

Chapter 24: Governing the States

Section 4
Lecture Notes

AMERICAN
GOVERNMENT

PEARSON

► Objectives

1. Identify and define the kinds of law applied in State courts.
2. Compare and contrast criminal law and civil law.
3. Describe the types and purposes of juries and juror selection.

▶ Key Terms

- **common law:** unwritten law created by the rulings of judges over a long period of time
- **precedent:** a guide to be followed in later, similar cases
- **criminal law:** the branch of law that identifies and defines crimes and their punishment
- **felony:** a serious criminal offense
- **misdemeanor:** a lesser criminal offense
- **civil law:** the branch of law that deals with disputes that are not criminal in nature

▶ Key Terms, cont.

- **tort:** a wrongful act involving injury to person, property or reputation
- **contract:** a legally binding agreement
- **jury:** a body of persons chosen to hear evidence and decide questions of fact in a court case
- **information:** a formal charge filed by a prosecutor
- **bench trial:** a court case heard only by a judge, without a jury present

▶ Introduction

- How do State and local courts apply different types of law?
 - State and local courts apply constitutional law, statutory law, administrative law, common law, and equity.
 - They also deal with criminal and civil cases.
 - Courts use grand and petit juries to decide matters of fact in cases.

▶ Types of Law

- **Constitutional law** is based on the U.S. Constitution, the State constitutions, and their interpretation by judges.
- **Statutory law** is made up of laws enacted by legislative bodies such as the U.S. Congress, State legislatures, the people, and local governments.
- **Administrative law** is made of rules, orders, and regulations issued by executive officers.

▶ Common Law and Equity

- **Common law** is unwritten, made by judges over time, and is based on general ideas of right and wrong.
 - State courts apply common law unless it conflicts with written law.
 - Each court decision sets a precedent that influences later common law.
- **Equity** is a type of unwritten law that tries to stop wrongful acts before they occur.

▶ Criminal Law

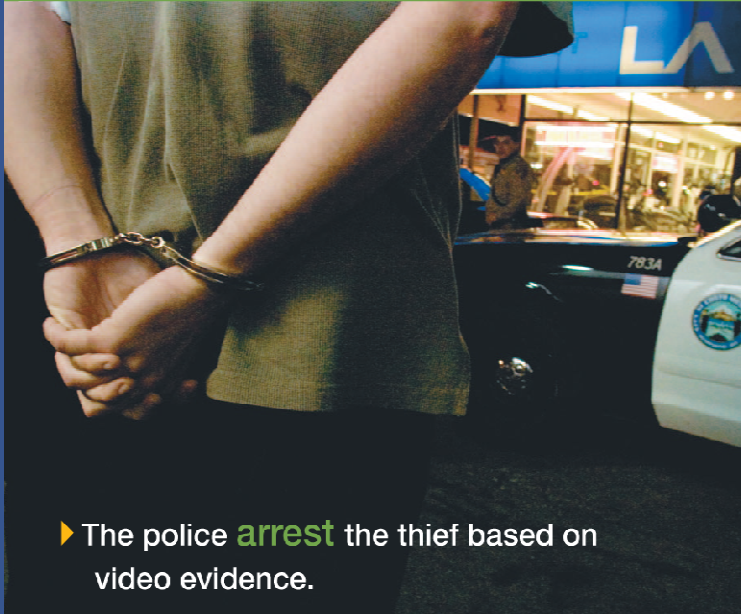
- Criminal law identifies and defines crimes and sets punishments for them.
 - **Crimes** are public wrongs serious enough to be banned by law.
 - **Felonies** are the most serious offenses with the most severe punishments. They include murder, robbery, assault, and kidnapping.
 - **Misdemeanors** are lesser offenses with lesser punishments. They include disorderly conduct or traffic violations.

▶ Civil Law

- Civil law deals with non-criminal disputes between private persons and between private persons and government.
 - **Tort law** deals with wrongful acts that injure one's person, property, or reputation, such as a car accident.
 - **Contract law** deals with legally binding agreements in which one party agrees to do something with or for another party.

Criminal and Civil Law

A thief takes Chris's wallet.



▶ The police **arrest** the thief based on video evidence.

- The thief is **held in jail** or is free on bail.

- **The state prosecutes** the accused thief, who is defended by a lawyer.

- If guilty, the criminal is **fined** or sentenced to **prison**.

The Dispute

Michael damages Chris's car.



▶ Chris **files a lawsuit** against Michael for the cost of repairs.

- Michael remains **free**.

- Both men **hire lawyers** to collect evidence and testimony in their behalfs.

- Punishments are limited to **money**, and the **award** will go to Chris.

The Law

Before the Case

In the Courts

Punishment and Resolution

Why don't civil cases lead to prison?

▶ Juries

- Checkpoint: What does a jury do?
 - In general, a jury hears evidence and decides questions of fact in a court case.
 - A **grand jury** decides if there is enough evidence against a person to justify a trial. It is used only in criminal cases.
 - A **petit jury** acts as the trial jury, and is used in both criminal and civil cases.

▶ Grand Jury

- Grand juries meet in secret.
 - Jury members hear testimony and evidence and may question witnesses.
 - A majority of jury members must agree before making any formal accusations, or indictments.
 - They then report their findings, including any indictments, to the court.
- Due to the cost of grand juries most States use “the information,” a formal charge filed by a prosecutor.

▶ Petit Jury

- A petit jury decides the disputed facts in a case.
- The number of jurors can vary.
 - The traditional number is 12, but it can be as few as 6 in some States.



▶ Petit Jury, cont.

- In more than a third of the States, a jury can reach a majority verdict rather than a unanimous one.
 - If a jury cannot reach a verdict, the case is either retried with a new jury or dropped.
- Minor criminal and civil cases are often heard at a bench trial, with no jury.
 - In some States serious crimes can receive a bench trial if the accused person allows it.

▶ Jury Selection

- Jury selection is the same in most States.
 - Potential jurors are chosen from a list of eligible citizens.
 - Each person receives a court order to appear before the court.
 - The court eliminates those with good reasons not to serve, such as age, illness, criminal records, or for whom jury service would mean great hardship.

▶ The Role of Juries

- Many States are moving away from jury trials.
 - Jury critics say the process takes too much time and money and that juries are often unreliable.
 - Jury supporters say that juries have a long tradition of providing fair trials and that they give citizens a chance to take part in the justice system.

▶ Review

- Now that you have learned about how State and local courts apply different types of law, go back and answer the Chapter Essential Question.
 - How much power should State government have?