American Law: Origins, Development, Types, Examples, and Procedures

Overview
Through discussion, note taking, and a game of Jeopardy, students will learn about the origins of law, trace the development of law in America, and differentiate between the different types of laws. Students will also learn the different steps in civil and criminal judicial proceedings. To culminate their understanding of the judicial process, students will create posters noting the different steps a particular criminal or civil case would go through in the judicial system.

Grade
10

NC Essential Standards for American History: The Founding Principles, Civics & Economics
- FP.C&G.1.4 - Analyze the principles and ideals underlying American democracy in terms of how they promote freedom (i.e. separation of powers, rule of law, limited government, democracy, consent of the governed / individual rights – life, liberty, pursuit of happiness, self-government, representative democracy, equal opportunity, equal protection under the law, diversity, patriotism, etc.
- FP.C&G.1.5 - Evaluate the fundamental principles of American politics in terms of the extent to which they have been used effectively to maintain constitutional democracy in the United States (e.g., rule of law, limited government, democracy, consent of the governed, etc.
- FP.C&G.2.1 - Analyze the structures of national, state and local governments in terms of ways they are organized to maintain order, security, welfare of the public and the protection of citizens (e.g., federalism, the three branches, court system, jurisdictions, judicial process, agencies, etc.)
- FP.C&G.3.1 - Analyze how the rule of law establishes limits on both the governed and those who govern while holding true to the ideal of equal protection under the law (e.g., the Fourteenth Amendments, Americans with Disabilities Act, equal opportunity legislation.)
- FP.C&G.3.3 - Analyze laws and policies in terms of their intended purposes, who has authority to create them and how they are enforced (e.g., laws, policies, public policy, regulatory, symbolic, procedural, etc.)
- FP.C&G.3.4 - Explain how individual rights are protected by varieties of law (e.g., Bill of Rights, Supreme Court Decisions, constitutional law, criminal law, civil law, Tort, Administrative law, Statutory law and International law, etc.
- FP.C&G.3.7 - Summarize the importance of the right to due process of law for individuals accused of crimes (e.g., habeas corpus, presumption of innocence, impartial tribunal, trial by jury, right to counsel, right against self-incrimination, protection against double jeopardy, right of appeal).
- FP.C&G.3.8 - Evaluate the rights of individuals in terms of how well those rights have been upheld by democratic government in the United States.

Essential Questions
- What are the origins of law in American society?
- What are the different types of laws in American society?
- What is the judicial process for civil and criminal cases?

Materials
- Ten Commandments Warm-Up Image, example attached
- Law Origins and Types of Law Guided Notes, attached
- “American Law Jeopardy” PowerPoint, available in Carolina K-12’s Database of K-12 Resources
Some school district’s browser settings will not allow PPT files to open; if you are unable to access this file, e-mail CarolinaK12@unc.edu for an electronic copy.

- Review of Law, attached
- Civil and Criminal Procedure Flow Chart, attached
- Markers, Poster Board (or chart paper)
- Sample test questions and key, attached

Duration
- Teachers should allot a 45-60-minute class period for Day One of this lesson (time will vary based on how long is given to play the Jeopardy game; teachers with limited time can optionally eliminate Jeopardy, or use the game during a class period closer to EOCs as a review activity.)
- The second day will take approximately 30-40 minutes

Procedure
Day One (45-60 minutes)

1. **The Origins of Law**
   - Start class by projecting an image of the Ten Commandments (example attached.) Ask students to comment upon what they see and to share what they already know about the Ten Commandments. Once students have shared some thoughts, explain that the Ten Commandments, regardless of religion, were so influential throughout history that many of the same principles are found in the very laws we have today. Ask students if they can cite any another ancient law sources and discuss:
     - Why do we need laws? What purposes do they serve?
     - We’ve mentioned different types of crimes as we discussed the Ten Commandments (i.e. kill, steal, etc.) Should laws treat different crimes in alternative ways? (Meaning, should the law and punishment for murder be different than the law and punishment for theft?) Explain.

2. Explain to students that there are many different types of law and that they will trace their origins and differences today in class. Take students through the attached guided notes. The notes will cover different law origins and the various types of law. Students should fill out their notes, with the teacher bringing up intriguing discussion points whenever possible. These notes should take approximately 20-25 minutes to complete. Explain to students that they will be competing in a game of Jeopardy next, which means that these notes will be very valuable to them in the near future.

   **This is Jeopardy!**

3. **Optional:** In order to further familiarize students the origins of law and various types of law, play a game of Jeopardy with the class using the “Law Origins and Types of Law Jeopardy PowerPoint,” available in Carolina K-12’s Database of K-12 Resources, or by e-mailing a request to CarolinaK12@unc.edu (The Jeopardy game can also be used during a later class as an EOC review activity.) To lead the game:
   - Divide the class into three to six groups of equal size. (You might want to allow students to create team names.)
   - Go over the instructions for how to play using Slides 2 & 3 of the Power Point. Teachers should also review their class expectations for respectful group work and remind students to be respectful of their own teammates, as well as other teams.
   - Let students know whether or not they can use their notes while playing. Teachers may also want to offer a prize for the group with the most points, or for all students exhibiting active and successful participation.
4. **Optional:** After Jeopardy, instruct students to return to their seats and complete the attached “Review of Law” handout. You may collect this to assess student knowledge retention when the class period is over. Alternatively, this sheet can be assigned for homework and collected the following class period.

**Day Two (30-40 minutes)**

**Steps in the Judicial Process: Criminal and Civil Procedure**

5. Review the origins and types of law with students. (Teachers may want to have students share their answers to the “Review of Law” handout in partners or small groups, or ask discussion questions of the class that require them to recall key points from the previous lesson.) Tell students that in today’s activities, they will be learning what happens after a law is broken as they focus on the steps of the judicial process.

6. Begin by presenting a conflict scenario to encourage discussion. For example, select two students in the class and explain that Student A threw poison on Student B’s lawn. It killed all of his grass. Discuss:
   - What are Student B’s options for justice? (Let students discuss possible responses and offer additional questions to further their thinking based on their responses. For example, if a student responds that a fist fight would be in order, discuss how this could possibly result in having the original victim (Student B) go to jail for assault. What might a better option be?)
   - How would Student B go about filing a law suit against Student A?
   - What is the purpose of the justice system?
   - What do you already know about the judicial process? Is the process always the same, regardless of the law broken? Explain.

7. Tell students that they will be exploring the judicial process for both criminal and civil cases. Pass out the attached “Civil and Criminal Procedure Flowcharts.” Complete the sheet with students, describing the different steps in the judicial process. Try to keep explanations relatively simple as you go through the sheet. If necessary, use a specific example for each process and take students through the process using that example.

  - **Civil Law example:** Tell students Neighbor A allows his dog to constantly rip up Neighbor B’s flowers.
    - Dispute – The dog ripping up the flowers (the problem itself)
    - Complaint Filed – Neighbor B files a lawsuit (or complaint) against Neighbor A
    - Neighbor A is the defendant, and can choose a number of options. If A ignores the case, a judge will rule on the case without any input from A. If A files for a motion to dismiss, the judge will look over the case to determine whether to throw it out or not. If A files an answer, we move to the next step
    - If A and B hire attorneys, they then go into Discovery. They will ask for evidence and information from one another, and are required to share this information with one another. A deposition is a sworn testimony that can have perjury filed if untruthful. Interrogatories are questions that attorneys ask one another in written form to find out more information.
    - After the attorneys go through this process, they can submit their evidence to the judge and ask for a summary judgment. If both agree to the facts, a summary judgment can be obtained. At this step, they can also go to arbitration. Arbitration is like a trial format, with a binding outcome at the end.
    - If no settlements can be made, or arbitration is not used, it goes to trial. They select a jury, make opening statements, respond, rebut, and close their arguments. There is a lower standard of proof in civil cases. If a jury trial, only need a majority (unlike unanimous requirements in criminal cases).
If a party does not like the outcome, they can appeal to a higher court, who can decide to take the case or to not take it. No new evidence can be offered in an appeal, so it is usually only taken by appeal in very serious cases or when there is an error in the process of a lower court.

Note to students how long these processes take, pointing out that the legal system usually bills by the hour. Is it more effective or less effective to take a small case like this through all of the steps, or to just settle the case out of court?

**Criminal law example:** Choose an example like murder. Explain how more serious offenses are more likely to go through the entire process. Make sure to discuss with students why the majority of cases are settled out of court (legal costs, plea bargaining, etc.)

- The crime of murder was committed.
- The victim’s family has to bring charges. Public safety officials also bring charges. In the case of a murder, the type of crime must be determined. (They will choose between manslaughter, murder in the first degree, second, etc.) After charges are brought, they must process the accused (fingerprints, etc.)
- The alleged murderer then becomes a defendant after the crime is charged by public safety officials.
- A grand jury will review the evidence provided by public safety officials. The prosecutor (often a district attorney) will present evidence before a grand jury to determine whether there is enough evidence to indict the accused.
- The alleged murderer will plead guilty or not guilty. Prosecutors and defendants often have conversations outside of the courtroom to offer “plea bargains,” or reduced sentences to get guilty pleas.
- If the alleged murderer chooses not to plea bargain, the case goes to trial. It follows the same process as a civil trial, but the major difference is the standard of proof. There must be “beyond a reasonable doubt” proof that the accused committed a crime. This means that there must be no reasonable doubt that the murderer is guilty. If found guilty, there is a sentencing process (sometimes chosen by the judge, sometimes the jury).
- Defendants can appeal these cases, but no new evidence can be provided. The prosecutors CANNOT appeal a case they lose in criminal court, as this would violate the principle of double jeopardy. In a murder case that goes to trial and finds the defendant guilty, the process is likely to be reviewed. In capital murder cases (cases that involve the death penalty), there are usually lengthy appeals processes.

**Civil/Criminal Procedure Poster and Presentation**

8. Allow students to further explore the judicial procedures for criminal and civil cases by examining one of the attached scenarios and completing a poster in which they map out the judicial process their assigned case would take:

- Break students into pairs or small groups and give each pair/group either the attached Buggsy Jones case or the Brenda Button case. (Try to ensure an equal number of partners are dealing with each case.)
- Provide students with 15+ minutes to review the case and produce a poster (detailed instructions are on the handouts.)
- After going over the instructions on the handouts, clarify with students that the final poster should trace all of the steps in either the criminal or civil judicial process, as well as choices to continue or end the legal proceedings at each point in the process. They should also determine what they would recommend if they were providing legal advice in the case. (Let students know that they do not have to go through every step – i.e. plea bargaining and settling are options.)

9. Once students have finished their posters, teachers have two options for presentation and review of student work:
• Option 1:
  o When students have finished their posters, have them hang them on the wall (separated by case). Allow students approximately 5 minutes for a “gallery walk” during which they can view the various posters, noting any differences or irregularities they see between posters. (Before letting students start their gallery walk, it will be helpful to have two student volunteers read each case scenario for the entire class. Also, teachers should review their expectations for safe movement around the room.)
  o When finished with the gallery walk, reassemble the students and discuss both cases as a class. You may choose to call on groups whose posters made interesting arguments, were especially creative, or whose decisions puzzled you to explain their reasoning.
  o You should also ask students the major similarities and differences they noticed between their group’s poster and other posters on the same case. Clarify any inconsistencies or incorrect posters.

• Option 2:
  o After all partners have completed their poster, combine each pair of students with another pair of students that worked on the opposite case. Have each pair of students in these newly formed groups of four teach the other two students about their case and its process. Each pair in the group of four should summarize the case on which they worked, explain whether it is civil or criminal, explain the process they believe the case would take through the judicial system, and explain what their recommendations regarding the case would be.
  o Once all pairs in their newly formed groups have taught one another about the two cases, bring the class back together and discuss each case as a whole class, ensuring all students understand accurate procedures and options for each case. Clarify the choices various groups made. (For example, after asking for the decisions that students made as they went through the legal process, if a student says they went all the way through the appeals process in the Brenda case, ask them how expensive they think that process would be. If they said they took a plea bargain in the Buggsy case, ask them whether they would do it if they were 100% positive that their client was innocent. Use their answers as jumping off points for the class to have a discussion about how the legal system works.)

10. Optional homework or quiz: Provide the attached sample text questions for students to complete as an assessment at the end of class, or for homework.
I am the Lord thy God
Thou shalt have no other gods before me
Thou shalt not make unto thee any graven image
Thou shalt not take the name of the Lord thy God in vain
Remember the sabbath day, to keep it holy

Honor thy father and thy mother
Thou shalt not kill
Thou shalt not commit adultery
Thou shalt not steal
Thou shalt not bear false witness
Thou shalt not covet
Law Origins

Name:                      Period:                      Date:

Types of Codes

- Moral Code –
- Legal Code –

Famous Codes of Law Through History

- Codes of Hammurabi ( ) –
- Ten Commandments ( ) –
- Justinian Codes ( ) –
- Draconian Laws ( ) –
- English Bill of Rights ( ) –
- British Common Law ( ) –
- Iroquois Nation’s Constitution ( ) –
- Social Contract ( ) –
- Magna Carta ( ) –
- Declaration of Independence ( ) –
- U.S. Constitution ( ) –
Types of Law

- Using these different origins, many different __________ of law developed.
- There are seven major types of law:
**Law Origins - Key**

Name: Period: Date:

**Types of Codes**

- Legal Code – A type of legislation that creates laws for a society. Unlike a Moral Code, these can be enforced in a court of law.

**Famous Codes of Law Through History**

- Codes of Hammurabi (1760 BC) – Developed in Ancient Babylon, this code demonstrates reciprocal punishment. Meaning an “eye for an eye:”
- Ten Commandments (Approx. 1446 BC) – A list of moral and religious principles given to Moses in Ancient Israel. Contains many principles still used today (thou shall not kill, steal, covet, etc.)
- Justinian Codes (529-534 AD) – This Code, from the Byzantine Empire, compiled many Roman Laws into different singular areas. Became a basis for civil law in the Byzantine Empire.
- Draconian Laws (Around 610 BC) – Ancient Greek code. The code was very harsh, ordering death for many crimes (including tiny ones like stealing an apple). This was done to quell rebellions, but did not work.
- English Bill of Rights (1689) – Protected certain rights of English citizens, including the right to petition and bear arms.
- British Common Law (1154) – Common Law is the idea that current court cases can be judged based on the idea of precedent. Courts review cases and decide on precedent. Courts can also overturn precedent.
- Iroquois Nation’s Constitution (1500s) – Also called Gayanashagowa (or Great Law of Peace). This created a “Great Peacemaker” (like a President), and is thought to have influenced the US Constitution.
- Social Contract (1651, 1689, 1762) – Developed by Hobbes, Rousseau, and Locke, this is the idea that people give up some of their rights in order to maintain a society and government.
- Magna Carta (1215) – M.C. required the King of England to be bound by laws. It also protected “habeas corpus,” or the right to appeal unlawful detention. Formed a large basis of the US Constitution.
• Declaration of Independence (1776) – Written primarily by Thomas Jefferson, this statement is not law, but identifies many human rights and principles that inform our laws today. Also declared US independence.

• U.S. Constitution (1787) – Basis of American law, established protected rights in the Bill of Rights.

**Law Types**

• Using these different origins, many different types of law developed.

• There are seven major types of law:
<table>
<thead>
<tr>
<th>Law Type</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>Common Law</td>
<td>Crucial to understanding how law works. The US Constitution does not have all laws spelled out, but instead, the courts review previous cases and make decisions based on precedent. At times, courts overrule precedents (or <em>Stare Decisis</em>).</td>
</tr>
<tr>
<td>Criminal Law</td>
<td>Punishment for crimes (including jail, execution, parole, and fines). This is usually enforced by the government, shown on most TV shows.</td>
</tr>
<tr>
<td></td>
<td>Two types of sentences, a misdemeanor and a felony.</td>
</tr>
<tr>
<td>Civil Law</td>
<td>These are disputes between individuals or private parties. This happens when someone wrongs another, and is usually required to pay money to right the wrong. Think of a car accident. One person is in the wrong, but was being negligent (not criminal). They pay the other party to right the wrong. Areas include tort, contract, wills, and others. A tort is a lawsuit that one party files against another (you can give an example of a lawsuit).</td>
</tr>
<tr>
<td>Constitutional Law</td>
<td>Governs the interpretation of the US Constitution. This was the basis for many decisions of public policy in America (Brown v. Board, Roe v. Wade, Bush v. Gore, etc.). There are arguments about whether to interpret the text literally, or as something to be interpreted as the country changes.</td>
</tr>
<tr>
<td>Administrative Law</td>
<td>This area of law covers the Government Agencies. This includes the rules of the Food and Drug Administration for example. There are two roles this area has, rule-making and adjudication. Adm. Law makes rules to regulate industries, and decides cases through adjudication (or the enforcement of those rules).</td>
</tr>
<tr>
<td>Statutory Law</td>
<td>These are laws passed by the State Legislature or the US Congress. These begin as &quot;bills&quot; before becoming law. They act like an additional branch of law, and cover a wide variety of areas. If a law is found to be &quot;unconstitutional&quot; the US or State Supreme Courts can strike it down.</td>
</tr>
<tr>
<td>International Law</td>
<td>These are laws between different countries, expressing treaties, trade agreements, and other values and standards. For example, the Geneva Conventions are a type of international law that ban practices like torture.</td>
</tr>
</tbody>
</table>
Famous Codes of Law Through History

Pick one of the famous examples of law throughout history. Provide a brief discussion of that law, and how you think it informs the law that we make today. You may use any one of the eleven examples provided in your notes.

The Areas of Law

Next to each area of law below, please provide a definition in YOUR OWN WORDS, as well as an example of this area of law. You may draw on the many examples brought up in our Jeopardy game, your personal experiences, or you may attempt to make one up. For example, with Criminal Law, I might make up the example crime of stealing 700 lbs of mayonnaise from the local grocery store. This would be tried in a *criminal court* because it involves theft.

1. Common Law -

2. Criminal Law -
The Areas of Law – cont’d

3. Civil Law -

4. Constitutional Law -

5. Administrative Law -

6. Statutory Law -

7. International Law -
Civil and Criminal Procedure Flowcharts

Name: 

Civil Procedure

Period: 

Criminal Procedure

Date: 

15
1. Dispute
Litigation happens because at least two people disagree over something

2. Complaint filed
The plaintiff files a legal complaint against a defendant in a civil case.

3. Defendant can:
   1. Ignore and receive default judgement, 2. Motion to dismiss, 3. File answer to complaint

4. Discovery Period
Both sides find out information from one another through depositions and interrogatories

5. Ask for summary judgement/avoid trial
Summary judgments are before a trial when no disputes. Can also settle the case or go to arbitration (binding agreement out of court)

6. Trial
Jury selection/opening statements by plaintiff, response by defense/rebuttals/closing arguments. Only need 51% of jury to agree

7. Appeals
You can file an appeal to a higher court, but they do not take new evidence.

1. Crime Committed
An offense has to be committed and an investigation has to be conducted

2. Prosecuted/Processed
Charges have to be brought, the accused must be processed (fingerprint, etc.)

3. Charged
After charges are brought, the accused becomes a defendant

4. Indicted
Grand jury determines if enough evidence to indict. Only prosecutor presents evidence.

5. Plea
Can plead guilty or not guilty. Often prosecutors will offer lighter sentences through "plea bargaining" to get guilty pleas

6. Trial/Verdict
Same process, although higher burden of proof "beyond a reasonable doubt."

7. Appeals
Can appeal cases, but no new evidence. Capital murder cases have many (lengthy) appeals processes.

Civil Procedure  Majority settled out of court   Criminal Procedure Majority plea bargained
The Case of Buggsy Jones & Gas-Em’-Up - Poster

Directions

• You will have ______ minutes to complete your group work.
• Begin by individually reading the case summary. Jot down some notes about the case and underline the important points.
• Once you and your partner/group has finished reading, talk about the case, summarizing it for one another and clarifying any questions. Determine what type of case this is: criminal or civil.
• Next, map out (on notebook paper) the steps this case would go through in the judicial process. Trace ALL of the possible steps of this case. You may use your notes to ensure accuracy.
• At each step, each of you should decide whether you would advise your potential client to continue in the process or not. Provide a short explanation of WHY you would advise the client this way. (For example, if you tell a client to go all the way through the appeals process, WHY do you think this is in your client’s best interest?)
• Once you are sure of the judicial process the case would go through, and have explored all of the options at each step, create a poster detailing this information. Anyone unfamiliar with your case and the judicial process should be able to learn this information from reading your poster and its map of the judicial process. Be creative, colorful, and accurate!
• All group members must participate. Be prepared to share your posters with classmates, as well as take questions from your teacher and fellow classmates regarding your work.

Case Summary

Buggsy Jones is accused of robbing Gas-Em’-Up, a gas station. The owner reported the robbery to police officers. The police performed an investigation, and the owner claims that Buggsy robbed him at gunpoint. Security camera footage of Buggsy is provided by the owner, although the robber was wearing a mask.

The Police see this as an open and shut case. They charge Buggsy with armed robbery, and offer him a 2 year sentence in exchange for a guilty plea. Buggsy maintains his innocence. Your group needs to help advise him of the legal process and his options going forward.
The Case of Brenda Button v. GoGo Auto - Poster

Directions

- You will have ______ minutes to complete your group work.
- Begin by individually reading the case summary. Jot down some notes about the case and underline the important points.
- Once you and your partner/group has finished reading, talk about the case, summarizing it for one another and clarifying any questions. Determine what type of case this is: criminal or civil.
- Next, map out (on notebook paper) the steps this case would go through in the judicial process. Trace ALL of the possible steps of this case. You may use your notes to ensure accuracy.
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- All group members must participate. Be prepared to share your posters with classmates, as well as take questions from your teacher and fellow classmates regarding your work.

Case Summary

Brenda Button was in a serious car accident; she was hit by a drunk driver. Brenda sues the drunk driver for negligent behavior. Brenda also sues her car’s manufacturer, GoGo Auto, since when the car Brenda was driving was struck by the drunk driver, the airbags did not deploy. This caused serious facial injury to Brenda.

GoGo Auto has hired you as an attorney in this case. Your job is to walk them through the different steps of the process and advise them of their best outcomes. It should be noted that a similar incident happened twice before with their competitors, Joy Auto and CarLove Auto. Joy Auto went through the entire legal process and lost their lawsuit (incurring legal fees and a cash award to the plaintiff). CarLove Auto settled out of court for an undisclosed amount.
1. This code of law was developed in Ancient Babylon and demonstrated the principle of *reciprocal punishment*.

   A. Codes of Montezuma
   B. The Justinian Codes
   C. The Babylonian Codes
   D. Codes of Hammurabi

2. All of these historical documents influenced the American system of law EXCEPT:

   A. Draconian Laws
   B. Iroquois Nation’s Constitution
   C. Social Contract Theory
   D. Codes of Ponce De Leon

3. Which of these documents limited the power of England’s King and forced him to be bound by the rule of law?

   A. The Magna Carta
   B. The English Bill of Rights
   C. The Declaration of Independence
   D. English Common Law

4. Which of these documents is/was not a legally binding document?

   A. The United States Constitution
   B. The Declaration of Independence
   C. The English Bill of Rights
   D. Codes of Hammurabi

5. Read the description of the legal case below and decide the area of law best suited to handle the case.

   *A company manufactures tomato soup. The can containing the soup contains a defect that causes consumers to injure their hands when they open the can. The consumers want to file a lawsuit to pay for their medical bills.*

   A. Statutory Law
   B. Administrative Law
   C. Civil Law
   D. Criminal Law
6. Laws that govern agreements between countries (such as treaties and agreements) are governed by what area of law?
A. United Nations Resolutions
B. International Law
C. Constitutional Law
D. Common Law

7. If a theft occurs in a grocery store, the store’s owner may find a legal resolution in each avenue EXCEPT:
A. Civil Law Case
B. Criminal Law Case
C. Administrative Law Case
D. Not filing charges

9. A complaint is _________________.
A. When a defendant files a motion to dismiss a case based on a lack of evidence
B. When a plaintiff files a motion to dismiss a case based on a lack of evidence
C. When a plaintiff files a legal charge against a defendant
D. When a defendant files a legal charge against a plaintiff

10. Select the correct order in Criminal Law Procedure:
A. Complaint → Discovery → Trial
B. Appeal → Discovery → Trial
C. Trial → Discovery → Appeal
D. Indictment → Trial → Appeal

11. The Discovery Period in a Civil Law case is best defined as:
A. When both sides find out information from one another through depositions and interrogatories.
B. When both sides discover evidence by themselves and seek subpoena powers.
C. When a claimant discovers that a case is not worth the legal expense to file
D. When the crime is discovered.
Answer Key

1. D
2. D
3. A
4. B
5. C
6. B
7. C
8. A
9. C
10. D
11. A