

Preparing Middle Schoolers for Their Visit to the Courts



Superior Court of California
County of San Francisco

The San Francisco Superior Court warmly welcomes students and all members of the public to the courthouse. The courthouse belongs to the public: this is your building, and the courts are here to serve you. We hope this booklet will help teachers, students, and accompanying parents make the best use of their limited time on field trips to the courthouse.

Introduction

Students who prepare for their visit to the courthouse will have the best experience. While more preparation is usually better, even an hour of preparation will greatly benefit the students and will make the visit far more enjoyable and meaningful. Preparation allows students to understand what they are being told, what they are seeing, and to formulate questions—questions the answers to which they care about.

This booklet provides ideas and background for that preparation. The booklet is meant to be accessible to middle schoolers, to be either read by or to them.

As there are substantial differences between fifth and eighth graders' maturity and cognitive abilities, this booklet distinguishes basic information and preparation, suitable for the younger student, from more "advanced" issues and questions older students may use.

Discussion topics and questions are found on page 8.

United States Governments

FEDERAL:

Centered in Washington D.C. and responsible for making and enforcing federal laws.

Current President = Joseph R. Biden (AKA Joe Biden)

STATE:

Every state in the United States, the District of Columbia (D.C.) and U.S. territories like Puerto Rico has its own local government. These state and local governments provide services to the people living there. These services included maintaining and operating schools and airports, building and maintaining roads and bridges, operating the courts and ensuring safe food and drinking water. Each of the 50 states has its own government. Citizens who live in a state are citizens of that state (such as California) as well as of the United States.

Current Governor of California = Gavin Newsom

3 Branches of Government

Legislative: Makers of the laws (Senate and House/Assembly)

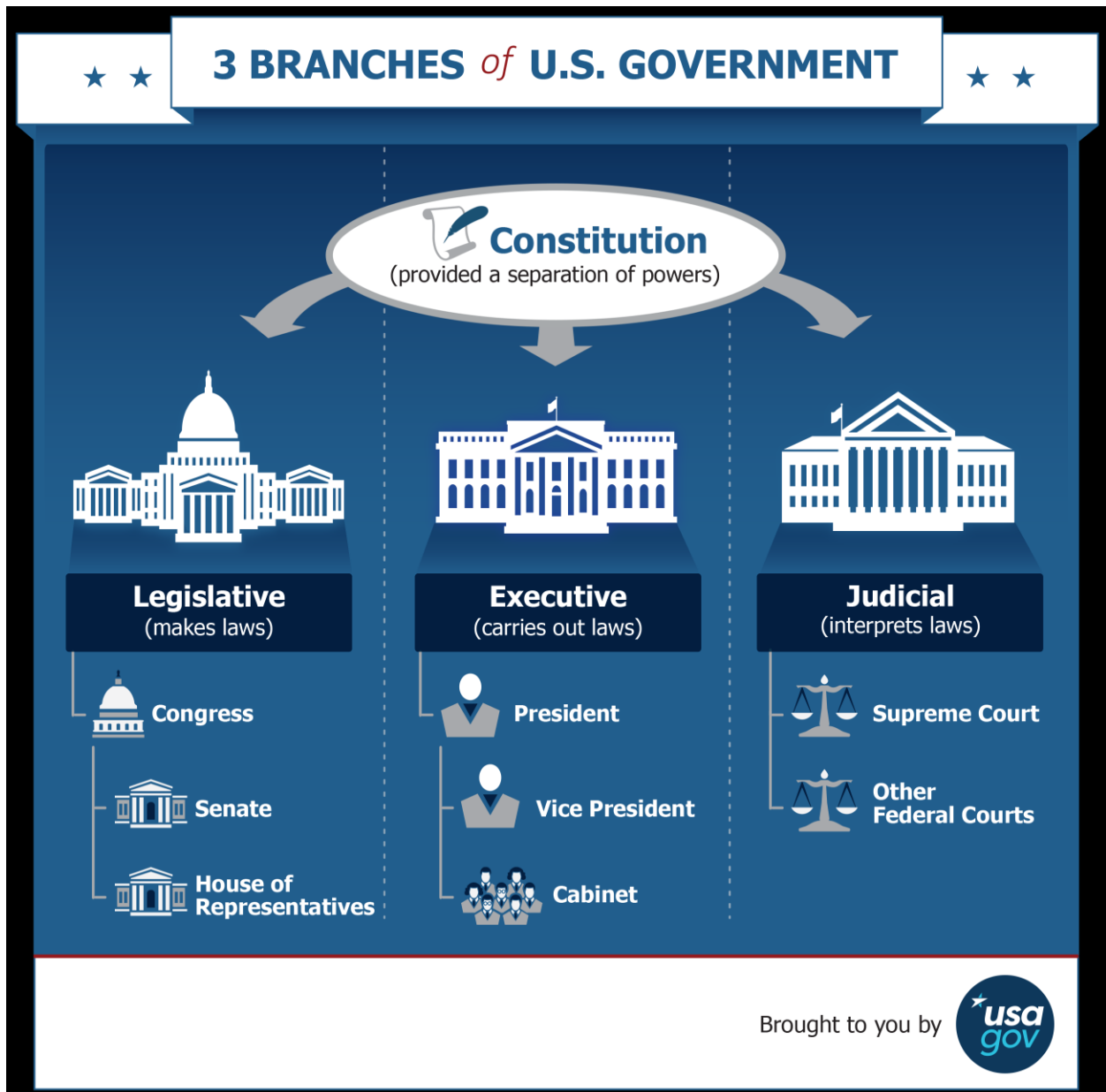
Executive: Enforcers of the laws

Federal executive head: President of the United States Joseph R. Biden

California state executive head: Governor Gavin Newsom

San Francisco city executive head: Mayor London Breed

Judicial: Interpreters and appliers of the laws in courthouses



Types of Cases that Come to Court

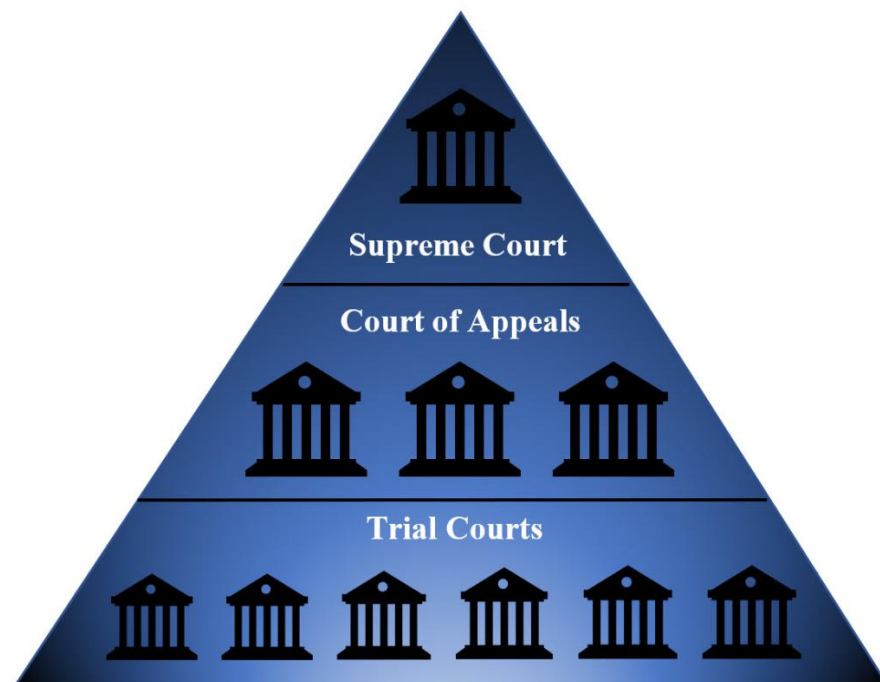
- **Civil:** When a person or company sues another person for money or to force them to do something or to prevent them from doing something.
 - Common Civil cases:
 - Personal injury: recover losses after being injured by another
 - Restraining orders: prevent someone from contacting another
 - Intellectual property: prevent someone from using ideas or technology belonging to someone else
 - Contract: one party broke an agreement or promise and the other wants the agreement enforced
- **Criminal:** When the Executive branch (law enforcement) accuses someone of breaking a law that was written by the Legislative branch.
- **Family:** When people are adopting children or getting divorced and need help dividing their property and figuring out timeshares with the kids.
- **Juvenile:** When a person under the age of 18 is accused of breaking a law or when parents are accused of abusing their children.
- **Probate:** When a person dies and the family needs help to divide up the property.

Court System Structure

Trial Court: The court in which both sides present their facts through evidence and argument and the judge or jury decides who wins.

Appellate Court: This court reviews the trial court judge's decisions and decides whether the judge made any errors that must be fixed.

Supreme Court: This court reviews both the trial court and the appellate court's decisions and decides whether any mistakes were made that must be fixed.



People In The Courtroom

Judge: Sits on a “bench” that is higher than the rest of the courtroom both to indicate respect and to enable the judge to see the entire courtroom.

Court Clerk: Sits directly in front of the judge so they can hear everything the attorneys and judge say. The clerks take official notes of what happens in court and they “swear in witnesses.”

Court Reporters: Sits next to the judge and types every word that everyone says in the courtroom. That way, when needed, judges or attorneys can be reminded of what was said.

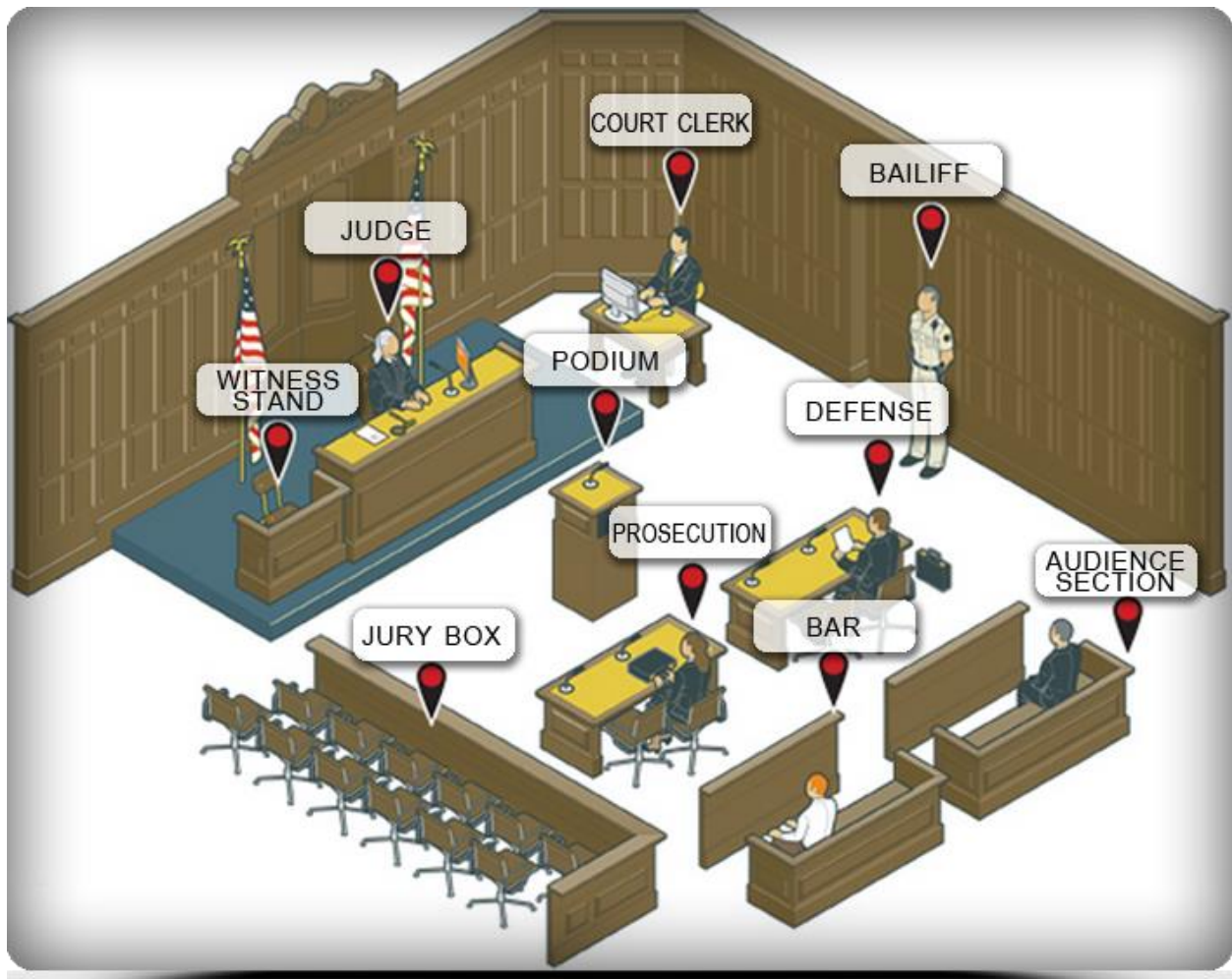
Bailiff/Sheriff Deputy: Sits near the judge and is responsible for keeping the judge, court staff and the public safe.

Lawyers (Prosecution/Defense): Each side has their own table to set up their materials. The lawyer who has the burden to prove the case sits closer to the jury.

Jury: The deciders of the facts and they render not guilty/guilty verdicts. They sit on the side of the courtroom near the witness stand in the jury box.

Witnesses: They come to court to tell the truth and talk about what they have seen and heard. They sit to the left of the judge on the witness stand.

Litigants: They are the persons who sue another person or is being sued by another person.



People in The Courtroom {Advanced}

In a criminal case one table is for the person accused of a crime—we call him or her the "defendant"—and one table is for the lawyers who are trying to prove that the person did the crime—we call that side the "prosecution."

In a civil case, one table is for the person who is accused of hurting someone, like causing a car accident, or breaking a promise—we call him or her the "defendant." The other table is used by the other party, the one who says she suffered that injury or harm—we call that side the "plaintiff".

In most cases we have a chair for a court reporter, who records everything that people say on a special machine. Why do we need court reporters? Sometimes the jury or the judge might forget exactly what a witness said, and the court reporter can read back their exact words. Also, when a case goes to the court of appeal, the judges on that appeals court can see what people said, and then decide if there is a good reason for what the jury or the judge decided.

Facing the judge, courtrooms have seats for the public—for anyone who wants to watch. In the United States, all people usually have the *right* to watch any trial they want, or anything else that happens in court, with certain exceptions.

Juries and Judges {Advanced}

Juries figure out the facts, what actually happened. Judges know the law. Juries are made up of 12 ordinary people who are asked to come in to a court for a week or two, sometimes more, to listen to the people involved in the case, and decide what really happened. The judge tells the jury what the law is. Then, after the jury figures out what happened, they apply the law and they decide who wins the case. When a person is asked to serve on a jury, the law requires that he or she must serve unless the judge agrees that there is a good reason to be excused.

Here is a criminal example, and a civil example.

Criminal example: Let's say Michael is accused of committing a crime such as shoplifting. The prosecutor, who works for the state's Executive branch and works with the police, will have witnesses who will tell the jury that they saw Michael take things from a store without paying. Michael himself, or maybe others, may testify that he did not do that. Maybe Michael's lawyer will show that the prosecutor's witness didn't really see Michael take anything. Maybe some witnesses aren't telling the truth. The jury decides who is telling the truth. The jury will decide what *really* happened and will decide who they (the jury) want to believe. The judge tells the jury what the law is. In this case, the judge tells the jury what "shoplifting" really means. For example, picking up a shirt in a store and putting it down again isn't shoplifting. The judge will make sure the jury knows what 'shoplifting' is. As a defendant in a criminal case, Michael is presumed to be innocent. The prosecution has a high burden to convince the jury that Michael is guilty.

The jury might decide that Michael did the shoplifting (so he's guilty). Or the jury might decide it's not clear that he did it—maybe the jury isn't certain what happened, or maybe they decide that he really didn't do it—in any of those situations, the jury says, "not guilty". If Michael is guilty, the judge decides the punishment. If the jury says "not guilty" the case is over, and Michael is free.

Civil example: Let's say Jon asks Jane to sell him her car. Jane wants \$1000, and Jon gives her the money. But then Jane won't give Jon the car. She made a deal, but she broke her promise. Jon sues her: maybe he wants the car, or maybe he wants his \$1000 back. Jon and Jane tell the jury what they think happened. Maybe there are other witnesses, too, who will say whether or not there really was an agreement to sell the car. Maybe Jon and Jane signed a paper that shows there really was a deal. If so, the jury will read that paper. The jury figures out what happened: Was there a deal? Was it to sell a car? Did they really agree on a price of \$1000? Did Jon really give \$1000 to Jane? The jury decides who wins and who loses the case.

How to Become a Judge

In California, only lawyers can become judges. You have to be a lawyer for at least 10 years before you can become a judge. You can ask the Governor to appoint you to be a judge. Or you can run for office, in an election, and ask people to vote for you to become a judge.

If you have to be a lawyer before you can be a judge, how do you become a lawyer? Usually you need to go to college first, which you do after high school. College usually takes about 4 years. Then you go to law school, which is about 3 more years. Then you have to take a test to see how much you know about law. If you pass the test, you can become a lawyer.

Why would a Governor make someone a judge? Different Governors look for different qualities in people, but all of them are looking for people who are honest, fair, and will treat people with respect. We want judges who will promise to follow the law, even if the judge might personally disagree with the law. We want judges to be brave and courageous, and make decisions that the law--and most importantly the Constitution--requires, even if there are many people who might be angry at the judge for following the law. We want judges who will treat all people with respect, no matter who they are, no matter their background, no matter their race, ethnicity, sexual orientation, religious beliefs, physical disabilities, or how much money they have, or how old they are. All people should be treated fairly and equally in our courts.

Why do People Become Judges?

There are a number of reasons why someone might want to be a judge. The work is very interesting, you can help people resolve disputes, and make sure people are treated fairly. Being a judge is a type of public service, like being a teacher or police officer, and a lot of people are very happy to do public service because they like helping people. Judges decide cases that involve serious crimes, and they often have to decide what rights people have. They make sure everyone who is accused of a crime gets a fair trial. They solve people's

disagreements. Judges also make sure that the other branches of government (the Legislature and the Executive) follow the constitution.

The Life of a Case {Advanced}

A case starts with a written complaint that someone did something against the law. The person who makes the complaint is usually called a "plaintiff". The person accused of doing something in the complaint is usually called a "defendant". In a criminal case, the Executive Branch files the complaint, and the complaint states the name of the defendant and which crime was committed. In a civil case, a person or company files the complaint, and the complaint tells the defendant what the lawsuit is about. Then the plaintiff and the defendant {we call these people the "parties"} spend time to prepare for trial. In complicated cases, it can take more than a year for the parties to get ready and collect all the evidence they might need to prove their case at a trial. The parties usually ask written questions, and get documents, from the other parties. These documents might be photos, sales receipts, notes, and so on. The parties can also get statements under oath from witnesses. That way everyone can figure out what the facts are, and can also figure out who knows the facts—and that helps them decide who the witnesses in court should be.

In many cases, the parties agree on how to resolve the case without a trial. If the parties do not agree, then the parties go to a courtroom and have a trial. Trial can last one day, and a very complicated trial with many witnesses can last months. Either a judge or a jury will decide the case. The parties show the judge (or the jury) their evidence. That evidence might be people telling what they know—those are the witnesses—and it might be the documents, pictures, videos or things that show what happened.

The Constitution {Advanced}

What is a constitution? In our country, it's a written document that sets forth how the government will be set up and sets forth the fundamental law. The federal (U.S.) government established its constitution first, and then each state adopted one when it became a state. The federal constitution sets up the three branches of the federal government. It also sets out 'fundamental' or basic law, and all other laws have to be consistent with the basic laws in the constitution. Most of the rights that people associate with the Constitution are in the Amendments, which were added later. There have been 27 Amendments so far.

What happens if a legislature passes a law that is not consistent with the constitution?

A court may invalidate, or strike down, the law. If a legislature passes a law that is inconsistent with the U.S. Constitution, the Constitution must come out on top.

If each government has a constitution, then that means California has one, and so does the federal (U.S.) government. Suppose there's a conflict between those two constitutions? Or suppose there's a state law which conflicts with the U.S. constitution? What happens then? The U.S. constitution always wins.

Discussion Topics & Questions

Basic questions

- What do you do when you have a disagreement with someone?
- What would happen if we didn't have courts for people to resolve their disagreements?
- Would you like to be a lawyer? Why?
- Would you like to be a judge? Why?

Questions about governments

- Where is the capital of the state of California?
- Do you know the name some other states? Do you know any other state capitals? {Can students locate Washington D.C., various states, and Sacramento, on a map?}
- What do governments do? {Provide police protection, establish the army, build and maintain roads and highways, provide air traffic control, decide which laws we will have, help people with food, shelter, medical care and help in emergencies or disasters} {advanced: foreign relations, trade policies; issues money}

Questions about the judicial branch

- What are some punishments a judge could impose?
Money fines. Prison. Probation {probation is allowing a person convicted of a crime to live his usual life but with some restrictions, such as maybe staying away from certain areas or people, paying a fine, and making sure he or she doesn't violate the law}
- Can a judge impose any punishment she wants?
No. Only the Legislature can decide what sorts of punishments are correct for each kind of crime, and often provides a maximum and minimum sentence. The judge can decide the punishment within those limits.
- Who decides what a crime is?
The legislative branch
- Can you name some crimes?
E.g., murder, shop-lifting, theft, fraud, driving drunk
- What are some other kinds of disagreements that could be a in a civil court?
Tenant refuses to pay rent; Landlord refuses to fix things on the tenants property;
Divorces; Adoptions; Name changes