LAW CLASS  
How Courts Work

Courts and Legal Procedure

***What is the role and structure of courts?***

Law won't work without independent courts. That means courts that aren't under the rule of the political powers. An independent judge can assure that your case will be decided according to the law and the facts—not the likes or dislikes of politicians.

We need courts to interpret and apply the law when parties disagree. In that way, courts take law out of law books, and make it part of our lives. Courts apply the law to specific controversies brought before them. They resolve disputes between people, companies and parts of government.

Often, courts are called on to uphold limits on the government. They protect against abuses by all branches of government. They protect minorities of all types from the majority, and protect the rights of people who can't protect themselves. They also preserve the idea of equal treatment and fair play. The courts and the protections of the law are open to everybody.

In any state, there are two distinct court systems: **state courts** and **federal courts**. The vast majority of cases—over 95%—are handled by the state courts. The great bulk of legal business—traffic offenses, divorce, wills and estates, buying and selling property—is handled by the state courts, because all these areas are governed primarily by state laws.

Basically, the courts of this country are divided into three layers:

•trial courts, where cases start;

•appellate courts, where most appeals are first heard; and

•courts of last resort (usually called supreme courts), which hear further appeals and have final authority in the cases they hear.

***What is the Role of a judge?***

What does a judge do? Maybe it's best to start with what he or she doesn't do. Even though he or she works for the state, a judge is not a law enforcement officer. A judge is not a prosecutor. Judges don't arrest people or try to prove them guilty.

Judges are like umpires in baseball or referees in football or basketball. Their role is to see that the rules of court procedures are followed by both sides. Like the ump, they call 'em as they see 'em, according to the facts and law—without regard to which side is popular (no home field advantage), without regard to who is "favored," without regard for what the spectators want, and without regard to whether the judge agrees with the law.

***What is the role of a jury?***

A jury is a group of people created to decide on the facts in issue at a trial. The jury is composed of people who represent the diverse parts of the community.

The jury listens to the evidence during a trial, decides what facts the evidence has established, and draws inferences from those facts to form the basis for their decision. The jury decides whether a defendant is "guilty" or "not guilty" in criminal cases, and "liable" or "not liable" in civil cases.

When cases are tried before a jury, the judge still has a major role in determining which evidence may be considered by the jury. The jury is the fact-finder, but it is left to "find" facts only from the evidence which is legally admissible. The judge instructs the jury on the legal principles or rules that must be followed in weighing the facts. If the jury finds the accused guilty or liable, it is up to the judge to sentence the defendant.

***What is a Grand Jury?***

A grand jury is a group of people who determine whether the facts and accusations presented by the prosecutor justify an indictment and eventual trial of the accused. It is called a grand jury because of the relative large amount of jurors (traditionally 23) as compared with a trial jury.

Grand juries exist in the federal system and in almost all states. However, in only about half the states do grand juries have to be used to bring charges for felonies. In the other states, they may or may not be used to bring charges for felonies - prosecutors have option to use them or bring charges on their own.

Grand juries also have a second role in many states: investigating public corruption or undertaking such tasks as monitoring conditions in the jail.

***How are trial Juries different from grand juries?***

Trial juries are traditionally composed of 12 members whose verdict is required to be unanimous. Less than unanimous verdicts have been held constitutionally permissible in state, but not federal criminal proceedings.

***Why do we need judicial independence and how do we assure that we have it?***

Before the American Revolution, courts in the colonies were not well respected. Juries could be locked up until they reached the "right" decision. Judges were seen as puppets of the king. In fact, the Declaration of Independence criticized King George III for making "judges dependent upon his will alone for payment of their salaries."

This experience convinced the founders that Americans needed independent courts to be protected from unreasonable searches, rigged trials, and other examples of abuses of government power. To guarantee rights like freedom of speech and freedom of worship, and make the rule of law a reality, the founders knew that judges had to be servants of law and the Constitution, not political bosses, the media, or special interest groups. The Constitution protected judges from political and public pressure by

•specifying that they hold their office "during good behavior." This meant that their appointments are for life.

•specifying that their salaries cannot be diminished. This prevents Congress from retaliating against judges by cutting their pay.

•making the removal process difficult (only for, and conviction of, treason, bribery, or other high crimes)

Throughout American history, the independence of the courts has protected individual liberties. Examples include extending voting rights, ending segregation, protecting the average citizen from unnecessary government intrusion.

Emerging democracies look to our system of an independent judiciary as a model. They are all too familiar with the "telephone justice" of dictatorships, in which a judge adjourns court to wait for the call that tells him or her how to decide the case.

Judicial independence assures that cases will be decided on their merits. Decisions are based on what is right and just under the law, not what is popular at the moment.