

**A.P. GOVERNMENT**

Unit 3  
The Judiciary, Civil Liberties and Civil Rights

**“Judicial Branch”**

Mr. Ahlberg

**Notes #1**



**A.P. GOVERNMENT**

**American Legal Principles**

- Equal Justice Under the Law
  - Everyone who appears in a court of law is equal to everyone else

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**American Legal Principles**

- Due Process
  - Substantive Due Process
    - Deals with the question of “fairness” of laws
    - This is usually determined by the Bill of Rights or the 14<sup>th</sup> Amendment
    - Example:
      - » Connecticut passes a law outlawing a doctors ability to distribute birth control. (Griswold v. Connecticut)
  - Procedural Due Process
    - Deals with the question of whether laws are applied fairly
    - It is the heart of our legal system
    - Example:
      - » Teacher is suspended without pay prior to a hearing being held.

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**American Legal Principles**

- Adversarial System
  - In the United States we have two sides debate the burden of guilt or liability in a situation
  - Critics say it creates too many conflicts
- Presumption of Innocence
  - In the U.S., people are innocent until proven guilty
  - Burden of proof is on the prosecutor
  - Must acquit if there is any “reasonable doubt”
- Blackstone Ratio (William Blackstone)
  - Based on the quote “Better that ten guilty persons escape justice than one innocent suffer”

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**Criminal Law**

Serious crimes that hurt individuals or society

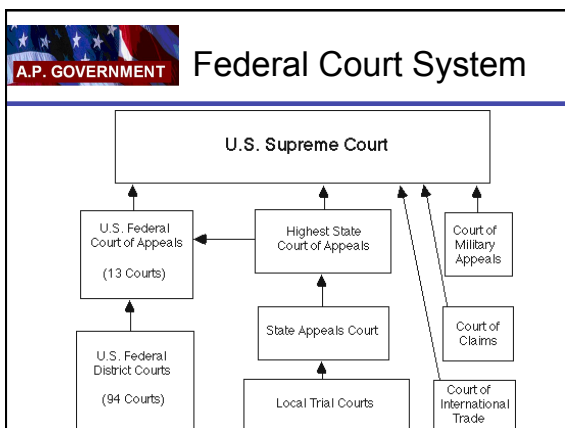
- An arrested person must be indicted
- Grand Jury
  - 12 to 24 jurors examine the evidence
  - Decide if there should be a trial or not
- Petit Jury
  - 12 citizens who deliver a unanimous verdict
  - A split jury (“hung”) results in a mistrial

**A.P. GOVERNMENT** **Plea Bargaining**

- Accused makes a deal for a lesser punishment in exchange for a guilty plea

**A.P. GOVERNMENT** **Civil Law**

- Deals with disputes over contracts, property, child custody, or issues of liability
  - Plaintiff files the suit against the defendant
  - Juries may have 6 or 12
- Settlement
  - Parties negotiate to prevent a trial
- Preponderance of Evidence
  - Proving that the majority of evidence favors one side



**A.P. GOVERNMENT** **Federal Court System**

- U.S. DISTRICT COURTS**
  - 94 US Dist. (Hear 342,000 cases/yr)
  - Created by Congress
  - Original Jurisdiction
  - Trial by jury (only federal court with jury)
- U.S. COURT of APPEALS (CIRCUIT)**
  - 12 circuits + 1 in D.C. (Hear 61,000 cases/yr)
  - Hold hearings, not trials
    - No Juries, no lawyers, no new evidence
    - Panel of 3 judges, sometimes more
  - Appellate Jurisdiction
    - No cases start here, review district court decisions

**A.P. GOVERNMENT** **Federal Court System**


- U.S. Supreme Court (only 1 in D.C.)**
  - Hear an average of 75-85 cases a year
  - 9 Justices (1 Chief and 8 Associate)
  - Hears cases on appeal from Circuit Court of Appeals
  - Has Original Jurisdiction in cases...
    - U.S. is one of the parties
    - Disputes between states and citizens
    - Maritime laws
  - Debate the Law and its application, not the facts of the case

**A.P. GOVERNMENT** **Getting to the Supreme Court**

- Rule of Four**
  - 4 of the 9 justices must agree to hear a case
  - This procedure is **NOT** specified in the Constitution
- Stare decisis**
  - Means "let the decision stand"
  - 98% of cases appealed to the Supreme Court are not heard (Justices agree with lower courts ruling)
- Writ of Certiorari**
  - Legal document requesting lower court transcripts for the purpose of review

**A.P. GOVERNMENT** **How the Supreme Court Hears Cases**

- Both sides submit BRIEFS
  - Summaries of the legal arguments and case studies
- Amicus curiae briefs (“friends of the Court”)
  - Influential arguments submitted by interest groups to sway justice’s opinions
- Oral Arguments
  - Lawyers are given 30 minutes to speak
  - Justices interrupt often and ask questions
  - No Cameras are allowed in the Court




Bill Clinton

**A.P. GOVERNMENT** **Oral Arguments Made Interesting...**

**A.P. GOVERNMENT** **Solicitor General**

- Member of the Justice Department who argues on behalf of the Federal government



U.S. Solicitor General: David Verrilli

**A.P. GOVERNMENT** **Opinions of the Court**

- Conference—Justices meet after hearings
  - They discuss the case before determining opinions
- Majority Opinion
  - This will be the official decision of the court
  - **Unanimous Opinion** occurs when all Justices agree. These carry the most power in future cases.
- Concurring Opinion
  - Justices vote with majority but for other reasons
- Dissenting Opinion
  - Justices in the minority who question the reasoning
  - Have no significance, but can be used in later cases

**A.P. GOVERNMENT** **Checks and Balances**

- Appointment of Judges
  - President will nominate a justice
  - Senate has to approve this appointment
  - **Federal Judges serve for “good behavior” (life)**
  - Congress can impeach justices
  - Congress can alter the structure of the court
    - # of courts
    - # of Justices
- Senatorial Courtesy
  - Presidents may allow Senators to pick the nominees for District and Circuit courts in exchange for smooth confirmations

**A.P. GOVERNMENT** **Judicial Review**

- Power of the Supreme Court to declare laws or actions unconstitutional
  - **Marbury v. Madison (1803)**
    - Created the power of Judicial Review
  - **Fletcher v. Peck (1810)**
    - Gave Supreme Court Judicial Review over the states
- Congress and the States can amend the Constitution if the Supreme Court finds a law unconstitutional
  - 16<sup>th</sup> Amendment