

# Business and American Law Study Guide

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## Unit 1: Constitutional Rights

Key documents that formed the United States of America:

- *Declaration of Independence*
- *Articles of Confederation*
- *U.S. Constitution*
- *The Bill of Rights*

The **Declaration of Independence** was written by **Thomas Jefferson** and was formally adopted on July 4, 1776. The frustrated citizens of the British colonies believed that the **power should come from the people** which is displayed in a democratic society.

- Citizens should **have the ability to control what happens in the government.** In the Declaration of Independence, it states that **all men are created equal** and all citizens have an **unalienable right to life, liberty, and pursuit of happiness.**

**Articles of Confederation** was the document written after the American Revolution. It is considered the first Constitution. It was a **temporary solution** to some serious long-term problems. It was able to unite the original colonies under the federal government. The document eventually failed due to the freedom given to the states.

- There was **no balance between the federal and state government.** The central or **federal government was very weak** and could not conduct their business. They were unable to collect taxes from the people, and **the states had so much power** that they could conduct foreign policy. Each state had *their own monetary system* and it was chartered in 1781.

Due to the failure of the Articles of Confederation, the **U.S. Constitution had to be written.** The Constitution is the **most important document** in American history. It protects the rights of citizens and ensures that the powers of the states and the federal government are separated and protected.

- There are **reserved powers** which protect the power of the states. The states can **control elections**, management of their governments, and states can control education systems and institutions.
- **Delegated powers** are only for the federal government. Federal government can print money, maintain a postal system, and regulate commerce.
- **Concurrent powers** is the area where responsibilities overlap. An example is taxation. **Taxation** falls under both the federal and state government, and the Constitution is the framework of the U.S. government.

The **Bill of Rights** are the **first ten amendments** to the Constitution. The Bill of Rights addresses issues like human rights and equality under the law.

#### **The Bill of Rights:**

- **1st Amendment:** Freedom of speech, press, religion, assembly, and petition
- **2nd Amendment:** Right to **bear arms**.
- **3rd Amendment:** Soldiers cannot be quartered in **private homes** without the consent of the owner.
- **4th Amendment:** Protection against **search and seizure**.
- **5th Amendment:** Due process of the law, protection against double jeopardy, protects you from incriminating yourself.
- **6th Amendment:** Right to a lawyer and right to a speedy trial with an impartial jury.
- **7th Amendment:** Jury trial for a civil case that **exceeds \$20**.
- **8th Amendment:** Protection against cruel and unusual punishment.
- **9th Amendment:** The rights not specifically stated are nevertheless given to the people.
- **10th Amendment:** The powers not given to the United States (federally) are reserved to the states.

### Important Amendments:

- **13th Amendment:** Abolished Slavery in the United States.
- **14th Amendment:** Birth or naturalization for citizenship in the United States. Equal protection under the law.
- **15th Amendment:** All men are allowed to vote.
- **19th Amendment:** Women were given the right to vote.

### Checks and Balances:

#### Legislative Branch-Congress

- **House of Representatives-** Seats are allocated to the state population and have the power to impeach.
- **Senate-** 2 members of each state (Sole power to try impeachment cases.)

Both can block each other's actions. For bills to pass, they have to be **passed by both the House of Representatives and Senate.**

#### Executive Branch

- The **President** is the head of the Executive branch, and the **Vice President** is the second-in-command. They control all matters related to the country.

#### Judicial Branch

- The Supreme Court is the **highest court** in the United States. **Nine judges** sit on the bench and deal with cases that impact the country as a whole.

### Sovereignty of the States:

- States have the power to **govern their own citizens** within their borders.
- The Constitution is still the **"Supreme Law of the Land"** and can overpower state laws.
- States govern within their state.
- Federal government governs between states.

## **Unit 1 Review:**

### **MULTIPLE CHOICE:**

1. What does the first amendment NOT protect?
  - a. Speech
  - b. Press
  - c. Assembly
  - d. Slander
2. What amendment talks about citizenship?
  - a. 15th Amendment
  - b. 17th Amendment
  - c. 14th Amendment
  - d. 2nd Amendment
3. Which two amendments protect your right to vote?
  - a. 14th and 15th Amendment
  - b. 14th and 17th Amendment
  - c. 15th and 16th Amendment
  - d. 2nd and 15th Amendment

### **SHORT ANSWER:**

4. What is the main job of the Judicial Branch?
5. One example of Checks and Balances between the three branches of government.

### **TRUE OR FALSE**

6. 12 judges currently sit on the Supreme Court's bench.

## **Unit 2: Types of Law**

## Key Vocabulary:

**Law-** Enforceable rules of conduct in a society.

**Code-** Laws grouped into an organized form.

**Statutes-** Laws enacted by state and federal governments.

**Ordinances-** Laws enacted at the local level.

**Administrative Regulations-** Governmental bodies formed to carry out particular laws.

**Cases-** Case law: made when an appellate court endorses a rule to be used in deciding court cases.

**Stare Decisis-** Latin for “to adhere to decided cases”

**Crime-** Punishable offense against society.

## Sources of Law:

1. *Constitutions*
2. *Statutes*
3. *Administrative Regulations*
4. *Cases*

### **Constitutional Law:**

- Main job is to **interpret the Constitution**.
- Allocates power between **people and the government**, between federal and state governments, and among branches of government.

### **Civil Law:**

- Group of laws used to provide **remedy for wrongs against individuals**.

### **Criminal Law:**

- Group of laws that defines and sets punishments for **offenses against society**.

### **Procedural Law:**

- Group of laws that defines the methods for enforcing legal rights and duties.

**Substantive Law:**

- Group of laws that defines **rights and duties**.

**Business Law:**

- Group of laws that govern business situations and transactions.

**Torts:**

- Private or civil wrongs for which the law **grants a remedy**.

**Unit 2 Review:****MULTIPLE CHOICE:**

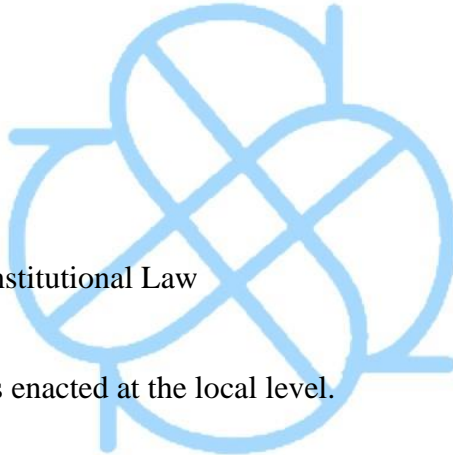
1. What is the latin term for “adhere to decided cases”?
  - a. Prime Facie
  - b. Stare Decisis
  - c. Actus Reus
  - d. Mens Reus

**SHORT ANSWER:**

2. Describe the purpose of Constitutional Law

**TRUE OR FALSE:**

3. An ordinance is a law that is enacted at the local level.

**Unit 3: The Court System****Key Vocabulary**

**Litigate-** To resolve disputes in court

**Mediation-** Attempt by a neutral third party to achieve a compromise between two parties in dispute

**Arbitrator-** Independent third party who develops a binding and enforceable resolution to a dispute.

**Court-** A governmental forum that administers justice under the law.

### **Trial Court:**

- First court to hear the case.
- Trial court has **original jurisdiction**.

### **Appellate Court:**

- The appellate court reviews decisions of lower courts when a party claims an error was made during the previous proceedings.
- Does **not hear witnesses** or hear any new evidence.
- Examines the transcript.
- Read the written arguments on the issues of law otherwise known as **Appellate briefs**.

**General Jurisdiction** (these courts can hear any types of cases):

1. *Federal District Courts*
2. *Federal Court of Appeals*
3. *U.S. Supreme Court*

### **Federal District Courts:**

- Trial courts of the federal system.
- Have **original jurisdiction over federal issues** and lawsuits between citizens of different states.

### **Federal Courts of Appeals:**

- Appellate jurisdiction over district courts
- **13 courts**

## **U.S. Supreme Court**

- Has both **original and appellate jurisdiction**
- **Writ of Certiorari-** A request that the Supreme Court order a lower court to send up the record of the case for review.
- 9 justices: 1 chief, 8 associates.
- Appointed by the President, confirmed by the Senate.
- **Serve for life**

## **Unit 3 Review:**

### **MULTIPLE CHOICE:**

1. How is a Supreme Court Justice appointed?
  - a. Voted into office by the people.
  - b. Selected by other judges.
  - c. Appointed by the President.
2. Which court has appellate and original jurisdiction?
  - a. Appellate court
  - b. Trial court
  - c. Supreme Court

### **SHORT ANSWER:**

3. Why don't appellate courts have original jurisdiction?

### **TRUE OR FALSE:**

4. Appellate courts can bring and introduce new evidence and witnesses for cases.

## **Unit 4: State Courts**

### **State Trial Courts:**



- Usually known as circuit courts, superior courts, district courts, or courts of common pleas
- **Original Jurisdiction**
- Appellate jurisdiction for special courts under it

#### **Special Courts:**

- *Juvenile Court*
- *Probate Court*
- *Municipal Court*
- *Small Claims Court*
- *Associate Circuit Court (County Court)*

#### **Juvenile Court:**

- Courts that hear cases **related to minors**. (This can also be known as Juvenile and Domestic Relations court and deals with custody battles.)

#### **Probate Court:**

- Administers wills and estates.

#### **Municipal Court:**

- Usually divided into **traffic and criminal**, takes care of city laws that overlap state laws.

#### **Small Claims Court:**

- Individual suits for small amounts of money, judges decide without a jury or formal rules of evidence.

#### **Associate Circuit Court(County Court)**

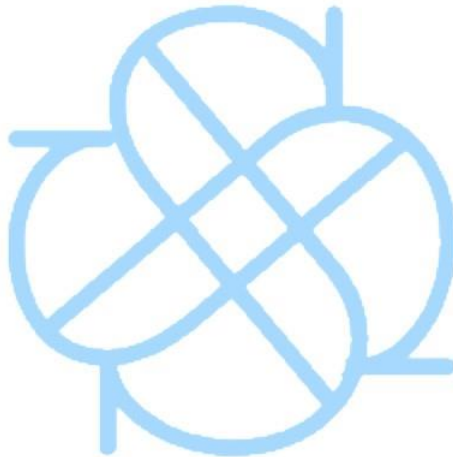
- Hears **minor criminal cases**, traffic offenses, and small lawsuits.

#### **State Appellate Courts**

- An appeal is reviewed by a panel of three judges.
- Panel evaluates trial records and arguments from attorneys.
- Panel makes sure that **correct laws are used and followed**.

#### **State Supreme Court**

- In states with intermediate levels of appeals courts, only the **most complex issues come before the Supreme Court.**
- **Have final say on all cases** unless they involved the Constitution or federal law
- Supreme Court judges are called justices.



## Unit 5: Civil Action Procedure

*Unit 5 will detail how a civil case will play out.*

There are two parties involved in a civil action procedure. They are the Plaintiff and the Defendant.

- The **Plaintiff** is the party that **brings a civil action** to court.
- The **Defendant** is the party whom a civil action is **brought against**.

### Step 1:

- Plaintiff will **file a complaint** with the clerk of the court
- Complaints include: Plaintiff Claims (What is the issue?) and Relief being sought (What is wanted in exchange for the claim?)

### Step 2:

- Defendant is **served with summons** and is required to answer within **20 days**.
- **Defendant's options:** Deny the truth of the facts, agree to facts but argue a violation of laws, explain (allege) other facts in the case

### Step 3:

- Both parties obtain information and **try to clarify the facts** of the case.
- Depositions: Witnesses are questioned under oath

### Step 4:

- **Pre-trial:** A person's last chance to settle a case with the other party before going to trial.
- If you hope to reach an agreement on your case, discuss your plan with the other party before the date of the hearing.
- Judges will decide whether an agreeable settlement can be reached or if a case needs to go to trial.

### Step 5:

- Both parties ask questions to prospective jurors
- Some jurors are dismissed
- An **impartial juror is selected**
- Juries hear most civil cases

### Step 6:

- **Opening Statements:** Both parties describe to the jury what they are trying to prove.

## Unit 6: Criminal Court Procedures

### First Appearance:

- First appearances **only apply to felonies**. An **arraignment hearing** is traditionally for misdemeanors.
- The defendant is formally notified of the charges and may be advised of his or her rights by a magistrate.
- A date is set for preliminary hearing.

### Preliminary Hearing:

- The purpose of a preliminary hearing is to determine if there is **enough evidence against the defendant to go to trial.**

### Arraignment Hearing:

- The judge reads the information to the defendant, who must enter a plea.
- **Guilty or not guilty**

### Pre-Trial Motions:

- A motion is a formal request to a judge to **issue an order**.
- All motions should be heard and decided by the judge before a trial can proceed.

### Jury Selection:

- Jury selection process is the **exact same in civil cases**.

### Opening Statement:

- Opening statements are also in **civil cases** and are explained above.

### Presentation of Evidence and Witnesses:

- Prosecution will call their witnesses for **cross-examination**. (Will present any evidence.)
- Defense will then call their own witnesses for cross-examination as well. (Will present any evidence.)

### Rebuttal

- Either side can call a witness again to the stand to question once more. (Used to rebut any information.)

### Jury Instructions:

- (This occurs before closing arguments. )Judges instruct jurors carefully as to what law they are to follow.

- In criminal cases, the defendant **must be found guilty beyond reasonable doubt to be convicted.**

#### **Closing Arguments:**

- Both attorneys summarize the evidence and testimony in an effort to persuade the judge or jury to decide the case in favor of their client.

#### **Jury Deliberations:**

- After jury instructions, the court orders the jury to **retire to the jury room** for deliberations.

#### **Verdict:**

- In criminal cases, a verdict must be **unanimous and must be given in open court.**
- **Four possible verdicts:** Guilty, Not guilty, and not guilty by reason of insanity, guilty and mentally ill.
- If the jury cannot agree on a verdict, the judge may declare a **“hung” jury**, declare a mistrial, and order a new trial.

#### **Works Cited**

“Utah Courts.” *Criminal and Civil Court Processes* - Utah Courts, 5 Oct. 2018, [www.utcourts.gov/howto/courtprocess/trial.html](http://www.utcourts.gov/howto/courtprocess/trial.html).