

"FACES OF JUSTICE: AN INTRODUCTION TO THE COURTS"

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Overview

This DVD program explains the basics of the justice system. Two narrators, Amy and Roberto, review the constitutional framework of our system of government, give examples of some of our constitutional rights and explain that the United States is a "nation of laws," meaning that laws are intended to apply equally to everyone.

Next, they focus on the judicial branch of government. Amy and Roberto explain that the function of courts is to resolve disputes according to the law. They give viewers a tour of the courtroom and an explanation of the roles of the judge and others.

Finally, through the courtroom experience of a friend of Amy's and Roberto himself, they illustrate what happens in a civil and a criminal case.

Learning Objectives

This DVD should provide examples to students of what happens at the trial level of the justice system. Later materials and exercises will teach students about the appellate process.

As a result of this program, students should be able to:

- ✓ Explain the function of state and federal constitutions and the role of courts in our system of government.
- ✓ Describe the major courtroom actors and their functions and explain the differences between civil and criminal cases.

Notes to Teachers

The DVD contains three main substantive sections: (1) the introductory material about the Constitution, individual rights, and courts; (2) the civil case scenario involving Mai's dispute with her landlord; and (3) Roberto's criminal case scenario. At the end of the first two sections, the screen will briefly go black in case the teacher wishes to stop the DVD and lead a discussion on the material covered in that section. Of course, the teacher may choose to conduct one discussion at the end and not interrupt the DVD.

The DVD is approximately 30 minutes long.

Suggested Post-DVD Discussion Questions

Introduction

- What is a right?

A right is a power or privilege to which we are entitled because we live in or visit the United States.

- Where do rights come from?


The United States Constitution, the Bill of Rights and the federal, state and local laws tell us our responsibilities.

- Other than those shown on the DVD, what are some of the rights we have?

Examples include the right to own property, the right to a safe workplace, and the right to a free public education through high school.

- Why should we know what our rights are?

The United States has a rights-based legal system, so it is important that we all know and understand our rights. Along with those rights comes the responsibility to know and understand them so we can assert and protect them if necessary and respect the rights of others.

 Suggested Exercise : Exercise # 1, Your Bill of Rights


Mai's Civil Case

- What was the basis for this court case?

A disagreement about the meaning of a provision in the lease.

- Rather than going to court, how could Mai and the landlord have resolved their differences?

Alternative Dispute Resolution. Rather than going to court, people who have a serious disagreement can go to private, community-based, or court-connected organizations to help them resolve their differences. These organizations include neighborhood mediation centers, private arbitration, and rent-a-judge arrangements. In addition, the court may direct potential litigants to court-annexed mediation or arbitration centers.

 Suggested Exercise: Exercise #2, Alternative Dispute Resolution

Roberto's Criminal Case

- The roles of the judges in Mai's and Roberto's cases were alike in some ways and different in some ways. What were some of those similarities and differences?

Similarities: Both judges listened to all the witnesses, examined evidence, and ensured that the court proceedings followed correct procedures.

Differences: The judge decided Mai's case, but the jury decided Roberto's case.

- What does presumption of innocence mean?

After an arrest and up to the time of a conviction, it is officially presumed that the accused person is innocent of any criminal charges. In other words, a person should be thought of as innocent until he or she is proven guilty in a court of law. Therefore, as long as bail is paid, the accused usually will remain free until the final outcome of the trial. To get a conviction, during the trial the prosecutor must prove beyond a reasonable doubt that the accused is guilty.

- In Mai's case, she brought suit against her landlord. Who brought the case against Roberto?

The people of the state, represented in court by the prosecutor.

 Suggested Exercise : Exercise # 3, You Be the Judge

General Questions

- In both scenarios, each party was represented by an attorney and each side told its story in court. In Mai's case, the judge listened to both sides and decided the case; in Roberto's case, the jury made the decision. This right of each side to tell its story to an impartial fact finder is a hallmark of the Adversary System. What are some benefits and drawbacks of the adversary system?

Benefits: Ensures that both sides get to tell their stories in court; improves litigants' perceptions of the fairness of the process; increases the public's willingness to accept and follow court decisions, and therefore, improves public confidence in the courts.

Drawbacks: High legal fees; delays in getting cases to court; perceptions of unfair treatment can undermine public confidence in case outcomes and the justice system.

Exercise #1

YOUR BILL OF RIGHTS

Directions:

The following is a list of rights as specified in the Bill of Rights of the United States Constitution. Rank from 1 to 10 your most important rights. Be prepared to explain your rankings.

(1 = most important, 10 = least important)

- _____ Right to bear arms
- _____ Right to freedom of speech
- _____ Right to legal counsel
- _____ Right to protection from cruel and unusual punishment
- _____ Right to freedom of the press
- _____ Right to a jury trial
- _____ Right to freedom of religion
- _____ Right to protection from unreasonable searches and seizures
- _____ Right to peaceably assemble
- _____ Protection from self-incrimination

ALTERNATIVE DISPUTE RESOLUTION

Introduction

"Alternative Dispute Resolution" or "ADR" is a term used to refer to methods used to settle disputes other than by litigation in a court. Because litigation is expensive, many disputes are not worth taking to court. Boundary line problems, tree limb complaints, consumer complaints, landlord and tenant arguments and similar conflicts are often not worth the costs of filing fees and attorney fees. ADR gives people an alternative outlet to resolve their disputes peacefully.

ADR methods exist along a continuum from adjudication to negotiation, as illustrated below. In adjudication, the parties submit their dispute to a third person, such as a judge, who decides upon a resolution. However, in negotiation, the parties work out the resolution themselves. Where an ADR method fits on the continuum depends upon how much the neutral third party, rather than the disputants, directs the resolution of the conflict. The two most common forms of ADR are mediation and arbitration.

DISPUTE RESOLUTION CONTINUUM



Mediation

Mediation is a form of assisted negotiation. A neutral third party, called a mediator, meets with the parties both individually and together to encourage and aid their negotiations and resolution of the dispute. It is an informal process, in which courtroom procedures do not apply. Testimony is not taken and the parties may speak directly to the mediator or to one another. In mediation, the decision-making authority rests with the parties. The role of the mediator includes helping the parties to identify issues and interests, foster joint problem solving, and explore settlement alternatives.

Advantages of Mediation

- Allows each party to participate and maintain some control over the result.
- Avoids the expense of a trial.
- Reduces time spent waiting for outcome of proceeding.
- Allows parties to choose the time and place of the proceeding.
- Can reduce emotions and clarify issues, even if a settlement is not obtained.

Arbitration

Arbitration is an adjudicative device in which a neutral third party, called an arbitrator, or a panel listens to the arguments presented by the disputants and renders a decision. It is similar to litigation where a judge or jury decides the case. Arbitration may be non-binding or binding. Non-binding arbitration is an informal proceeding in which the arbitrator or panel provides the disputants with an advisory decision or otherwise aids a settlement. Binding arbitration is a more formal proceeding in which the arbitrator or panel receives presentations from the disputants and renders a decision that the parties previously have agreed to accept. Certain rules of procedure and evidence may apply. If a party is not satisfied with the results of arbitration, he or she can go to court.

Advantages of Arbitration

- Allows parties to choose arbitrators with expertise in the subject matter.
- Avoids the expense of a trial.
- Allows parties to choose the time and place of the proceeding.
- Reduces time spent waiting for outcome of proceeding.
- Can reduce emotions and clarify issues, even if a settlement is not obtained.

Suggested Discussion Questions

- What kinds of disputes can ADR be used to resolve?

ADR may be used for any case that could be litigated in court. In addition to civil cases, a form of ADR called victim-offender mediation, can be used in criminal cases. The principles of ADR can also be used to solve other disputes, including those involving students. This may take the form of an "honor court" or other less formal proceedings.

- What are the advantages of ADR?

ADR is less expensive than litigation in court, allowing more people afford to seek justice. In addition, ADR can reduce the total time the parties spend waiting for an outcome. Since ADR can eliminate cases that can be promptly settled, the courts can devote more time and resources to disputes in which questions of law or other difficult or novel issues must be decided.

ADR may help reduce the stress attendant in court proceedings. For example, mediation of divorces and child custody cases may allow the disputants to reduce the hurt that too often follows an adversary determination of a case. People are generally happier with dispositions when they have had a role in formulating those dispositions or when they have had an opportunity to tell some neutral person their side of the dispute.

CAN THIS NEIGHBORHOOD BE SAVED?

Fred and Ginger have been next-door neighbors for ten years. Recently, there was a house burglarized on the next block. Fred installed an expensive alarm system that would emit a piercing shriek if an intruder entered his house. Ginger bought a Doberman puppy from the local pet store to serve as a watchdog. Ginger's puppy, "Killer," stays in the house during the day, but is kept in an outdoor pen at night. The pen is located in the corner of Ginger's yard that is nearest to Fred's bedroom window. Unfortunately, Killer barked at anything that moved, including passing cars, squirrels, and the leaves on the trees. After being kept awake for several nights by Killer's incessant barking, Fred's nerves were shattered. He decided to take a two-week vacation in Antarctica to calm his nerves. He confronted Ginger and told her, "Get rid of the dog by the time I get back or else!" As a compromise, Ginger promised to have the dog pen moved to another corner of the yard. Fred agreed to the compromise and left on his vacation.



While Fred was away, lightning struck his house and set off his alarm system. No one could locate Fred in Antarctica to obtain his permission to enter his house, so the alarm shrieked for several days. In desperation, Ginger broke a window to get into Fred's house, cutting her hand in the process. She ripped out the alarm wires, ruining the \$2,000 alarm system. Ginger, still upset, vowed not to move the dog pen after all. When Fred returned from his trip, he and Ginger had another angry confrontation, but nothing was resolved. Killer, distressed by the noise the alarm had made, had begun to yowl constantly. After another sleepless night, Fred snuck into Ginger's yard and let Killer out of the pen. The dogcatcher picked him up, and it cost Ginger \$100 to retrieve the puppy from the pound. Ginger threatened to sue Fred. Fred threatened to sue Ginger.

Divide into groups and answer the following questions:

- What claims does Fred have against Ginger?
- What claims does Ginger have against Fred?
- Do you think litigation in court, arbitration or mediation would work best in this situation? Why?
- You are the neutral third party who must settle this dispute. How would you resolve it?

YOU BE THE JUDGE

Case Facts: Sue, a Sunday School teacher, was Christmas shopping at Wal-Mart and found a pair of earrings she wanted to purchase. When she placed them in the shopping cart, they fell through the cart and onto the floor. She picked them up and placed them in the zippered side pocket of her purse. A store detective observed her actions. After she completed her shopping, Sue went through the checkout line to pay for her purchases. As she walked out of Wal-Mart, the store detective stopped her and asked to see her receipt. Not seeing the earrings on the receipt, he asked her to open the zippered pocket of her purse. The earrings were still there. Sue apologized and told him that she had simply forgotten to pay for them and that she had put them in her purse because they kept falling out of her cart.

Under the law, a person commits shoplifting if, with intent to deprive the owner of property, the person knowingly obtains or exercises control over the property without the owner's effective consent.

Do the above facts establish "beyond a reasonable doubt" that Sue is guilty of shoplifting?

YES _____ NO _____