

A Novel Approach to Criminal Courts

A Novel Approach to Criminal Courts

David R. Lynch

PROFESSOR OF CRIMINAL JUSTICE
WEBER STATE UNIVERSITY



CAROLINA ACADEMIC PRESS

Durham, North Carolina

Copyright © 2019
David R. Lynch
All Rights Reserved

Names: Lynch, David R. (David Richard), author.
Title: A novel approach to criminal courts / by David R. Lynch.
Description: Durham, North Carolina : Carolina Academic Press, LLC, 2019. |
Includes bibliographical references and index.
Identifiers: LCCN 2019010381 | ISBN 9781531014551 (alk. paper)
Subjects: LCSH: Criminal procedure—United States. | Criminal justice,
Administration of—United States. | LCGFT: Textbooks.
Classification: LCC KF9619.85 .L96 2019 | DDC 345.73/05—dc23
LC record available at <https://lcn.loc.gov/2019010381>

eISBN: 978-1-5310-1456-8

Carolina Academic Press
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

To my wife, Kathleen, who made my academic career possible.

Contents

| | |
|---------|----|
| Preface | xi |
|---------|----|

UNIT 1: SETTING THE STAGE

| | |
|-------------------------------|----|
| 1 · Law Is a Jealous Mistress | 3 |
| 2 · “Attorney” Jack Day | 11 |

UNIT 2: JUVENILE COURT AND BEYOND

| | |
|--|----|
| 3 · Hello, Kiddie Court | 23 |
| 4 · Goodbye, Kiddie Court | 31 |
| 5 · The Preliminary Non-hearing, Hearing | 41 |

UNIT 3: LAWYER AND CLIENT

| | |
|---------------------------|----|
| 6 · Jack Enters the Stage | 51 |
| 7 · The Unlikely Villain | 59 |

UNIT 4: BAIL AND ARRAIGNMENT

| | |
|--------------------------|----|
| 8 · Freedom Held Hostage | 67 |
| 9 · Homeward Bound | 75 |
| 10 · Arraignment | 83 |

UNIT 5: THE PROSECUTOR AND PRE-TRIAL MATTERS

| | |
|------------------------------|-----|
| 11 · Kate Page, Justice-Doer | 93 |
| 12 · Suppression Hearing | 105 |
| 13 · Discovery | 113 |

UNIT 6: ATTEMPTING TO SETTLE

| | |
|------------------------|-----|
| 14 · Let's Make a Deal | 125 |
| 15 · Old Friends | 133 |
| 16 · Not So Fast | 141 |

UNIT 7: HEADING TOWARD TRIAL

| | |
|-------------------------------|-----|
| 17 · Bad News | 149 |
| 18 · Deal or No Deal? | 157 |
| 19 · The Courthouse Scheduler | 165 |

UNIT 8: JUDGE, LAWYER, JUROR

| | |
|-----------------------------|-----|
| 20 · The Trial Judge | 175 |
| 21 · An Interesting Affair | 185 |
| 22 · A Juror's Call to Duty | 193 |

UNIT 9: THE TRIAL GETS UNDERWAY

| | |
|--|-----|
| 23 · Jury Selection, Part I | 201 |
| 24 · Jury Selection, Part II | 209 |
| 25 · The State Makes Its Opening Statement | 219 |
| 26 · Defense Opening Statement | 225 |

UNIT 10: THE STATE LANDS ITS BLOWS

| | |
|--------------------------------|-----|
| 27 · Recess Misadventure | 235 |
| 28 · The State's Case (Part I) | 243 |

| | |
|----------------------------------|-----|
| 29 · The State's Case (Part II) | 255 |
| 30 · The State's Case (Part III) | 263 |

UNIT 11: THE DEFENSE HITS BACK

| | |
|--|-----|
| 31 · The Case for the Defense (Part I) | 277 |
| 32 · The Case for the Defense (Part II) | 287 |
| 33 · The Case for the Defense (Part III) | 295 |

UNIT 12: CROSSING THE FINISH LINE

| | |
|-------------------------------------|-----|
| 34 · The Defendant Briefly Absconds | 307 |
| 35 · Closing Argument: Defense | 315 |
| 36 · Closing Argument: Prosecution | 325 |

UNIT 13: JUDGMENT DAY

| | |
|-----------------------------------|-----|
| 37 · The Judge Instructs the Jury | 335 |
| 38 · The Jury Deliberates | 343 |
| 39 · They Have a Verdict! | 353 |

UNIT 14: DOWN BUT NOT OUT

| | |
|------------------------------------|-----|
| 40 · The Presentence Investigation | 365 |
| 41 · Sentencing | 375 |
| 42 · A Clever Idea | 385 |

UNIT 15: SALVATION

| | |
|------------------------------|-----|
| 43 · The Appeal | 395 |
| 44 · An Artful Deal | 405 |
| 45 · Liberty's New Champions | 411 |

| | |
|-------|-----|
| Index | 417 |
|-------|-----|

Preface

This “teaching novel” is meant for use in courses on the American criminal courts, criminal court process, and related subjects. Some might find a “textbook novel” such as this to be a somewhat unorthodox pedagogical tool, so a few words of explanation regarding the approach may be in order.

The book takes the reader on a journey through the American criminal courts by telling the fictional story of a burned-out former public defender turned high school math teacher, who very reluctantly agrees to represent one of his students charged with double vehicular homicide. The case starts in juvenile court but quickly winds up waived to adult court for ultimate jury trial there. The reader then vicariously travels through the entire adult criminal court process, beginning with a preliminary hearing, and continuing on through such steps as pretrial motions, plea bargaining, jury selection, the trial itself, sentencing, and appeal. As the tale unfolds, the reader learns the “ins and outs” of criminal court process: how these various steps are done in real life. Perhaps even more important, the reader experiences the inner society or the “behind the scenes” world of a courthouse. Hence, the heart and soul of defense attorneys, prosecutors, court schedulers, judges, witnesses, jurors, presentence investigators, and others are portrayed in the book’s pages.

The book consists of 45 (not too lengthy) chapters. Since most semesters in American universities consist of 15 weeks, these 45 chapters are combined in such a way as to form 15 units, composed of two to four related chapters apiece.

To further help with the pedagogy, all 45 chapters contain bolded key terms, representing real world concepts of importance embedded

within the fictional story. Furthermore, each of the 45 chapters ends with a dozen or so questions for classroom discussion.

I have attempted to “teach” students about the courthouse in a way that I wished I had been taught prior to accepting my first job after law school as a public defender. It is my hope that the book will be both educational and stylistically pleasing.

David R. Lynch
January 14, 2019