. The investigator must be eternally alert and vigilant and open-minded to new development.

8) Finish the sentences by the suitable parts given below. Translate these sentences into Ukrainian:

1. An investigation is...
2. In a large city there will be found police officers who investigate nothing but...
3. Commercial investigation is interwoven with...
4. Automobile accidents, fires and thefts, fraudulent death claims, embezzlers' and defaulters' bonds, arson, burglary, health, property damage are required...
5. The entire industry of time payment, loans, instalment buying and collection is based on...
6. The agents of the Narcotic Bureau of the Treasury Department deals with...
7. The Federal Bureau of Investigation has its own...
8. In tackling the complex cases the investigator should not be...
9. No two persons are...
10. The investigator must know that...

1. ... *the multifarious investigative specializations*
2. ... *narcotic, income- tax violators counterfeiters*
3. ... *timid*
4. ... *forgery*
5. ... *exactly alike*
6. ... *efficient investigation*
7. ... *economic life of the nation*
8. ... *all humans are different*
9. ... *a search for the truth by the use of many arts*
10. ... *National Bank auditors, espionage specialists, white-slave investigators, examiners of questioned documents, fingerprint classification experts, microscopy experts and other laboratory technicians.*

9) Find the appropriate words given below to the following definition:

1. Harm or injury causing loss.
2. To bring in (goods) from a foreign country for commercial purposes.
3. Writing done by hand.
4. Scientific study and investigation of crime and criminals.
5. Crime of copying falsifying or altering written or printed matter for the purpose of fraud.
6. The killing of one human being by another.
7. Demand for that, which is due; to assert or demand possession of or recognition of one's right to.
8. Unfortunate event that is unexpected or caused unintentionally, usually involving harm or injury.
9. Act or instance of stealing, larceny.
10. Crime of setting fire intentionally to another building or property or to one's own, when insured, with intent to defraud the insurers.
11. The breaking into and entering of a dwelling of another's at night with the intent to steal or commit some other felony.
12. One who is employed by a person or business for wages, salary or other compensation.
13. Act of paying.
14. Act or instance of lending, something lent, especially a sum of money lent.
15. Drug, as opium or morphine, that dulls the senses, produces sleep or unconsciousness, relieves pain and with prolonged use usually becomes addictive.

16. Tax levied on personal and corporate incomes, usually graduated and with certain legally permitted deductions.
17. One, who makes an unauthorized copy of, as money, documents, or handwriting, with intent to deceive or defraud.
18. Current medium of exchange; money in actual use: general use or circulation.
19. To take into or out of a country secretly and unlawfully as goods on which the required duties have not been paid, or whose importation or exportation is prohibited by law.
20. One authorized to audit financial records and accounts.
21. Women forced into or held in prostitution.
 1. currency
 2. counterfeiter
 3. damage
 4. loans
 5. white-slave
 6. burglary
 7. import
 8. payment
 9. homicide
 10. forgery
 11. to smuggle
 12. accident
 13. handwriting
 14. claim
 15. theft
 16. arson
 17. narcotic
 18. criminology
 19. employed
 20. income tax
 21. auditory

Unit 35

What Makes an Investigator?

Like every other artisan, a good investigator must be well equipped with the tools of his particular field of work. This applies equally to criminal and civil investigators. The investigator should always carry credentials with him. The more imposing and official looking they are, the better. If the investigator is employed by a governmental or municipal organization, credentials of some form are always issued to him. It is important for an investigator to show his credentials when approaching a subject for interview. This in itself lends an air of dignity and importance to the interview and to the investigator.

No investigator should embark upon an investigation without a thorough analysis of all the facts. He should analyze the problem presented, and he should place himself in the subject's position as much as possible in order to anticipate his mores. The investigator should at all times be careful to safeguard against loss the documents and exhibits he procures as well as those assigned to him.

In spite of the advances made by science in the field of criminology, 95 per cent of all crimes are solved by informants. An investigator is as good as the information he receives: he should have hundreds of people working for him. In his own community an investigator should know as many persons in key observation points as he possibly can. Waiters, maids and private detectives in hotels are good persons to develop without much difficulty. A good investigator is soon friendly with someone in each of the departments where public records are kept. It is of paramount importance that the private investigator be on good terms with the police and municipal employees as well as officials. No good investigator should ever overlook the opportunity of becoming acquainted with a train companion, telegraph messenger, mail carrier, waiter, cab driver, theater usher or grocery clerk. He should record their names and addresses for future development and reference. When the investigator interviews a subject at his home or office he should seek to promote a common ground for conversation and develop a mutual plan of interest. Whenever an investigator obtains information he must always remember that he may be called upon to testify in court about the facts he has obtained.

He should carry a diary of his activities at all times. The investigator's diary should be complete and honest.

When testifying, the investigator should be quiet and dignified. He should not argue with the attorneys, and he should answer responsively the questions put to him. An investigator is often the confidant and repository for family secrets, and he should never gossip about what he knows.

The investigator should remember that he has a certain standing in the community. How high he goes and how much he is respected depends on himself.

The investigator is always delving into the complexities of the human mind. The investigator should evaluate thoroughly the informants he seeks to develop. Persons voluntarily give information for many reasons. There are some imbued with the «cops and robbers» complex, and they get a thrill out of working with the law or with an investigator. There are other who will volunteer information about shady characters because they are simple, honest citizens doing what they believe to be their civic duty. Still another group will be good sources of information because the subject of the complaint is a business competitor. Others will give the investigator information because they consider him a friend. There are many other motivating factors and the investigator should study them in connection with the informants so that he can utilize their knowledge to the best advantage.

Notes

1. to equip with – споряджати
2. credentials – посвідчення
3. to embark upon – розпочинати
4. exhibits – речові докази
5. records – протоколи
6. to acquaint with – знайомитись з ким-небудь
7. reference – відношення
8. diary – щоденник
9. repository – складовище
10. gossip – чутки
11. to delve – мати на увазі
12. to evaluate – оцінювати
13. to volunteer – добровільно робити що-небудь
14. advantage – перевага, привілей
15. to utilize – використовувати

Exercises

1) Translate given expressions into Ukrainian:

to be equipped with the tools; a governmental or municipal organization; to lend an air of dignity; to place himself in the subject's position; to procure exhibits; to make advances; to solve the crimes; to be of paramount importance; to be on good terms with; municipal employers; to become acquainted with; to record the names and addresses; to promote a common ground for conversation; to testify in court; to obtain the facts; to delve into the complexities of the human mind; to evaluate the informants to be good sources of information; to utilize the knowledge to the best advantage.

2) Answer the following questions:

1. What should an investigators always carry ?
2. What does the credential lend to the interview? And to the investigator?
3. What are the steps of the investigator?
4. Who solves 95 per cent of all crimes?
5. Who may be the assistants of the investigator in the investigation of a crime?
6. Is it necessary for private investigator to be in good terms with the police and principal employers as well as officials?
7. What should the investigator seek to promote and develop during interviewing a subject?
8. What qualities should the investigator possess?
9. What should the investigator remember?
10. Why do the persons give information voluntary?
11. What are the motivating factors of giving information voluntary?

3) Ask questions to get the following answers:

1. A governmental or municipal organization always issue credentials of some form for the investigators.
2. When approaching a subject for interview the investigator show his credentials.
3. In order to anticipate the subject's moves the investigator should place himself in his position
4. The investigator should have hundreds of people working for him who live in the same community.
5. The investigator should record his informants' names in his diary.

6. The investigator has a certain standing in the community.
7. There are many different reasons for which persons voluntarily give information.

4) *Make up the pairs of synonyms:*

- 1) to embark; to use; to testify; to solve; to get; to decide; to begin; to obtain; to ask; to give evidence to; to utilize; to put questions to; to procure.
- 2) claim; interrogator; field; situation; possibility; complaint; interrogation, position; location; opportunity; interview; sphere; investigator; standing

5) *Match the words and expressions from the left and the right columns according to the meaning:*

I	I
1. artisan	1. суб'єкт
2. tools	2. речові докази
3. credentials	3. протоколи
4. subject	4. щоденник
5. moves	5. ремісник
6. loss	6. прокурор
7. exhibits	7. хід, вчинок
8. informants	8. перевага, привілей
9. records	9. знаряддя виробництва
10. officials	10. посвідчення
11. reference	11. чутки
12. diary	12. відношення
13. attorney	13. втрата
14. gossip	14. посадові особи
15. advantage	15. інформатори
II	II
1. air of dignity	1. ретельний аналіз
2. in key observation points	2. листоноша
3. thorough analysis	3. загальні цілі
4. private detectives	4. робітник телеграфу
5. municipal employees	5. взаємна зацікавленість

6. train companion	6. приватний детектив
7. telegraph messenger	7. певне становище
8. mail carrier	8. театральний білетер
9. cab driver	9. комплекс "копи та грабіжники"
10. theatre usher	10. темні особи
11. grocery clerk	11. суперник у бізнесі
12. common ground	12. в окрузі
13. mutual plan of interest	13. мотивовані факти
14. certain standing	14. муніципальні службовці
15. "cops and robbers" complex	15. суб'єкт скарги
16. shady characters	16. почуття гідності
17. subject of the complaint	17. працівник крамниці
18. business competitor	18. таксист
19. motivating factors	19. залізнична компанія
III	III
1. to look official	1. бути в добрих стосунках
2. to issue credentials	2. поставити себе на місце суб'єкта
3. to interview a subject	3. вести щоденник
4. to embark upon investigation	4. бути призваним
5. to place himself in the subject's position	5. вести протоколи
6. to anticipate the moves	6. бути спокійним і повним гідності
7. to be careful	7. давати інформацію добровільно
8. to procure exhibits	8. виконувати свій громадянський обов'язок
9. to make the advances	9. допитувати суб'єкта
10. to keep records	10. отримувати речові докази
11. to be on good terms with	11. пропустити можливість
12. to overlook the opportunity	12. видавати повідомлення
13. to called upon to	13. мати офіційний вигляд

- | | |
|---|---|
| 14. to carry a diary | 14. передбачити поведінку |
| 15. to give information voluntary | 15. приводити у захват від праці із законом |
| 16. to get a thrill out of working with the law | 16. бути уважним |
| 17. to be their civic duty | 17. починати розслідування |
| 18. to be quite and dignified | 18. зробити успіхи |

6) Translate the sentences paying attention to the peculiarity of the English negative sentences:

1. No evidence is admissible unless it is relevant.
2. No one was hurt but the cars were quite badly damaged.
3. No investigator should embark upon an investigation without a thorough analysis of all the facts.
4. The good investigator should realize that no case is important enough to justify framing any person.
5. The good investigator will never act in a superior manner toward any person when seeking to obtain information.
6. Without witnesses there can be no trial or no determination or adjudication of the facts.
7. He does not have to disclose the reason for seeing the witness, nor does he have to disclose any of the facts of the case to the incidental witnesses.
8. If there is no return address, the hand-writing may be of help.
9. The investigator is a fact-finder and in no case should he impose his moral judgment upon the witness no matter what his own opinion.
10. No investigator should ever promise a witness any reward or compensation for his testimony.
11. No thing is «obvious» and nothing should ever be taken for granted by the investigator.

7) Ask your comrades to explain, what it means. They may find their answers in the text:

1. credentials
2. a certain standing in the community
3. «cop and robbers» complex
4. shady character
5. to utilize the knowledge

8) Translate the following sentences, paying attention to the modal verbs and their equivalents:

1. Every investigator should always carry credentials with him if he is employed by a governmental or municipal organization.
2. Without a thorough analysis of all the facts no investigator should embark upon an investigation.
3. In order to anticipate the subject's moves the investigator has to place himself in his position.
4. The investigator must be careful, quite and dignified.
5. The investigator should have hundreds of people working for him and should know as many person in key observation points as he possibly can.
6. The private investigator is to be on good terms with police and municipal employees as well as officials.
7. The investigator must carry a diary of his activities, which should be complete and honest.
8. Whenever an investigator obtains information he must always remember that he may be called upon to testify in court about the facts he has obtained.
9. He should not argue with the attorneys and he should answer responsibly the questions put to him.
10. He should never gossip about what he knows.
11. The investigator is always able to evaluate thoroughly the informants he seeks to develop.
12. The investigator should study the motivating factors in connection with the informants so that he can utilize their knowledge to the best advantage.

9) Finish the sentences by the suitable parts given below. Translate these sentences into Ukrainian:

1. Each investigator must have his credentials which lends...
2. In investigating a case it is important for an investigator...
3. In order to anticipate the subject's moves the investigator must...
4. It's considered that 95 per cent of all crimes...
5. The investigator should have his informants among...
6. All obtained information, names and addresses of subjects must be written..
7. The investigator's standing in the community and how he is respected...

8. The informants should be evaluated thoroughly..
9. Some informants volunteer information because they are...
10. The subject of the complaint of others is...
 1. ...depends on himself.
 2. ...simple, honest citizens doing what they believe to be their civic duty.
 3. ...are solved by informants.
 4. ...by the investigator.
 5. ...a business competitor.
 6. ...an air of dignity and importance to the interview.
 7. ... a diary.
 8. ...to analyze the problems and consider all the facts.
 9. ...place himself in the subject's position.
 10. ...waiters, maids, private detectives, mail carriers, cab drivers, grocery clerks

10) Find the appropriate words given below to the following definition:

1. one skilled in a particular craft
2. document or letter establishing the identity, authority or the right to confidence or accreditation of the bearer
3. meeting between a writer or reporter and a person from whom information is sought
4. something submitted to a court or judicial officer as evidence
5. one who gives or provide information
6. a number of people living in the same locality as a district or town, and under the same government
7. account preserved in writing or other permanent form; known fact about activity or achievement; history of criminal activity
8. one who holds an office or position; authorized to carry out some specific function
9. book for keeping daily record of events, especially of the writer's personal experience and observation
10. to give evidence under oath in a court of law
11. idle talk or rumour, often malicious, especially about the personal affairs of other people
12. good reputation, credit or position
13. that which one is morally or legally bound to do; obligation
14. expression of dissatisfaction

15. one who competes
16. information acquired through experience, study or observation; specific information or facts concurring a given matter
17. better position, superiority; useful or beneficial circumstance, factor or event.

- | | |
|--------------|-----------------|
| 1. duty | 9. competitor |
| 2. advantage | 10. records |
| 3. officials | 11. credentials |
| 4. diary | 12. gossip |
| 5. artisan | 13. knowledge |
| 6. exhibits | 14. community |
| 7. informant | 15. complaint |
| 8. interview | |

Unit 36

The Interview

When the investigator first meets his subject, he should not arm himself immediately with notebook and pencil and start taking down information given by the subject. The investigator should first introduce himself by producing his credentials, at the same time explaining the reason for the visit. He should wait until the witness has finished his story. Then the investigator should state that he wishes to set down all the witness has related in the form of a statement. The investigator will then prepare the statement properly, and after it is completed, ask the witness to sign it.

The investigator acting as interviewer should train himself to judge quickly the other person and his traits, at the same time being alert to his own traits, whims and prejudices. The investigator should avoid being offensive in any way to a witness. The investigator should regard himself as a party to the interview, which is really a conversation between two persons, and in thinking of himself in that way, the investigator should regard objectively everything about the witness. No investigator should ever promise a witness any reward or compensation for his testimony.

People are often sensitive about their personal lives. Questions as to their prior or current marital life, criminal backgrounds, poverty, or contagious diseases may seem to them unwarranted intrusions. The confidence of the witness should be gained, and he should be convinced that the investigator is not motivated by wanton curiosity but should be regarded as a doctor, a clergyman, or a lawyer when personal information is related.

In some cases a witness will be questioned in a place of business or in a home, but the investigator should always take every effort to interview the witness alone.

Events ordinarily meriting the attention of an investigator are high lights in the life of the witness, who will talk excitedly and continually to all and sundry who will listen to what he has to say about an event he has just observed. That is why time is of such importance in visiting witnesses in certain types of case.

When an investigator is about to interview a witness who is an unknown quantity and whose testimony may be very material, it is often wise to learn something about the person to be interviewed before the contact is actually made. The potential witness should be unaware of this, of course. The investigator should be circumspect in making inquiry about a potential witness so that there is no possibility of reflection being cast on his character.

Sometimes it is wise for the investigator to fortify himself with documentary information about a witness he is to interview. This may prove of value if he wants to determine the veracity of the witness during an interview. The investigator should never allow himself to look bored or indifferent during an interview. The investigator should also avoid relative conclusions based on erroneous observations by the witness. The investigator should also have a general knowledge of mental abnormalities so as to differentiate between an insane person and a psychopathic witness. It is always advisable that two investigators be present when an abnormal person is interviewed, especially when hysteria is present.

The investigator should train himself to be a good listener even though his patience at times becomes sorely tried. The investigator should be careful to distinguish irrelevant rambling from heartfelt emotion before making any attempt to curb the talkative witness.

Previous emphasis has been placed on the value of privacy, when conducting an interview. Physical setting in general is important, and distracting noises such as telephone bells, interruptions by other persons should be kept at a minimum during the course of an interview. The witness should have the undivided attention of the investigator if the latter is to attain the undivided confidence of the witness.

The five «W's» should always be in the mind of an investigator during the course of an interview. They are: «Who did, What, When, Where and Why?»

Notes

1. to arm oneself – озброїтись
2. to produce one's credentials – показати свої документи
3. traits – особливості
4. whims – примха
5. prejudices – упередження
6. to be offensive – бути агресивним

7. marital life – подружнє життя
8. contagious disease – інфекційна хвороба
9. intrusions – необґрунтоване втручання в особисте життя
10. wanton curiosity – своєвольна зацікавленість, цікавість
11. all and sundry – усе і усе, усе без винятків
12. to circumspect – бути обережним, обачливим
13. to look bored – виглядати стомленим
14. erroneous observation – хибний погляд, спостереження
15. an insane person – божевільний
16. a psychopathic witness – психопат
17. irrelevant rambling – недоречна прогулянка
18. to curb the talkative witness – зупинити балакучого свідка

Exercises

1) Answer the following questions:

1. What is the first step of the investigator when he meets his subject?
2. What quality should the investigator avoid to a witness?
3. In what places can witnesses be questioned?
4. Why is time of such importance in visiting witnesses in certain types of case?
5. Why is it often wise to learn something about the person to be interviewed before the contact is actually made?
6. With what is it wise to fortify himself about witness the investigator is to interview?
7. How should the investigator allow himself to look during an interview?
8. What should he avoid?
9. When is it always advisable that two investigators be present?
10. What qualities should an investigator possess when the talkative witness is interviewed?
11. What is the most important in conducting an interview?
12. What five «w's» should always be in the mind of an investigator during the course of an interview?
13. How should the confidence of the witness be gained?
14. Why should the investigator make inquiry about a potential witness?

2) Ask questions to get the following answers:

1. The investigator should first introduce himself by producing his credentials, at the same time explaining the reason for the visit.

2. When the witness's story is completed, the investigator asks him to sign it.
3. The investigator should avoid being offensive in any way to a witness.
4. The interview is really a conversation between two persons.
5. No investigator should ever promise a witness any reward or compensation for his testimony.
6. The confidence of the witness should be gained.
7. The investigator should always take every effort to interview the witness alone.
8. The witness talks excitedly about an event he has just observed.
9. The investigator should make inquiry about a potential witness.
10. The investigator should avoid relative conclusions based on erroneous observations by the witness.
11. The witness should have the undivided attention of the investigator.

3) Match the words and expressions from the left and the right columns according to the meaning:

- | I | I |
|---------------------------|---------------------------|
| 1. subject | 1. допит |
| 2. credentials | 2. упередження |
| 3. statement | 3. компенсація |
| 4. interview | 4. духовна особа |
| 5. traits | 5. перерва |
| 6. prejudice | 6. документи |
| 7. reward | 7. приватність |
| 8. compensation | 8. терпіння |
| 9. confidence | 9. суб'єкт |
| 10. clergyman | 10. нагорода |
| 11. hysteria | 11. довіра |
| 12. patience | 12. затвердження |
| 13. privacy | 13. істерія |
| 14. interruption | 14. особливості |
| II | II |
| 1. to arm himself | 1. отримати довіру |
| 2. to introduce himself | 2. заслуговувати на увагу |
| 3. to be alert | 3. не розумітися |
| 4. to gain the confidence | 4. захистити себе |

- | | |
|-----------------------------|------------------------|
| 5. to merit the attention | 5. розпізнати |
| 6. to observe the events | 6. озброїтися |
| 7. to be unaware | 7. бути наготові |
| 8. to make an inquiry | 8. виглядати змореним |
| 9. to fortify himself with | 9. зупинити свідка |
| 10. to look bored | 10. представитися |
| 11. to distinguish | 11. проводити допит |
| 12. to curb the witness | 12. допитувати |
| 13. to conduct an interview | 13. спостерігати події |

III

- | | |
|--------------------------------------|--|
| 1. prior marital life | 1. необґрунтоване втручання в особисте життя |
| 2. criminal back grounds | 2. достовірність свідка |
| 3. contagious diseases | 3. хибне спостереження |
| 4. unwarranted intrusions | 4. божевільний |
| 5. wanton curiosity | 5. свідок-психопат |
| 6. material testimony | 6. цінність приватності |
| 7. veracity of the witness | 7. попереднє подружнє життя |
| 8. erroneous observations | 8. сердечні емоції |
| 9. mental abnormalities | 9. інфекційна хвороба |
| 10. insane person | 10. неподільна увага (довіра) |
| 11. psychopathic witness | 11. кримінальне минуле |
| 12. amoral person | 12. балакучий свідок |
| 13. irrelevant rambling | 13. ненормальна людина |
| 14. heartfelt emotion | 14. розумові відхилення |
| 15. talkative witness | 15. речові докази |
| 16. value of privacy | 16. своєвільна зацікавленність |
| 17. undivided attention (confidence) | 17. недоречна прогулянка |

4) Translate the following sentences, paying attention to the modal verbs and their equivalents:

1. During his first meeting with the subject, the investigator should introduce himself by producing his credentials and explaining the reason for the visit.

2. Being as an interviewer the investigator should train himself to judge the other person and his traits.
3. The investigator has to avoid being offensive in any way to a witness.
4. No investigator should ever promise a witness any reward or compensation for his testimony.
5. Questions as to the prior or current marital life, criminal backgrounds, poverty or contagious diseases of the witnesses may seem to them unwarranted intrusions.
6. The confidence of the witness should be gained.
7. The witness should be convinced that the investigator should be regarded as a doctor, a clergyman or a lawyer.
8. The investigator must take every effort to interview the witness alone.
9. All that the witness has to say about an event he has just observed should merit the attention of an investigator.
10. When an investigator is about to interview a witness who is an unknown quantity and whose testimony may be very material it is often wise to learn something about the person to be interviewed before the contact is actually made.
11. Sometimes it is wise for the investigator to fortify himself with documentary information about a witness he is to interview.
12. The witness should have the undivided attention of the investigator if the latter is to attain the undivided confidence of the witness.

5) Finish the sentences by the suitable parts given below. Translate these sentences into Ukrainian:

1. The first step of the investigator when he first meets the witness is...
2. The investigator should train himself to judge quickly...
3. The investigator should avoid being offensive in any way to a witness, he must also avoid.....
4. Sometimes the events meriting the attention of an investigator are...
5. The investigator should fortify himself with....
6. To differentiate between an insane person and a psychopathic witness the investigator should...
7. When an abnormal person is interviewed it is advisable that... be careful...

1. ... two investigators be present, especially when hysteria is present
2. ... relative conclusions based on erroneous observations by the witness
3. ... the introducing himself and explaining the reason for his visit
4. ... to distinguish irrelevant rambling from heartfelt emotion
5. ... documentary information about a witness he is to interview
6. ... the other persons and his traits at the same time to be alert to his own traits, whims and prejudices
7. ... to have a general knowledge of mental abnormalities
8. ... high lights in the life of the witness

3) Complete the following sentences by translating into English the words and expressions in brackets:

1. At the time of explaining the reason of his visit the investigator (повинен показати свої документи).
2. The investigator should be patient with his witness and after the interview is completed (попросити свідка підписати його свідчення).
3. The investigator should avoid being offensive in any way to a witness and no investigator should ever (обіцяти свідку яку-небудь нагороду або компенсацію за його свідчення).
4. The questions as to their prior or current marital life (кримінальне минуле, бідність, інфекційна хвороба) may seem to them (необґрунтованим втручанням в особисте життя).
5. The main step in the questioning the witness is (завоювати довіру свідка).
6. The attention of the investigator is very important for the witness when (він хоче розповісти про події, які він тільки що спостерігав).
7. When an investigator is about to interview a witness (він повинен виявити усе можливе про особу, яку він збирається допитувати).
8. When an abnormal person is interviewed (бажано, щоб двоє слідчих були присутні при допиті).
9. The investigator should be (добрим слухачем і мати терпіння вислухати балакучу людину).
10. When conducting an interview (велике значення має приділятися приватності розмови).

7) Find the appropriate words given below to the following definition:

1. Document of letter establishing the identity, authority or the right to confidence or accreditation of the bearer.
2. Distinguishing aspect or quality, as of character: bravery, honesty and other noble traits.
3. Information or past circumstances that help to explain some later event or situation.
4. Illegal entering into or seizing of another's property.
5. One ordained as a priest; member of clergy.
6. Opinion or judgment, especially an unfavorable one, formed beforehand or without sufficient knowledge or just grounds.
7. Examining carefully all the circumstances that may affect an action or a decision.
8. Truthfulness, honesty, accuracy, correctness, that which is true, truth.
9. Quality, state or fact of being patient or the ability to be patient.
10. Firm trust or reliance: feeling of certainty; assurance.
11. Right to be free from interference with one's private affairs, state or condition of being private or isolated.
12. Not sane, mentally deranged, extremely foolish, senseless.

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|-------------------|----------------|
| 1. background | 7. credentials |
| 2. clergyman | 8. privacy |
| 3. to circumspect | 9. prejudices |
| 4. trail | 10. intrusion |
| 5. patience | 11. confidence |
| 6. insane | 12. veracity |

Unit 37

The art of detection

Alphonse Bertillon created the first practical identification system by the use of the portrait parley which consists of a clear and precise method of describing a person and also uses photography. The theory behind this system is based on the fact that the human skeleton is unchangeable after the twentieth year and the fact that it is impossible to find two human beings with identical bone structure. Exact instrumental measurements of the ears, head, feet, fingers, toes, arms and nose are made. Coupled with those are other characteristics such as color of eyes and hair, scars, height, tattoos, posture, and individual peculiarities.

The ears, specifically, are examined for many characteristics the basic patterns of which remain unchanged from birth until death.

Although the portrait parley system is still used in some European cities, in many places it has given way to the fingerprint system of identification. Although fingerprinting was not adopted until 1901 by Scotland Yard, which was the first modern police agency to use this means of identification, there is evidence that even before Christ the Chinese used fingerprints as seals for personal identification. The Tang dynasty, which flourished in China over one thousand years ago, used a fingerprint system of identification based on loops and whorls, which is the basis of our present system used almost universally.

It is difficult to estimate how many people in the United State, now living, have been fingerprinted. When one realizes that, in addition to the millions of criminals whose fingerprints are on records, government employees, members of the armed forces, defense and security workers, aliens, various state and municipal employees and others must also be fingerprinted, an idea may be formed of this tremendous source of information. Actually, more than 100 million fingerprints are on file with the Federal Bureau of Investigation. This figure includes persons in foreign countries and many now dead.

Every state has some form of central State Identification Bureau generally related to the State Police. The respective state headquarters receive prints from the various police agencies in their jurisdiction. This central agency has competent experts and facilities for lift-

ing, photographing, or developing latent fingerprints. Indexes of fingerprints, names, aliases, photographs and methods of crime are usually kept.

The all-embracing and largest agency containing fingerprint records, however, is the Federal Bureau of Investigation of the United States Department of Justice. All law enforcement agencies in the land, as well as the military, governmental, and municipal authorities ordinarily send to this Bureau copies of each set of fingerprints taken. An investigator seeking to locate a missing person should never overlook writing to the Director of the Federal Bureau of Investigation, Washington, D.C., to request a fingerprint record. The return may be great for the small amount of time expended in writing. The investigator should not, however, restrict his efforts to the Bureau in Washington. If he is conducting an intensive investigation, he should never fail to check with the local authorities, because the subject might have been arrested for a misdemeanor or nominal offense, one not necessitating the taking of fingerprints. A record of the arrest, however, would be present locally. In certain states, if a defendant is tried and acquitted, he may request the return of his fingerprints. Even in states where this procedure is permitted, however, the local police archives will have a complete record of the arrest and the facts leading up to it, all of which may prove the assistance to the investigator.

Notes

1. portrait parley – словісне зображення
2. instrumental measurements – інструментальне зображення
3. individual peculiarities – окремі особливості
4. seal – підпис
5. looks and whorls – петлі та кругляки
6. security workers – співробітники служби безпеки
7. aliens – іноземці
8. headquarter – штаб-квартира
9. aliases – прізвисько, кличка
10. law enforcement agency – правоохоронні органи
11. a missing person – зникла людина
12. record of arrest – запис арешту
13. to try a defendant – засуджувати винного
14. to acquit – виправдовувати

Exercises*1) Translate given expressions into Ukrainian:*

the first practical identification system; the portrait parley; identical bone structure; the fingerprint system of identification; exact instrumental measurements; system based on loops and whorls; source of information; The Federal Bureau of Investigation; state headquarters; competent experts and facilities; latent fingerprints; law enforcement agency; municipal authority; to take a set of fingerprints to locate; a missing person; to conduct an intensive investigation; a nominal offense; to try a defendant; to acquit a defendant; the local police archives.

2) Give Ukrainian equivalents to all the expressions with the word «Fingerprint»:

fingers; the fingerprint system of identification; to adopt fingerprinting; to use fingerprints as seals; to be fingerprinted; to receive prints; latent fingerprints; indexes of fingerprints; fingerprint records; to take the set of fingerprints; to request a fingerprint record.

3) Answer the following questions:

- Who created the first practical identification system by the use of the portrait parley?
- What fact is the theory of this system based on?
- What way has the portrait parley system given way to?
- Who was the first to use fingerprinting?
- Who used the fingerprints as seals for personal identification?
- How many people in the United States have been fingerprinted?
- How many fingerprints are on file with the Federal Bureau of Investigation?
- What Bureau does every state have?
- What is the largest agency containing fingerprint records?
- What is the first task of the investigator seeking to locate a missing person?

4) Ask questions to get the following answers:

- Identification system by the use of the portrait parley consists of a clear and precise method of describing a person and also uses photography.
- The theory of this system is based on the fact that the human skeleton is unchangeable after the twentieth year.

- The portrait parley system has given way to the fingerprint system of identification.
- The first modern police agency Scotland Yard adopted fingerprinting in 1901.
- There is evidence that even before Christ the Chinese used fingerprints as seals for personal identification.
- Various authorities in the United States estimated that nearly 70 million persons now have been living fingerprinted.
- Every state has some form of central state Identification Bureau generally related to the State Police.
- The respective state headquarters receive prints from the various police agencies in their jurisdiction.
- The Federal Bureau of Investigation of the United States Department of Justice is the all-embracing and largest agency containing fingerprint records.
- In certain states, if a defendant is tried and acquitted, he may request the return of his fingerprint.

5) Match the words and expressions from the left and the right columns according to the meaning:

- | I | I |
|------------------------|--------------------------|
| 1. parley | 1. шрами |
| 2. measurements | 2. постава |
| 3. ears | 3. прізвисько |
| 4. toes | 4. описування |
| 5. scars | 5. підпис |
| 6. height | 6. пальці на ногах |
| 7. posture | 7. династія |
| 8. patterns | 8. розміри |
| 9. seals | 9. запис |
| 10. dynasty | 10. штаб-квартира |
| 11. records | 11. вуха |
| 12. headquarters | 12. зразки |
| 13. aliases | 13. зріст |
| II | II |
| 1. the portrait parley | 1. поліцейський відділок |
| 2. human beings | 2. засоби ідентифікації |

- | | |
|-------------------------------------|---------------------------------|
| 3. identical bone structure | 3. приховані відбитки пальців |
| 4. individual peculiarities | 4. рядове правопорушення |
| 5. police agency | 5. ідентична кісткова структура |
| 6. means of identification | 6. архіви місцевої поліції |
| 7. tremendous source of information | 7. зникла людина |
| 8. latent fingerprints | 8. людська істота |
| 9. law enforcement agencies | 9. набір відбитків пальців |
| 10. set of fingerprints | 10. словісний портрет (опис) |
| 11. a missing person | 11. велике джерело інформації |
| 12. nominal offense | 12. правоохоронні відділи |
| 13. local police archives | 13. окремі особливості |

6) Finish the sentences by the suitable parts given below. Translate these sentences into Ukrainian:

1. The first practical identification system by the use of the portrait parley...
2. The identification system is based on the fact that the human skeleton is unchangeable and it is impossible...
3. In many European cities the portrait parley system has given way to...
4. The first modern police agency which used fingerprinting was...
5. In addition to the millions of criminals whose fingerprints are on records more than 100 millions fingerprints...
6. In seeking the location of a missing person the investigator should write to the Federal Bureau of Investigation...
 1. ... are on file with the Federal Bureau of Investigation
 2. ... Scotland Yard
 3. ...to request a fingerprint record
 4. ...was created by Alphonse Bertillon
 5. ... the fingerprint system of identification
 6. ...to find two human beings with identical bone structure

7) Find the sentences with modal verbs and their equivalents in the text and translate these sentences into Ukrainian

- 8) Find the appropriate words given below to the following definition:
1. impression of the markings on the inner surface of the tip of a finger or thumb, esp. such an impression made with ink and used for purposes of identification
 2. something used to give evidence of or to establish one's identity; act process of identifying; state of being identified
 3. verbal picture or description, esp. of a person
 4. set of habitual or representative actions or characteristics: style or form
 5. act or fact of being born
 6. permanent cessation of all vital functions: end of life; state or condition of being dead
 7. metropolitan police of London, esp. branch engaged in crime detection; its headquarters: an area of White Hall in which its original headquarters were located, where, during the Middle Ages, kings of Scotland stayed when visiting London
 8. impression in relief of a device, as a design, figure or word, stamped on wax, paper or other soft material to show ownership or authenticity and intended to represent officially a person, institution or governing body; something that serves to authenticate, confirm, or secure
 9. official written account of public acts or proceedings; history of criminal behaviour
 10. foreign-born person who is not naturalized citizen of the country in which he lives: foreigner, stranger
 11. agency of the U.S. Department of Justice which investigates violations of federal laws and subversive activities against the United States
 12. center of operation; main office; a center of operation from which the commanding officer issues orders
 13. one having special skill or knowledge in something; highly skilled or knowledgeable
 14. assumed name; other name
 15. place where public records or historical documents are kept
 16. declare not guilty; to free from accusation or charge of crime.

1. alien	9. chive
2. FBI	10. aliases
3. death	11. headquarter
4. fingerprint	12. record
5. to acquit	13. identification
6. expert	14. Scotland Yard
7. seal	15. birth
8. tern	16. portrait parley

Unit 38

Fingerprints

The corrugations of the fingers of all human beings begin to form about three months before birth. From the instant of formation, through birth to death and for some time after death, they do not vary one iota in pattern. Certain occupations like wood finishing or masonry wear down the ridges to make the pattern less distinct, but a short period of time spent away from the work causing this abrasion will restore the natural pattern completely. For this reason, attempts at mutilation fail because furrows will form on the new skin or sear tissue in the same immutable pattern.

Of the hundreds of thousands of fingerprints sent annually to the Federal Bureau of Investigation for classification, about sixty-five percent have prior records.

No two fingerprint patterns have ever been found to be alike. There are cases on record where clever criminals, with the aid of unscrupulous engravers had plates made of superiors fingerprints and impressed these plates on rubber gloves which were worn at the scene of a crime. However ingenious this method is, it has failed, and it is as yet not a factor to be reckoned with because of the inability of the engravers to duplicate the pores on the ridges. Poroscopy is the examination of sweat pores for identification; it has been discovered that these pores have different patterns for each finger and for each human being. The pattern does not change during life, and if the skin is injured, the fingerprint pattern will grow back in its original fashion.

A thorough search should be made of the scene of the crime and the subject matter of the violation for latent fingerprints. These are prints which are at first generally invisible but may be revealed by the use of fine-grained powders. The oils and acids excreted through the sweat pores of the skin leave a distinct, colorless pattern when the skin comes into contact with an object.

Because of the general invisibility of the fingerprints, an iodine fume «gun» may be used to blow the fumes over the area where the suspected fingerprints are believed, to be affixed. The fumes color the impression for a period of about ten minutes, so that it becomes visible to the naked eye. The impression may then be photographed or

powdered. The fine powder grains brushed lightly on the impression will become attached to the excretion of the sweat pores, forming the pattern of the fingerprint. The raised fingerprint is then given a degree of permanence so that it will not dry up with the drying of the fluids or revert back to its colorless state with the wearing off of the iodine fumes. The investigator should carefully label the fingerprints taken as evidence, and properly preserve them by placing them in receptacles which will prevent the prints from becoming obliterated.

Notes

1. corrugation – рифлення
2. wood finishing – деревооздоблення
3. masonry – кам'яна кладка
4. to wear down – стирати
5. ridges – зморшки
6. abrasion – зітрення
7. mutilation – каліцтво
8. furrows – борозда
9. sear tissue – засохла тканина
10. unscrupulous engravers – гравірувальник
11. to impress the plates – робити відбитки пластин
12. rubber gloves – гумові рукавички
13. ingenious method – винахідливий метод
14. to be reckoned with – брати до уваги
15. to duplicate the pores – повторювати пори
16. original fashion – первісна форма (образ, подоба)
17. fine-grained powders – дрібнозернистий порошок
18. iodine fume – йодисна кіптява
19. receptacles – місцевість

Exercises

1) Translate given expressions into Ukrainian:

to wear down the ridges; to make the pattern less distinct; to cause the abrasion; to restore the natural pattern; the aid of unscrupulous engravers; to impress plates on rubber gloves; to reckon with; inability to duplicate the pores on the ridges; the examination of sweat pores for identification; human being; to insure skin; a thorough search; the scene of the crime; to reveal the prints by the use of fine-grained powders; to come into contact; to leave a distinct and colorless pattern;

the general invisibility of the fingerprints; the naked eye; a degree of permanence; the fingerprints as evidence; to become obliterated.

2) Give Ukrainian equivalents to all the expressions with the word «Fingerprint»:

the corrugations of the fingers; fingerprint patterns; superior fingerprints; latent fingerprints; invisible prints; the general invisibility of the fingerprints; to label the fingerprints; to prevent the prints from becoming obliterated.

3) Answer the following questions:

1. When do the corrugations of the fingers of all human beings begin to form?
2. Do they vary one iota in pattern?
3. When will the abrasion of the ridges restore the natural pattern completely and why?
4. How many fingerprints sent annually to the FBI for classification have prior records?
5. What method of changing fingerprints is considered to be ingenious?
6. Is it possible for the engravers to duplicate the pores on ridges?
7. What is poroscopy? Explain it.
8. What happens if the skin is injured?
9. How many latent fingerprints be revealed?
10. What may be used over the area where the suspected fingerprints are believed to be affixed?
11. What should the investigator do with these fingerprints in his future work?

4) Ask questions to get the following answers:

1. From the birth to death the corrugations of the fingers do not vary one iota in pattern.
2. Certain occupation like wood finishing or masonry wears down the ridges to make the pattern less distinct, but after a short period of time the natural pattern will restore completely.
3. Annually the hundreds of thousands of fingerprints are being sent to the Federal Bureau of Investigation for Classification.
4. No two fingerprint patterns have ever been found to be alike.
5. Poroscopy discovers that sweat pores have different patterns for each finger and for each human being.

6. If the skin is injured the fingerprint pattern will grow back in its original fashion.
7. The oils and acids excreted through the sweat pores of the skin leave a distinct colorless pattern when the skin comes into contact with an object.
8. The fine powder grains brushed lightly on the impression form the pattern of the fingerprint.
9. The investigator should carefully label the fingerprints taken as evidence.

5) Match the words and expressions from the left and the right columns according to the meaning:

- | I | I |
|--------------------------------|--------------------------|
| 1. occupation | 1. гравери |
| 2. abrasion | 2. параскопія |
| 3. mutilation | 3. порушення |
| 4. engravers | 4. відбиток |
| 5. pores | 5. професія |
| 6. ridges | 6. пори |
| 7. poroscopy | 7. незмінність |
| 8. search | 8. рідина |
| 9. violation | 9. кислота |
| 10. acids | 10. запис характеристики |
| 11. impression | 11. зморшки |
| 12. permanence | 12. зтирання |
| 13. fluids | 13. сховище |
| 14. label | 14. каліцтво |
| 15. receptacles | 15. порошок |
| 16. powder | 16. пошук |
| II | II |
| 1. corrugations of the fingers | 1. засохла тканина |
| 2. suspected fingerprints | 2. незмінний відбиток |
| 3. less distinct patterns | 3. відбиток пальців |
| 4. natural pattern | 4. винахідливий засіб |
| 5. sear tissue | 5. неозброєне око |
| 6. immutable patterns | 6. рифлення пальців |

- | | |
|----------------------------|--|
| 7. fingerprint patterns | 7. дрібнозернистий порошок |
| 8. superior fingerprints | 8. ретельний пошук |
| 9. ingenious method | 9. малорозпізнані відбитки пальців |
| 10. sweat pores | 10. місце злочину |
| 11. injured skin | 11. відбитки пальців, які знаходяться під підозрою |
| 12. the scene of the crime | 12. ушкоджена шкіра |
| 13. fine grained powder | 13. потові залози |
| 14. the naked eye | 14. зразок відбитків пальців |
| 15. a thorough search | 15. звичайні відбитки |

6) Finish the sentences by the suitable parts given below. Translate these sentences into Ukrainian:

1. The corrugations of the fingers of all human being begin to form about three months before birth and for some time after death...
2. Having about sixty-five percent of prior records the hundreds of thousands of fingerprints are being sent to...
3. There are cases when clever criminals impressed the plates with superior fingerprints on rubber gloves which they tried...
4. It was discovered that pores have different patterns for each finger and for each human being and.....
5. When the prints are at first generally invisible they may be revealed...
6. All the fingerprints, taken as evidence...
 1. ...by the use of powers
 2. ...should be carefully labeled and properly preserved
 3. ...do not vary one iota in pattern
 4. ...The Federal Bureau of Investigation for classification
 5. ...do not change during life
 6. ... to leave at the scene of a crime

7) Find the sentences with modal verbs and their equivalents in the text and translate these sentences into Ukrainian.

8) Find the appropriate words given below to the following definition:

1. very little quantity; bit; ninth letter of Greek alphabet
2. trade, work, or activity pursued as the source of one's livelihood
3. making incomplete, imperfect, or less effective by removing an important part or parts; deforming or injuring seriously

4. copy exactly like an original: exact copy
5. very small opening, as in the skin, serving as an outlet for perspiration
6. distinguished by extraordinary development of the brain and by the ability to alter the environment to a great degree, esp. through the use of technology, language and social organization
7. mark or design produced by pressing or stamping
8. durability, endurance
9. any liquid; substance as a liquid or gas, that is capable of flowing, has no definite shape
10. object or place which receives and holds something as a box or bag.

1. fluid
2. pores
3. iota
4. receptacle
5. impression
6. permanence
7. occupation
8. human being
9. mutilation
10. to duplicate

Unit 39

Prisons and Correctional Institutions

Prisons exist in every state and federal jurisdiction of the United States, and in virtually every country in the world. Today almost all prisons in the United States are filled to overcapacity. Corrections is a growth industry; very few observers would predict a decline in rates of imprisonment. Life in prison is different from life in jails. Jails are local institutions designed for short-term confinement. Many people in jails are awaiting trial or sentencing. Jails do not have the range of rehabilitation programs found in prisons, and constant confinement in a cell is the normal condition in jails. Prisons, on the other hand, are real-life, «total institutions», not just dramatic sets on television or scenes in the movies. Prisons provide recreation, education, vocational training, libraries, leisure-time activities, religious services and a great number of other elements of society in miniature.

Prisons are complete social systems characterized by their own problems and heterogeneous populations.

Prisoners are classified and transferred as a means of keeping them from preying on one another. Prison discipline is maintained - a tough yet necessary part of prison life needed to prevent riots, killings, escapes, and the smuggling of contraband. Inmate rights are protected and prison actions are governed by leading court cases. And issues such as prison overcrowding regularly come before the Supreme Court.

The world of prison inmates is not pretty. It is the end of the line in the criminal justice process, and the maximum-security prison, historically as well as currently, is one of the harshest, most brutal and most brutalizing structures created by human beings.

Two types of prisons were developed in the United States. One type was developed in Pennsylvania. Its major characteristic was solitary confinement of prisoners, it is sometimes called the segregate prison and known generally as the Pennsylvania Prison System. Inmates held in solitary confinement were isolated from the outside world and one another and were expected to remain in their cells, read the Bible, reflect on their crimes and «repent». Hence the term penitentiary.

A different kind of prison was built at Auburn, New York. Known as the Auburn Prison System, this institution was characterized by a practice where prison inmates were held in cells at night but released in the daytime to work together at various forms of hard labor.

This congregate system rested on the belief that the way to repentance and reform, as indeed the way to salvation, lies through hard work, in contrast to the Pennsylvania system where repentance itself was the «way».

Both systems imposed total silence on prisoners, and in New York an elaborate form of marching - a shuffle called the lock-step - was imposed on them as they moved in silence, from their cells to their places of work. Both types of prisons became world-famous, were visited and evaluated and had their merits debated by scholars, politicians and reformers. In this battle over the «best» system, the Auburn plan generally prevailed. The extended solitary confinement of the Pennsylvania system tended to drive prisoners insane and was very costly, whereas the congregate work prison could help support itself by the labor of inmates.

The National Prison Association was created and met for the first time in Cincinnati in 1870 in a spirit of progressive reform. The prison practices which had been generally accepted up to that time - lockstep, fixed sentence, isolation, silence - were now criticized and rejected by the majority in attendance. The famous Declaration of Principles called for major reforms.

In the 1870s a reformatory for young adult felons was established at Elmira, New York. Structurally, it was maximum - security, built very much like Auburn Prison, but its program included educational and vocational training opportunities as well as work. As Auburn became the prototype prison, so Elmira became the prototype reformatory, copied throughout the nation and the world.

Felons serve sentences in prisons or reformatories. Commonly, a reformatory is thought to be a place of incarceration for juvenile delinquents, but technically this is incorrect. Juveniles are housed in training schools, whereas reformatories hold young felons, generally those in the 18-21 year age group. In the past, prisons were sometimes called «penitentiaries» or «penal institutions». Today the popular label is «correctional facility». These name changes reflect modifications in correctional philosophy from punishment to rehabilitation or correction.

Unfortunately, perhaps, many prisons simply changed the sign on the gates, leaving the inside conditions the same as before.

In years past, it was common for a sentencing judge to specify the prison or reformatory where an offender was to serve his or her sentence. Today judges generally do not name a particular prison but instead transfer custody of the offender to a department of correctional services. The offender is then transported to a reception center, a receiving prison, where he or she is classified and assigned to an available prison. Such institutions are quite common now. The convicted offender is housed there for a period of weeks while undergoing preincarceration screening, that is, observation and medical and psychological testing and evaluation, then presumably he or she is placed in the correctional institution within the state which has the proper programs to meet his or her sets of needs.

Notes

1. virtually – фактично
2. to be filled to overcapacity – бути переповненим
3. jail (gaol) – тюрма (короткострокового ув'язнення або слідча); prison – тюрма (довгострокового ув'язнення)
4. maximum-security prison – тюрма з максимальною ізоляцією ув'язнених
5. penitentiary – пенітенціарій, тюрма (місце каяття)
6. reformatory – реформаторій (тип виправної установи)
7. reception center – тюремний центр для ув'язнених, які щойно поступили
8. preincarceration – попереднє тюремне ув'язнення
9. observation – перебування під наглядом
10. leisure-time – дозвілля
11. recreation – відпочинок, розвага
12. riot – безладдя, бунт

Exercises

1) Fill in the blanks by words from the text.

1. Today almost all ... in the United States are filled to ...
2. Life in ... is different from life in ...
3. Jails are local institutions for short-time ...
4. Many people in ... are awaiting ... or ...
5. ... have the range of ... programs

6. Constant ... in a ... is the normal condition in jails
7. A tough ... is maintained in ... to prevent riots, killings and escapes
8. Two types of ... were developed in the United States
9. of prisoners is known as the Pennsylvania Prison System
10. The Auburn Prison is the institution where inmates were held in ... at ... but released in the ... to work together
11. In the 1870s a ... for young adult ... was established at Elmira, New York

2) Match the words from the left and the right columns according to the meaning:

adult	life
local	program
name	training
short-term	system
normal	institution
vocational	conditions
complex	discipline
rehabilitation	case
juvenile	confinement
prison	court
court	prison
supreme	felons
maximum-security	reforms
solitary	delinquent
correctional	changes
major	

місцева установа; короткострокове ув'язнення; реабілітаційна програма; нормальні умови; професійна підготовка; складна система; дисципліна у тюрмі; тюремне життя; судова справа; Верховний Суд; тюрма з максимальною ізоляцією ув'язнених; одиночне ув'язнення; виправна установа; головні реформи; дорослі фелони; неповнолітній злочинець; зміни у назві.

3) Match the following verb phrases with their Ukrainian equivalents:

- | | |
|---------------------------------|----------------------------|
| 1. to be filled to overcapacity | 1. очікувати суд |
| 2. to predict a decline | 2. забезпечувати освіту |
| 3. to await trial | 3. підтримувати дисципліну |

- | | |
|------------------------------------|---|
| 4. to provide education | 4. утримувати в одиночному ув'язненні |
| 5. to maintain discipline | 5. бути переповненим |
| 6. to prevent escapes | 6. залишати у камері |
| 7. to await sentencing | 7. прогнозувати падіння (зниження) |
| 8. to protect inmate rights | 8. очікувати винесення вироку |
| 9. to hold in solitary confinement | 9. працювати разом |
| 10. to provide vocational training | 10. рухатися мовчки |
| 11. to reflect on the crime | 11. запобігати втечі |
| 12. to work together | 12. захищати права ув'язнених |
| 13. to prevent killings | 13. забезпечувати професійну підготовку |
| 14. to be isolated from | 14. відвідувати тюрми |
| 15. to remain in a cell | 15. доводити до божевілля |
| 16. to move in silence | 16. замислюватися над злочином |
| 17. to visit prisons | 17. запобігати вбивству |
| 18. to drive smb. Insane | 18. бути ізольованим від |

4) Answer the following questions:

- Where do prisons exist?
- Is life in prison different from life in jails?
- What are many people awaiting in jails?
- Do jails have the range of rehabilitation programs found in prisons?
- What do prisons provide?
- What is a tough discipline in prisons needed for?
- The world of prison inmates is not pretty, is it?
- How many types of prisons were developed in the United States?
- What are major characteristics of the Pennsylvania Prison System?
- What is the Auburn Prison System characterized by?
- When and where was a reformatory for young adult felons established?
- What is a reception center?

5) Complete the following sentences by translating the words and expressions in brackets:

- Jails are (місцеві установи) designed for (коротрочового ув'язнення).
- (Постійне ув'язнення) in a cell is the normal condition in jails.
- Prisons provide (відпочинок, освіту, професійну підготовку та релігійні послуги).
- Prison discipline is necessary to prevent (бунти, вбивства, втечі та контрабанду).
- Issues such as (переповнення тюрем) regularly come before the Supreme Court.
- (Два типи тюрем) were developed in the United States.
- According to the Pennsylvania Prison System (ув'язнені) are held in (самотньому ув'язненні).
- Inmates are expected to (залишатися у камерах, читати Біблію, замислюватися над злочином та каятися).
- As to the Auburn Prison System prison inmates are held in cells (вночі) but released (у денний час) to work together.
- Both systems imposed (повне мовчання) on prisoners.

6) Translate the following words and word combinations:

federal jurisdiction; to predict a decline; trial; sentencing; sets on television or scenes in the movies; heterogeneous population; leading court cases; the end of the line in the critical justice process; human beings; segregate prison; congregate prison; the way to salvation; the way to repentance and reform; in contrast to; lockstep; a shuffle; scholars, politicians and reformers; to be very costly; in a spirit of progressive reform; to accept the practice; a place of incarceration; young felons; penal institution.

7) Using the words in the brackets ask questions to get the following answers:

- Jails are local institutions designed for short-term confinement. (For what)
- A tough prison discipline is maintained to prevent riots, escapes and killings. (For what purpose)
- Two types of prisons were developed in the United States – the Pennsylvania Prison System and the Auburn prison System. (What types)

4. Inmates are held in their cells isolated from the outside world. (Where)
5. The famous Declaration of Principles called for major reforms. (For what)
6. In the 1870s a reformatory for young adult felons was established at Elmira, New York. (Where, When)
7. Today judges transfer custody of the offenders to a department of correctional services. (What, Who)
8. The convicted offender is housed in a reception center for a period of weeks while undergoing preincarceration screening. (Where)

Unit 40

Probation and Parole

The penal system in the US was inherited from the English with the establishment of prisons and workhouses.

Probation is the name of official correctional service and denotes the primary function of the system – investigation of offenders prior to sentence in order that the court may have detailed information. The definition of probation includes its function as a treatment program in which final action in an adjudicated offender's case is suspended, the offender remains at liberty, subject to conditions imposed by a court under the supervision and guidance of a probation worker.

The word «probation» is Latin in origin, its meaning being a period of proving or trial. John Augustus, known as the father of probation, became interested in reforming individuals in 1841.

Probation today is the most practical method of treating a large number of selected offenders. Placing a person on probation developed from the power of the court to suspend the sentence of a convicted person. It became a device that the court used when it was reluctant because it felt that the person could still function in the community although under the supervision of the court. The person who performed the supervision became known as the probation officer.

In the years that the federal probation system has been in existence, it has greatly expanded the number of probation officers and of persons placed on probation. A judge suspends a sentence on special conditions. If the offender fails to comply with the conditions, his probation is revoked and he can be sentenced to prison or jail to serve the remainder of the suspended sentence.

The question of whether an individual is eligible for probation usually lies with the court; however in some instances the court may face statutory limitations in selecting cases for probation. Some serious offenses such as violent crimes, crimes against morals or crimes involving the use of deadly weapons, may be specified by law that guilty persons are not eligible for probation.

The next step in correctional system came in connection with parole, the treatment program in which an offender after serving part of a term in correctional institution, is conditionally released under supervision of a parole officer.

The word «parole» is derived from the French word meaning «promise, word of honor». Like probation, parole is a treatment program in the interests of society and the individual. The difference is that the parolee has served part of his sentence in a correctional institution. His release is conditional upon satisfactory behavior. Today's system of parole has become much more complex, organized and efficient.

Notes

1. penal system – каральна система
2. to be inherited from – бути успадкованим
3. probation – умовне засудження
4. probation officer – інспектор із справ умовного засудження
5. treatment – некаральний вплив
6. to suspend a sentence – призупинити виконання вироку
7. to be reluctant – бути необхідним
8. to fail to comply with the conditions – не виконати умови
9. to be eligible – мати право (підлягати)
10. parole – умовно-дострокове звільнення під «чесне слово»
11. parole officer – інспектор із справ умовно-дострокового звільнення

Exercises

1) Fill in the blanks by words from the text:

1. Probation is the name of official
2. The word «probation» is ... in origin.
3. John Augustus, ... of probation became interested in in 1841.
4. The court has the power to of a convicted person.
5. The person placed on ... can still function in the ... under the ... of the probation officers.
6. The person who performs the ... is called the
7. If ... fails to comply with the conditions, his ... is revoked.
8. The word «parole» means
9. The release of the ... is conditioned upon

2) Match the following noun phrases with their Ukrainian equivalents:

- | | |
|-------------------------------|---------------------|
| 1. penal system | 1. тяжкі злочини |
| 2. correctional service | 2. нагляд суду |
| 3. investigation of offenders | 3. практичний метод |

- | | |
|------------------------------|--|
| 4. detailed information | 4. інспектор зі справ умовно-дострокового звільнення |
| 5. treatment program | 5. спеціальні умови |
| 6. adjudicated offender | 6. винна особа |
| 7. father of probation | 7. каральна система |
| 8. practical method | 8. детальна інформація |
| 9. supervision of the court | 9. виправна служба |
| 10. probation officer | 10. смертельна зброя |
| 11. parole officer | 11. задовільна поведінка |
| 12. suspended sentence | 12. виправна установа |
| 13. special conditions | 13. засуджений злочинець |
| 14. serious offenses | 14. призупинений вирок |
| 15. deadly weapon | 15. програма некарального впливу |
| 16. guilty person | 16. вивчення особи злочинця |
| 17. correctional institution | 17. батько пробації |
| 18. satisfactory behavior | 18. інспектор із справ умовного засудження |

3) Match the following verb phrases with their Ukrainian equivalents:

- | | |
|----------------------------------|---|
| 1. to be inherited | 1. розширювати кількість |
| 2. to suspend the sentence | 2. скасовувати пробацію |
| 3. to impose conditions | 3. відбувати покарання |
| 4. to become interested in | 4. призупинити виконання вироку |
| 5. to perform the supervision | 5. бути успадкованим |
| 6. to expand the number | 6. мати право на |
| 7. to comply with the conditions | 7. зацікавитися |
| 8. to revoke probation | 8. бути умовно звільненим |
| 9. to serve the sentence | 9. виконувати умови |
| 10. to be eligible for | 10. бути обумовленим |
| 11. to select cases | 11. зіткнутися із законними обмеженнями |

- | | |
|-----------------------------------|---|
| 12. to face statutory limitations | 12. здійснювати нагляд |
| 13. to serve part of the sentence | 13. бути засудженим до тюремного ув'язнення |
| 14. to be conditionally released | 14. стати ефективним |
| 15. to be conditioned upon | 15. залишатися на волі |
| 16. to become efficient | 16. відбути частину покарання |
| 17. to be sentenced to prison | 17. відбирати справи |
| 18. to remain at liberty | 18. встановлювати умови |

4) Answer the following questions:

1. What does the word «probation» mean?
2. What does the definition of probation include?
3. Who was the father of probation?
4. Who performs the supervision of the person placed on probation?
5. When is the probation of the offender revoked?
6. What organ decides the question of whether an individual is eligible for probation?
7. Are there any statutory limitations in selecting cases for probation?
8. What does the word «parole» mean?
9. What is the difference between probation and parole?

5) Translate the following words and word combinations:

penal system; official correctional service; primary function of the system; treatment program; supervision and guidance of a probation officer; to revoke probation; to be sentenced to prison; the remainder of the suspended sentence; the power of the court; convicted persons; to be reluctant; to function in the community; to be eligible for probation; serious offenses; violent crimes; crimes against morals; crimes involving the use of deadly weapons; to be conditionally released; promise; word of honor; parole; parolee; parole officer; satisfactory behavior; to serve part of the sentence.

6) Find in the text the English equivalents for the phrases below:

тяжкий злочин; умовне засудження; інспектор із справ умовно засуджених; умовно-дострокове звільнення; особа, яка

підлягає умовно-достроковому звільненню; смертельна зброя; не виконати умови; бути засудженим до тюремного ув'язнення; практичний метод впливу; повноваження суду; каральна система; засуджений злочинець; відбути частину покарання; залишатися на волі; призупинити виконання вироку; програма некарального впливу; скасовувати пробацію; задовільна поведінка; складна система.

7) Complete the following sentences by translating the words and expressions in brackets:

1. (Каральна система) in the US was inherited from the English with the establishment of (тюрем та робітних домів).
2. The offender placed on probation remains (на волі) under (наглядом) of (інспектора із справ умовно-засуджених).
3. (Батьком пробації) was John Augustus who was interested in (реформуванні осіб).
4. Placing a person on probation developed from (повноважень суду) to (призупиняти виконання вироку) of a convicted person.
5. (Суддя) suspends a sentence on (спеціальних умовах).
6. The person who has committed a serious offense (не має права на пробацію).
7. After serving part of a term in (виправній установі) the offender (умовно звільнюється) under the supervision of (інспектора із справ умовно-дострокового звільнення).
8. Like probation, parole is a treatment program (в інтересах суспільства та особи).
9. Today's system of parole has become much more (складною, організованою та ефективною).
10. The parolee has served part of his (вироку) in (виправній установі).

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