

THE CODE OF HMMURABI

22. IF ANY ONE IS COMMITTING A ROBBERY AND IS CAUGHT, THEN HE SHALL BE PUT TO DEATH

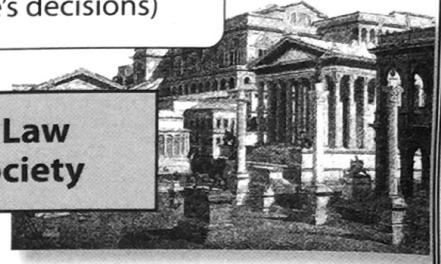
IF HE DESTROYS THE EYE OF A MAN'S SLAVE OR BREAKS A BONE OF A MAN'S SLAVE, HE SHALL PAY ONE-HALF HIS PRICE

- ▶ Code of Hammurabi
- ▶ Twelve Tables
- ▶ Code of Justinian
- ▶ Middle Ages: Roman law, Church law, King's laws, "Common law" —based on precedents (judge's decisions)

IF HE DESTROYS THE EYE OF A MAN'S SLAVE OR BREAKS A BONE OF A MAN'S SLAVE, HE SHALL PAY ONE-HALF HIS PRICE

- ▶ **Law:** a government-enforced rule with a penalty for violation
- ▶ **"Rule of Law":** Everyone is subject to the same laws, even our rulers
- ▶ **"Due Process" rights:** Procedures for enforcing the law are also defined by law – individuals have the right to a hearing, to assistance of counsel, to see evidence, to confront accusers & witnesses, to have case decided by impartial decision-maker

Evolution of Law in Western Society



Law & Due Process

Rule of Law



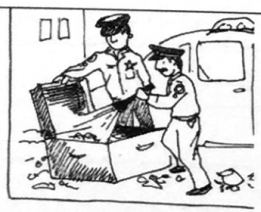
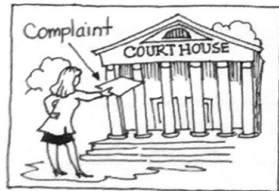
Types of American Law

- ▶ Civil
- ▶ Criminal
- ▶ Constitutional
- ▶ Military
- ▶ Statutory
- ▶ Common
- ▶ State
- ▶ Federal

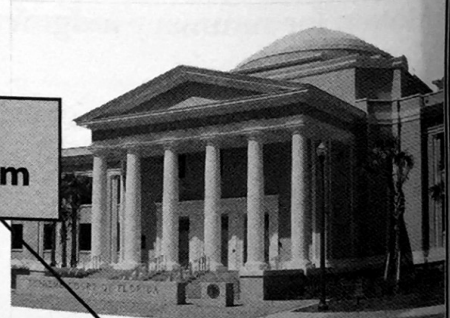
Courts in Action

A Civil Case
 Complaint • Pretrial Discovery • Pretrial Motions • Attempts at Settlement • Jury Selection • Trial • Cross-Examination • Closing Statements • Jury Instructions • Verdict • Appeal

A Criminal Case
 Crime • Police Investigation • Warrant/Searches • Probable Cause/Arrest • Arraignment • Bail • Plea Bargaining • Trial • Verdict • Sentencing • Appeal



Florida's Court System



The Role of Courts



- ▶ **Judge:** interprets the law; applies its wording to specific circumstances
- ▶ **Jury:** determine facts and decide responsibilities
- ▶ **Appellate court:** reviews if trial court applied the law correctly

Florida's Court Structure

- ▶ Florida Supreme Court
- ▶ Florida District Courts of Appeal
- ▶ Florida Circuit Courts
- ▶ Florida County Courts

Review Cards: The Rule of Law

What is law?

- ▶ A **law** is a rule that is enforced by government and usually has a penalty for breaking it.
- ▶ Laws help a community organize and protect itself, settle disputes and punish crimes.
- ▶ Laws may seem clear but very often need to be interpreted to see how they apply to different situations.

The Rule of Law

- ▶ In some societies, the ruler's will is law. Ordinary subjects have little control over their lives. They are always subject to their ruler's desires.
- ▶ Americans live under the **rule of law**. This means we live under a system of written laws. These laws make it clear how we should behave and how we can expect others to behave.
- ▶ It also means that our government leaders cannot just do anything they please. They are subject to the rule of law themselves.
- ▶ We expect our laws to be reasonable and fair.

Due Process Rights

- ▶ Laws not only define things we can do and not do, such as crimes. They also define the **procedures** for their own enforcement.
- ▶ We expect fair and reasonable procedures based on fair laws. Before an individual has property or liberty taken away, that person has the right to a fair and impartial public hearing, with the right to present evidence, to face and question accusers and witnesses, and the right to have the help of an attorney. These are called "Due Process" rights—we are entitled to the process that is "due."

How Laws are Applied in the United States: the Work of Courts

- ▶ Laws are enforced in **courts**.
- ▶ Sometimes court decisions are made by judges alone, and sometimes by a judge and **jury**, a panel of impartial local citizens who decide on the facts of the case.
- ▶ There are state, federal, and military courts for the enforcement of their respective laws.

Sources of American Law

- ▶ The American colonists inherited many legal traditions.
- ▶ After independence, each state relied on both **statutory** and **common law**. States still handle most legal matters today.
- ▶ The federal government also makes laws. The Constitution itself is a form of law. Other laws have been passed by Congress and signed by the President.
- ▶ Americans must obey both federal and state laws.

Examples of Historical Law Codes: How Laws Developed in Western Society

- ▶ **Hammurabi** of Babylonia established one of the first law codes, more than 3,700 years ago.
- ▶ One of its basic principles was that punishments should equal crimes—"an eye for an eye."
- ▶ These rules were especially pertinent for an agrarian society, and still influence our laws today.
- ▶ Early Roman laws were displayed publicly on **Twelve Tables**, so everyone could see them.
- ▶ Because the Roman Empire grew so vast with so many different peoples, it was important to have a set of standardized, public laws. Emperor Justinian combined all Roman laws into a single law code—the **Code of Justinian**.
- ▶ Roman law established rules that still influence modern law, such as the enforcement of **contracts**, investigation and prosecution procedures, rules for resolving commercial disputes, and the requirement of evidence in court cases.
- ▶ The Middle Ages had many sources of law. Laws came from old Roman codes, the church, popular traditions, and kings. Laws passed by a legislature like Parliament were called **statutes**.
- ▶ Medieval England established the **common law**: laws based on customs and **precedents** (*earlier decisions made in courts*) found throughout the kingdom.
- ▶ During the **Enlightenment**, political thinkers wanted to revise laws by making them simpler and more rational. They also denounced torture. **Sir William Blackstone** brought the laws of England together in a single source, which influenced the American colonists.

Types of Laws

- ▶ Besides statutory law, common law, state law, constitutional law and federal law, there are also civil, criminal and military laws. Civil law governs relations between people; criminal law punishes wrongdoers for crimes; and military law applies to the armed services. Many of these laws overlap.

How a Case Proceeds in Criminal Court

- ▶ Police respond to a crime report with an investigation, sometimes with a **search warrant**.
- ▶ If a suspect is detained, an informal hearing decides if there was **probable cause** of a crime. Only a **grand jury** can charge someone with murder.
- ▶ If there is probable cause, the suspect is **arraigned** and pleads guilty or innocent.
- ▶ **Bail** is set: if paid, the person is released until trial. If not, they stay in jail until then.
- ▶ After a period of **plea bargaining**, when charges may be reduced for a plea of guilty, the case goes to trial. If a potential prison sentence is six months or more, a jury is assigned.
- ▶ During the trial, the police present their evidence. The defendant's lawyer questions all witnesses. The "**burden of proof**" that the crime was committed is on the district attorney: the defendant is presumed innocent until proven guilty.
- ▶ The jury deliberates and reaches a verdict: to **convict** on all counts, on a few counts, or to declare innocent.
- ▶ If guilty, the judge imposes a **sentence**. A defendant can choose to appeal.

How a Case Proceeds in Civil Court

- ▶ In a civil case, a **complaint** is first filed by one side against another.

Pre-Trial:

- ▶ In the **discovery** period, both sides must produce evidence. Lawyers investigate and may take **depositions** by interviewing witnesses.
- ▶ A lawyer can file a **motion for summary judgment** if there is overwhelming evidence for one side. This may end the trial or take care of some of the disputed issues.
- ▶ The court will also encourage both sides to “**settle**” outside of court.

Jury Selection:

- ▶ If a trial occurs, a **jury** is then chosen. Each lawyer can remove any **biased** jurors and a number of other potential jurors without cause.

The Trial:

- ▶ During the trial, each side makes its case.
- ▶ Lawyers present evidence from witnesses, documents and photographs. Witnesses are questioned by both lawyers (**examined** and **cross-examined**).
- ▶ After all the evidence is presented, lawyers make closing statements.
- ▶ The judge then gives the jury their **jury instructions** on what they must decide. The judge tells the jury what law to apply to the case. The role of the jury is to decide on facts based on the evidence. Their decision is called the **verdict**.

Appeals:

- ▶ If one side is not satisfied with the verdict, it can **appeal** to an **appellate court**.
- ▶ The appellate court reviews the decision and decides if the trial court applied the law correctly or if there should be a retrial.

The Organization of Florida's Courts

- ▶ Florida's judges are usually elected but are often first appointed and then face election afterwards.
- ▶ **Florida county courts:** Hear civil cases for less than \$15,000, or lesser crimes (misdemeanors).
- ▶ **Florida circuit courts:** Hear civil cases when more than \$15,000 is at stake, and more serious crimes (felonies). Also review cases from the county courts.
- ▶ **Florida District Courts of Appeal:** Appellate courts that review cases from the circuit courts.
- ▶ **Florida Supreme Court:** The highest court in the state; hears appeals from the lower state courts, including all death penalty cases; can also issue advisory opinions.