

Unit 6 – Legal Process



Objective 1



Compare different law enforcement agencies, courts, and trials at the federal and state levels.

Objective 2

Evaluate the degree to which due process has been protected by Supreme Court decisions.

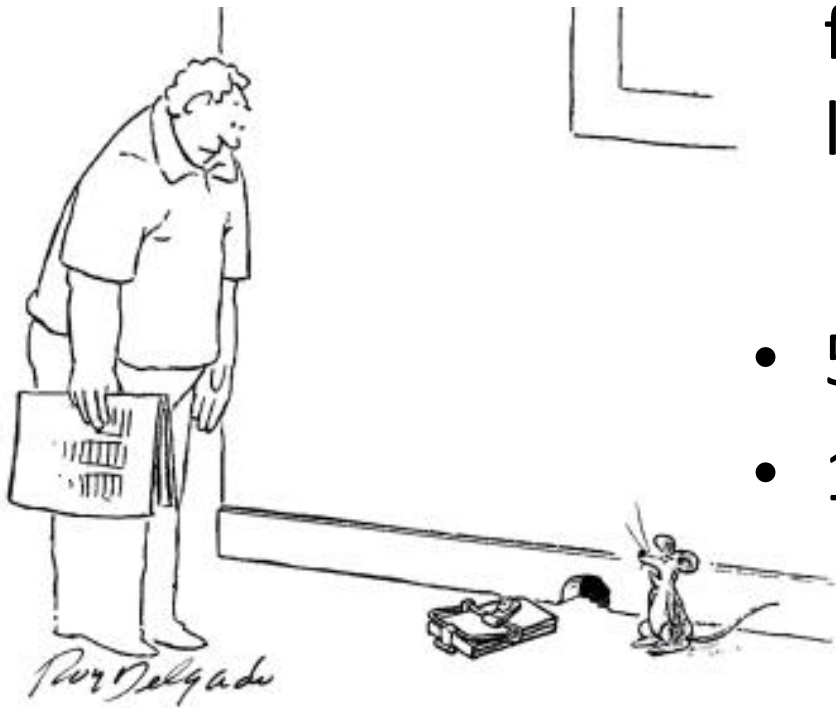
Review...

- Writ of Habeas corpus
- Ex post facto laws
- Bills of attainder
- Rule of Law
- Due process
- Equal protection
- Double jeopardy
- Eminent domain
- Self-incrimination
- Probable cause
- Grand jury indictment
- Appeal

	FEDERAL	STATE	LOCAL
<p>Courts/ Judicial Officers</p> 	<ul style="list-style-type: none"> • U.S. Supreme Court • Circuit Cts of Appeals • Federal District Cts • U.S. Attorney General 	<ul style="list-style-type: none"> • N.C. Supreme Court • Courts of Appeals • Superior Court • District Courts • N.C. Attorney General 	<ul style="list-style-type: none"> • District Attorneys • Public Defenders
<p>Law Enforcement Agencies</p> 	<p>Dept of Justice</p> <ul style="list-style-type: none"> • FBI • Marshals Service • DEA • ATF <p>Homeland Security</p> <ul style="list-style-type: none"> • Secret Service 	<p>Dept of Public Safety</p> <ul style="list-style-type: none"> • N.C. Highway Patrol • N.C. National Guard <p>Dept of Justice</p> <ul style="list-style-type: none"> • State Bureau of Investigation (SBI) <p>Dept of Correction</p>	<ul style="list-style-type: none"> • Wake County Sheriff Department • Raleigh Police Department

Due Process

- Procedures that must be followed to protect life, liberty, and property
- 5th Amendment: Federal
- 14th Amendment: States



Can you resist arrest if due process is being violated?

" Oh that's **real nice** ! - - And what about **due process** ?

Exclusionary Rule

- 4th Amendment – must have probable cause or search warrant to search or seize property
- Mapp v. Ohio
 - Search must be strictly limited to the terms of the warrant
 - Any evidence gained from an illegal search must be excluded from the trial
 - *Do you think this is fair?*



Miranda Rights

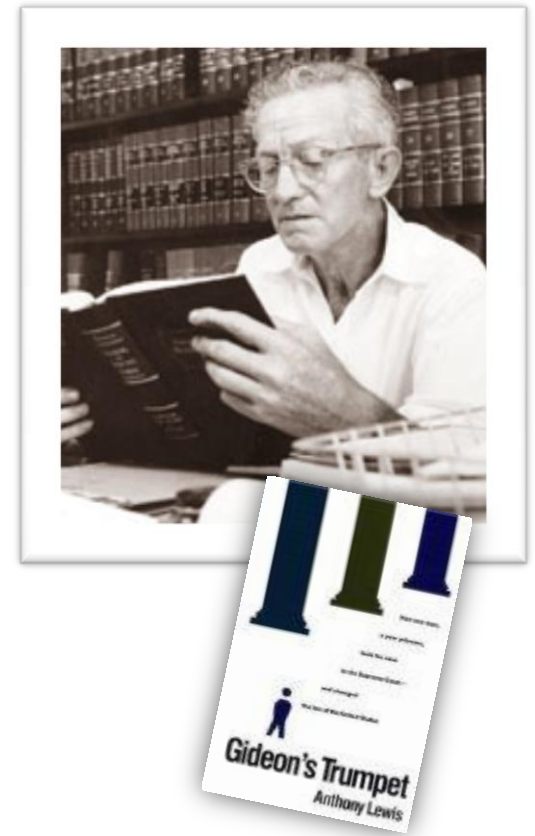
MIRANDA WARNING

- Miranda v. Arizona: suspects must be informed of rights at time of arrest, before any questioning takes place
- Rights included in the warning
 - 5th Amendment: Right to remain silent
 - 6th Amendment: Right to lawyer

ENGLISH
(FRONT)

Public Defense

- *When must the government provide a lawyer for someone accused of a crime?*
- Gideon v. Wainwright
 - Having a lawyer is essential to due process
 - Public defense must be offered if necessary for any charge that could result in prison time, at the federal or state level



Capital Punishment

- *Do you believe that the death penalty violates the 8th Amendment as “cruel and unusual punishment”?*
- Furman v. GA and Gregg v. GA
 - Limitations: Cannot be biased or arbitrary, cannot be used for the mentally ill or juveniles
 - Used by federal government and many states
 - States had to come up with a system to meet constitutional standards
 - *In North Carolina?*

Types of Crimes

- Crimes against People vs. Property
 - Murder, manslaughter, assault, battery
 - Theft, Arson, Vandalism, Trespassing
- Felonies vs. Misdemeanors
 - More or less than 1 year in prison
 - Can vary depending on state and previous record
- Federal vs. State
 - Federal priorities: Threats to national security like Terrorism or Espionage, Human or Drug Trafficking, Organized crime, Bank robbery, “White-collar” crimes like fraud, Kidnapping, etc.
- *Victimless?*



Criminal Cases

- Arrest
 - Proper warrants
 - Miranda warning
 - Access to lawyer
- Pre-trial
 - Preliminary hearing
 - Charges, bail set
 - Grand jury indictment in felony cases
 - Arraignment, plea:
 - Guilty, No Contest, or Plea Bargain: no trial
 - *What are the pros/cons of plea bargaining?*
- Trial
 - Jury selection (voir dire)
 - Evidence and testimony, cross-examination
 - Jury deliberation and verdict
 - Acquit: cannot be retried (double jeopardy)
 - Hung jury: Retrial or prosecution drops charges
 - Guilt: beyond all reasonable doubt
 - Sentencing by judge
 - Can appeal
 - Possibility of parole?

Civil Cases



- Complaint
 - Plaintiff files lawsuit
 - Defendant summoned
 - Pleadings, counter-suit?
- Pre-trial
 - Discovery
 - All evidence and witnesses shared on both sides
 - Conference
 - Most end before trial
 - Lawsuit dropped
 - Settle out of court
 - Mediation
 - Arbitration
- Trial
 - Jury may be requested
 - Evidence and testimony, cross-examination
 - Decision
 - Plaintiff wins: produced a “preponderance of evidence” that defendant caused harm
 - Remedy set: Monetary compensation, injunction issued, rights restored
 - Defendant wins: court costs paid by plaintiff
 - Appeal
 - Either side can appeal for reversal or different remedy



Punishment

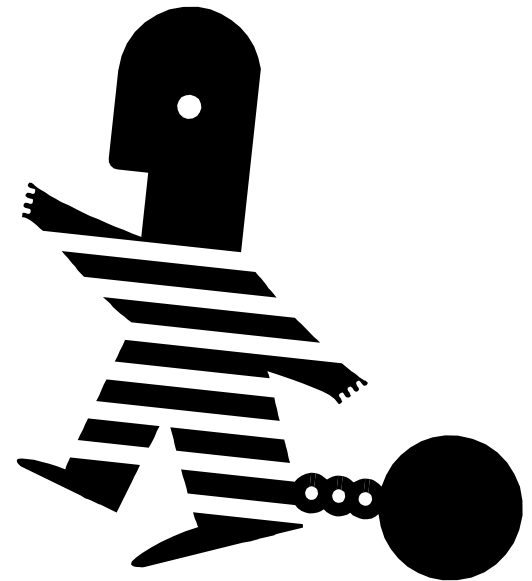
Why do criminals receive different punishments?

What purposes do they serve – punishment, safety, retaliation, deterrence, rehabilitation, etc.?

- Warning, Fine, Community Service, or Probation?
- Incarceration or Institutionalization?
- Minimum or Maximum security prison?
- Prison with or without possibility of parole?
- Life Sentence or Death Penalty?

Civil remedies?

- Compensatory damages
- Punitive damages
- Injunctions



Juvenile Cases

- Civil cases: custody, rights, injury
- Criminal cases: Neglect, Delinquency
- How do they differ from adult cases?
 - Special courts, officers, and lawyers
 - Closed to public, records sealed, no jury
 - Can start with a petition by school or parent
 - Punishment focused on rehabilitation
 - Stern lecture, special school, correctional facility
 - If neglect is found, court becomes guardian