

1. Trace the progress of a typical felony case through the criminal justice system in California. Begin with the arrest of the defendant and conclude your discussion with the sentencing. Briefly describe what occurs at each stage of the process. Which stages do you believe are most important to a fair criminal justice system? Why?

Peter Zhang, a 21 years old foot soldier of a Chinese gang called Tiger Balm, got arrested when attempting to transport ten pounds of ketamine, laced with several grams of methamphetamine from the upstate New York to San Francisco. It is the first time that he is asked to put in work for his brotherhood since he arrived in New York Chinatown a month before the arrest. To Peter's surprise, his American dream shattered when he was taken into custody when trying to smoke a marijuana cigarette and taking a nap at one of the plazas in his car in the state of California. The Federal Bureau of Investigation has been keeping their eyes on Tiger Balm since the late 20<sup>th</sup> century. And Tiger Balm has also been operating in both California and the East Coast; their utilization of air and ground transportation of illegal substances often leaves the FBI confused and unable to make a large-scale and evidence-based arrest on the gang member and leader. Upon the arrest, patrol officer Lee stated Zhang's Miranda rights, and with the help of Sheriff Aubin, they were able to get a hold of Peter and drag him to the police vehicle cuffed, then they transported Zhang to their base in San Francisco. Fresh off the boat, Zhang kept asking for Marlboro and repeating: "fifth, I got depression and glaucoma." Nothing else was spoken by Zhang when Detective Micah asked him questions regarding his name and other demographic information. A mysterious call to Zhang's cell phone from an unauthenticated number broke the silence, but since the call only ringed three times, detective Micah was unable to pinpoint a geographic location. Zhang finally showed an initial expression, which was

a sigh, as if something was taken off his back.

After the booking, Zhang made his initial appearance before the magistrate, but he seemed to be unable to speak and understand English. The translation service was provided to Zhang. At the same time, the police department conducted an official examination on the drug found in the trunk of Zhang's vehicle. Unavoidably, both Schedule II and Schedule III substances were found in the drug. The responsible police department, made up of White, Black, and Asian had arguments on if Zhang was driving under the influence and if he is a gang affiliate. In the preliminary hearing, the magistrate and officer Lee and Aubin presented the document of evidence to the magistrate, charging Zhang with the first offense of drug trafficking. Plus, the police department got in contact with the Asian Gang Task Force for the consultant that if the gang enhancement charge can be made on Zhang. Thankfully, no charge on DUI was given to Zhang in the preliminary hearing, and Zhang's eagle tattoo could not be made of reference to Tiger Balm. Hence, the case is forwarded to the grand jury with a bail of 50,000 dollars.

Skipping the information process, Zhang was indicted of drug trafficking. Before the grand jury, Zhang saw faces resembling his peers and family that made him cry and frightened at the same time. The only thing he knew was to shut his mouth or plead guilty to the case because otherwise, he would be stabbed in the penitentiary or on the streets, and his family would face unimaginable consequences. During the arraignment, Zhang pleaded guilty to the charge of drug trafficking. The translator told him that he would face a minimum of 10 years and a maximum of 30 years in jail.

No venue of the trial was changed. After being taken back to the detention center, Zhang was peppered with questions from detective Micah and Asian Gang Task Force agency. Zhang was able to circumvent the questions by pretending to not understand English. Zhang's eyes were watery the whole time but it is the suggestion that his charge could potentially be reduced that made him seem to be faltering on the decision.

No bail was made, and no call was received when Zhang was being detained in the facility. Zhang killed time by looking at his tattoo and doing body-weight exercises in the cell. A month passed, Zhang finally made it to the trial. He was convicted of both drug trafficking and gang affiliation, adding ten years on top of his ten years drug charge. Shortly after, in the following month, Zhang was transferred to one of the California State Prison. Zhang did not choose to go into protective custody. Appearing on the level 3 yard, Zhang was greeted by a right cross punch from Tiger Balm Sergeant Luo. Together, they continued their fitness regime on the yard and life in a racially segregated penitentiary. Zhang raised his hand on every mission of killing pedophiles, rapists, and rival gang members, which later brought him several counts of charges of assault with deadly weapons and attempted murder. Coming in with 20 years in jail, Zhang never made it out. He finally committed suicide after being intoxicated on speed and heroin for fifteen days straight. Sleep deprivation, depression, and paranoia took Zhang's honor; Zhang's family never mentioned his name thereafter as they continued to engage in their laundry and restaurant business.

As for which stage is the most important for the fairness of the criminal justice system, it depends on how law enforcement agencies, prosecuting attorneys, and courts look at the case based on the due process model or the crime control model. Freedom is not free, and absolute fairness has never been achieved throughout human history. While the due process model can insofar dictate the sentencing process, it is important to focus on the elements in the crime control model because oftentimes, the perpetrator of drug-related crime is mentally and physically dependent on hard drugs. More importantly, drug-related crimes can possibly serve as an aid for law enforcement agencies to dig out gangbangers or even organized crime syndicates to prevent further criminal activities from happening. Drug trafficking and dealing go hand in hand with illegal gambling, prostitution, loan-sharking, kidnapping, robbery, and murder. Let us just say that booking is the most important stage because police can identify a person who may be connected to a gang or mob. Going from there, the police department, DEA, and FBI are able to put clues of profiling and previous cases together to decide whether or not this person should be released to prevent the currently ongoing investigation from blowing up. In other words, if the person is eventually incarcerated for drug trafficking, the gang that this person can potentially lead law enforcement to could sense the intensity of policing over drugs and make corresponding adjustments and adaptations to avoid making the same or similar mistake causing the acquittal and incarceration of their man-power. Plus, booking in California can affect the sentencing process in that gang affiliation automatically adds a certain number of years of sentence to the perpetrator, which can impede the person

from returning to society and eventually becoming a functioning individual. The question arises as to how we can perfect the current criminal justice system that is polarized in the rehabilitation or penalty continuum.

To give a less ambiguous answer to the question, every stage has its own role in dictating the fairness of the whole process from arrest to sentencing and, ultimately, the fairness of the whole criminal justice system. The arrest dictates how fair the police action manifests in terms of racial and political constructs. Booking, especially in California, dictates how fair the arrestee is treated. Initial appearance decides if any further legal measures should be carried out. Besides, during this process, the defendant can potentially take corresponding actions, including hiring a lawyer and notifying the crew for disposal or transfer of the cargo during this phase. In some cases, the magistrate is likely to consider his or her own safety and career when choosing the side, and so forth.

In this particular case, sentencing is the most important phase in deciding the fairness of the criminal justice system. First of all, Zhang drove all the way from New York City to the verge of San Francisco, which already constituted him as cross-state drug trafficking felon. Besides, the cargo he was carrying yields more than 200,000 dollars market value in total, conservatively speaking, let alone the millenniums who can potentially become the victims of substance abuse and pose serious financial and legal threats to society at large. No matter on the federal or state level, Zhang has committed a felony. However, on the rehabilitation and penalty continuum, the sentencing process could either facilitate Zhang's anti-social personality, making him

impossible to return to society or remind Zhang that there is still a legally bright future ahead of him.

2. Summarize the law regarding search and seizure, as applied to a home and to a vehicle. Do the different requirements for a legal search achieve the goals of the Fourth Amendment to the constitution? Why or why not?

The seizure is to be taken place when a reasonable person does not view that he or she is free to leave. The term reasonable refers to the innocence of a person as the person is completely aware of whether or not he or she has committed a crime. Search, on the other hand, requires a warrant or reasonable doubt regarding the possibility of the presence of a crime as the prerequisites for any law enforcement agencies to step in the suspect's or innocent citizen's property to conduct the search. And the property can be a vehicle or a house. For example, if the law enforcement agency has the warrant to search a drug dealer's house, then the search and seizure become legal. If a police officer finds a driver's behavior to be strange and incoherent, the officer has the right to conduct an investigation on the person's background and maybe call for a backup and conduct a search on the vehicle in which the seizure of illegal substances and weapons can potentially happen. However, the dynamics of search and seizure are complicated because there are numerous cases that prove the incompetence and so-called reasonableness of search and seizure, both on the state and federal level. The

following part will include several cases mentioned in the textbook to explore the dynamics between the defendant, plaintiff, and the court in terms of seizure and search.

Every prosecution needs to prove beyond a reasonable doubt for a conviction, so does search and seizure, despite the fact that search and seizure take place before the arrest. The Fourth Amendment protects people from receiving unreasonable seizure and search and suffering from the detriments brought by illegal search and seizure, but the implementation and manifestation of the Fourth Amendment is often left vague because there are many factors that affect the reasonableness of search and seizure. According to Reid (2009), the Illinois v. Lidster case insofar shows the vagueness of the Fourth Amendment. Because of a hit-and-run incident that occurred a week earlier, the police stopped all the passing vehicles at an intersection where every driver is asked about the information or witnesses to the incident. One of the drivers, when trying to stop, almost hit one of the officers at the scene, so a sobriety test was conducted on the driver, and the driver was convicted of DUI. However, when the case was forwarded to the Illinois Supreme Court, and the judge reversed the conviction because the judge deemed the roadblock to be unconstitutional.

Another noteworthy case is the Illinois v. Caballes case. The defendant in the case exceeded the speed limit by six miles, and he was stopped by the police. When the police officer was writing the ticket, another officer with K-9 arrived and walked around the suspect's vehicle, and the dog was able to locate the marijuana in the suspect's trunk. When the case was taken to court, the defendant was convicted, but a

dissonance occurred between two judges for which they argued that whether or not every traffic stop could be furthered with the use of drug-sniffing dogs at the cost of the law-abiding population. To put it into perspective, when law-abiding citizens deliberately or unintentionally exceed the speed limit by a small margin, they could be heading for something urgent, such as the crying baby staying at home or relatives dying in the hospital. Regardless of what the reason is behind the speeding, the perpetrator's time is unavoidably wasted when the officer stops him. Thus, it is important for officers to practice discretion when making decisions that could result in a waste of time for both parties. Additionally, drug dealers who transport drugs across states usually have two or more vehicles running with a certain distance in between each other because doing so allows them to draw attention from the police force and pass the stoppage under the radar. When the leading vehicle is stopped by the police, a certain number of the police force is deployed. Hence, the second and third vehicles carrying substantially more drugs can possibly pass the police force under the radar. Not only can the signal be sent by the first vehicle getting busted, the GPS of the leading vehicle can also enable the second or the third drug-carrying vehicle to sense the upcoming danger posed by the police force in the region.

The different requirements, including behavioral manifestation, the scent of illegal substances, and the presence of gang tattoos, basically achieve the goal of the Fourth Amendment to the constitution, but of course, the false and wrong convictions again prove otherwise. All in all, it is important for law enforcement agencies to make decisions based on deliberate discretion.



## Reference

Reid, S. T. (2009). *Crime and criminology*. New York: Oxford University Press. 283-295.