

Month One: The Judicial Branch

Week 1: Our Judicial Branch and Types of Courts: Trial/Appellate, Civil/Criminal, State/Federal

Most students will be familiar with the three branches of American government: judicial, legislative, and executive. Here is a simple explanation for those who are unsure:

- * judicial—interprets the laws
- * legislative—makes the laws
- * executive—administers the government

This mock trial course will focus on the judicial branch. While there may be opportunities to discuss how the three branches of government function together, our time will be spent learning about our legal system. It is certainly intricate enough to allow for much exploration!

Much like a well-written novel, our legal system begins with a conflict. A crime has occurred, or someone has been injured due to another's alleged actions. A minor wants out of a contract, or a secular humanist doesn't want the local public school to include Christmas carols in the "Holiday Extravaganza."

Conflicts happen all the time. Relatively few make it to the courtroom. There must be someone willing to bring an action to court. It costs money, time, and effort to take a case to court, as well as a willing attorney in most cases.

When a case goes to trial, the law is interpreted based on a particular set of facts. Mock trials mimic actual cases in that changing just one fact in the case can sometimes create a diametrically opposed outcome! This can explain why certain cases seem to contradict each other. Sometimes they are simply the result of different juries or different states' laws; however, it could also be that there was a small, yet significant, difference in the facts in the two cases.

Now, let's say the legal system is involved. There are different types of courts in which a case can be tried. Jurisdiction is the authority that gives courts the right to hear and decide cases. A court must have proper jurisdiction in order to be able to listen to evidence or arguments and make a decision about the case.

Federal and State Courts

Each state has its own court system. Generally, they have the three same types—a trial court, a court of appeals, and the highest court of appeals. They may have different names, but they usually serve a similar function. The trial court is the first to hear a case.

The losing party may have the right to appeal that decision, and the losing party of *that* appeal may be able to appeal, as well.

In addition, some state court systems have special courts to hear cases in heavily populated areas (to ease the burden on the court system as a whole), small claims cases, traffic violations, and other specially designated types of cases. For example, in my state of Pennsylvania, there are particular courts for the metropolitan areas of Philadelphia and Pittsburgh. To see what the court system in your state looks like, conduct an online search with keywords such as your state's name and "court system" or "judicial system."

(Note: *Always* get a parent's permission before searching the Internet.)

The federal government has a court system, too. Article III of the U.S. Constitution created this court system and states that "[t]he judicial Power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." As you can see, this is the provision that creates the Supreme Court and lower federal courts.

Federal courts are not specific to one state and their jurisdiction may cover many states, or in the case of the Supreme Court, all states. Federal jurisdiction can be quite specific, and cover a particular type of case or particular parties (such as those from different states). Federal courts have jurisdiction in cases that deal with the constitutionality of a law, cases involving the laws and treaties of the U.S., cases that involve ambassadors, disputes between two or more states, and bankruptcy cases, among others. There are more than 90 U.S. judicial districts that provide trial courts, and twelve regional Circuit Courts, which hear appeals from the district courts located within their circuits.

Criminal/Civil Courts

Criminal courts hear cases where a law or statute has been violated and a crime has been committed. Our Constitution provides many important rights to a defendant in a criminal case, because the potential penalty in a criminal case can range from probation to life imprisonment or the death penalty. The defendant is accused of committing a crime, but the victim of the crime is not the other party in the trial. The state or federal government (or other locality) is the party bringing the case—the prosecution. Examples of cases that would be heard in a criminal court are burglary, murder, arson, etc.

The penalties in civil court do not put one's liberty at risk. The defendant risks liability—responsibility for a wrongful act. If the jury or judge decides the defendant is responsible for a wrong done to another person, the defendant may have to compensate the person who suffered the wrong. In a civil case, the person who was wronged is the other party in the court case and is called the plaintiff. Examples of civil cases are slander, breach of contract, personal injury, medical malpractice, etc.

Trial/Appellate Courts

Most cases start in a trial court. This is a court in which the judge and jury hear evidence presented by both parties, and they are the first to decide the outcome of the case.

The appellate court decides appeals of decisions by another court. Of course, the losing party in the trial case is the one who appeals the decision. However, there must be a reason to appeal other than not agreeing with the outcome. (If it were that easy, who wouldn't appeal? What an effect that would have on an already-crowded court docket!) The party who appeals must be able to show the trial judge was not impartial, that evidence that should not have been shown to the jury was shown, or that they did not receive a fair trial in some way. Another basis for an appeal is that some evidence has been discovered since the trial that may have changed the outcome of the trial if it had been available to the jury at the time of the trial—and that it was through no fault of that party that the evidence was not available at trial.

There are important differences between a trial and an appeal, and they will impact your mock trial. First, evidence may only be presented at trial (unless it is the newly discovered evidence mentioned above). The trial attorneys ask witnesses questions and introduce physical evidence. Appellate attorneys do not have witnesses or evidence to introduce. They argue a legal point before the justices.

Second, a jury is usually part of the trial process, unless it is a bench trial and a judge decides the outcome of the case. In the appellate court, there are justices who hear the legal arguments and decide the outcome of the appeal. There will almost always be an odd number of justices, which allows for a majority opinion. The United States Supreme Court is the highest court and has nine justices. It is able to decide which cases it wishes to hear and decide. For each case heard, the Court has before it a record of prior proceedings and printed briefs containing the arguments of each side. Each week the Justices evaluate more than 130 petitions seeking review of judgments of states and federal courts to determine which cases will be granted review with oral arguments by attorneys.

The process of one court reviewing the decision of a lower court is called judicial review. But judicial review goes farther, and was first articulated in one of the most famous cases in American history. In fact, without this decision, there would probably be much less interest in the judicial branch of government. We'll study that case next week.

*Coming Next Week: **Marbury v. Madison***

Find Your Way to Court

Consider the following types of conflicts and draw a path to the court (or courts) where that case would be most likely to be heard:

Your neighbor ran over your prized roses and it will cost you \$335 to replace the flowers.

One motorist injures another from a neighboring state.

Carl robs a bank.

John wants to declare bankruptcy.

Sarah was convicted of larceny but believes the search of her house that turned up evidence was not constitutional.

The ABC Company seeks to have a ruling (requiring them to pay damages) set aside.

