

LAW MERIT BADGE

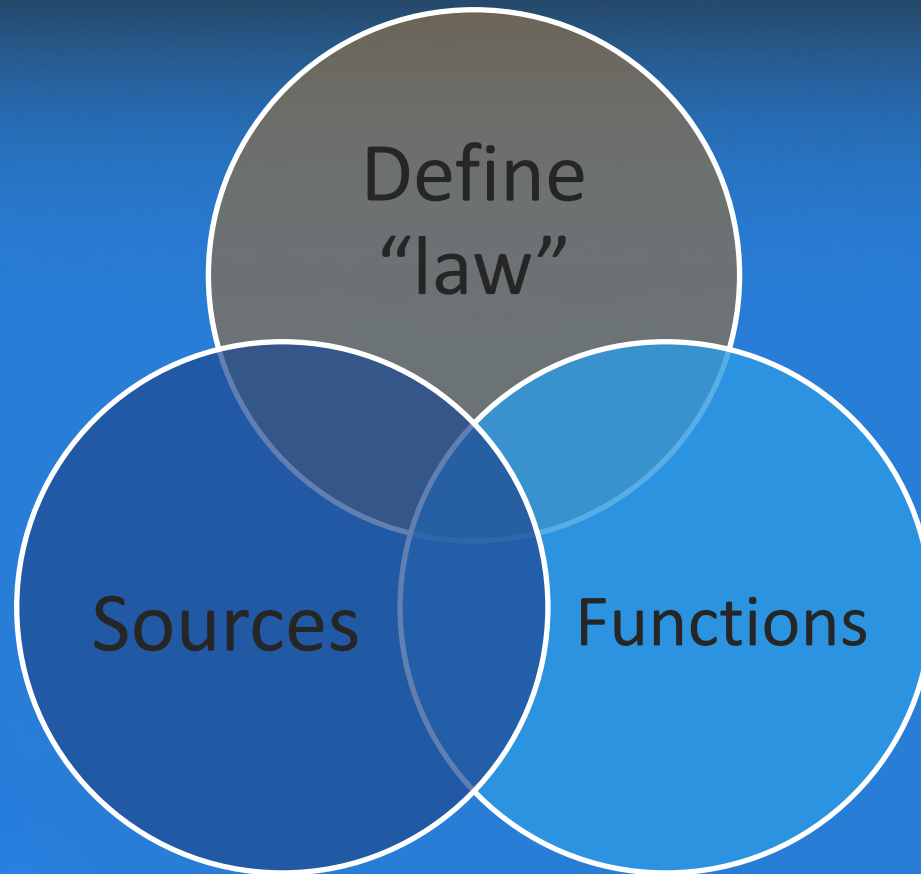


LEGAL DISCLAIMER

Everyone will need to fulfill all of the requirements for this merit badge individually. I am going to be discussing all of the requirements, but each scout will need to answer each question as we cover the subject or after doing their own research.



Requirement 1



Definition

- Law is the system of rules or principals that a particular country or community recognizes as regulating the actions of its members and may enforce by the imposition of penalties.



Sources of the Law

Secular Sources

- U.S. Constitution
 - Supreme Law of U.S.
- Bill of Rights
- Statutes
- Regulations
- Codes
- Ordinances



Religious Sources

Societies develop law based on social customs and religious and tribal laws.

Examples include:

- Ten Commandments
- Halakha
- Sharia
- Manu Smriti



Functions of the Law

- Protecting the citizens of the United States is the function of the US legal system.
- Laws help people solve problems and resolve disputes

President Lyndon B. Johnson

“[t]he equality of the poorest people and the richest, the rights to enjoy liberty and go as far as your abilities will take you. Are all upheld and backed by the US legal system.”



History of the Law

Requirement 2



Requirement
2a



Justinian Code

Code of
Hammurabi

Magna Carta



The Code of Hammurabi

- Hammurabi was king of the first Babylonian Empire. (circa 1810 – 1750 BC)
- His kingdom had many different people, tribes, customs and traditions.
- He wanted one set of rules to govern them all
- The Code of Hammurabi
 - Created citizens' rights
 - *Lex Talionis*
 - Law of the claw
 - Most famous of Hammurabi's laws
 - Law of retaliation
 - Eye for an eye, tooth for a tooth.



Justinian Code

- Justinian I
 - Eastern Roman (Byzantine) emperor in Constantinople
 - 6th Century A.D.
- Defined law as:
 - “A theory of right and wrong,” and
 - “An art of the good and the equitable.”



Justinian Code

Cont'd

- At the time, the laws of the Eastern Roman Empire were a mess.
 - Unclear to even the most intelligent people
 - There were multiple sources of the law, many of which conflicted or were out of date.
 - Justinian felt that the laws needed to be untangled and collected so that they could be easily looked up.



Justinian Code

Cont'd

- *Codification*
 - The process of collecting laws and placing them in order by subject.
 - Origin of the term “*Order of Laws.*”
- *The Digest*
 - Justinian formed a committee of lawyers, judges and wise citizens to place the laws into books.
 - The committee arranged the laws into 50 books called *The Digest*.
- Because the laws were now updated and more understandable the citizens had a better understanding of the law.
- Most importantly, they had a better chance for justice.



Justinian Code

Cont'd

- The Novels
 - Justinian made certain that his new code of laws would not become old and useless.
 - Periodically, new laws were published in books called the *Novels* to keep the code up-to-date.
- Together, the *Digest* and the *Novels* formed the basis of civil law.
- Justinian's system of laws and codification greatly influenced the way laws developed all over the Western World – including America.



Magna Carta

- Before anything, remember:
 - Basis of the U.S. Constitution
- *Magna Carta Libertatum* (Great Charter of Freedoms)
 - More commonly referred to as the Magna Cart
 - It was a charter of rights agreed to by King John of England in 1215.
 - System of justice drafted by the Archbishop of Canterbury to make peace between an unpopular King and a group of rebels
 - Big step towards establishing English liberties and constitutional government



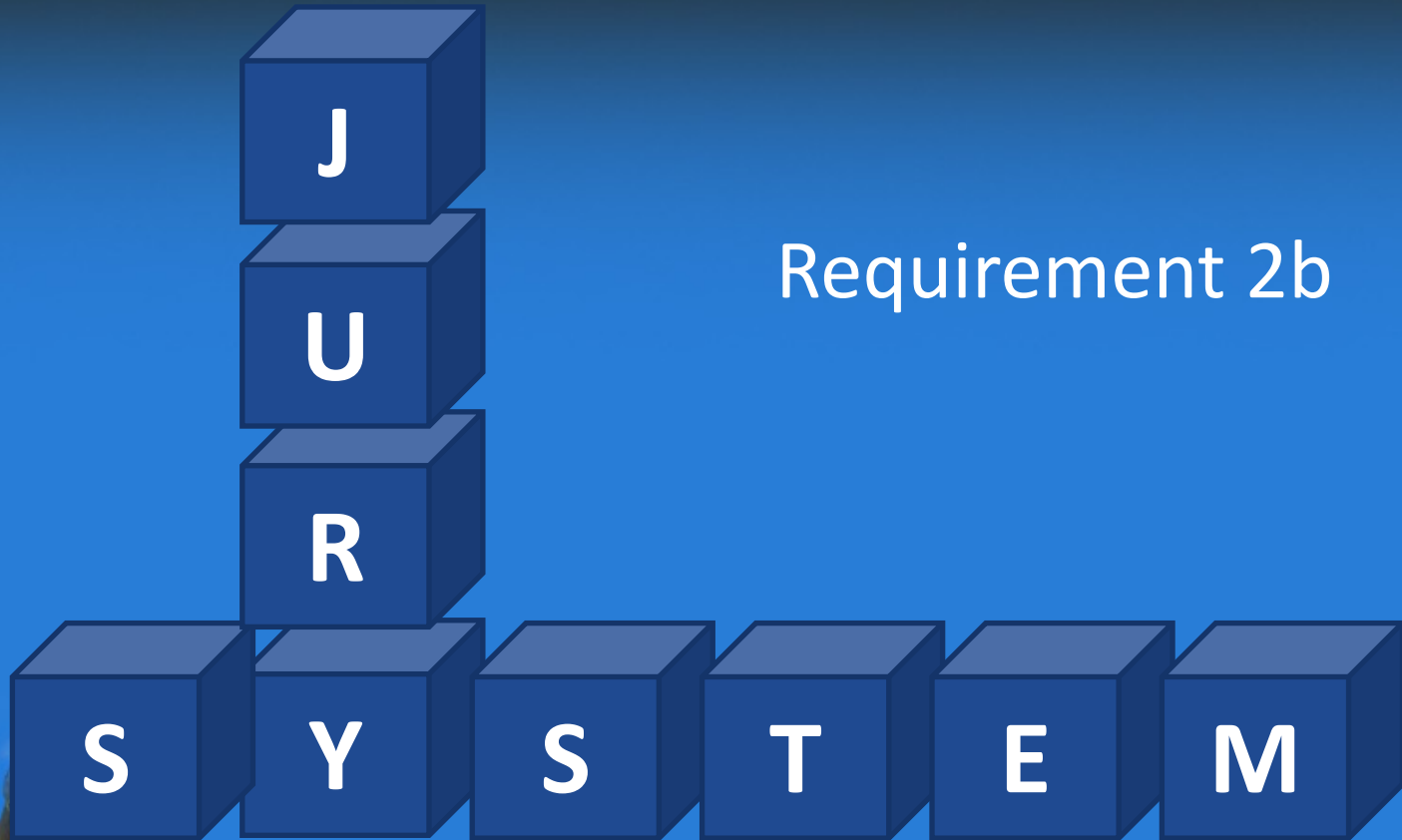
Magna Carta Cont'd

- It was not perfect
 - It only gave rights to free men at first.
 - But when the feudal system (based on landowners rights) ended and the English system began to grow, more and more people were included.
- Just like the US Constitution
 - Again, this was the model.
 - Likewise, only white property owners were originally protected by the Constitution. E.g. voting.
 - But as the years have gone by, Amendments and Supreme Court cases have come along to expand the protections of the Constitution to more and more people.



Development of the . . .

Requirement 2b



The Jury System

Two Types of
Juries



Petit or
petty jury

Grand Jury



The Jury System

Cont'd

- Petty Jury
 - *Petit* means small
 - Usually decides the majority of criminal and civil cases.
 - Typically 12 people but not always.
 - These 12 people deliberate facts and evidence and they render a verdict.
 - In criminal cases the verdict is guilty or not guilty.
 - In civil cases the verdict is liable or not liable.



The Jury System

Cont'd

- Grand Jury
 - Grand = large
 - Usually more than a *petit* jury.
 - Much different task.
 - Meets privately and confidentially
 - Meets privately to determine whether the government's lawyers can take an accused person to trial.
 - Deliberates on evidence presented by the government and then decides whether to *indict*.
 - Indict means to accuse or charge a person with a crime.
 - Indictment is not a conviction
 - “A grand jury would indict a ham sandwich if that’s what you wanted.”
New York State Chief Judge Sol Wachtler.
 - The accused must have Due Process.

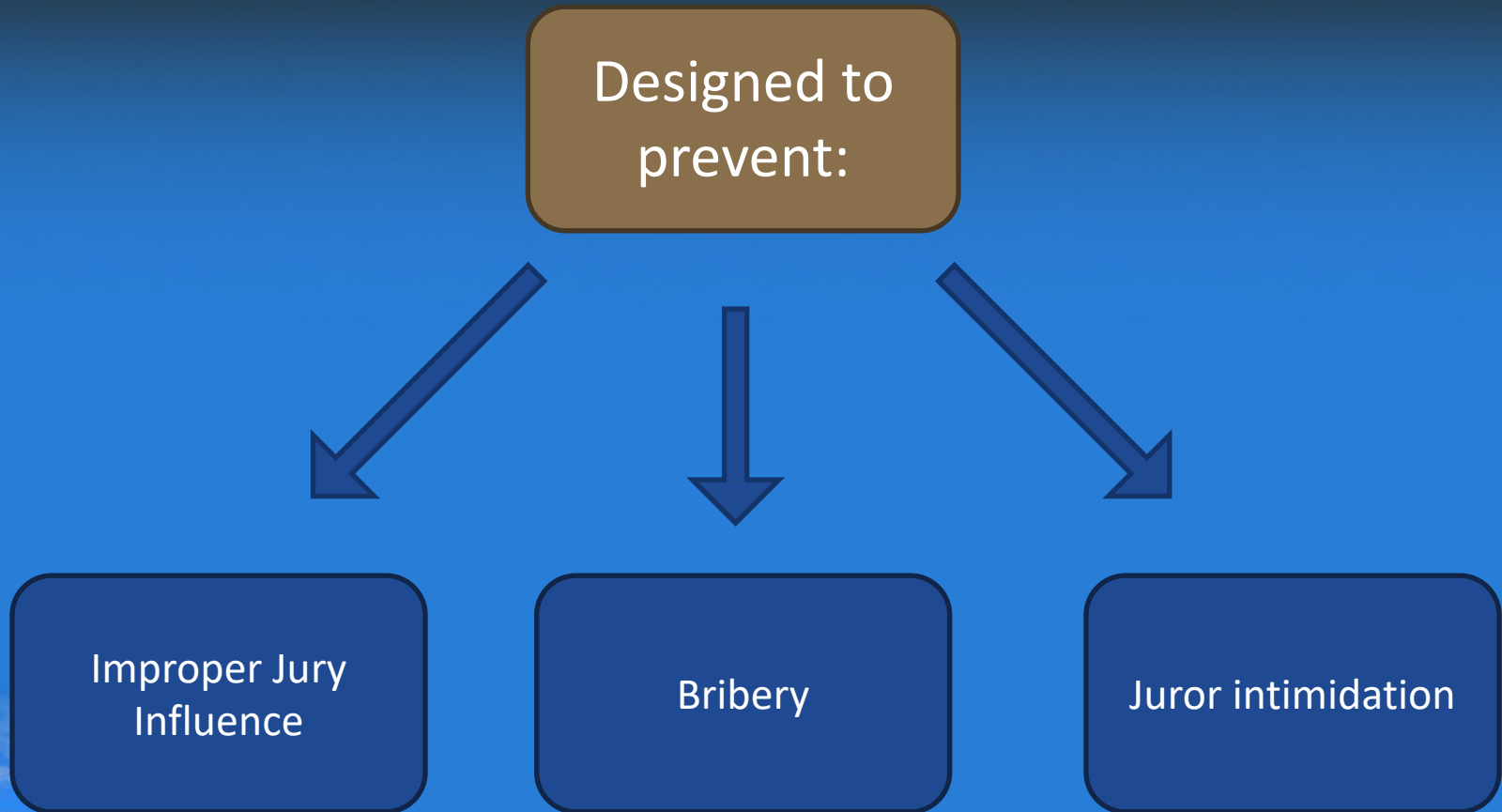


Development of the Jury System

- The Greeks
 - The first jury system was a somewhat primitive system which began in ancient Greece.
 - Before a trial, a large number of citizens was chosen.
 - Then, a smaller number was taken from the larger group just before the trial actually commenced.
 - We use a quasi similar process in America where the larger group is called the panel and the smaller group is the actual jury.
 - No one would know ahead of time who would be a jury.
 - Juries could be as large as hundreds of citizens.



Purpose of the Greek Jury System



Downsides of Greek Jury System



Unmanageable



Ineffective

- Imagine the confusion and noise of hundreds of people trying to agree on an important issue.
 - Just think of the US House of Representatives.
- BUT, it was a good and noble start.



Development of the Jury System Cont'd

- The Romans
 - Gave a new shape to the Greek jury system.
 - A judge defined the issues of a dispute.
 - A group of private persons, called a *judice*, made the decision on how to handle the problem.
 - Downsides:
 - The decisions of the *judice* were final and often harsh.
 - Poor people who could not pay their debts were imprisoned or even killed.



Roman Jury System Cont'd

- Eventually changes were made.
 - The Romans felt that the juries had become too powerful.
 - So, the Romans developed a trial system somewhat like we have today.
 - A hearing before a judge and a jury.



Development of the Jury System Cont'd

- Developments in Europe
 - In Germany
 - The head of the court would gather a small group of landowners to help decide cases.
 - Usually 7 “helpers” and sometimes 12.
 - They would talk about the case away from the judge.
 - Much like the closed-door, secret discussions of American juries.



Development of the Jury System

Cont'd

- Spread of the Jury System
 - As people traveled across Europe the idea of the jury system spread.
 - Many European countries began to develop and use a form of the jury system:
 - Norway
 - Sweden
 - Denmark
 - France
 - England



Coming to America

- English Colonists brought the English system of law to America.
- The jury system was very important to the colonies.
- The idea was to keep the administration of justice in the hands of “ordinary” citizens; and
- To prevent the powerful and rich citizens from influencing the court.



Development of the Jury System Cont'd

- The Jury and U.S. Law
 - Bill of Rights
 - These are the first 10 Amendments to the U.S. Constitution.
 - The 4th, 5th, 6th, and 7th Amendments are a package of rights which include, *inter alia*:
 - Right to a fair and speedy trial
 - Right to confront witnesses
 - Right to counsel (a lawyer)
 - Right to a jury trial (in some cases)



The Jury and U.S. Law Cont'd

- Rules for jury trials vary from state to state.
 - Some states require unanimous *verdicts*, some do not.
 - Some states use 12 jurors, some states use less.
 - The right to trial by jury is not necessarily guaranteed for smaller offenses such as traffic tickets.



The Jury and U.S. Law Cont'd

- How are jurors chosen in America?
 - Typically chosen at random from voting lists.
 - The goal is to generate a diverse jury panel.
 - Men
 - Women
 - Poor citizens
 - Wealthy citizens
 - Different jobs
 - Different backgrounds
 - Juror qualifications (generally):
 - Registered to vote
 - Live in the jurisdiction (area) of the court
 - Not be a convicted felon



Famous Trials in History

Requirement 2c

- The Trial of Socrates
- Trials at Nuremberg



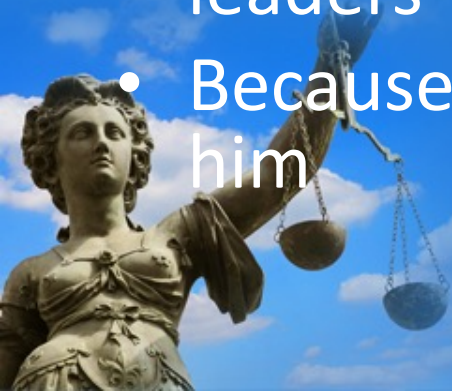
Trial of Socrates

- Socrates was a philosopher – a thinker and a teacher.
- Lived in ancient Greece.
- His ideas were unpopular with the rulers in Athens.



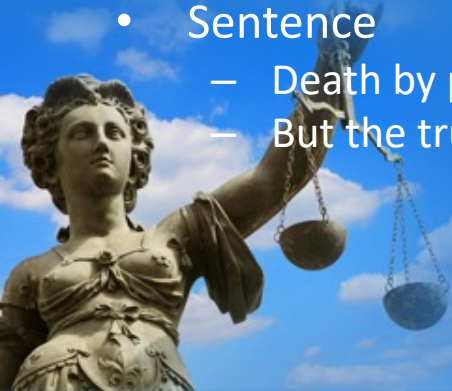
Trial of Socrates Cont'd

- Socrates Beliefs
 - That goodness is based on knowledge
 - That wickedness is based on ignorance
 - “Know Thyself”
 - This was his motto.
 - It meant to open your minds to new thoughts.
- Always searched for truth
- Never hesitated to criticize the government or its leaders
- Because they hated and feared him they arrested him



Trial of Socrates Cont'd

- Socrates' "crimes"
 - Corruption of the young; and
 - Neglect of the gods whom the city worships
- Socrates defenses:
 - Freedom of speech
 - Freedom of thought
 - The truth often hurts when it uncovers dishonesty.
 - Evil people will sometimes want to stamp out the free exchange of ideas.
- Verdict
 - Jury of 500 men found Socrates guilty
- Sentence
 - Death by poison
 - But the truth will never die



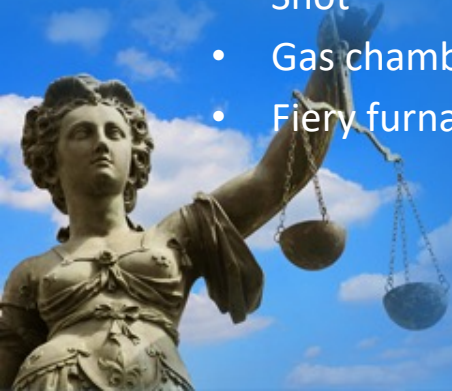
Nuremberg War Crimes Trials

- During WWII the Nazis in Germany set out to conquer Europe.
- Tens of millions of people died.
- The Holocaust
 - Genocide
 - Mass slaughter of civilians based on ethnicity or religion.
 - These were not battle-connected deaths.
 - These were mass murders carried out by the Nazis to make room for the “Master Race.”



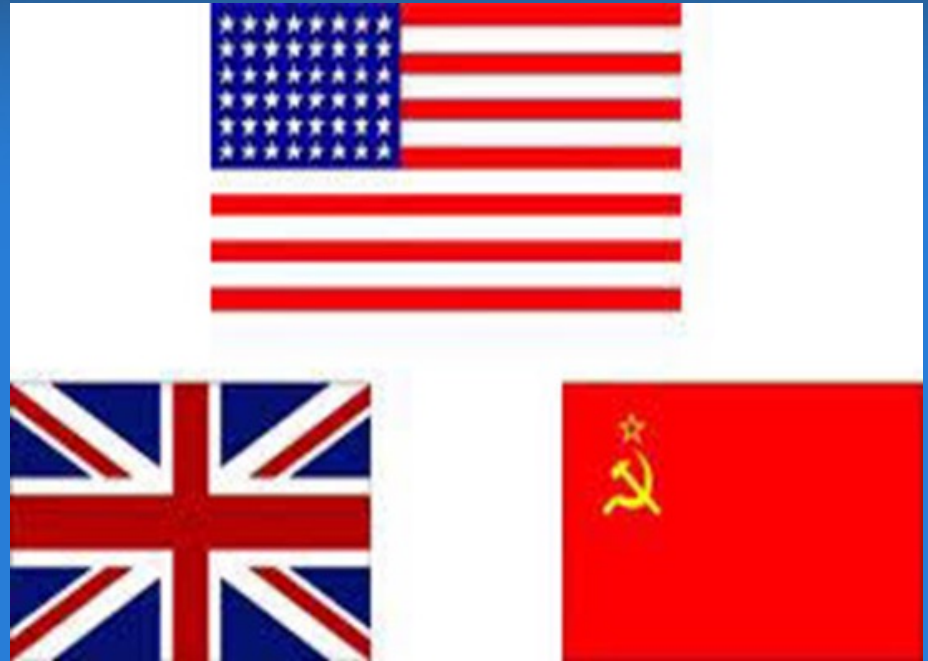
The Holocaust

- Jews were the primary target of the Nazis.
 - 11 Million people were murdered in the Nazi Holocaust.
 - 6 million of those victims were Jewish.
 - 2/3 of the Jewish population in Europe.
 - 1.1 million were children.
- Executions were heinous:
 - Starvation
 - Shot
 - Gas chambers
 - Fiery furnace



Nuremberg War Crimes Trials Cont'd

- The Allies
 - Countries that fought Germany
 - The “Big Three”
 - United States
 - Great Britain
 - Russia
- 1945
 - Nazis were defeated



Nuremberg War Crimes Trials Cont'd

Discovery of War Crimes

— Rules of War

- Many nations, including Germany, agreed to certain rules of war
 - Geneva Convention
- Avoid killing civilians
- Protect civilians
- Treat prisoners of war humanely



Nuremberg War Crimes Trials Cont'd

- The Nazis violated every rule of war.
 - They violated rules of humanity, decency, and morality.
 - The Allies were appalled.
- Arrest of the Nazis
 - Allies ordered the arrest of:
 - Nazi politicians;
 - Generals;
 - Admirals; and
 - Private citizens.



Nuremberg War Crimes Trials Cont'd

- The Trial
 - Nuremberg, Germany
 - Charges against the Nazis:
 - War crimes; and
 - Crimes against humanity.
 - The Jury:
 - International tribunal
 - A panel of judges from many nations



Herman Göring



Nuremberg War Crimes Trials Cont'd

- The Trial (Cont'd)
 - Findings
 - People cannot lose their basic humanity even if the government says they must.
 - A government that orders the killing and torture of innocent people is acting outside the law and therefore loses its right to govern.
 - Sentence
 - Imprisoned, or
 - Executed
 - Many Nazi war criminals killed themselves so they wouldn't have to stand trial.



Two Systems of Justice

Requirement 3

*Criminal
Law*



*Civil
Law*



Two Systems of Justice

Cont'd

Civil Law

- Disagreements between two or more parties.
- Usually about their rights and responsibilities.
- Involves private and civil rights of:
 - Individuals
 - Corporations
 - Government bodies
 - Others

Criminal Law

- Concerned with harmful acts called “crimes.”
- Crimes are defined by and forbidden by a law.
- Persons who break laws are charged.
- Penalties include:
 - Fines, and/or
 - Imprisonment



Burden of Proof

Criminal Law

Prosecution

Beyond a
Reasonable
Doubt



Burden of Proof

Civil Law

Plaintiff

Preponderance
of the Evidence



Civil Law

- Our civil law was developed from Roman Civil law.
- Civil law deals with wrongs committed against individuals.
- Remedies
 - Money
 - Property
 - Equity
- Parties are called *adversaries*
 - Plaintiff
 - Defendant



Civil Law

Cont'd

- Types of Civil Law cases:
 - Contracts
 - Corporate law
 - Family law
 - Wills and Estates
 - Patent, Copyright and Trademark
 - Taxes
 - Property
 - Torts.



Civil Law

Cont'd

- Torts
 - A wrong or an injury committed against a person or property.
 - Examples:
 - Trespass
 - False arrest
 - Libel
 - Slander
 - Negligence
 - Product Liability
 - Nuisance
 - Assault and Battery



Criminal Law

- The government is responsible for filing charges.
- Charges are brought in the name of the “people.”
 - The community, state or nation.
- The accused is called the “defendant.”
- Criminal laws are designed to protect us all.



Criminal Law

Cont'd

- Defendants have rights.
- We've already talked about some:
 - U.S. Constitution
 - Bill of Rights
- States also have constitutions .
- Two basic rights of defendants:
 - Right to a lawyer – even if the defendant cannot pay for one; and
 - Right to a speedy trial (by jury if the defendant chooses).



Classification of Crimes

Misdemeanors



Felonies



Examples

Misdemeanors

- Minor crimes
- Usual punishments:
 - Fine
 - Less than 1 year in jail

Felonies

- Major crimes
- Larger punishments
 - Usually imprisonment in a state or federal penitentiary
 - Longer sentences
- Examples:
 - Murder, rape, robbery, arson, kidnapping



The Role of Law Enforcement Officers

Requirement 4

- Police officers have many roles:
 - Handling problems, protect property, protect people, detect crimes, crowd control, animal cruelty, child abuse, first aid, etc.
- Interested in Law Enforcement?
 - Read Pp. 35 – 39, and P. 42.
 - Crime Prevention Merit Badge
- Interviews
 - Interview civilians (P. 40)
 - Interview law enforcement officers (P. 41)



Consumer Protection

Requirement 5



Consumer laws

- Laws that are designed to protect consumers (people who buy products)
- Consumer laws can be criminal or civil
- Criminal consumer laws address:
 - Fraud
 - Deceptive marketing/advertising
 - Product safety
- There are agencies that are designed to enforce criminal consumer laws



Consumer Protection Laws

Telephone Order Merchandise Rule

Requires regular and online companies to ship purchases to consumer when promised (or within 30 days if no time is specified) or to give consumers the option to cancel their order for a refund.

Truth in Lending Act

Requires seller to inform the buyer in clear terms exactly how much interest will be charged for a loan or credit agreement.



Consumer Protection Laws

Identity Theft and Assumption Deterrence Act

Makes the Federal Trade Commission log & acknowledge identity theft complaints, provide victims with information, and refer them to the appropriate agencies and law enforcement.

Children's Online Privacy Protection Act

Protects young people's privacy by giving parents the tools to control what information is collected from their children.



Consumer Protection Agencies

- There are federal, state and local organizations that are designed to help consumers, and enforce consumer protection laws.



Consumer Protection Agencies

- There are also private organizations who act as a “watchdog.”



How to Become a Lawyer or Judge

Requirement 8



Becoming a Lawyer in Missouri

- Requirements
 - Obtain an undergraduate degree (B.S. or B.A.)
 - Traditionally referred to as a 4 year degree
 - Does **NOT** have to be in pre-law
 - Get good grades
 - Take the LSAT (Law School Admission Test)
 - Logical Reasoning
 - Analytical Thinking
 - Now study guides and prep courses
 - Apply to law school
 - Good grades, and
 - Good LSAT score



Becoming a Lawyer in Missouri

- Character and Fitness Check
 - Unlawful conduct.
 - Failure to give complete, accurate information on the application or in the investigation.
 - Academic/other misconduct at an educational institution.
 - Employment misconduct.
 - Acts involving dishonesty, fraud, deceit or misrepresentation.
 - Financial irresponsibility.
 - Lack of respect for the legal system, (includes abuse of the legal process).
 - A condition or disorder impairing behavior, judgment, understanding, capacity to recognize reality, ability to function in school, work, or other important life activities, or ability to practice law in a competent and professional manner. This may include, but is not limited to: alcohol abuse, substance abuse, or a mental, emotional, or nervous disorder or condition
 - Denial of an application in another jurisdiction due to character and fitness
 - Disciplinary action by a lawyer disciplinary agency or other professional agency in any jurisdiction.
 - Neglect of professional obligations.



Becoming a Lawyer in Missouri

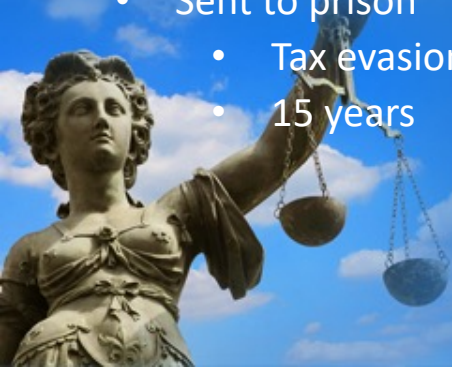
- Obtain a *juris doctorate* degree (J.D.)
 - Typically three years
- Apply for the Bar Exam
 - Character and Fitness again
- Pass the Bar Exam
 - 2 Day test
 - 1 day multiple choice
 - 1 day essay



Becoming a Judge in Missouri

Thomas Pendergast

- Political boss who controlled Kansas City and Jackson, County Missouri.
- Height of power – 1925-1936.
- Through voter fraud he was able to hand pick elected officials
- People who wanted to be elected had to pay for power.
- After his associates were elected, he used those connections:
 - Government contracts
 - Patronage jobs
- Amassed Power and Control
 - Harry S. Truman
- Sent to prison
 - Tax evasion
 - 15 years



The Missouri Plan

(The Nonpartisan Court Plan)

- Missourians were fed up with corrupt judicial elections
- So, in 1940:
 - Missouri Constitution is Amended
 - Initiative Petition (reaffirmed 2 years later)
 - Judges will be selected on merit rather than political affiliation.
 - Missouri Constitution now requires that judges in Jackson County and the City of St. Louis be selected under the nonpartisan system.
 - The Nonpartisan Court Plan is available to any county whose citizens wish to adopt it.
 - The citizens of St. Louis County, Clay County, Platte County, and Greene County have since adopted it.
 - Appellate judges, including Missouri Supreme Court judges, are selected via the Nonpartisan Court Plan.
- Missouri leads the country in merit-based judicial selection.
 - We are the national model for merit-based judicial selection.
 - Over 30 states have adopted a judicial selection model based on the Missouri Plan.

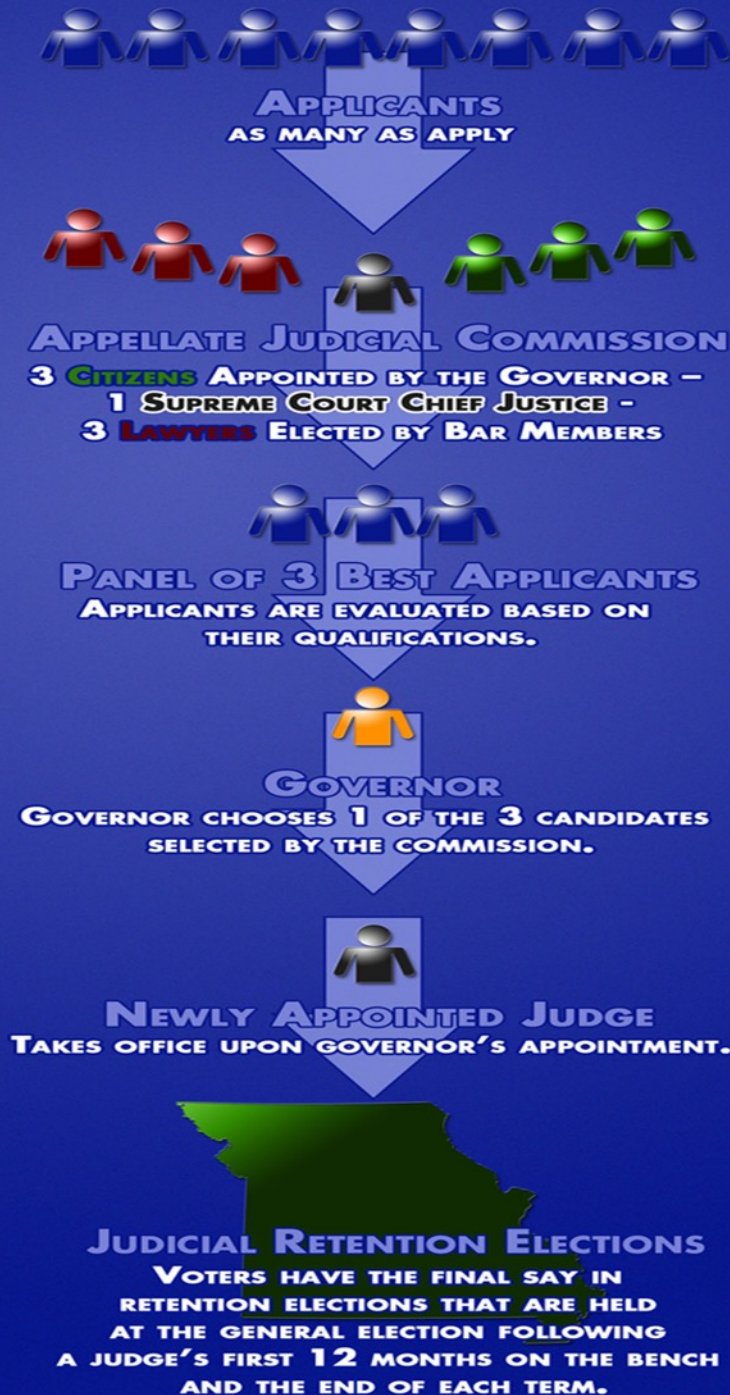


The Missouri Plan

- How does it work?
 - Citizens and lawyers, working as a team, serve on nominating commissions to select the best three candidates to fill an open judgeship.
 - The governor then appoints one of those candidates to the position.
 - Then, at the general election following their first 12 months on the bench and at the end of each term, each judge must stand before the voters in a retention election.
- The process is both transparent to the public and accountable to the people.
- The Missouri Plan has produced a steady stream of competent judges in Missouri for more than 75 years.
- The Missouri Plan attracts high-quality judges in the least political way and ultimately gives the people the final say.



The Missouri Plan



- The Missouri Plan's success in selecting qualified judges is evident.
- Since its adoption, the public has not voted any appellate judge out of office, and only two circuit judges have been voted out of office. (1942 & 1992)
- The latter was voted out after receiving failing reviews from lawyers in the judicial evaluation survey.



APPLICANTS
AS MANY AS APPLY



APPELLATE JUDICIAL COMMISSION

3 CITIZENS APPOINTED BY THE GOVERNOR –
1 SUPREME COURT CHIEF JUSTICE –
3 LAWYERS ELECTED BY BAR MEMBERS



PANEL OF 3 BEST APPLICANTS
APPLICANTS ARE EVALUATED BASED ON
THEIR QUALIFICATIONS.



GOVERNOR

GOVERNOR CHOOSES **1** OF THE **3** CANDIDATES
SELECTED BY THE COMMISSION.



NEWLY APPOINTED JUDGE

TAKES OFFICE UPON GOVERNOR'S APPOINTMENT.



JUDICIAL RETENTION ELECTIONS

VOTERS HAVE THE FINAL SAY IN
RETENTION ELECTIONS THAT ARE HELD
AT THE GENERAL ELECTION FOLLOWING
A JUDGE'S FIRST 12 MONTHS ON THE BENCH
AND THE END OF EACH TERM.

The Missouri Plan

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Benefits of the Nonpartisan Court Plan

- Produces judges that are fair and impartial and not beholden to politicians.
- Prevents judges from campaigning, accepting campaign contributions and engaging in partisan politics.
- Eliminates corruption.
- Judge applicants are evaluated on merit rather than connections, political contributions or partisan politics.
- The commission is balanced by design reducing all likelihood that any one person, party or interest has control.
- Vacancies are filled in a timely manner no matter when they occur.
- Voters have the final say through judicial retention elections.
- The Plan is transparent to the public.



A Career in Law or Legal Processes

Requirement 9



Legal Careers

- | | | |
|--|---|---|
| <ul style="list-style-type: none">• Lawyer• Judge• Court Reporter• Videographer• Paralegal | <ul style="list-style-type: none">• Legal Assistant• Law Clerk• Private Det.• Prison Official• Parole Officer | <ul style="list-style-type: none">• Court Clerk• Bailiff• CSI• Police Officer• Legislator |
|--|---|---|



Being a Lawyer is an Honor

- "The first thing we do, let's kill all the lawyers"

Henry VI, William Shakespeare

- Often misinterpreted
- Dick the Butcher was a follower of the rebel Jack Cade, who thought that if he disturbed law and order, he could become king
- Lawyers maintain law and order
- We speak for the voiceless



Questions?

Contact Information:

Danny Thomas

Humphrey, Farrington, & McClain

Independence, MO

Phone: 816-836-5050

Email: dat@hfmlegal.com

