



Devotion: Psalm 1

Business: Registration for Spring 2022. Review the 10/25/21email to Criminal Justice Majors/Minors.

10 - 11/8	JPA Ch. 8	The legal profession, private and public service attorneys. What is law school?	HW7 POST (due 11/06) 1. What is the role of lawyers, litigants and interest groups in the judiciary process? 2. What role would you play to most impact the judiciary process, explain in detail? Respond to a post (50 words)	Use the text, and one other article of your choice. 250 words.
11 - 11/15	JPA Ch. 9 Pre-trial Procedures		HW8 POST (due 11/13) How do pre-trial procedures relate to 4 th /5 th /6 th Amendment rights? Are bail and plea-bargaining fair processes? Respond to a post (50 words) EXTRA CREDIT POST 11/18 THUR. @ 5:00 pm - ZOOM Interview with CJ Alums starting Law School! - Check your email for details!	Use text and current events (250 words) EXTRA CREDIT
12 - 11/22	No Classes	Thanksgiving Week	Be careful, stay healthy!	Do any catch-up work too.

We the People of the United States, in Order to form a more perfect Union, establish Justice, ensure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America. (Preamble, *United States Constitution*, 1789).

The American judicial system follows an **adversarial model**. The adversaries of a trial are represented in "the ring" by lawyers/attorneys; the judge can be viewed as a referee. Keeping in mind the difference between criminal and civil trials (the evidence level needed for decisions), how does legal training, experience, and access to legal assistance make a difference in the pursuit of justice?

READ: Ch. 8 Lawyers, Litigants, and Interest groups

Lesson Goal: Lawyers, legal training and litigants and the justice system

The origin of lawyering in the U.S. – The individual nature of colony sovereignty is reflected in the *decentralized nature of the legal profession across the States* still evident today. Each colony established their legal “profession” as extensions of the legal traditions of England. Persons entering the profession would intern (usually paying for the education and exposure) for lawyers. The body of *approved* lawyers in *each* colony was called a bar association; these colony/State bars established rules for barring and disbaring lawyers. Some states required the whole bar association’s approval, while others allowed individual courts to approve entry that was then recognized by all courts within the State. Current bar approval varies from State to State. All States require the passing of a *bar exam*, as well as documentation of legal internship and experience within the legal profession. California allows for a rigorous internship and then testing as the basis for bar entry. The first law schools were formed in the 1780’s beginning in Connecticut, then Pennsylvania, and Maryland.

The Start of U.S. Law Schools - By 1900, there were 102 law schools in the U.S. (Carp, et al. 2018). The law school curriculum, originally only one year in the first law schools was increased to three years by the late -1800s. The teaching philosophy of using *Socratic-style interaction between student and instructor, and the case-study approach to learn concepts was initiated at Harvard University*, this method is the most popular among today’s law schools.

Stratification of the profession

1. Specialty lawyers – dedicated to specific areas of expertise in law, for example legal contracts, etc. These lawyers are recruited by large firms and then supported through their learning process. Sometimes these firms will offer professional partnership tracks, whereby, their performance can lead to becoming a *corporate partner* (owner status). *Associates* are also lawyers working within these firms, they may not be on the partnership track.

- Middle level lawyers work for companies/corporations, are highly sought after law graduates, but do not engage in the circles of the top law firms.
- General level – these lawyers work for individuals, often have their own offices/firms or simple partnerships. Their work is diverse according to the needs of clients and the business that presents itself to them.

What do lawyers do?

First, Advising/consulting: State law requires that legal advice (for a fee/or free) only be given by licensed (Bar certified) lawyers. About *one-third of a lawyer's time* can be devoted to meeting with clients solely for *advising/consulting* (Vago, 2006). A *second* important activity is negotiation on behalf of a client. Both civil and criminal cases are often settled without a trial, *negotiation as an approach* to settling civil disputes or criminal charges saves all parties time and money. *Third*, lawyers draft legal documents, this is important given the complexities of legal language and complicated application processes. *Fourth*, lawyers investigate cases, collecting relevant facts, documents, and testimony. *Fifth*, lawyers research prior cases that might contribute to shaping the outcome of their case.

Composition of Court Participants

Prosecutors - Federal Prosecutors – are appointed by the President and confirmed by the U.S. Senate, these appointments are for four years (usually a change in party/President leads to the resignation of federal prosecutors with new appointments made by the new president). Assistant Prosecutors are appointed by the U.S. Attorney General (head federal prosecutor)

State Prosecutors / District Attorneys (DA)– These elected government lawyers represent the state/county in prosecuting criminals in court. They also convene *Grand Juries*, and *can decide if they want to prosecute a case*. This level of professional discretion is immense. District Attorneys can also supervise and direct *a staff of attorneys called Assistant District Attorneys*.

State Attorneys General – represent their State in civil cases, and can be proactive in launching legal cases against industry or corporations. This office can also support local DA's with research for local cases.

Public defenders vs. Assigned counsel (Legal Aid, etc.) - The guarantee of legal representation for indigent persons (meaning, the poor), based on Gideon v. Wainwright (1963), created a system of government-employed private attorneys. *Public defenders* have full-time jobs defending this group without representation, *Assigned counsel*, *sometimes assigned to work by a judge*, work on an *ad-hoc basis* (specific purpose/case).

Legal Aid Societies – *Private groups* and *State Bar Associations* can support lawyers that work independently and privately for clients who cannot afford a lawyer. Law students often work and do research for these legal aid societies, **Pro bono** means for the good. Lawyers will offer this work free of charge as a pay-back to society for the privilege of serving as lawyers. Consider the American Bar Association

Discussion questions:

- What values are implied in the ABA statement/admonition below?
- What/why do you think it was put in place for the profession of law?

ABA Model Rule 6.1 establishes professional responsibility to provide pro bono service - Voluntary Pro Bono Publico Service

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

(a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:

- persons of limited means or
- charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and

(b) provide any additional services through:

- delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;
- delivery of legal services at a substantially reduced fee to persons of limited means; or
- participation in activities for improving the law, the legal system or the legal profession.

What are Litigants? These are persons who seek court resolutions for harm. Litigants can be government agencies, private agencies, organizations, and individuals. Litigants are represented by lawyers, and the due process is supervised by judges. Seeking compensation for harm or damages is called a *law suit*.

Interest groups as litigants – Courts can be used to *formulate policy*, for example, if an *interest group* forms to address *sufficient harm* being caused by the tobacco industry, a *law suit* can be brought to court that results in behaviors by the tobacco company costing them millions of dollars, hence the behaviors are considered illegal and can result in more damages paid if repeated. Law suits by interest groups can be considered an *alternate route to shape legal/policy instead of motivating legislators to take action*.

VIDEO: Tobacco Industry's Campaign to Hide the Hazards of Smoking – 7:39 min

<https://www.youtube.com/watch?v=c25mqFtg6AA>

GQ: How do health and public issues find their way into the courtrooms? Tobacco-related harm issues.