

Name: _____ Date: _____ Hour: _____

REVIEW GUIDE FOR JUDICIAL BRANCH

Use your own sheet of paper to answer these questions

1. Why do we have laws?
2. Who makes the laws? Enforces the laws? Interprets the laws?
3. When are laws created?
4. What ~~are two~~ ^{is one} problems with laws?
5. What are 3 functions of the courts?
6. What is criminal law? What is civil law? Know the differences between the two.
7. What is a tort? List and know the 8 from your reading packet.
8. What are damages?
9. What is the difference between a felony and a misdemeanor?
10. How do morals affect the creation of laws?
11. What are the two levels of the court system?
12. What is jurisdiction and what are the two different types?
13. What kind of cases do federal courts have exclusive jurisdiction over?
14. What are the three levels of the federal court system?
15. What does it mean when the Supreme Court has original and appellate jurisdiction?
16. What does it mean to appeal your case?
17. How big is the Supreme Court?
18. What is judicial review and why is it important to our government?
19. What is due process? Know the guaranteed rights in amendments 4–8.
20. What was Marbury v. Madison?
21. How are Supreme Court justices picked?
22. How long to Supreme Court justices serve?

Article III

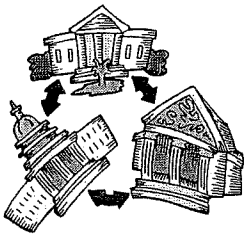


Judicial Branch - Basics



Why do we have laws?

1. Protection – Protect individuals and society
2. Maintain Order – Without laws chaos would be the norm
3. Promote the Common Good



What is the role of the three Branches when dealing with laws?

1. The Legislative Branch - creates the laws
 2. The Executive Branch - enforces the laws
 3. Judicial Branch - interprets the laws
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When are laws created?

- Laws are created to meet the needs of society as it evolves.



For Example: with the creation of the Internet we have created laws to monitor Internet activity.



What is the problem with laws?

- They are interpreted differently



For Example: A law states no person shall be able to carry a concealed weapon

How would you interpret this law? What might be a problem with the wording of this law?

Where are the conflicts resolved when it comes to the interpretation of laws?



- The Judicial Branch – The Courts

Three

~~Two~~ Main Functions of Courts

1. Resolving Conflicts
 - Resolve disputes between two parties
2. Give punishment to those who violate the law
3. Interpreting the law
 - Courts must determine what the law means
 - Courts often use and refer to Precedents – Actions or decisions that were used before in similar cases or situations.

Main Purpose of Bill of Rights: To protect individual rights

CRIMINAL LAW

LAWS

- Rules and regulations that are set forth in societies
- The purpose is so that everyone can work and live in a stable environment

CRIMES

- A legal wrong for which you can be prosecuted and possibly punished by the state
- Specifically a crime is considered an action against an entire society even if is performed against one person. **WHY?**
- Society will be unable to function in an orderly manner if these acts are allowed to take place.

CRIMINAL LAWS

- Part of the law system that forbid individuals from performing certain acts

- For these laws to be successful – the majority of people must believe that the system is fair and that everyone will be treated equally.
- Usually reflects the moral and ethical beliefs of a changing society.
- These moral and ethical beliefs are called the “law behind the law”
- An example, Murder – this act is morally wrong and most people would not do this, even if it were not illegal. So, moral law prevents this crime from happening (as well as criminal law).

TWO CATEGORIES OF CRIMES

- Felony – a serious crime such as murder or burglary; this usually carries a more severe sentence

- Misdemeanor – a less serious offense such as speeding or littering; these carry a lighter sentence such as fines or little prison time.
- Major difference between the two – "~~IN-RESENCE~~"^{IN-PRESENCE}.
To be arrested for a misdemeanor the offense must be committed in the presence of a law official. A felony offender may be arrested on evidence alone.

ELEMENTS OF A CRIME

- Before you are convicted of a crime two things must be proven *beyond a reasonable doubt*:
 - The external physical act or omission
 - A mental requirement known as intent or purpose
- Criminal intent with no criminal act is no crime.

CRIMINAL LAW

All governments and orderly societies need a set of rules that everyone understand and recognizes. These rules are called laws and are created so that everyone in the society can live and work in a stable environment.

Criminal laws are a part of this system and usually forbid individuals or groups of people from doing certain things. For example, murder is not acceptable in most societies and thus specific laws are passed forbidding this act and possibly setting specified penalties.

In order for a criminal justice system to operate successfully in a democracy, **the majority of the people within that society must have confidence that the system is fair and will be applied to everyone in the same manner.** It is through this system of laws that the basic principals and ideals of democracy are placed into action and the people know the government is there to protect their rights.

A **crime** is a legal wrong for which the offender is liable to be prosecuted, and if convicted by a court, punished by the state. Specifically, a crime is a wrong against society even though it is committed against a particular person. The reason it is considered a wrong against society is because the government has decided (through passage of law) that society cannot function in an orderly fashion if these acts are allowed to take place.

Criminal laws reflect the moral and ethical beliefs of the society and can change over the years. Murder, for example, is morally wrong and most people would not murder another human even if it were not forbidden by law. Murder, then, is not only forbidden by criminal law, it is also forbidden by moral law. This moral or ethical commitment to the law is referred to as the "law behind the law." What makes this idea important is that it forces people in society to conform by controlling their actions and deeds even when the police are not watching. In other words, we know what is acceptable in our society and what the laws are at any given time. If we break the law, we may get caught and must pay the price.

Crimes usually fall into two categories:

FELONIES: more serious crimes such as rape or burglary; carry a longer sentence

MISDEMEANORS: minor, although criminal, acts such as shoplifting or speeding; carry a lighter sentence (maybe no prison)

When attempting to convict an individual of a crime, there is one major distinction between a felony and a misdemeanor which is "IN-PRESENCE." To arrest an individual for a misdemeanor, the act must have been committed in the presence of a law official or a citizen will have to press charges. A felony suspect can be arrested entirely on evidence alone; in-presence is not required.

ELEMENTS OF A CRIME

Before a person may be convicted of a crime which requires proof of mental fault, the government must prove beyond a reasonable doubt:

- the external physical act or omission and

- a mental requirement known as **INTENT OR PURPOSE**

Since the development of common law and up until modern time, all **true crimes** consisted of these two essential elements.

A criminal intent without a criminal act is no crime. If a person possesses a certain criminal intent but does nothing to actually carry out the intent, he has not committed a crime. In some instances, an act without the required mental state (or guilty mind) is no crime. For instance, a student who picks up someone else's book or briefcase by mistake has done a physical act, but if there is no criminal state of mind which is necessary for the crime of theft, there has been no crime committed.

In some cases, the state was able to prove criminal intent or criminal state of mind from what the person said or did prior to the criminal act. In most cases, criminal intent and purpose must be inferred or presumed by the judge or jury from acts of the defendant prior to and during the commission of the criminal act.

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CIVIL LAW

- Our law assumes that individuals have rights and it seeks to protect these rights. Some of these rights include: personal security, safety, peace of mind, maintain a good reputation, health, privacy, own and enjoy property, and move freely from place to place.
- A violation of any of the above rights is not a crime but rather a TORT.
 - Tort – A civil wrong against a person or their property (civil law)
 - Crime – A wrong against the public at large (criminal law)
- If you commit a tort, the 'injured' has the right to sue for damages

- Damages – relief (usually money) granted by the courts.
- Punitive Damages – Suing to punish the person or group who violated your rights
- Three things necessary to prove in a Tort Case
 1. The defendant must owe a duty to the plaintiff
 2. The defendant must have violated that duty carelessly
 3. The plaintiff must have suffered injury or damage as a result of the violation

Examples of Torts

- Assault– an open threat or attempt to do physical harm to another

- 2 Characteristics of Assault

1. The assaulter must have the ability to carry out the threat

2. No touching of any kind can occur

- False Imprisonment- unlawfully holding a person against his/her will by use of force

- Negligence- Failure to use the same kind of care that a reasonable person would use under the same circumstances

- Slander- an evil and false statement about another that damages his/her reputation (must be by word of mouth)

- Libel- an injury of another's reputation through sight (can be written, printed, a cartoon or picture)

- Nuisance~ Annoys, injures or endangers people and violates the basic right of every person to health, safety, comfort and sense of decency. (Violates an individuals right to enjoy life and property)
 - 2 types of Nuisance
 1. Public Nuisance
 2. Private Nuisance

- Trespass~ an intrusion of another's property

- Contracts and Sales~ an agreement between two or more people