The Judiciary and the Courts

(1) Differences between Criminal Law and Civil Law

(A) Criminal Law:

- A violation allegedly committed is a violation against the society and community, as a whole – the Govt. is the plaintiff
- Higher burden of evidence for the prosecution for Guilty verdict; Need to show guilt beyond a reasonable doubt
- For petit jury trials, unanimous verdict required
- Defendant is found guilty and pays (often) with imprisonment

(B) Civil Law

- A violation allegedly committed is a violation against a private party; such a private party is the plaintiff
- Lower burden of evidence to show Liability; Only the preponderance (majority) of the evidence needs to show liability
- For petit jury trials, only the majority of the jury are needed for a verdict
- Defendant is found liable and pays with money – for compensatory and possibly punitive damages

(2) The Dual Court System

- Except for Article III’s mention of the Supreme Court, the Constitution does not specify any court system or structure
- 1789 Judiciary Act empowered Congress to create all lower “inferior” courts
- Also allowed the states to create their own individual court systems
- In both Federal and State court systems, the following exist:
  - (A) Trial Courts (State Superior and Federal District) of Original Jurisdiction
  - (B) Appellate (Appeals) Courts
    - Federal Appellate courts are divided into 12 circuit districts throughout the country – each circuit court includes a number of states
    - Both Federal and State appeals courts have multi-judge panels that review transcripts and existing evidence from trial court and review whether or not the trial court verdict was based on constitutional or statutory error

(3) The Supreme Court

- The majority of Supreme Court cases (along with appellate court cases) are of appellate jurisdiction
- Those few original jurisdiction cases involve foreign ambassadors and diplomatic immunity and those in which a state(s) is a party involved
- Nine Justices (One Chief Justice and Eight Associate Justices)
- All appointed by the President and confirmed (advice and consent) by a majority in the Senate
- Justices (along with all federal court judges) serve life terms with good behavior
- An executive appointment is made every time there is a resignation, retirement or death
- Congress set the total # at 9 with the Judiciary Act of 1869; the number varied and changed until 1869
- Most Presidential appointments are politically motivated (unofficial political "litmus" tests are given)
- This often results in political and ideological conflict between the President and the opposite party in the Senate

Criteria for Supreme Court Cases

- The Supreme Court has the power of Judicial Review: The power to review all existing legislation (both federal and state) and decide whether or not such legislation is consistent or inconsistent with the Constitution
- The court can strike down any law that it finds as in violation of the Constitution
- The following is the criteria for hearing cases in the Supreme Court:

(A) "Case and Controversy": A case must have real persons and litigants with real disputes and controversies – the court cannot just make a theoretical ruling – the court will refuse to make a ruling on a law until it is actually passed and applied

(B) Standing: Parties involved must have standing and show that they have a real stake and interest in the outcome of the case
- The traditional criteria is to show injury to oneself; economic or personal injury must be shown

© Mootness: The court will disqualify all cases where the problem has been resolved through other means or solutions
- Thus, if a situation has already been resolved through other means then Case is moot and does not need to be heard by the court
- However, the court has relaxed the criteria if it believes that a problem will come up again and will, thus, eventually need to be resolved by way of judicial review

- If 4 of the 9 judges agree to hear a case, then the Supreme Court will grant a writ of certiorari
- Power given to the court by Congress in 1925, due to excessive appeals that swamped the court
- Thus, the court has since had broad discretion to decide on what cases it will hear.

- **Rule 10** of the Supreme Court’s own procedures state that the court will hear a case when:

  - (a) a state has created a law that conflicts with previous Supreme Court decisions
  
  - (b) a state court has come up with a new federal question (aka, a new situation where Constitutional and federal laws might be violated)
  
  - (c) When one court of appeals creates a ruling that is in conflict with another appellate court’s ruling
  
  - (d) when there are other inconsistent rulings between two or more courts or states