

Introduction to Law

Chapter 1 Notes

“Types of Law”

1. **Substantive Law** – *Concerned with the content, or “substance” of the law; clearly defines the elements of a crime*

2. **Procedural Law** – *Governs the process, or the application, of the law; a very important concept in our society*

This form provides the foundation for the concept of “justice”

Due Process of Law – *The process through which an individual moves in the criminal justice system must be fair; the accused are protected by certain rights found in the U.S. Constitution*

- of the two types, _____*procedural*_____ is more controversial because of the “loopholes” that sometimes appear on the process

- the *Framers of the Constitution* decided it was better to risk letting a criminal go free than to create an _____*arbitrary*_____ and _____*tyrannical*_____ government

3. **Criminal Law** – *Deals with activities that have been formally forbidden by a society's government*

- the government is responsible for detecting and preventing crime, as well as seeing that criminals are caught and punished
- the government prosecutes criminals (seeks retribution of behalf of the victim)

4. **Civil Law** – *Governs the relationships between individuals in the course of their private affairs (contracts, property, wills, and torts)*

- the main interest of the government in a civil case is to provide a forum in which the dispute can be resolved

=> a criminal action and a civil case can arise out of the same set of facts (i.e. auto accident, wrongful death)

5. **Constitutional Law** – *The most basic, fundamental form of law*

A constitution should:

A. *Provide for the structure of the government*

B. *Place limitations on government*

C. *List the basic powers of the government*

D. *Provide for an amending process*

- the U.S. Constitution does all of the above, but it is written in a vague enough style so that it can be interpreted by the reader

- because of the ambiguity, the Supreme Court has played a major role in our political and legal systems

Judicial review – *The power of the judiciary to invalidate laws or actions by the executive or legislative branches because they violate the Constitution*

6. **Statutory Law** – *Law passed by a legislative body that bestows benefits, imposes obligations, or prohibits anti-social behavior*

- reflect the collective will of the majority

7. **Administrative Law** – *Law that governs the actions of administrative agencies (Dept. of Transportation, F.T.C., F.A.A, etc.)*

- The area is so specialized, lawmakers allow those in the field to write their own policies

8. **Case Law** – *Law that is developed when judges interpret the meaning of constitutions, statutes, or other forms of written law*
9. **Common Law** – *Law that was developed in England by judges who made legal decisions in the absence of written laws. The “new” laws served as precedents and became “common” to all of England.*
- there is a close relationship between case and common law because they both rely on the rule of precedence and allow the judge discretion in interpreting the law.