

Law and Everyday Life, *The Common Place of Law*

I. Introduction,

from formalist to realist conceptions of law
law on the books to law in action

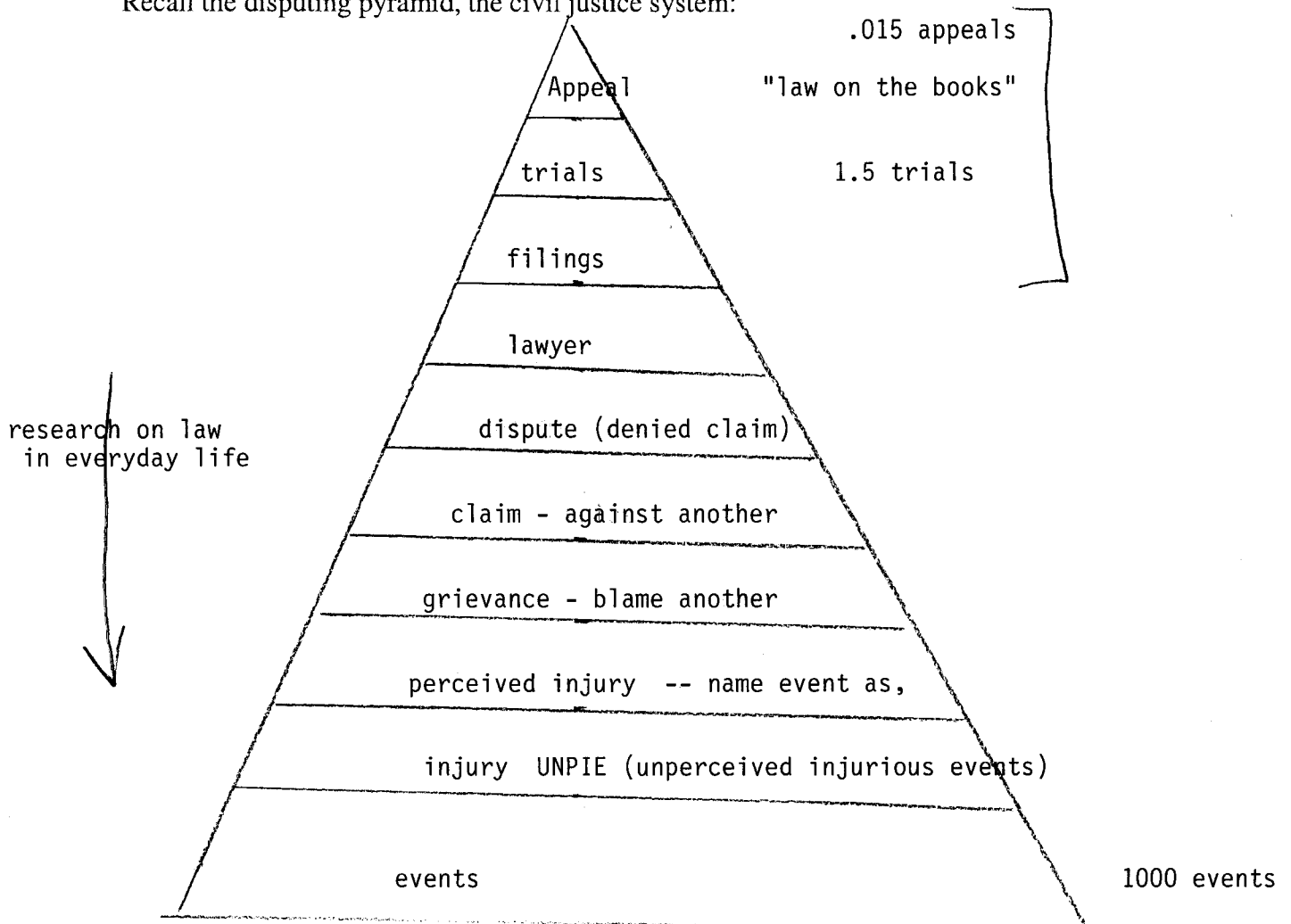
De Tocqueville, *Democracy in America*,

"The language of the law thus becomes, in some measure, a vulgar tongue; the spirit of the law, which is produced in the schools and courts of justice, gradually penetrates their walls into the bosom of society, where it descends to the lowest classes, so that at last the whole people contract the habit and tastes of the judicial magistrate." (Tocqueville, 1959, Volume 2:20)

II. American society is filled with signs of legal culture.

III. How do matters of everyday life become matters of law?

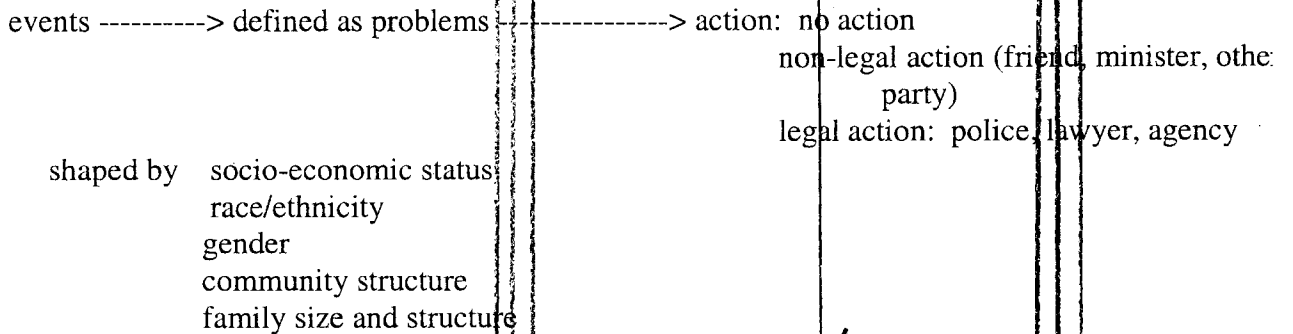
Recall the disputing pyramid, the civil justice system:



IV. Background of a research project : The New Jersey Supreme Court, Commission on minority and non-minority use of courts

Previous research:

- A: surveys, generalizable results from large sample randomly selected respondents - **20 minute phone call** produced picture of high degree of support for legal institutions, **little variation** by usual indicators
- B: ethnographies, in-depth, long term, **small community studies**, **non generalizable**, produced picture of **variation, much resistance to law** and legal institutions
- C: our design: do in-depth work with large random sample
Recall our research design:



VI. Results; **Before, With, Against the Law**

	ahistorical universal	particular local	
	Before the Law	With the Law	Against the Law
Normativity	impartiality, objectivity	legitimate partiality, self-interest	power, "might makes right"
Constraint	organizational structure	contingency, closure	institutional visibility
Capacity	rules, formal organization	individual resources, experiences, skill	social structures (roles, rules, hierarchy)
Time/Space	separate sphere from everyday	simultaneous with everyday	colonizing time/ space of everyday life
Archetype	bureaucracy	game	making do

VII. Reconciling the contradictory narratives of law
idealist view, fragile, too easily undone by experience
cynical critique unable to sustain legitimacy over time

idealism leavened by critique sustains "the rule of law; "
pragmatic critique, e.g. "the 'haves' come out ahead" protects legality from more sustained and significant critique
ahistorical, general, universal ideal alongside local, non-general practices