

THE  
AMERICAN  
COURTS



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A PROCEDURAL APPROACH

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# Preface

This book represents a plan for studying the work of the American courts. It examines the approach courts take to resolve matters that come before them. This approach, which involves examining the facts and determining how the law was meant to apply to them, is procedural. Legal procedure, or the process of applying the law, is the job of the courts in America. This book therefore examines what courts do and how they do it by considering the types of cases that courts decide and the procedures used in deciding them.

This text takes a comprehensive view of the courts. Although the criminal justice and the civil justice “systems” are often thought of as separate and unique, there is but one institution—the American “system” of courts. It has a single, central goal, which is to do justice. Therefore, this book incorporates discussions of both criminal and civil matters that come before the courts by providing a context in which the various functions of courts are examined. This is done by examining the law. Interpreting, explaining, extending, and applying the law is the work of the courts, both criminal and civil. Because of this, it is impossible to understand the work of the courts without having some understanding of law—what it is, what it does, why it matters, and perhaps most importantly, how the courts use it. A procedural approach is a process-oriented approach, and the process used by courts to give meaning to the law is the central theme of this book.

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## Topics Covered

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This text is divided into five sections, with an introductory discussion for each:

- Section I: Courts in America
- Section II: Courts at Work
- Section III: Civil Law and Procedure in the Courts
- Section IV: Criminal Law and Procedure in the Courts
- Section V: The Changing American Courts

The first section is composed of three chapters that lay a foundation for understanding the context in which courts operate. These chapters discuss the meaning of justice, the purposes of law, and the ways in which

courts operate to accomplish justice and give meaning to the law.

The second section includes five chapters that explore the work courts do by examining the various types of courts in the United States, their functions, and their relationship to each other. In particular, the distinction between federal and state courts and the nature of their authority is explored, as well as the types of cases that courts resolve and the jobs of those who work to resolve them.

The third section provides an overview of the civil law. Courts devote a considerable portion of their resources to civil cases, or those involving disputes between private parties. Section III provides a summary of the topics in civil law and the types of legal matters the law allows individuals to pursue or accomplish. Furthermore, this section devotes a chapter to civil procedure, which examines the process through which users of the courts must present their civil legal matters.

Section IV summarizes the criminal law and its application by the courts. Separate chapters discuss the substantive criminal law and criminal procedure, with the goal of helping students understand the prohibited behaviors that society has determined are worthy of punishment, as well as the procedural protections and rules employed by courts to prevent the government from violating the rights of individuals as it enforces the criminal law.

Finally, Section V considers current topics affecting the courts and the adaptive nature of courts as society changes. The final chapter in this section reconsiders the role and needs of courts as they function as an institution of society, with an eye toward the future.

This organization allows the text to be used in a variety of ways. For example, instructors teaching aspects of the criminal justice system may not wish to use or emphasize material in Chapters 9 or 10, which focus on the civil law, and instructors teaching about the civil law and operation of the courts may wish to omit the detailed discussion of criminal law and procedure found in Chapters 11 and 12. Regardless of the specific purpose in using this text, it is intended to offer a comprehensive discussion of the courts that allows flexibility in its study.

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## Organization of Each Chapter

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Each chapter of the text starts with a brief explanation of what the chapter is about and sets out the learning objectives for the chapter. In discussing each of the chapter topics, the book incorporates case decisions, which illustrate principles of law but, more importantly, show how courts resolve disputes and apply the law. The case decisions are excerpts from actual court decisions, edited and shortened for ease of reading and to focus on the issues discussed in the text. In addition, explanatory figures and tables are used throughout to illustrate or summarize topics discussed. Each chapter also contains sidebars, which are brief and more focused discussions of topics of interest related to the chapter content. Finally, each chapter ends with key terms, discussion questions, a list of cases, Internet resources, and references, for use in review and further study.

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## Studying Cases

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As noted previously here, each chapter contains case decisions, which are excerpts from decisions issued by actual courts. These cases are central to understanding

the topics of each chapter; however, they have been liberally edited by removing many of the other case citations relied upon by the court in its written decision. This was done to make the decision easier to read for students encountering case decisions for the first time. Furthermore, instances in which a court's opinion quotes a prior decision of the same court have been removed to improve readability, and in many cases, not all of the rationale of a court is presented in order to focus the reading on the legal issues raised in the chapter in which the case decision appears. Finally, many of the case decisions also contain excerpts from some, but not all, of the concurring or dissenting opinions of other judges or justices on a court. These are included because of their particular relevance and because they help shed light on aspects of the textual topics and should be read along with the opinion of the court.

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## Ancillary Materials

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A comprehensive set of instructor's materials, including PowerPoint presentations, lecture outlines, and a TestBank, is available on the Web site: <http://criminaljustice.jpub.com/AmericanCourts>.

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