

PART I

## CHAPTER 1: INTRODUCTION TO THE LEGAL SYSTEM OF THE UNITED STATES

### REVIEW QUESTIONS

1. The executive branch is responsible for enforcing the laws of the land. This involves the detection and investigation of alleged criminal law violations and the prosecution of those believed to have violated criminal prohibitions.
2. A court of record employs some means of keeping a verbatim transcript of its proceedings. It is common to use stenotype or an audio recording.
3. The following three definitions of jurisdiction appear in the text.
  - i. the authority of a governmental unit over a policy area, person, or thing
  - ii. the authority of a court to hear a case
  - iii. the geographical location where a governmental unit resides

A court of general jurisdiction has authority to hear a variety of cases, both civil and criminal. Most state trial courts have general jurisdiction. Courts with limited jurisdiction may hear only those cases with a specific subject matter.

4. Criminal law seeks to punish those who violate criminal law. Civil law seeks to compensate those injured by another. Criminal law uses punishment as a remedy, and civil law uses damages or other financial compensation. (Both, on occasion, use injunctive relief.)
5. Anyone may file a civil suit. However, this is not true of criminal actions, in which case initiation must be by a public official. The reason is because injuring another civilly is viewed as a private wrong, while injuring another in violation of criminal law is viewed as a public wrong. Of course, many actions can lead to both civil and criminal actions.
6. Compensatory damages consist of the amount of money required to compensate a victim for his or her actual loss. Punitive damages are the amounts exceeding actual damages. Although punitive damages appear criminal, they are often permitted in civil litigation.
7. This question requires students to render their personal positions. However, the issue that should be addressed is that punitive damages appear to have a criminal element in that they seek to punish, not compensate. You may want to discuss the possible due process question, to wit: If punitive damages are criminal in nature, why are defendants not permitted established criminal law protections (i.e., proof beyond a reasonable doubt)?
8. Responsibility; accountability; guilt.

## PROBLEMS & CRITICAL THINKING EXERCISES

1. This question is intended to test students' understanding of federalism and, more specifically, the way the Supremacy Clause operates in the United States' federalist form of government. Obviously, the state statute fails. *Roe v. Wade* is a decision that is premised upon the Fourteenth Amendment of the United States Constitution; as such, states may not encroach upon this protected civil liberty.
2. This question differs from the previous question in that students must choose between state constitutional law and federal constitutional law. For the reasons stated in question 1, the state constitutional provision is invalid.
3. This question is intended to test students' understanding of federalism and, more specifically, the Tenth Amendment. If the regulation of county roads is one exclusively within state jurisdiction, the United States Congress may not declare that it possesses jurisdiction over that subject. Accordingly, the defense would be lack of jurisdiction by the federal government.
4. The paradox is true because in a state of anarchy (the absence of government), there would be great instability and insecurity. Without government, people would be free to injure one another without fear of recourse, except for private retribution. In short, people would live in constant fear of one another. Government and government control have the effect of stabilizing a society. It is all of society gathering its combined force to prevent behavior deemed dangerous or improper. Each member of a society gives up a certain measure of freedom to behave as he or she may wish, but such freedom is given up in exchange for a safer, more predictable and stable society. Obviously, each society is different in what civil rights people relinquish to the government (which represents an increase in governmental power) and the rights people retain.
5. Discussion question: In terms of conclusion, basic notions of federalism, as defined by the Tenth Amendment, would support concurrent jurisdiction. Therefore, the United States should render Terry Ist for trial with the understanding that he is to return to federal custody to complete his sentence before serving his state time, if there is any.