**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

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  |  |
|  | * U.S. Supreme Court
* Circuit Cts of Appeals
* Federal District Cts
* U.S. Attorney General
 | * N.C. Supreme Court
* Courts of Appeals
* Superior Court
* District Courts
* N.C. Attorney General
 | * District Attorneys
* Public Defenders
 |
|  | Dept of Justice * FBI
* Marshals Service
* DEA
* ATF

Homeland Security* Secret Service
 | Dept of Public Safety* N.C. Highway Patrol
* N.C. National Guard

Dept of Justice* State Bureau of Investigation (SBI)

Dept of Correction  | * Wake County Sheriff Department
* Raleigh Police Department
 |

**Due Process**

Procedures that must be followed to protect \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_ Amendment: Federal

\_\_\_\_ Amendment: States

 *Can you resist arrest if due process is being violated?*

**Exclusionary Rule**

4th Amendment – must have \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to search or seize property

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* Search must be strictly limited to the terms of the warrant
* Any evidence gained from an illegal search must be \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ from the trial

 *Do you think this is fair?*

**Miranda Rights**

Miranda v. Arizona: suspects must be informed of rights at time of arrest, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ takes place

Rights included in the warning

5th Amendment: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

6th Amendment: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Public Defense**

*When must the government provide a lawyer for someone accused of a crime?*

Gideon v. Wainright

* Having a lawyer is essential to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* Public defense must be offered if necessary for any charge that could result in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, at the federal or state level

**Capital Punishment**

*Do you believe that the death penalty violates the 8th Amendment as “cruel and unusual punishment”?*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* Limitations: Cannot be \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,
cannot be used for the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* 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 v. Property

People: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Property: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Felonies vs. Misdemeanors

Felonies: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Misdemeanors: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Federal vs. State

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_: 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 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_warning, Access to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Pre-trial

* Preliminary hearing

Charges, \_\_\_\_\_\_\_\_\_\_\_\_ set, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in felony cases

* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_:

Guilty, No Contest, or Plea Bargain: no trial

*What are the pros/cons of plea bargaining?*

Trial

* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (voir dire)
* Evidence and testimony, cross-examination
* \_\_\_\_\_\_\_\_\_\_\_\_ deliberation and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_: cannot be retried (double jeopardy)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_: Retrial or prosecution drops charges

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_: beyond all reasonable doubt

Sentencing by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Can \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Possibility of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_?

**Civil Cases**

Complaint

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_files lawsuit, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ summoned

Pleadings, counter-suit?

Pre-trial

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_: All evidence and witnesses shared on both sides

Conference

Most end before trial \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Trial

* \_\_\_\_\_\_\_\_\_\_\_ may be requested
* Evidence and testimony, cross-examination
* Decision

Plaintiff wins: produced a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ that defendant caused harm

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ set: Monetary compensation, injunction issued, rights restored

Defendant wins: court costs paid by plaintiff

* Appeal: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 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?*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Juvenile Cases**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_: custody, rights, injury

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_: Neglect, Delinquency

How do they differ from adult cases?

* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* Can start with a petition by school or parent
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* Stern lecture, special school, correctional facility
* If neglect is found, court becomes guardian