

ISOL 633

Legal Regulations, Investigations and Compliance

Chapter 3 The American Legal System

Learning Objective

- Identify the basic components of the American legal system.
- Explain different sources of law
- Explain what precedent is and its role
- Explain what is meant by regulatory authority
- Explain the difference between compliance and audit
- Describe how security, privacy and compliance work together

Components of the American Legal System

- Federal Government
 - Legislative
 - Executive
 - Judicial
- State Government

Bill of Rights

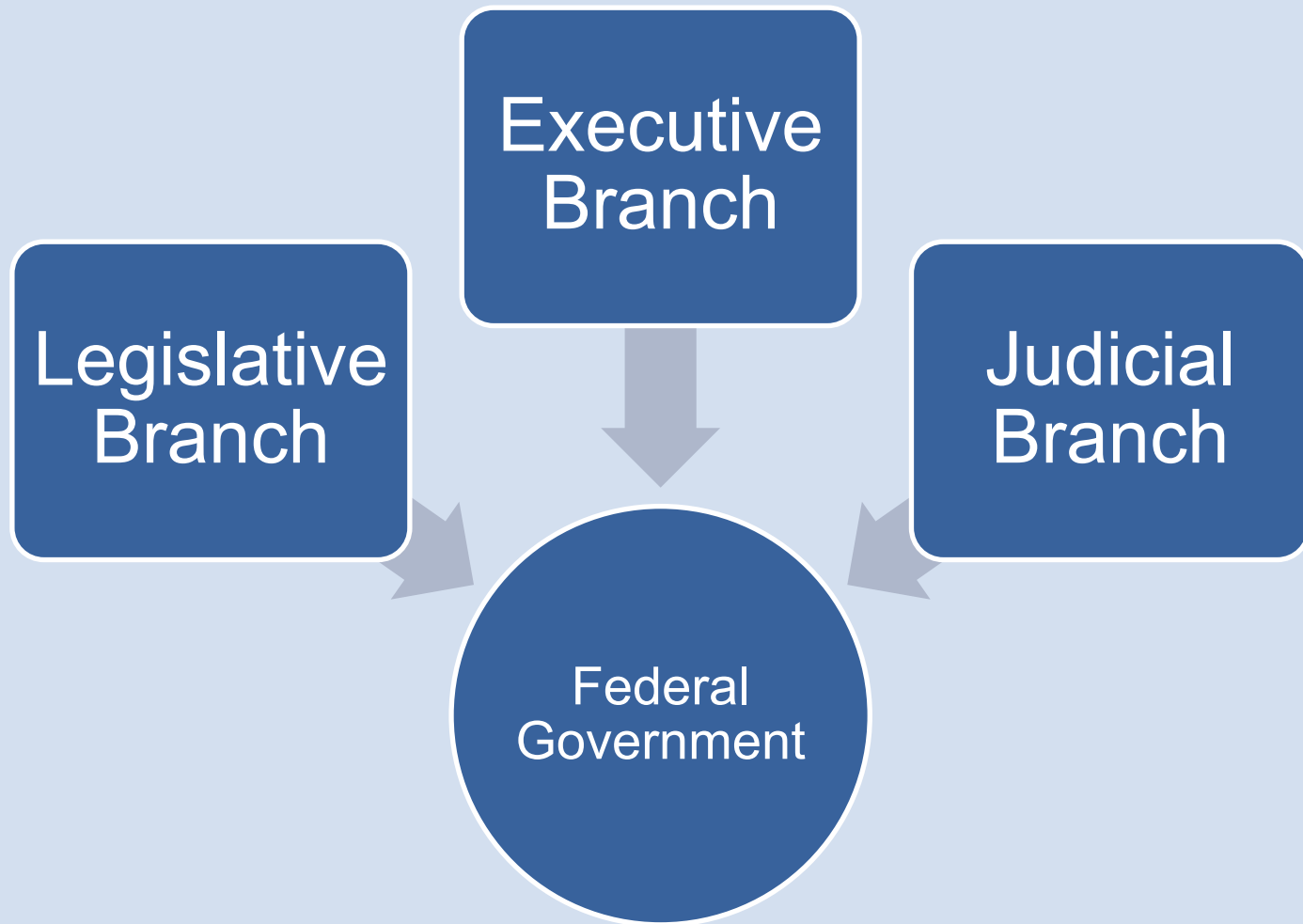
1789

- Ratification of the United States Constitution
- Supreme law of the land
- All statutes measured against this document

1791

- Discovered concepts missing from early documents
- Modifications to the U.S. Constitution
- Bill of Rights – first amendments to Constitution

Federal Government



LEGISLATIVE BRANCH OF FEDERAL GOVERNMENT (Article I, Section 8)

■ Congress

- Senate (100 total – two from each state)
 - 35 years of age, citizen 9 years, resident of state represented
- House of Representatives (435 total)
 - 25 years of age, citizen 7 years, resident of congressional district represented
 - Congressional districts redrawn every 10 years

■ Powers

- Declare War
- Maintain Armed Forces
- Print money
- Regulate Commerce between states
- Other

LAW MAKING

HOW A BILL BECOMES LAW

- Drafted in either House or Senate
- Introduced to that Chamber (House or Senate)
- Special Committee reviews
 - Determines if needed
 - Votes and decides whether to send to full body for vote
- Passed in that chamber (either house or senate)
- Once a version is passed in both chambers (House and Senate), reviewed and compromise
- Returned to each chamber for further revision and review
- Signed by Head of House – Speaker and by Head of Senate – President of Senate
- Goes to President – 10 days to sign or veto.
 - If he does neither in 10 days Bill passes as if he had signed
- If signed becomes “Act of Congress” or a Federal Law
- If vetoed by president still becomes law with 2/3 vote of both houses

EXECUTIVE BRANCH OF FEDERAL GOVERNMENT (Article II)

- Headed by President of United States
 - Natural Born Citizen, at least 35 years of age, resident of the United States for 14 years before date of election
- Powers
 - Enforce law of US
 - Responsible for maintaining day to day operations of county
 - Appoints Federal judicial, executive and administrative officers
 - Appoints Cabinet members
 - Negotiate and enter into treaties with other countries (ratified by Senate)
 - Other

JUDICIAL BRANCH OF FEDERAL GOVERNMENT (Article III)

- US SUPREME COURT – HIGHEST COURT IN LAND
- 9 MEMBERS OF US SUPREME COURT
 - Nominated by President, confirmed by Senate
 - First Woman, 1981, Sandra Day O’Conner, nominated by President Regan, served until 2006
 - Term - Life

STRUCTURE OF FEDERAL COURTS

COURTS OF LIMITED JURISDICTION

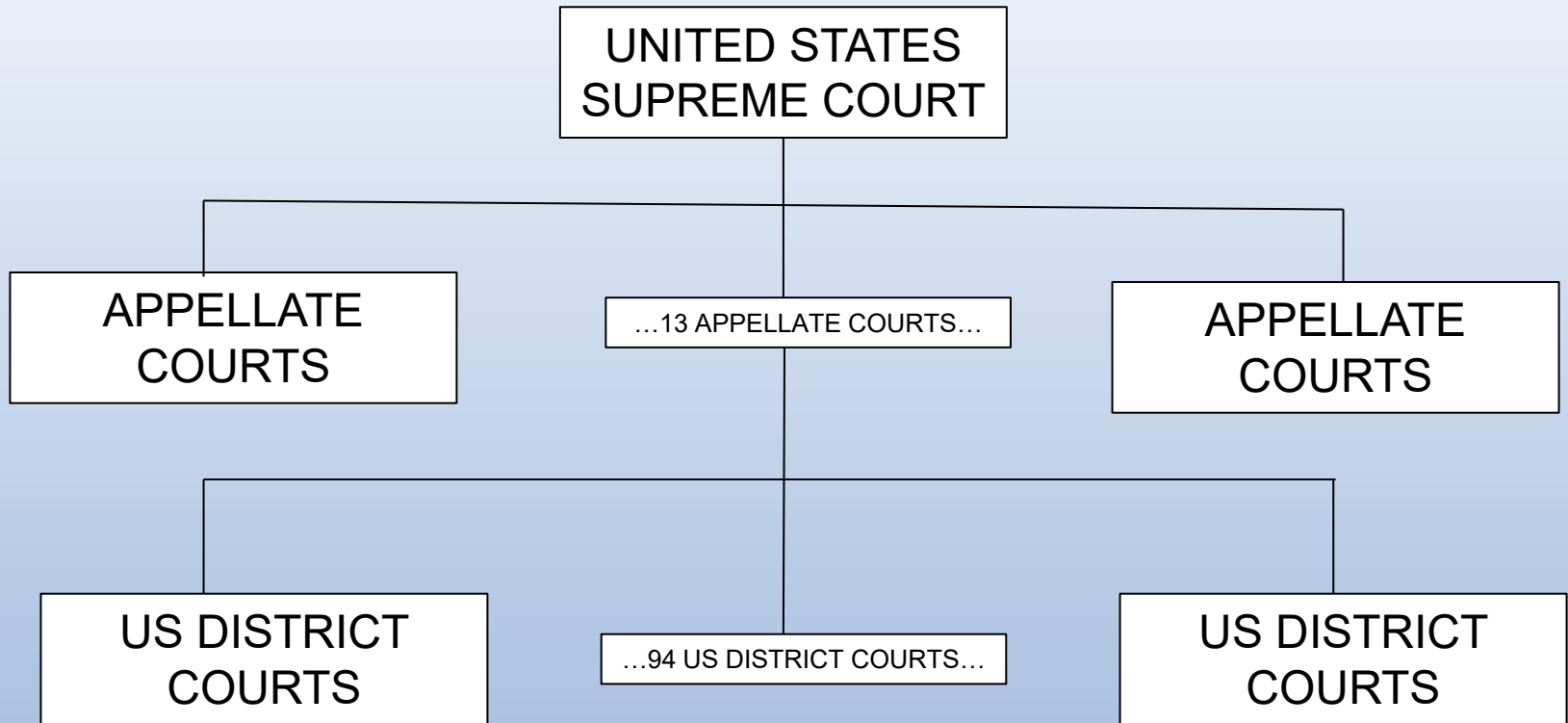
- Cases/Disputes with Issues of Federal Law
- Constitutional Law
- Complete Diversity (citizens of different states) and amount in controversy exceeds \$75,000.00

TYPES OF JURISDICTION

- Original Jurisdiction
- Concurrent Jurisdiction
- Appellate Jurisdiction

Can be “Remanded” to State Courts under certain conditions

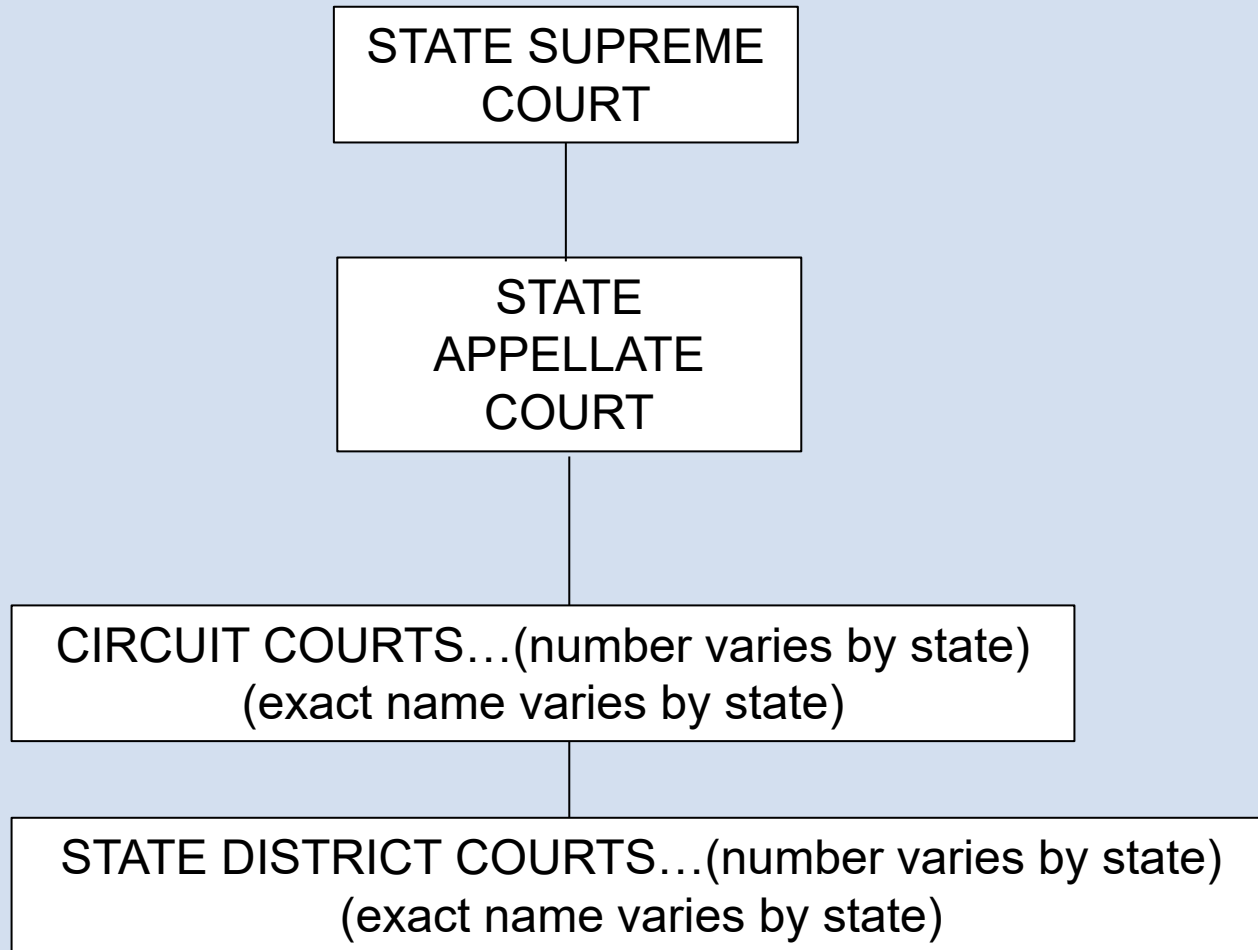
Can be “Removed” to Federal Court if wrongly filed in State Court



FEDERAL COURT SYSTEM IN THE UNITED STATES

STATE COURTS

- Articles of Confederation – after American Revolution – DID NOT WORK!
- 1789 – US Constitution
- 1791 – Bill of Rights – First 10 Amendments to Constitution
- Branches of State Government – similar to Federal
 - Executive – Governor
 - Legislative – House of Representatives and Senate
 - Judicial
- Supremacy Clause in US Constitution
 - Conflicting Federal Law trumps State Law



STATE COURT SYSTEM IN THE UNITED STATES

AMERICAN LEGAL SYSTEM

- Federal Courts
 - US District Courts
 - Appeals Courts
 - United States Supreme Court
- State Courts
 - District Courts
 - Circuit Courts
 - Court of Appeals
 - State Supreme Courts

Different Types of Laws

Law	Description
Common Law	■ Values and customs
Code Law	■ Written by Legislature
Constitutional Law	■ Highest authority
Civil Law	■ Individual complaints
Criminal Law	■ Wrongs to society
Administrative Law	■ Agency regulations
Legal Precedent	■ Guidance from past

Code – lex scripta; common – lex non scripta

Statutory Construction

How is Louisiana State Law Different?

TYPES OF LAWS

- **SUBSTANTIVE LAWS**-subject matter
- **PROCEDURAL LAWS** – rules of the courts
 - Rules of Criminal Procedure (Fed and State)
 - Rules of Civil Procedure (Fed and State)
 - Family Court Rules of Practice and Procedure (State)
 - Supreme Court Rules (State)
- **ADMINISTRATIVE LAWS**
 - Follow Administrative procedures
- **Burdens of Proof** – Different depending on nature of case
 - Beyond a Reasonable Doubt
 - Clear and Convincing
 - Preponderance of Evidence

The Role of Precedent

- Doctrine of precedent
 - Courts look at decisions made in prior cases to determine appropriate resolution for new cases
- Also referred to as the doctrine of *stare decisis*
 - "To stand by things decided"
- *Plessy v. Ferguson* (1896)
- *Brown v. Board of Education* (1954)
- *Payne v. Tennessee* (1991)

Regulatory Authorities

- Federal government delegates some regulatory and enforcement functions to administrative agencies
- “Agency” is any governmental authority besides Congress and the courts
- President usually has responsibility for overseeing federal agencies
- Congress can create independent agencies that report directly to it
 - Example: Federal Trade Commission (FTC)

Difference Between Compliance and Audit

Compliance is the action of following applicable laws and rules



Compliance

Audit

Audit is an evaluation and verification that certain objectives are met.

HOW DO SECURITY, PRIVACY AND COMPLIANCE FIT TOGETHER?

- **Security** – Practice of protecting information that insured CIA Triad
- **Privacy** – Individual's right to control how his personal data is collected, used and shared
- **Information Security** – Makes sure personal privacy rights are protected

No comprehensive laws to protect privacy in all areas.

The End!

Questions?

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