

## CHAPTER 18

# Laws and Our Society

### Citizenship and You

Have you read the book or seen the movie *Lord of the Flies*? As the story begins, a plane crash leaves a group of schoolboys stranded on a deserted island. Thousands of miles from the world they know, the boys must find a way to stay alive until help arrives.

Picture yourself in such a situation. You and the rest of the survivors face many problems that you must solve at once. Who will make decisions? Will the group need leaders during this emergency? How much power should the leaders have? What should be done with people who act selfishly and do not think about the needs of others? What responsibilities will each person have?

Books and movies have often used this dramatic setting to explore one of the necessities of society, the need for rules or laws. The survivors must make rules about how to live together. They must make laws to help handle conflicts and bring about order.

### What's Ahead in Chapter 18

In this chapter you will read about laws and their importance. You will take a closer look at why we have laws, where laws come from, and how laws affect your daily life.

**Section 1** Why We Have Laws

**Section 2** Where Our Laws Come From

**Section 3** Kinds of Laws



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### *Citizen's Journal*

Suppose you were stranded with a group of people on a deserted island. What is one law you would suggest? What arguments would you make in support of your proposed law?

## SECTION 1

# Why We Have Laws

### SECTION PREVIEW

#### Objectives

- Explain how laws help bring order to society.
- Describe how laws protect safety, property, and individual freedoms.
- Explore ways that laws protect society as a whole.
- Define the common purpose of all laws.
- Analyze the link between laws and morals.

#### Building Civics Vocabulary

- **Laws** are rules of society that are enforced by government.
- Beliefs about what is fair and what is right or wrong are called **morals**.
- Breaking a law because it goes against personal morals is called **civil disobedience**.



#### Focus

Throughout this book you have read about laws, rules of society that are enforced by governments. In some ways laws are like other rules, such as family, sports, or class rules. Rules set standards, or requirements. They also set penalties, or punishments, for failing to meet standards. A coach might have a rule that anyone who skips practice may not play in the next game.

Governments also set standards of behavior. An example is the law that requires drivers to stop at red lights. People who break this law usually must pay a fine.

Laws are different from other types of rules, however. Laws are the only rules that everyone in your community has to follow. A family rule against playing loud music after 9:00 P.M. applies only to your family, and your family decides what should be done if

you break the rule. However, what if you broke a local law against playing loud music after midnight? You could be fined by your local government for disturbing the peace.

Why do governments make rules? In the following pages, you will explore some of the reasons why we have laws.

## The Need for Order

One of the most basic purposes of laws is to bring order to society. One way laws bring order is by telling people what they may or may not do. Some of the most familiar do's and don'ts are traffic laws. Every driver must drive on the right side of the road and obey traffic signs. What would happen if people could drive on either side of the road? What if everyone tried to go through an intersection at the same time?

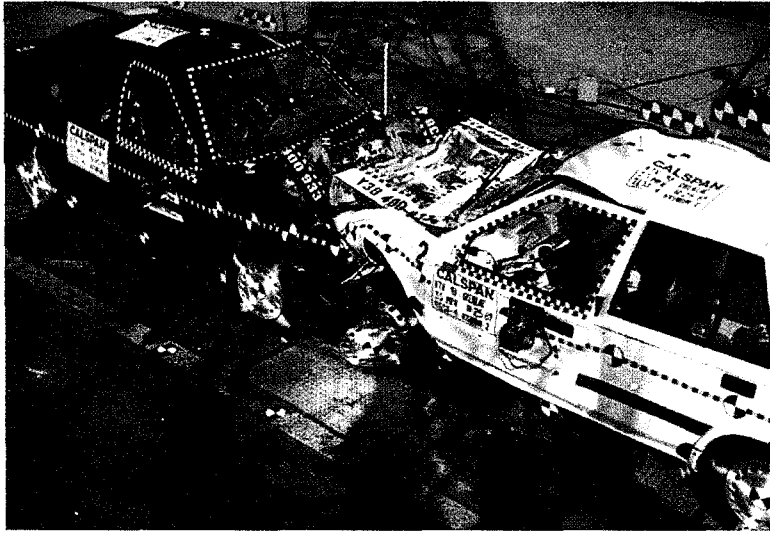
Another way laws help bring order is by setting standards in many areas. Some laws help make sure that supermarket scales, gasoline pumps, and other measuring devices are accurate. Others set standards for education, including courses of study and attendance requirements.

In many ways laws help bring order by telling people how something should be done. They tell how public officials should be elected, how evidence should be presented in trials, how building permits should be obtained, and so on.

Laws also spell out the proper ways to settle serious conflicts. Suppose a bicycle rider runs into you, knocking you down and causing you to break your leg. You and your family ask the rider's family to pay your medical bills, but they refuse. Laws help bring order by providing peaceful ways of settling such conflicts in court.

## The Need to Protect People's Safety

Another purpose of laws is to protect people's lives. No society can run smoothly if



One purpose of laws is to protect people's safety. For example, there is a law requiring that new cars be put through crash tests.

people live in constant fear. Therefore, physical attacks such as murder and rape are against the law. These actions are punished by prison or even death.

Laws also protect the quality of people's lives. They especially look after the lives of people who are less able to protect themselves, such as children and the elderly. Laws hold parents responsible for the care of their children, including food, clothing, housing, and medical care. Laws help protect the elderly in many ways, such as guaranteeing retirement income and low-cost medical care.

## The Need to Protect People's Property

Imagine what would happen if people were allowed to take anything that they wanted from each other. Laws against stealing are one way in which the government protects your property, whether it be money or anything else you own. If your bike is stolen, you can tell the police. They will try to find your bike and arrest the thief so that he or she can be punished.

Laws also give you rights if your property is damaged. Suppose you lend your video game system to a friend who spills a can of

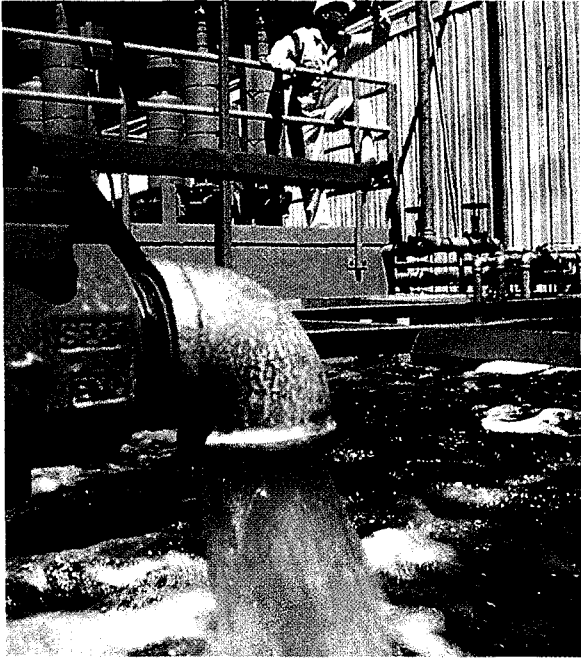
soda onto it. You ask him to pay for the damage, but he refuses. Laws give you the right to take him to court. A judge may order him to pay for the damage.

Property also includes ideas and inventions. Ideas for a new cereal, a board game, a new style of skateboard, or a labor-saving invention for the home are the property of the person or company who thought of them. A person also owns any work of art, music, or literature that he or she creates.

Any creation or invention can be protected by law. Examples of this protection are all around you. Books, CDs, videotapes, and games display the copyright symbol: ©. Brand names have the ® symbol standing for "registered trademark." Patent numbers are stamped on many products, from sports shoes to computers. Copyrights, trademarks, and patents are all warnings that it is against the law to copy creations or inventions without permission.

## The Need to Protect Individual Freedoms

Americans have always treasured individual freedoms. As you know, these freedoms are protected by the Constitution—the highest



To guard public health, laws require that treatment plants need a discharge permit before releasing any pollutants.

law in the land. The Constitution, in the Bill of Rights, makes it illegal for the government to deny freedom of religion, freedom of speech, freedom of the press, and other basic freedoms.

The Constitution protects the basic rights and freedoms of individuals by limiting the government's power. The Constitution also guarantees, through the Fourteenth Amendment, that laws will be applied fairly and equally to all people.

## **The Need to Promote the Common Good**

The Preamble of the Constitution declares that one of the goals of our government is to promote the general welfare, which means the common good of the people. Therefore, laws do not just protect the safety, property,

and freedoms of each individual. They also protect society as a whole.

Some laws protect the environment and everyone's health. Laws limit pollution to improve the quality of the air we breathe. They also regulate the safety of the water we drink, the food we eat, and the products we use. Laws cover everything from how restaurants prepare food to how nuclear power plants get rid of their wastes.

Laws also make sure that help is given to people who need it. Laws set up unemployment insurance and job-training programs that help people who have little or no income. Laws allow the government to give aid to victims of floods and other disasters. These and many other laws remind people of their responsibilities toward each other.

## **A Common Goal**

You have just looked at several purposes of laws: to keep order; to protect the safety, property, and freedoms of individuals; and to promote the common good. However, any law may serve more than one purpose.

Laws that set speed limits, for instance, help preserve order and also protect people's safety. Laws that regulate the quality of food protect the safety of the individual. They also serve the common good by protecting everyone in our society. The purposes of law are closely tied to each other because all laws have a common goal: to encourage people to live together peacefully.

## **Laws and Morals**

Most of us do not consciously think about the purposes of laws. However, we know that laws reflect many of the basic values and beliefs we share. Beliefs about what is fair and what is right or wrong are called **morals**. Most of us have similar morals. Our values and morals, rather than our laws, are the real glue that holds our nation together.

Most Americans obey laws because they want to. Theft and murder are against the law, but most people believe those actions are wrong anyway. Even if there were no laws, most people would never steal or commit murder. Laws are necessary, however, so that the government can take action against people who do act wrongly.

What happens, though, if a law goes against your beliefs? In a situation like that, some people disobey the law. Breaking a law because it goes against personal morals is called civil disobedience. For example, a person might refuse to pay income tax because he or she opposes government spending on nuclear weapons.

People who take part in civil disobedience willingly accept the punishment for breaking the law. In this way, they follow their morals while recognizing the need for order in society. There could be no order if everyone decided to disobey certain laws but was unwilling to accept the punishments. If people want to change a law, our democratic government provides ways to do so. In the meantime, we have a responsibility to each other to live by the laws we have.

## Section 1 Assessment

1. **Define** laws, morals, civil disobedience
2. Describe four of the main reasons we have laws.
3. Which constitutional amendment states that laws must be applied fairly to all people?
4. Give one example of a law that protects both the individual and society as a whole.
5. Explain how laws are related to morals.
6. **Synthesize** Choose a law that you consider to be particularly important and predict what would happen if that law no longer existed.

## SECTION 2

# Where Our Laws Come From

## SECTION PREVIEW

### Objectives

- Explain how laws made by legislatures differ from guidelines established by judges' decisions.
- Explore the history and importance of legal codes.
- Analyze our Constitution and state constitutions as sets of laws.
- Describe how laws are carried out by government agencies.
- Explain why laws are sometimes changed.

### Building Civics Vocabulary

- **Statutes** are written laws made by legislatures.
- **Common law** is a body of law based on judges' decisions.
- A **legal code** is a written collection of laws.



### Focus

Where do our laws come from? Basically, they grow out of common values and beliefs in two ways: through rules written by legislatures and through decisions made by judges. Both of these sources of law have a long history, and both have played an important role in the development of American law.

## Laws Made by Legislatures

When a certain need or problem arises, people often say that "there ought to be a law" to deal with it. If littering is a problem, your town or city council may pass a law setting a \$500 fine for littering. Are too many people being injured in motorcycle accidents? Your state legislature may pass a law that riders must wear helmets. When the price of food goes up, Congress may pass a law increasing Social Security payments to the elderly.

All of these are **statutes**, written laws made by legislatures. Usually the term *statute* refers to laws made by Congress or by state legislatures. Laws made by city or town councils are typically called **ordinances**.

In making laws, elected officials are guided by the morals, values, beliefs, and customs shared by most of the people served by the government. Laws passed by Congress reflect basic values shared by most Americans. Whenever you see the words *federal law* or *federal statute*, you know that everyone in the nation has to obey that law.

Laws passed by a state or local government, however, only apply within that state or local community. Since customs and beliefs in one state or community may differ somewhat from those in another, their laws may differ, too. For instance, one state may allow lotteries while another does not.

The relationship between laws and common beliefs has always been a close one. For example, in ancient Rome, where many people

believed in witchcraft, statutes made it illegal for anyone to cast spells that would do harm. Laws against witchcraft were even found in the American colonies. Today we have no such laws because most people do not believe in witchcraft.

## Judges' Decisions

When people talk about “laws,” they are usually referring to statutes and ordinances. However, “obeying the law” also means obeying decisions made by judges. Unlike legislatures, judges do not write laws. Instead, they wait for cases to come to them, and they decide each case based on laws that already exist. Those laws may be statutes and ordinances, or they may be earlier decisions made by judges in similar cases.

American judges have inherited from England a strong tradition of being guided by earlier court decisions. Hundreds of years before the colonists came to America, a system of laws had developed in England. Some of these laws were statutes made by Parliament, the English legislature. However, the English people also relied greatly on **common law**, a body of law based on judges' decisions.

Here is how common law worked. In making a decision on a case, an English judge would always consider general community customs and beliefs about what was fair. However, a judge would also need specific guidelines to follow in deciding each case. To find those guidelines, he looked at written records of how other judges had decided similar cases. If those decisions reflected the current beliefs of the community, the judge would follow them as a precedent, or guide.

Suppose, however, that community beliefs changed. Or perhaps a case came up that had no precedent. A judge would then make a new decision that reflected current beliefs and customs. The new ruling would be a precedent for future cases that were similar.

When the tradition of common law came to the United States, judges still followed

## Facts & Quotes

### It's the Law

Over the years legislatures have passed some unusual laws. Try to guess why each of the following laws was made.

- ★ A Kentucky city passed a law making it illegal for children to carry ice cream cones in their pockets.
- ★ According to a law in a small Illinois town: “It is illegal for anyone to give lighted cigars to dogs, cats, and other domesticated animals.”
- ★ In one Washington city, the law states that anyone entering town with the intent to commit a crime must “stop at the city limits and telephone the chief of police as he is entering the town.”



Judges spend hours studying previous cases. Here a judge does research in a law library.

many of the decisions of English judges. Conditions and customs were not always the same in the United States as in England, however, and some decisions of American judges reflected unique aspects of life in the United States.

Under English common law, for example, it was illegal for a landowner to interfere with the natural flow of a stream. This law made sense in England. In the 1800s, Americans started using waterpower to run factories. American judges in some states, therefore, changed the common law ruling so that landowners could interfere with the flow of a stream by building dams to power factories.

## Legal Codes

As you might imagine, thousands of laws have been made over the years. To help keep track of laws, lawmakers have organized many of them into legal codes. A **legal code** is a written collection of laws, often organized by subject. Traffic laws, for instance, are collected in your state's motor vehicle code, while laws relating to schools will be found in the state education code.

Codes provide a way to organize laws so that they are up-to-date and easy for people to find.

Legal codes have a long history. One of the earliest codes was made almost 4,000 years ago when the Babylonian king Hammurabi collected the laws of his people. The Code of Hammurabi was carved on stone tablets. It contained almost 300 laws. Some of these ideas we share today, such as family laws and criminal laws.

Another ancient legal code was the Justinian Code, created under the orders of the Roman emperor Justinian. This collection of Roman laws influenced the development of laws in Europe and the United States.

Legal codes played a key role in the growth of American government. When the colonies were being formed, there was a need for order. Codes such as the *Laws and Liberties of Massachusetts* provided lists of laws that everyone could know and follow.

## Constitutions

Our United States Constitution and the constitutions of the states are also collections of laws. We do not usually think of constitutions



Government agencies decide how emission standards on cars should be carried out to meet the goals of anti-pollution laws.

as “laws” in the sense of rules or regulations, yet they include the basic rules by which our governments are run.

Constitutions tell how laws may be made and what the government can and cannot do. They also list the rights of citizens. As you know, state laws must follow the state constitution. Local, state, and federal laws must all follow the United States Constitution.

## Regulations by Government Agencies

When Congress and the state legislatures make statutes, those laws usually set very general requirements. Government agencies then spell out how those requirements are to be met. Suppose that Congress passes a law

requiring school cafeterias to provide healthy lunches. Officials of the Department of Agriculture set regulations about what should be in those lunches. If cafeteria workers do not follow those rules, they are breaking the law.

Agency regulations are reviewed by the legislature that made the laws. Any regulations that do not carry out the laws are changed.

## Changing the Law

In our country, citizens have the final say on all laws. Through elected representatives, we can add, change, or remove any law. Changes might be as major as amending the Constitution or as minor as doing away with a local ordinance.

As you have already seen, sometimes laws become out of date as beliefs, values, or customs change. People may also change their ideas about what is fair or reasonable. If the majority of the people disagree with laws, the government will usually change them. One example, of course, was the change in the laws about voting rights for women. In short, the laws that last are those that are seen as fair, reasonable, and understandable by the majority of the people.

## Section 2 Assessment

1. **Define statutes, common law, legal code**
2. What are the two main ways that our laws are made?
3. How are constitutions and codes similar and different?
4. Why do laws made by our legislatures sometimes become out of date?
5. **Evaluate** What is one law that you think should be changed? Explain why.



## Kinds of Laws

### SECTION PREVIEW

#### Objectives

- Explore the purpose and source of criminal law.
- Explain how civil law differs from criminal law.
- Describe how criminal and civil law can work together.

#### Building Civics Vocabulary

- A **crime** is any behavior that is illegal.
- **Criminal law** is the group of laws that tells which acts are crimes, how accused people should be tried, and how crimes should be punished.
- A **felony** is a crime for which the penalty is imprisonment for more than one year, a fine, or a combination of both.
- A **misdemeanor** is a crime for which the penalty is a jail sentence of not more than one year, a fine, or a combination of both.
- **Civil law** is the group of laws that help settle disagreements between people.



#### Focus

Laws affect your life in many ways. You are reminded about laws even when you rent a videotape. Before the movie begins, a message in big letters appears on the screen:

#### WARNING

Federal law provides severe civil and criminal penalties for the unauthorized reproduction, distribution, or exhibition of copyrighted motion pictures, videotapes, or video discs.

Criminal copyright infringement is investigated by the FBI and may constitute a felony with a maximum penalty of up to five years in jail and/or a \$250,000 fine.

Why do you think the government might punish people for copying or selling videotapes? What does the warning mean by civil and criminal? You have probably heard the word *felony*, but what does it mean?

This section will explore the answers to these and other questions by looking at the two main types of law that affect you: criminal law and civil law. Both types help people live together peacefully.

## Criminal Law

When people refer to “breaking the law,” they are usually talking about crimes. A **crime** is any behavior that is illegal because the government considers it harmful to society. A crime may be an act, such as stealing. It may also be a failure to do something required by law, such as refusing to pay income taxes. Something cannot be a crime unless there is a specific written law against it. Each law must define a behavior and state how it may be punished. **Criminal law** refers to the group of laws that tell which acts are crimes, how accused persons should be tried in court, and how crimes should be punished.

**The Purpose of Criminal Law** The main purpose of criminal law is to protect society as a whole. Suppose that you catch a burglar leaving your home. The burglar returns the stolen money, and you agree not to tell the police. You might be satisfied just to get your money back. However, the government is not satisfied because it sees the burglar as a threat to the community’s safety. That is why the act is a crime and must be reported.

To see how crimes harm society, imagine what would happen if the government did not punish people who commit them. If stealing was not against the law, there would be little to discourage some people from taking the property of others. Society would be harmed because everyone’s property would be threatened. Suppose that people were allowed to copy and sell products



Under criminal law, people who purposely damage the property of others may be punished by fines or jail terms.

made by businesses, such as videotapes. Society would be hurt because businesses could not make a fair profit.

**Penalties for Crimes** Criminal laws must set fair and reasonable penalties. Some crimes deserve greater penalties than others. Also, most crimes have maximum and minimum penalties. This range allows people guilty of the same crime to receive different punishments, depending on the case. For instance, a first-time offender will probably receive a lighter penalty than someone who has committed many crimes.

Crimes are divided into two categories: felonies and misdemeanors. A felony is a serious crime for which the penalty can be imprisonment for more than one year. Felonies include such crimes as kidnapping and murder. A misdemeanor is a less serious crime for which the penalty is often a fine. Littering and driving without a license are examples of misdemeanors.

**Sources of Criminal Law** Would you feel comfortable if a single government leader

could decide which types of behavior should be punished as crimes? Probably not. Too much power would be in the hands of one person. In the United States, no President, state governor, or judge may make a law that a certain act is a crime.

When people talk about “the government” making an act a crime, they are referring either to Congress, to state legislatures, or to local lawmakers such as city councils. At all three levels of government, criminal laws are passed, written down, and organized into codes. They are numbered and listed by subject so that they can be looked up easily.

Congress decides which types of behavior will be considered crimes anywhere in the United States. Each state legislature, though, can make its own criminal laws as long as they do not come into conflict with federal statutes or the Constitution.

Some types of behavior, such as gambling, may be illegal in one state but legal in another. Punishments may also differ. Drunk driving may be a felony in one state but a misdemeanor in another.

## Civil Law

As you have seen, criminal law includes all the laws that the government can punish people for breaking. Civil law is the group of laws that help settle disagreements between people.

**The Purpose of Civil Law** Civil law provides a way for people to settle disagreements in court if they cannot or will not settle them privately. In civil cases, the government will not automatically get involved, as it does with crimes. An individual or group involved in the conflict must first ask for help by suing, or taking the matter to court.

By providing a system of civil law, the government is in effect saying, “If you

## Sandra Day O'Connor

**T**here is no doubt that my appointment to the Supreme Court was a signal of hope to women throughout America that their dream of sharing in the power base might be fulfilled." So says Justice Sandra Day O'Connor, who in 1981 became the first woman appointed to our nation's highest court.

Raised on a cattle ranch in Arizona, O'Connor went on to academic excellence at Stanford University in California. In spite of graduating at the top of her law school class in 1952, however, O'Connor had a hard time finding her first job. "I interviewed with law firms in Los Angeles and San Francisco," she remembers, "but none had ever hired a woman before as a lawyer, and they were not prepared to do so."

O'Connor decided to start her own law practice in Arizona. After several

years of successful practice, she became an assistant attorney general for the state. In 1969, she moved on to the Arizona state senate, where she was elected majority leader—the first female in the nation to be named majority leader of a state legislature. Following her legislative career, she became a state court judge.

As a Supreme Court justice, O'Connor has been a strong supporter of state's



rights and equality for women. When balancing the arguments presented before the Court, she relies on her experience in all three branches of government. "It undoubtedly has helped me understand and appreciate the importance and value of the federal system designed by the Framers of the Constitution."

Speaking recently with a group of young students, she was asked if being a woman influences her decisions as a judge. "I tend to think," she answered, "that probably at the end of the day, a wise old woman and a wise old man are going to reach the same answer."

### Recognizing Viewpoints

Does Justice O'Connor feel her appointment to the Supreme Court has influenced other women? Explain.

disagree with someone and think you have been treated unfairly, first try to work it out yourselves. If that fails, there are laws that judges and juries may use to help settle the conflict."

Suppose, for example, you buy a CD player that breaks down the first time you

use it. The store owner refuses to replace the machine, saying that you must have broken it. Under civil law, you have the right to sue the owner. That is, you may file a complaint with a court stating why you think the owner has been unfair to you. Both you and the owner might then tell your stories to a

When you set out to make a major purchase, it is reassuring to know that one purpose of civil law is to help make sure that buyers and sellers treat each other fairly.



judge or jury, who will make a decision based on rules of civil law.

**Sources of Civil Law** In criminal cases, the main question is, “Did the accused person commit a crime?” Judges and juries must compare the facts of the case with the statute that defines the crime. In civil cases, however, the main question is, “What is a fair way to settle this type of disagreement?” To answer that question, judges and juries often refer to earlier decisions that have been made in similar cases.

Decisions in civil cases may also be based on statutes. Most civil statutes sum up the unwritten laws on which judges have based their decisions over the years. For instance, in case after case judges have ruled that a seller has a duty to deliver goods and that a buyer must pay for them. Eventually, legislatures decided that this basic unwritten law should be spelled out as a written statute: “The obligation of the seller is to transfer and deliver and that of the buyer is to accept and pay in accordance with the contract.”

Some civil statutes are collected and organized into legal codes. The example just mentioned comes from the Business and Commerce Code, which includes many laws that protect consumers.

## Where Criminal Law and Civil Law Meet

Criminal law gives government the power to protect society as a whole by taking action against individuals who commit crimes. Civil law provides a way for individuals or groups within society to settle their conflicts in an orderly manner. Both types of laws help bring order to society and protect people’s rights.

Sometimes situations involve both criminal and civil law. Suppose a drunk driver who has no insurance severely injures someone. Criminal law protects society by punishing the driver for drunk driving. However, it does not require the driver to pay the injured person’s medical bills. That is where civil law enters the picture. If the driver refuses to

pay, the injured person can sue. Under civil law, a court can force the driver to pay.

Think back to the warning that appears on videotapes. Criminal law protects society by fining or imprisoning a person who illegally copies and sells a company's tapes. However, punishing the criminal does not completely solve the company's problem. It has lost money it could have earned by selling tapes itself. Under civil law, the company can ask a court to force the criminal to pay the company the amount lost in sales.

Together, criminal and civil law look after our needs and rights. In Chapters 19 and 20 you will look at how our systems of criminal law and civil law work.

## Section 3 Assessment

1. **Define crime, criminal law, felony, misdemeanor, civil law**
2. Why do some laws differ from state to state?
3. How are the sources of criminal and civil law similar? How are they different?
4. Why do we need both criminal and civil law?
5. **Evaluate** Which group of laws do you think is more important—criminal law or civil law? Explain your answer.

## Extending the Chapter

### Historical Views

**L**aws in our society have changed as Americans' beliefs about what is right and wrong have changed. Up until the early 1900s, for example, there were few child labor laws.

The change from a rural society to an urban one, however, brought changes in attitudes toward child labor. Instead of working at home or on a farm, many children worked in large factories. In 1900, one out of every five ten-to-fifteen-year-olds worked. As more people began to object to child labor, state legislatures passed laws limiting child labor. The goal was to protect the health and safety of children and to ensure time for schooling.

The growth of industry has also brought changes in laws on pollution. Until recently, few Americans worried about pollution of the air, water, and land. Now, however, the public has demanded that some forms of pollution be made crimes for which companies may be fined.

Another example of change is in laws protecting consumers. For many years American courts upheld laws based on the idea "let the buyer beware." If buyers bought a bad product, it was their fault for making a poor decision. Today, consumers expect the government to take action against sellers who make defective products or use false advertising. Changes in consumer law have given the buyer more protection than in the past.

As our society changes, some laws will also change. In most cases, new laws will be added. In some cases, acts that were previously crimes may be "decriminalized." For example, during the 1920s and early 1930s the sale and manufacture of alcoholic beverages was a federal crime. However, people found that prohibiting alcohol created more problems than it solved, and the law was changed. As you look to the future, what changes in our laws do you think lie ahead?

# DECISION MAKING SKILLS

## How to IDENTIFY AND JUDGE OPTIONS

Suppose that two of your friends have gotten into an argument. They plan to meet to fight it out. You know where and when the fight will take place. You worry that one or both of them might be seriously hurt. How will you decide what to do?

Decision making, as you know, has two main parts: choosing and taking action. The lesson in Chapter 17 provided some guidelines for the first step in choosing: goal setting. This lesson will help you with identifying and judging options.

### Explain the Skill

Suppose that in deciding how to deal with the planned fight you have set two goals: to prevent anyone from getting seriously injured and to preserve your friendship with both friends. Copy the chart that appears on page 405. Allow plenty of space between the options. As you read the following guidelines for identifying and judging options, you will be answering questions and filling in the chart.

### Have a Clear Idea of What You Want

Identify qualities and values that you think you should consider when deciding what to do. You will usually include the most important ones in the statement of your goal or goals. You can also list some qualities and values separately as other standards, or requirements, that your final choice must meet.

Suppose, for example, that you are deciding which people to invite to a party. You might look for certain qualities in guests, such as friendliness and a good sense of humor. You could also consider values, such as kindness, that might guide you in choosing guests. For example, your goal might be: "To invite people who are friendly and have a good sense of humor." This goal already

includes two standards. If you value kindness, you might add: "I will try to include some people who are not usually invited to parties."

Your goals in deciding how to deal with the planned fight might be to prevent anyone from getting seriously injured and to preserve your friendship with both friends. These goals already include some standards, such as the value of friendship. If you also value fairness, you might add another standard: "Do not play favorites." If you value honesty, you might add: "Do not lie to either friend." Whatever you finally decide to do would have to measure up to these goals and standards.

1. Write down another standard that you might use in deciding what to do about the fight. Add it to your chart.
2. How do clear goals and standards help you identify and judge options?

**Identify Your Options** Keeping in mind your goals and standards, identify ways to meet them. You can identify options by brainstorming. When you brainstorm, be sure to:

- Quickly list as many options as you can.
- Avoid criticizing the options you think of.
- Piggy-back options. In other words, use options you have already thought of to help you think of even more options.

One option is to meet with each friend and try to talk them out of the fight.

3. State at least two other options and add them to your chart. Leave plenty of space between options.
4. If you were to tell another student how to brainstorm, what advice would you give?

Decision to be made:

I need to decide what to do about the fight that my friends are planning to have.

My Goals:

To prevent anyone from getting seriously injured.  
To preserve my friendship with both friends.

My Standards:

Do not play favorites.  
Do not embarrass either friend.

**Add another standard.**

	Kinds of Information I Need		
Options	Effects on Friendship	Physical Risk to Me	Add another kind of information.
1. Meet with each friend.	+friends might appreciate my efforts. -Friends may get angry with me +probably will not embarrass either friend	+probably none	
2. Add another option.			
3. Add another option.			

### Get Useful Information About Each Option

To choose the best option, you need information that is relevant, or related, to your decision. That information must also be reliable. Your search for useful information has three parts: (a) identifying which kinds of information you need, (b) finding that information, and (c) checking whether it is accurate.

*Identify which kinds of information you need.*

To compare options, you will need certain types of information about each one. This might include *characteristics* of each option and *consequences*, or effects, of each option.

Look for information that relates to the type of decision you are making. In deciding

which part-time job to take, for example, you might look at characteristics such as wages and schedules, and consequences such as effects on school activities. Ask yourself, "What do I need to know about each option?"

When considering options for dealing with the fight, you might consider consequences such as physical risks to you and effects on your friendship.

5. Name one other kind of information you might want. Explain how it would help you make a good choice. Then list it.

*Collect the information you need.* Find reliable sources of information about the characteristics and consequences of each option.

Perhaps you can rely on some of your own ideas and experiences. You can also get information from other sources that you trust. Suppose, for instance, that you are deciding which school activity to sign up for, and you want to know how much time each one will take. You might check with team or club members about practice schedules and meeting times.

You might recall that you once talked some friends out of fighting. They had agreed that it was a poor way to settle their disagreement. Therefore, you think that meeting with each friend might have a good effect.

6. For each of the options you listed in the chart, name at least three specific consequences or characteristics. Then add these pieces of information to your chart. Make sure that you have put at least one piece of information in each section of your chart.

*Check whether the information is accurate.* Even though you have collected information from reliable sources, take a closer look to make sure it is accurate. First, separate the statements of fact from the opinions because you will need to judge them differently.

In judging statements of fact, check whether they are true. Suppose you are deciding which video game to buy, and a friend who recently bought a game tells you prices from several stores. You might call the stores to check whether prices have changed.

In judging opinions, check whether they are reasonable. Suppose that a friend tells you a certain video game is “great.” Does your friend have good reasons to back up that opinion? Keep in mind that statements about consequences are often opinions. When you look at a possible consequence, always

ask yourself, “How likely is this to happen?”

Suppose your brother tells you that trying to talk friends out of fighting will just make them angry. How reliable is his opinion? Based on your experience, you might consider this opinion unreliable and ignore it.

7. Give an example of information that you would *not* rely on when deciding what to do about the planned fight. Explain why you would not trust this information. Then look at your chart and cross out any information that you do not consider reliable.

**Judge Each Option** Identify the good and bad points of each option. Put a plus (+) next to each characteristic or consequence that meets one or more of your goals or standards. Put a minus (-) next to each one that does not.

You might think that some characteristics and consequences are more important than others and therefore give them greater weight. Next to important good points you might put two pluses. Next to important bad points you might put two minuses.

Give each option a fair look. If you are leaning toward one before carefully examining the others, look for any bad points you may have overlooked. This will help you to be as objective as possible.

In judging the option of meeting with each friend, you could put a plus next to “friends might appreciate my efforts.”

8. Name one characteristic or consequence that you would consider positive and one that seems negative. Explain why. Then put a plus and a minus next to them on your chart. Judge the other pieces of information on your chart and mark each with a plus or minus.





**Choose the Best Option** Decide how best to reach your goal or goals by comparing the good and bad points of each option. In choosing the best option, keep in mind that some characteristics or consequences may be more important to you than others.

You might also consider how your choice could affect goals you have not listed, especially long-range goals. Suppose you have a goal to buy a car and are trying to decide whether to take a part-time job during the school year. If college is a long-range goal, you might consider the effect on your grades.

In judging the options for dealing with the fight, you might consider the effect on friendship to be most important.

**9.** Which option would you choose? Why?

Now that you have filled out your chart, you can see that it would not be practical to use a chart like this everytime you make a decision. After all, many decisions have to be made quickly. However, whenever you have enough time to think over an important decision, a chart can be a useful tool. Of course, whether or not you use a chart, you

should always consider a number of possible options and think of their good points and bad points.

## Analyze the Skill

Picture yourself in the following situation: You are standing in the lunch line at the cafeteria. An older student comes up to you and demands that you hand over your lunch money. You do not want to get hurt, so you hand over the money. "Thanks for the donation," the student says. "I'll be back tomorrow for another one."

First, describe exactly what it is you have to make a choice about. You might begin by saying, "I have to decide whether..." or "I have to decide what..." Next, set clear goals and standards. Then brainstorm and judge at least three options. Make a chart like the one on page 405 and fill it in as you move through the process. Finally, choose the best option. Be prepared to explain your choice.

## Skill Assessment

After you have completed your chart and have chosen an option, answer these questions.

- 10.** What goal or goals did you set?
- 11.** What were three options you identified?
- 12.** What kinds of information did you collect about each option?
- 13.** Pick one of the options and tell what consequences you predicted.
- 14.** Which option did you choose and why?
- 15.** Suppose that one of the first options you think of seems to be a good one. Why is it useful to continue to think of other options?

## How to INTERPRET SYMBOLS

A symbol is something that stands for something else. Symbols that stand for the United States, for example, include our flag, the bald eagle, and Uncle Sam. A dove and an olive branch are symbols of peace, and a lion is often used as a symbol of courage. The photograph on this page shows a statue of Themis, an ancient symbol of justice.

### Explain the Skill

When interpreting a symbol, it is important to pay close attention to the different parts of the symbol. Each part often has a significance of its own that contributes to the overall meaning of the symbol.

Think of the United States flag, for example. As you know, the flag represents the entire nation. Within the flag, however, there

are more specific symbols. The flag's thirteen stripes represent the thirteen original colonies. The flag's fifty stars stand for the fifty states that make up our nation today.

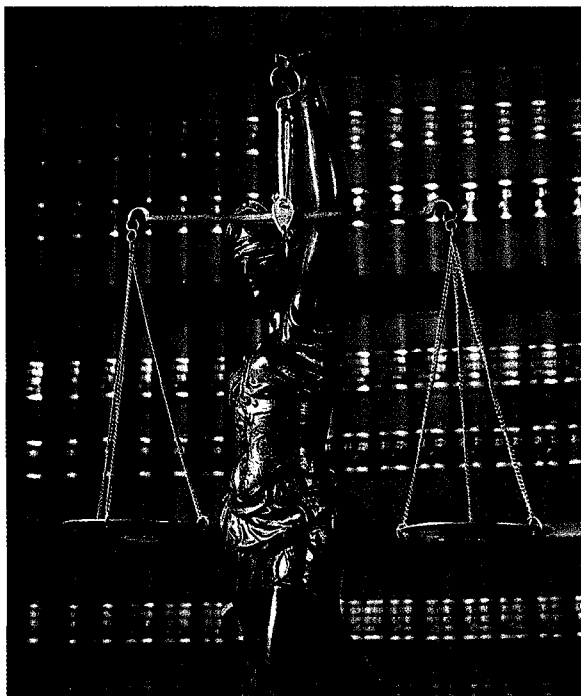
### Analyze the Skill

In Greek mythology, Themis was a goddess of law and justice. She has been used as a symbol of justice ever since. Today, statues of Themis can be found at courthouses across the United States.

Study the photograph of the Themis statue shown on this page. As with the American flag, it is important to understand the meaning of each part of the symbol. Note that Themis is wearing a blindfold. In her left hand she holds a scale. She holds a sword in her right hand. Think about the meaning of each of these details and then answer the following questions.

### Skill Assessment

1. Why do you think that the symbol of justice is usually shown with a blindfold over her eyes?
2. Why do you think that the symbol of justice is shown holding a scale in her hand?
3. For hundreds of years, the sword has been a symbol of government power and authority. Why do you think the symbol of justice carries a sword?
4. Think of another symbol commonly used to represent justice in the United States—two examples are shown on page 389. Describe the symbol and interpret its meaning.



# CHAPTER 18 ASSESSMENT

## Building Civics Vocabulary

The vocabulary terms in each pair listed below are related to each other. For each pair, explain what the two terms have in common. Also explain how they are different.

1. *laws* and *morals*
2. *common law* and *statutes*
3. *felony* and *misdemeanor*
4. *criminal law* and *civil law*

## Reviewing Main Ideas and Skills

5. How do laws differ from other types of rules found within society?
6. Describe the two main sources of American law and explain how those sources differ.
7. Explain the importance of constitutions and legal codes.
8. Compare and contrast the purposes of criminal law and civil law.
9. **How to Identify and Judge Options** Suppose you are trying to make an important decision. Why is it helpful to know your goals before collecting information about options?
10. **How to Interpret Symbols** Look back at the painting of the American flag being raised on page 209. How has this national symbol changed since 1803? Why was it changed?

## Critical Thinking

11. **Defending a Position** Suppose someone says to you, "To be a moral person, you only have to avoid breaking any laws." Do

you agree with this statement? Defend your position.

12. **Making Predictions** What would the world be like without laws? Predict how your life would be different.

## Writing About Civics

13. **Writing a Law** If you could pass a new law for your town, what would it be? What would the goal of your law be? What would the punishment be for breaking this law?

## Citizenship Activities

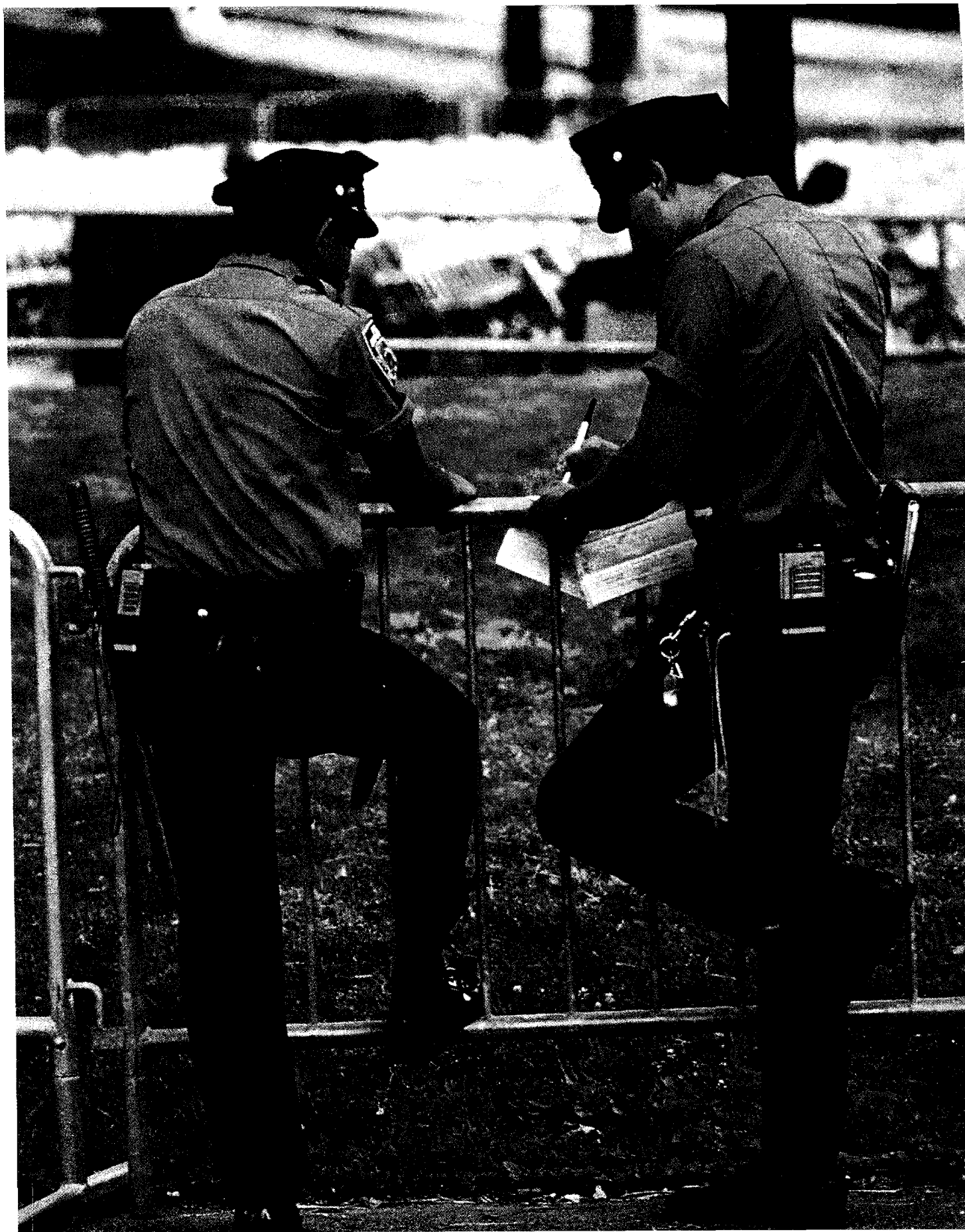
14. **Civic Participation** With a group of three or four classmates, make a list of five school rules that you consider to be very important. Prepare an explanation of why those rules are necessary and make proposals for how they should be enforced. Each group should present its findings to the class.



## Take It to the NET

Access the **Civics: Participating in Government** Internet site at [www.phschool.com](http://www.phschool.com) for the specific URLs to complete the activity.

Laws are vitally important to a society, but they can also be very complex and controversial. The courtroom is one place that laws are debated and applied. Explore online information about some famous trials that helped shape our legal system. Provide a summary of a trial and explain why you believe the trial was important.



## CHAPTER 19

# Criminal and Juvenile Justice

### Citizenship and You

When Kate arrived home, something felt odd to her, but she couldn't figure it out. Then she walked into the family room. "Mom, where's the VCR?" she called back into the kitchen.

"Isn't it where it always is?" replied her mother, walking in with a worried look. She stared at the blank spot next to the television and said in a shaky voice, "Kate, I think we've been robbed."

Kate's father and brother ran to see for themselves. Then everyone rushed to a different part of the house.

Kate turned her doorknob slowly. She looked into her room. Her computer was gone, too.

Kate's mother called the police. An officer arrived soon after. He asked what had been taken.

"Looks like the burglar got in through here," said the officer, looking up at the half-open window above the kitchen sink.

"Will I get my computer back?" asked Kate.

"We'll do our best," said the officer, "But don't count on it. We don't recover many stolen items. And many burglars aren't caught."

### What's Ahead in Chapter 19

In this chapter you will study the problem of crime in our society. You will also learn about how governments deal with adult criminals and with young people who break the law.

**Section 1** Crime in American Society

**Section 2** The Criminal Justice System

**Section 3** The Juvenile Justice System



### Keep It Current

Items marked with this logo are periodically updated on the Internet. To keep up-to-date, go to [www.phschool.com](http://www.phschool.com)

### *Citizen's Journal*

Suppose someone conducting a survey asked you: Do you believe crime is a serious problem in the United States today? How would you respond? Explain your position.

## SECTION 1

# Crime in American Society

### SECTION PREVIEW

#### Objectives

- Understand why crime is a major problem in the United States.
- Summarize the major types of crimes.
- Analyze important causes of crime.

#### Focus

A jogger is mugged in the park. A four-year-old is kidnapped from his front yard. A bank president flees the country, having stolen millions of dollars from depositors. These are the kinds of crimes you hear about all too often on the news. Other crimes take place every day. Cars are stolen, purses snatched. Crime is a major problem in the United States today.

### The Problem of Crime

Crime touches many Americans every year. According to the Department of Justice, there was a property crime in one of every five American households in 1998. A violent crime happens in the United States about every 22 seconds, and a property crime takes place about every 3 seconds.

A 1999 poll showed that Americans see crime as one of the most important problems facing our country. Crime costs people, businesses, and governments billions of dollars every year.

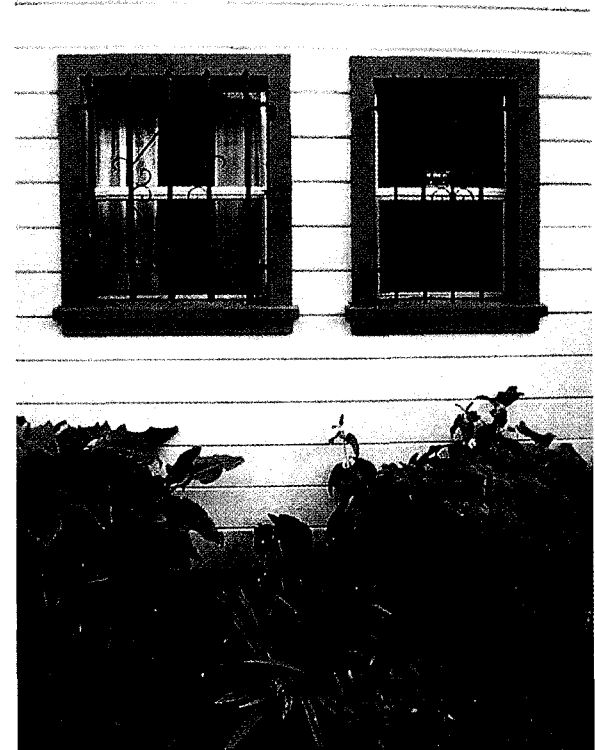
Crime also makes people afraid. Because they fear crime, they change the ways they lead their lives. They put extra locks on their doors and do not go out at night. They are suspicious of strangers in their neighborhoods. When people and property are not safe, everyone becomes a victim of crime.

Although crime is a problem for all Americans, some places have more crime than others. In general, there is more crime in urban areas than there is in suburban or rural communities. In addition, poor neighborhoods often have more crime than wealthy ones.

### The Types of Crimes

Serious crimes fall into several major groups. In the following paragraphs you will read about the kinds of crimes that cause the most concern among Americans.

**Crimes Against People** Acts that threaten, hurt, or end a person's life are crimes against people. They are also called



When people fear crime, they look for ways to protect themselves. Putting bars on windows is one way to try to prevent burglary.

violent crimes. Murder, rape, and assault are examples of violent crimes.

The most common violent crime is assault. Assault is an attack on a person for the purpose of causing injury to that person's body. Most people who assault another person use a weapon, such as a knife or gun.

Killing someone is known as homicide. When a killing is planned ahead of time, it is called murder. A killing that happens by accident or in a fit of anger is called manslaughter. Not all killings are crimes. Killing someone in self-defense is not against the law, if that is the only way to save your life.

**Crimes Against Property** Crimes against property happen more often than any other crimes. Most involve stealing.

There are three kinds of stealing. Larceny is taking anything of value that belongs to another person without using violence. Examples include shoplifting and stealing a car.

Robbery is a special kind of stealing. A robber takes something of value from another person by force or by threat of violence. Robbery is therefore both a crime against property and a crime against a person.

When a person breaks into a building and plans to do something illegal inside, that person is committing burglary. Burglary is a crime against property, but it may or may not involve stealing.

Other kinds of crimes against property include arson and vandalism. Arson is the act of setting fire to someone's property—such as a house, factory, or store—on purpose. Vandalism is purposely damaging property. Breaking windows and painting graffiti on walls are examples of vandalism.

**White-Collar Crime** White-collar crimes are illegal but nonviolent acts by white-collar, or professional, workers for personal or busi-

ness gain. One white-collar crime is fraud, or taking someone else's property or money by cheating or lying. Another is embezzlement, stealing money that has been trusted to your care. If a bank employee put money from other people's bank accounts into his or her own account, that would be embezzlement. Stealing company secrets and not paying your taxes are other white-collar crimes.

**Victimless Crimes** Drug use and gambling are known as "victimless crimes," acts that hurt no one except the people who commit them. Our society calls them crimes because they go against common values or because people believe they hurt society as a whole.



Police sometimes draw lines around the body of the victim as part of their investigation at the scene of the crime.

There is disagreement over whether some victimless crimes should be crimes at all. Should there be laws against acts that do not hurt any innocent people?

On one side are people who say that making laws against activities such as gambling and using drugs only cuts down on the freedom of individuals. On the other side are people who argue that such acts really do hurt innocent people. They warn that gamblers and drug users are a bad influence, that their families suffer, and that they often turn to violent crime to pay for their habits.

**Crimes Against Government** Crimes against government include treason and terrorism. Treason is the betrayal of one's country by helping its enemies or by making war against it.

Terrorism is a crime in which people or groups of people use, or say they will use, violent acts in order to get what they want from government or society. Terrorists have kidnapped and murdered people, hijacked airplanes, and set off bombs, causing injury and death to hundreds of innocent people. The terrorist bombing of a federal government office building in Oklahoma City in 1995 caused the death of 169 people. On September 11, 2001, terrorists hijacked commercial airliners and crashed them into the World Trade Center in New York and the Pentagon near Washington, D.C. The number of people killed from these attacks was about 3,000.

## The Causes of Crime

In the United States, millions of crimes are committed each year. People disagree about what causes so many people to break our society's rules.

**Poverty** Poverty and unemployment are closely connected to crime. When people cannot earn enough money to support themselves and their families, they may feel that

society is not working very well for them. People who feel this way are more likely to break society's rules.

**Rapid Social Change** New technology and changes in the economy are bringing about great changes in the United States. Many Americans must learn new job skills or move to different parts of the country. Values are changing, too. It can be hard to get used to these changes. In the process, some people lose their sense of right and wrong.

**Poor Parenting** Some studies show that an unhappy family life can make a person much more likely to break laws. Children who have been hurt or neglected by their parents may suffer great emotional pain. As a result, some find it hard to control their behavior as adults.

**Drug Abuse** More and more of the crimes committed each year are drug-related. That is, the people who commit them are under the influence of drugs, are stealing to support their habit, or are selling drugs. Many people think that solving the drug-abuse problem in our society will also help solve the crime problem.

**Permissive Courts** Some people place much of the blame for crime on the way our courts treat criminals. Too few criminals are sent to prison, they say. Also, those criminals who do go to prison are let out too soon and go right back to committing crimes.

**Not Enough Money for Police** Crime will not be reduced, say many people, until the chances of getting caught are much higher. More money, they argue, should be given to police departments so that more police officers can be hired.

**Violence in the Media** Every day, millions of children and adults watch violent





Terrorism is one of the most serious criminal threats facing our society today. This memorial honors the victims of the 2001 terrorist attack on the World Trade Center in New York City.

acts on television. They see gangsters, police, and soldiers hurting and killing people. The same happens in movies and computer games. Many people believe that watching a great deal of violence causes people to be more violent themselves.

**No Single Cause** These and many other aspects of our modern society have been blamed for causing crime. People do not agree about which of these causes are most important. Experts do agree, however, that no single cause can explain our crime problem.

### Section 1 Assessment

1. Why do Americans consider crime to be a major problem?
2. Name a kind of crime against a person and a kind of crime against property.
3. List three possible causes of crime.
4. **Analyze** In the beginning of this chapter, was Kate's mother correct in saying they had been robbed? Explain.

## SECTION 2

# The Criminal Justice System

### SECTION PREVIEW

#### Objectives

- Explain the role of police officers.
- Describe what happens when someone is arrested.
- Identify the steps in a typical criminal trial.
- Compare different types of correctional institutions.
- Examine the challenges facing the criminal justice system.
- Analyze several proposals for fighting crime.

#### Building Civics Vocabulary

- To make an arrest, the police must have **probable cause**, a good reason to believe that a suspect has been involved in a crime.
- A **warrant** is a legal paper, issued by a court, giving police permission to make an arrest, seizure, or search.
- **Bail** is money that a defendant gives the court as a promise that he or she will return for the trial.
- An **indictment** is a formal charge against a person accused of a crime.
- An **arraignment** is a court hearing in which the defendant is formally charged with a crime and enters a plea.
- Agreeing to plead guilty in exchange for a lesser charge or lighter sentence is called **plea bargaining**.
- Letting an inmate go free to serve the rest of his or her sentence outside of prison is called **parole**.



#### Focus

Police and other law enforcement agencies, courts, and jails and prisons make up our

criminal justice system. Together, their job is to protect people against crime and to find and punish lawbreakers.

The criminal justice system faces a challenge. On the one hand, it must protect society against those who break the law. On the other hand, it must protect the rights of people who have been accused of crimes. Americans often disagree about how to balance these responsibilities. As a result, there is an ongoing debate about how best to solve our crime problem.

### The Role of the Police

All levels of government have police officers. Most of them work for city police departments. A local police officer patrols neighborhoods, finds stolen property, investigates complaints, arrests lawbreakers, helps solve disputes, and writes traffic tickets.

The job of state police varies from state to state. In many states their major job is to protect automobile drivers and enforce traffic laws on state highways.

Federal law enforcement agencies such as the Federal Bureau of Investigation (FBI) help local police with such problems as gang wars and drug dealing. The FBI also enforces federal laws such as those against bank robbery and kidnapping.

Officers must know the law and what steps to follow when arresting people. They must be able to protect themselves and others from dangerous people. They have to make many quick decisions. Police officers come face to face with many of society's problems—child abuse, street fights, and drug dealing.

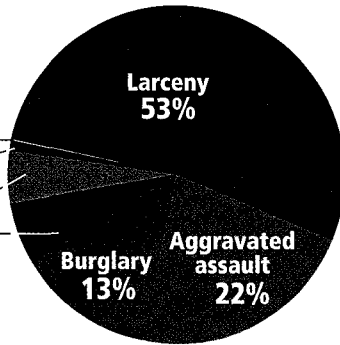
The police have great power. They can use weapons as part of their job. It is important, therefore, that they be trained to use their power wisely and legally.



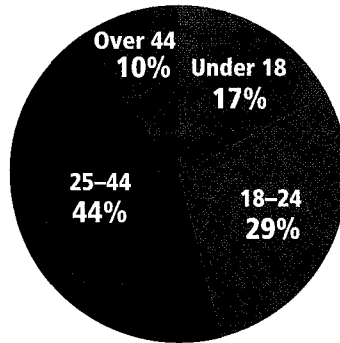
## ARRESTS FOR SERIOUS CRIMES IN 2000

### Type of crime

Murder 0.1%  
Rape 1%  
Robbery 5%  
Motor vehicle  
theft 6%



### Age of person arrested



Note: Percentages may not add up to 100 due to rounding.

Source: Federal Bureau of Investigation



Nearly a fifth of the people arrested in 2000 were under 18 years old.

**Government** What percentage of the arrests in 2000 were for motor vehicle theft?

## What Happens to Someone Who Is Arrested

The purpose of our criminal justice system is to find and punish people who have committed crimes. In order to make sure that people's rights are protected, there are many steps to be taken in deciding whether a person is guilty. To follow those steps, suppose that Jack Jones broke into an

electronics store and stole calculators and portable radios.

**The Arrest** Jack Jones enters the criminal justice system when he is arrested by a law enforcement official. When Jack is arrested, it means that he is no longer free to go. The police must have **probable cause**, a good reason to believe that a suspect has been involved in a crime. If the police see Jack commit the crime, or if someone reports that a person looking like Jack has committed the crime, then the police have probable cause.

A person can also be arrested if the police have a warrant for his or her arrest. A warrant is a legal paper, issued by a court, giving police permission to make an arrest, seizure, or search. To get a warrant the police must give evidence to a judge.

During the arrest, the officers must tell Jack that he has the constitutional right to remain silent and to have a lawyer present during questioning. This is part of the Miranda warning.

After the arrest, Jack is taken to a police station. The police record Jack's name, the time of the arrest, and the charges, or reason for the arrest. At this time, Jack has the right to make a phone call to a lawyer or to a friend who can arrange for a lawyer. Then he is placed in a jail cell.

Soon after this process has taken place, the case is given to a prosecuting attorney, or prosecutor. In the state court systems, the prosecutor will be the district attorney (DA) or an attorney on the DA's staff. The prosecutor will lead the government's case against Jack Jones. If the prosecutor decides that the case against Jack is too weak, the charges may be dropped, and the suspect released.

**The Preliminary Hearing** On the day of his arrest or soon after, Jack appears in court for a preliminary hearing. The suspect, Jack Jones, is now called the defendant. At this hearing, the prosecutor must show the judge

that a crime has been committed, and that there is enough evidence against Jack to go ahead with the case. The judge may decide to dismiss the case if the prosecutor cannot show that there is enough evidence to believe that Jack committed the crime.

If the crime could lead to a jail or prison sentence, Jack has a right to the help of a lawyer, or attorney. If he does not have enough money to pay for a lawyer, the court will appoint one at this hearing. The lawyer may be either a private attorney whom the government will pay or a public defender. Public defenders are lawyers who work full time for the government defending criminal suspects who cannot afford to pay. The defendant's lawyer is called the defense attorney.



At the time of an arrest, the police must tell the suspect of the right to remain silent and to have the help of a lawyer.

In a misdemeanor case, the defendant may enter a plea of guilty, not guilty, or a plea of “no contest” at this first court hearing. For a felony, which is a crime that could send a person to prison for more than one year, the same types of pleas may be entered.

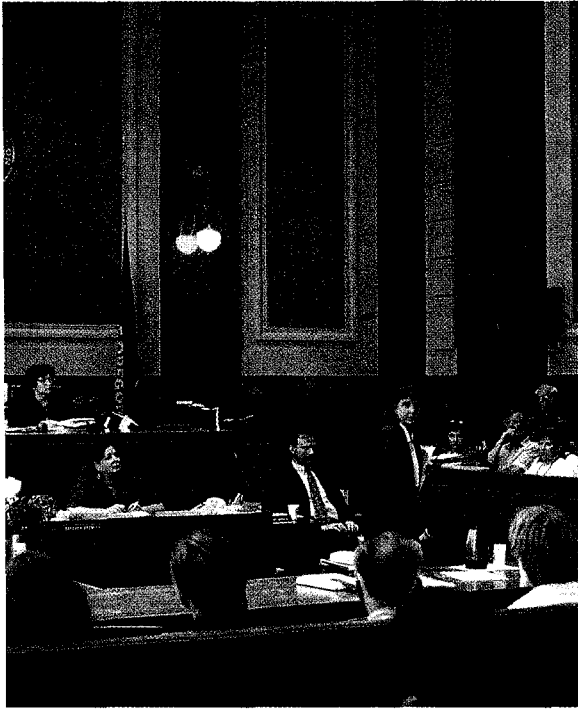
At this first appearance in court, the judge may set bail. **Bail** is money that a defendant gives the court as a kind of promise that he or she will return for the trial. If the defendant does not return, the court keeps the bail. The judge may also simply let the defendant go on his or her “own recognizance.” This means that the defendant is considered to be a good risk to appear at the trial. A defendant who the judge decides is dangerous to society can be held in jail without bail.

**Grand Jury** The Constitution says that a grand jury must review cases involving serious federal crimes. Some states use grand juries, too. The grand jury is a group of from 16 to 23 citizens. Their job is to decide if there is probable cause for believing that the defendant committed the crime. The grand jury acts as a check on the government. It protects the rights of the individual, making sure there is enough evidence against him or her.

The grand jury may either return an indictment [in DIT ment] or refuse to indict. An **indictment** is a formal charge against the accused.

A defendant who is indicted must appear in court for a felony arraignment [uh RAIN ment], a court hearing in which the defendant is formally charged with a crime and enters a plea of guilty, not guilty, or no contest. If the defendant pleads guilty, no trial is needed. If the defendant pleads not guilty, the defense attorney will take the next step.

**Pretrial Motions** Suppose that Jack Jones has pleaded not guilty to the charges against him. There are important steps, called pre-



In this typical courtroom, an attorney addresses the spectators and jury as the judge looks on.

trial motions, that may be taken by Jack or his attorney before the actual trial begins.

One of the most important motions is the motion to keep evidence from being presented in court. Evidence may be kept back for many reasons. Sometimes the defense attorney may say that the police got the evidence through an illegal search. If the judge rules that key evidence cannot be used in the trial for this reason, the prosecution may have to drop the charges.

Some people believe it is wrong for the courts to throw out evidence that clearly shows a defendant's guilt. Although this rule protects the constitutional rights of the accused, it may result in people who have actually broken the law being set free.

**Plea Bargaining** Did you know that most criminal cases never go to trial? As you have

seen, some are dropped by the prosecutor or the grand jury, and some are dismissed by the judge. However, the main reason cases do not go to trial is that the defendant pleads guilty, and a trial is not needed.

Why would a defendant plead guilty? If you knew that you had broken the law and that the evidence against you was strong, you might want to make a deal with the prosecutor. Such a deal is called **plea bargaining**, agreeing to plead guilty in exchange for a lesser charge or a lighter sentence. As a result of plea bargaining, the defendant gets a milder punishment than he or she would probably have received in a trial. Meanwhile, the government saves the time and cost of a trial.

Although plea bargaining can be good for both sides, many people do not like it. Some people, including victims of crimes, think that because of plea bargaining, criminals get off with lighter punishments than they should. Other people, however, point out that prosecutors often "overcharge" defendants in the first place. Overcharging means to charge the accused person with more crimes or a more serious crime than he or she could probably be found guilty of.

## Going to Trial

Suppose that, after all of these steps, Jack's case makes it to trial. What happens in the courtroom?

**Jury Selection** Citizens are called to serve on the jury. First they are questioned by both attorneys in the case. The attorneys are looking for people who will listen carefully to the evidence presented in court and then make up their minds fairly. Sometimes many people must be questioned before the attorneys agree on a group of jurors.

**The Trial** The rights of due process granted by the Constitution determine how a trial is run. The trial must be speedy and public.

The defendant—Jack—has the right to call witnesses and to question witnesses called by the prosecution. He has the right to be present in the courtroom, but he does not have to answer questions. The purpose of the trial is to decide upon the truth: is Jack innocent or guilty? This important question is answered by carefully studying the evidence.

Usually, statements made by witnesses are the most important evidence in a trial. A witness may be a person who saw the crime take place. A witness may also be

anyone who knows anything about the defendant, the victim, or the crime.

The attorneys in the trial each call their own witnesses, asking them questions in court. After one attorney questions a witness, the other attorney may question that same witness.

At the end of the trial, the attorneys for each side make closing arguments. The judge then gives directions to the jury and sends it out to make its decision.

A jury must decide if the defendant is guilty “beyond a reasonable doubt.” In other words, the jurors must have no important reasons to doubt that the defendant is guilty. If they are not sure beyond a reasonable doubt, they must find the defendant “not guilty.” If the jury cannot agree, it is called a “hung jury,” and the case may be tried again before another jury.



### THE CONSTITUTION AND THE CRIMINAL JUSTICE SYSTEM

The Constitution provides several important protections for people accused of crimes. **Government**  
Which amendment guarantees the right to confront witnesses?

#### Article 1, Section 9

Forbids taking away the right of habeas corpus.  
Forbids bills of attainder and ex post facto laws.

#### Article 3, Section 2

Guarantees a trial by jury for those accused of federal crimes.

#### Amendment 4

Forbids unreasonable searches and seizures.

#### Amendment 5

Guarantees review and indictment by a grand jury and due process of law. Forbids double jeopardy and self-incrimination.

#### Amendment 6

Guarantees a speedy and public trial by jury, the right to confront witnesses, the right to be informed of charges, the right to counsel, and the right to force witnesses to appear in court.

#### Amendment 8

Forbids excessive bail, excessive fines, and cruel and unusual punishments.

#### Amendment 14

Guarantees due process of law in state courts, and equal protection of the laws in the state.

**Sentencing** If Jack is found guilty or pleads guilty, the final step in the courtroom is sentencing. Sentencing is deciding how the defendant will be punished.

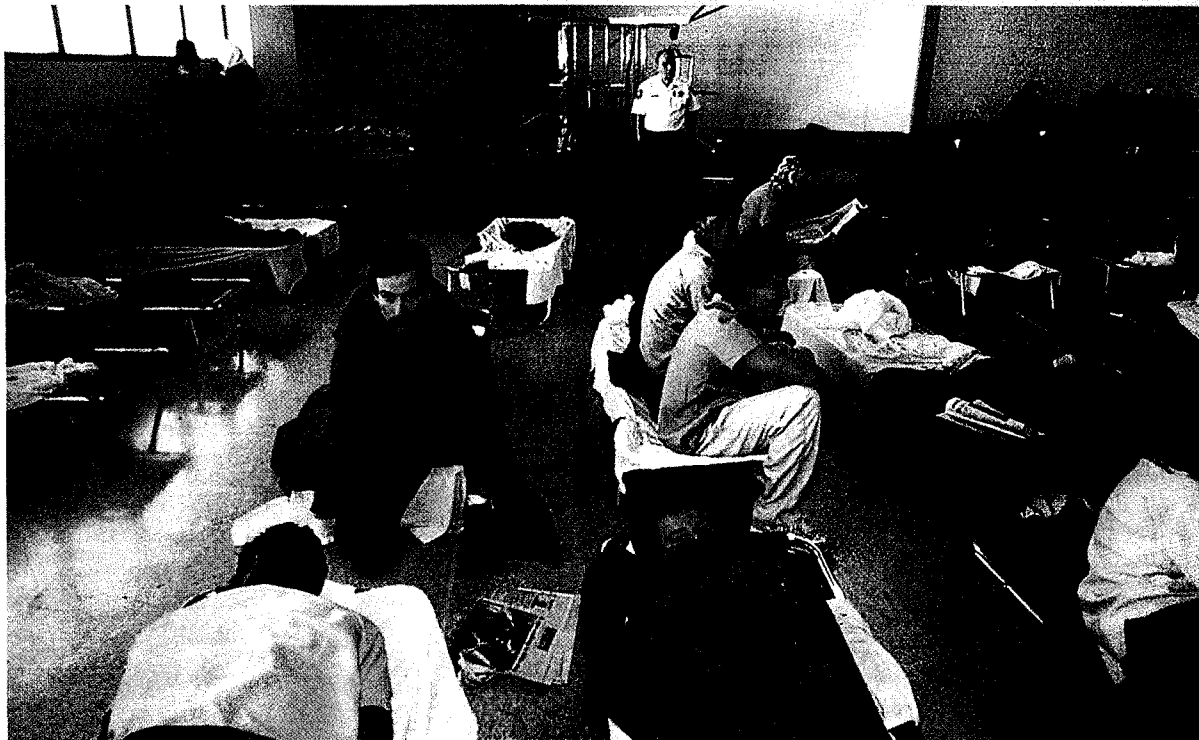
In most cases, the law sets both the maximum and minimum sentences for each crime. Inside that range, the judge has the power to decide the exact sentence. In deciding on a sentence, the judge thinks about many factors, such as how much harm was done by the crime.

The judge also considers factors such as the criminal record, age, and attitude of the offender. For example, if the law calls for a sentence of five to ten years in prison for armed robbery, the judge may give a first-time offender who regrets the crime the lowest—or five-year—sentence.

### Correctional Institutions

Having been convicted, Jack now enters what is called the corrections system. He may be sentenced to a community treatment program, a jail, or a prison.

Jails are run by cities and counties. They are used to hold people waiting for trial.



The growing number of prisoners puts a great strain on already overcrowded jails and prisons.

People convicted of misdemeanors may also serve time in a jail. Prisons are run by both state and federal governments. People convicted of serious crimes, such as murder and robbery, are usually sent to prisons. In prison they are called inmates.

An inmate's time in prison may be lowered for good behavior. Letting an inmate go free to serve the rest of his or her sentence outside of prison is called parole. A group called a parole board decides whether to let inmates go before their sentences are over.

At the end of 1999, there were over 1.4 million state and federal inmates and about 700,000 inmates in local jails. Our society spends a large amount of money running jails and prisons. In 1996, for example, state prisons spent a total of \$22 billion, or about \$20,100 annually per inmate.

## Challenges Facing the Criminal Justice System

One of the biggest challenges facing our criminal justice system is the number of people the system must deal with each year. For example, there were an average of over 7 million arrests in the United States each year from 1990 to 1999. In many courts around the country, there are simply not enough judges and other court employees to quickly handle all the people waiting for trial.

Like the courts, prisons are also overcrowded. The number of people in prison nearly doubled during the 1990s, as arrests and average prison sentences both increased. New prison construction has not kept pace with the growing prison population. As a result, many prisons are overcrowded. A 1999 Department of Justice report stated

that state prisons housed up to 17 percent more inmates than they were designed to hold. Federal prisons housed 32% beyond their capacities.

## Proposals for Fighting Crime

Because of public pressure, Presidents, governors, and mayors have been giving top priority to fighting crime. These leaders have many ideas about how to solve our crime problem. However, few of them agree. What a person thinks is the best solution to crime often depends on what he or she sees as the major cause.

**Preventing Crime** Many people think we should work hardest at keeping crimes from taking place, rather than at dealing with people after they have broken the law. There are several ways to help prevent crime.

A growing number of communities are using methods such as community policing or the "Neighborhood Watch." In cities that use community policing, such as Winston-Salem,

NC, community members cooperate with the police and each other to prevent crime in their neighborhoods. In communities using a Neighborhood Watch, neighbors look out for each other's property. They report problems quickly to the police. Signs are put up to let criminals know they are more likely to get caught in that neighborhood.

Meanwhile, many people favor broader ways of fighting crime. They want to attack what they see as the root causes of crime: poverty and other social problems.

**Being Tougher on Criminals** Another view of the best way to fight crime is to be harder on criminals. For example, people have called for mandatory sentences—punishments that are set by law and that a judge must give no matter who the defendant is or the reason for the crime. Some states have passed mandatory sentencing laws. In some states anyone who uses a gun while carrying out a crime must be sent to prison.

Many people also favor the death penalty, or capital punishment, as a sentence for serious crimes such as murder. The death penalty, however, has many opponents.

Those who favor the death penalty believe that it helps keep people from committing murder. Those who oppose the death penalty point out that innocent people have been wrongly convicted of murder. Several death-row inmates have been freed from prison after being proven innocent with DNA evidence. The Supreme Court, however, has upheld state laws allowing the death penalty.

**Rehabilitation** Rehabilitation is the process of trying to teach prisoners how to live useful lives when they get out. Unfortunately, rehabilitation is not working very well. A large number of inmates break laws again after they are released. Many people, however, say that rehabilitation

## Facts & Quotes

### Behind Bars

As you have read, many factors go into determining the prison sentence for a convicted criminal. Here are the average sentences and average prison time served for selected crimes in the United States.

<u>Crime</u>	<u>Average sentence</u>	<u>Average time served</u>
Homicide	9 yrs., 5 mos.	4 yrs., 11 mos.
Kidnapping	11 yrs., 4 mos.	8 yrs., 1 month
Robbery	7 yrs., 7 mos.	5 yrs., 1 month
Assault	3 yrs., 3 mos.	2 yrs., 1 month

Source: U.S. Department of Justice



programs can be improved and become an important way of fighting crime.

Some rehabilitation programs go on within prison. Inmates, for example, may get counseling that helps them understand and change the way they act. Educational and job-training programs are also a part of prison rehabilitation. Inmates usually have a chance to obtain a high school diploma and take college level courses.

Rehabilitation may continue after the time in prison is over. Some ex-prisoners live in halfway houses for people who are returning to life outside prison. There they get support and help. They can test new skills in a job that brings in a steady income. Some people believe that skills training and help in finding a job can reduce the number of former inmates who commit crimes again and return to prison.

Our serious crime problem and our overcrowded prisons call out for new solutions. The more you know about the purpose and problems of the criminal justice system, the better you will be able to work with other citizens to solve these problems.

## Section 2 Assessment

1. **Define** probable cause, warrant, bail, indictment, arraignment, plea bargaining, parole
2. Why is a police officer's job challenging?
3. What must the prosecutor prove during the preliminary hearing?
4. What must a jury decide in order to return a verdict of guilty?
5. What are two purposes of jails?
6. What factors have led to prison overcrowding?
7. List three possible ways of fighting crime.
8. **Analyze** What are some ways in which the criminal justice system tries to make sure that an innocent person is not mistakenly found guilty of a crime?

## SECTION 3

# The Juvenile Justice System

## SECTION PREVIEW

### Objectives

- Summarize the origin and purpose of juvenile courts.
- Explain how juveniles are treated differently than adults in the courts.
- Explore various attempts to improve the juvenile justice system.

### Building Civics Vocabulary

- A young person who is found guilty of a crime is called a **delinquent**.
- A **status offender** is a youth who is judged to be beyond the control of his or her parents or guardian.
- **Probation** is a sentence in which a person goes free, but must be under the supervision of a court official.



### Focus

In the early part of our country's history, children accused of crimes were treated like adults. They were thrown in jails with hardened criminals and given long prison terms if they were found guilty.

Some people objected to this harsh treatment of young offenders in courts and prisons. They argued that young people need special treatment. About 100 years ago, a group of reformers set out to create a separate justice system for juveniles, or young people.

## Juvenile Courts

Juvenile courts are state courts set aside for young people. Their goal is to help juveniles in trouble, not to punish them.



One of the goals of the juvenile justice system is to provide counseling to help young offenders and their families.

The first juvenile court was opened in Illinois in 1899. Its purpose was to give personal attention to each youth. An understanding judge and social workers worked with each juvenile who got in trouble with the law. The Illinois juvenile court has served as a model for similar courts set up in other states.

Who enters the juvenile justice system? Most states say that a juvenile is a person under the age of 18, although a few states set the age at 16 or 17. A youth thought to have broken a criminal law is brought before a juvenile court. A juvenile who is found guilty of a crime is called a delinquent.

Children may also have to appear in juvenile court if they are charged with truancy—skipping school without permission—disobedience, or running away. These acts are not crimes. They are against the law only for young people. A youth who is found guilty of one of these acts is called a status offender. A status offender is a youth who is judged to be beyond the control of his or her parents or guardian.

## Juvenile Court Procedure

What happens when Jenna Williams, a sixteen-year-old girl, is arrested for shoplifting makeup in a department store? As you will see in the following paragraphs, the steps she goes through are different from the ones for an adult charged with a crime.

**Arrest and Intake** When Jenna is arrested, the police now have the power to decide what to do with her. They might return her to her parents or give her case to a social service agency, an organization that helps children and families.

In Jenna's case the police do not send her home. Jenna has been charged with shoplifting before, and she has a history of running away from home. For these reasons, the police take her to a county detention home, or juvenile hall.

Next, Jenna goes through an informal court process called "intake," to decide if her case should be sent to juvenile court. A social worker asks Jenna questions and looks at her past record and family situation. Almost 25% of all cases are dismissed and the juvenile is sent home or directed to a social service agency. Because of Jenna's past record, however, the social worker sends her case to the next step in juvenile court.

**The Initial Hearing** At the first—or initial—hearing the judge must be convinced that a law was broken and that there is good evidence that the young person was the one

### Students Discover the Importance of Jury Duty

**S**ixteen-year-old Gabriela Pangilinan was accused of drug possession and distribution. Her trial was about to begin. Luckily for her, this was just a classroom exercise.

Pangilinan was one of 30 juniors and seniors from South Boston High School in Boston, Massachusetts, taking part in Law Day—a series of activities designed to teach students the importance of jury duty. Pangilinan played the part of a juvenile defendant. The other students assumed the roles of potential jurors for her trial.

Guests in the classroom court included Federal Judge Lawrence Cohen and Federal Public Defender Owen Walker. They explained the jury selection process to the class. Then Walker, acting as lawyer for Pangilinan, helped his client question

potential student jurors, eliminating those that might be biased against her.

“The enactment of the jury selection process gave students a much better understanding of what jury duty is about,” said the students’ teacher, Charles Korzeniowski.

Later, the students took a trip to the federal courthouse in downtown Boston, where a satellite hook-up enabled them to join 800

students in classrooms across the nation. Together, these students took on the role of jurors as they watched a mock trial of a teenager.

Each class came up with its own verdict. Then, using the interactive satellite link, jurors from different classrooms discussed their decisions and their reasoning.

By day’s end, the South Boston High students had a much better understanding of the legal system. “I was surprised at how much power jurors actually have,” said Gabriela Pangilinan. “Now I am more willing to serve on a jury, because I see I can make a difference.”



#### Active Citizenship

Do you think participation in activities like Law Day can help you learn about citizenship? Explain.

who did it. If there is not enough evidence, the juvenile is sent home.

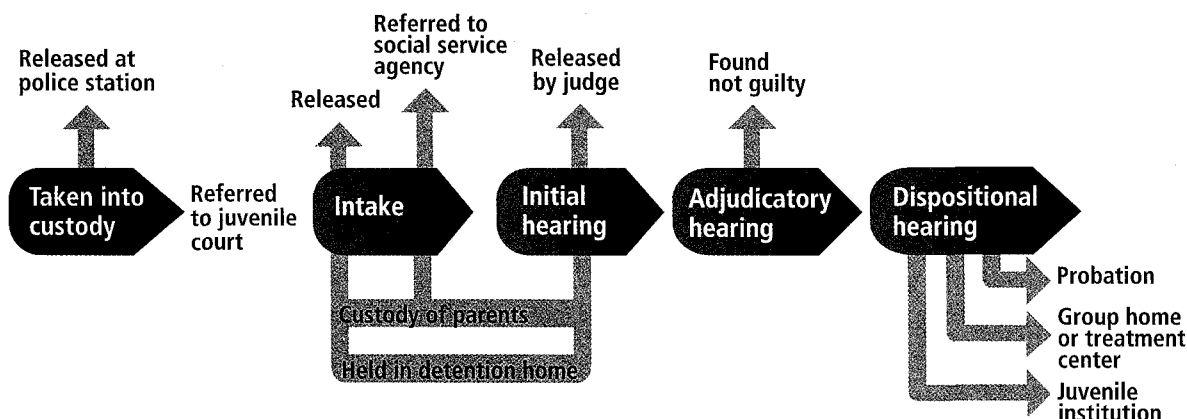
The judge hearing Jenna’s case decides that there is probable cause to believe that Jenna stole the makeup. The judge then sends Jenna back to juvenile hall, so that she

will not run away before her case is settled. In most states, a juvenile has no right to bail.

**The Adjudicatory Hearing** The third step, the adjudicatory hearing, takes the place of a trial. It is generally not public,



**THE JUVENILE COURT PROCESS** The justice system for young people is different than it is for adults. **Government** What are three sentences a youth might face after being found guilty in juvenile court?



and there is no jury. The young person, however, may have an attorney.

Jenna has an attorney appointed by the court. The prosecutor presents the facts of the case. Jenna's attorney questions witnesses and asks Jenna to tell her side of the story. After the hearing, the judge makes a decision. In this case the judge finds Jenna to be a delinquent under the juvenile law of her state.

**The Dispositional Hearing** At the next step, the dispositional hearing, the judge decides on the sentence. The judge considers information about the youth's school situation, family, and past behavior.

The judge then decides on a sentence. Should the youth be sent to a state institution for juveniles, placed in a group home or community treatment program, or put on probation? **Probation** is a kind of sentence in which a person goes free but must be under the supervision of a court official called a probation officer.

Like many delinquents, Jenna is put on probation and given a probation officer to

whom she must report regularly. She is also ordered to take part in individual and family counseling.

**Aftercare** The purpose of juvenile aftercare is to help young people after they have been released from an institution. Each youth is given a parole officer who can give advice and information about school, jobs, and other needed services.

## Strengthening Juvenile Justice

Some people think that the juvenile justice system has been a big disappointment. They see overworked judges who make quick decisions without much knowledge of children or families. They see far too little money being spent on giving the help that troubled young people need to straighten out their lives.

Others say that the system is too easy on young criminals. They point to an increase in violent crimes committed by young people. In fact, about 17 percent of all people arrested for serious crimes are under

eighteen. These critics want young offenders to be tried in regular criminal courts.

Other people have argued that juvenile courts should be done away with altogether. It is in the best interests of a young defendant, they say, to go to trial in a criminal court. There the defendant's rights to due process have much stronger protections.

**Community-Based Programs** Even though the juvenile justice system has in many ways failed to carry out its goals, there are many successful programs for juvenile offenders. One is the community residential treatment center. Youths live in small group homes instead of being locked up in a large state institution.

In a group home, counseling helps young people feel better about themselves and their future. Psychologists and social workers help them learn to get along better with other people in their lives.

**Wilderness Programs** Some delinquent youths take part in tough outdoor programs. The idea of these programs is that people's self-esteem grows as they find that they can do difficult tasks. In the wilderness, youths may discover that they have the power

within them to change the way they act and to affect the world around them in positive ways. Another purpose is to get them away from their neighborhoods and the influences that brought them trouble.

### Keeping Kids from Becoming

**Criminals** A large percentage of adults convicted of crimes were youths when they first got in trouble with the law. Therefore, the better our society is at preventing juvenile crime, the fewer adults the criminal justice system will have to deal with.

## Section 3 Assessment

1. **Define delinquent, status offender, probation**
2. What was the purpose of the first juvenile court?
3. How does the adjudicatory hearing differ from an adult criminal trial? How is it similar?
4. How do wilderness programs help some juvenile delinquents?
5. **Evaluate** Do you think the juvenile justice system protects the rights of the accused as well as the criminal justice system? Explain.

## Extending the Chapter

### Historical Views

**M**any societies in the past—and some today—have given very harsh treatment to people accused of crimes. These people had little chance to challenge the charges or to gain help in defending themselves. Punishment was often painful and swift. For example, a person caught stealing might have a hand cut off. Only a few hundred years ago, European and American women who were thought to be witches were burned alive or drowned.

In the United States today, the accused have some of the most complete rights and safeguards in history. The rights of due process, as well as the many steps that police and courts must follow, help make sure that innocent people are not punished for crimes they did not commit. In addition, people who are convicted of crimes cannot be given cruel or unusual punishments, and they are generally given the chance to return to society as normal citizens.

# SOCIAL STUDIES SKILLS

## How to ANALYZE AN AREA GRAPH



Use the *Simulations and Data Graphing* CD-ROM to create and interpret graphs.

In this chapter, you read about crime in our society. The Federal Bureau of Investigation, or FBI, is one of several government agencies that keeps statistics on crime in the United States. These statistics help the government assess the effectiveness of crime-fighting efforts around the nation. The graph on this page is based on FBI crime statistics for 1997.

### Explain the Skill

You have already studied line, circle, and bar graphs. Each provides a good way of displaying statistics visually. An area graph is another kind of graph. Area graphs are useful in showing smaller and smaller parts of the same original whole.

Suppose, for example, you wanted to create a graph showing how many people in your class will graduate from high school, and how many of those graduating from high school will graduate from college. This kind of information can be shown on an area graph. The largest circle in this area graph would represent your entire class. Inside this circle would be a smaller circle, representing all the students who will graduate from high school. The smallest circle would represent all the students who will graduate from college.

### Analyze the Skill

Look at the area graph on this page, which deals with FBI crime statistics for 1997.

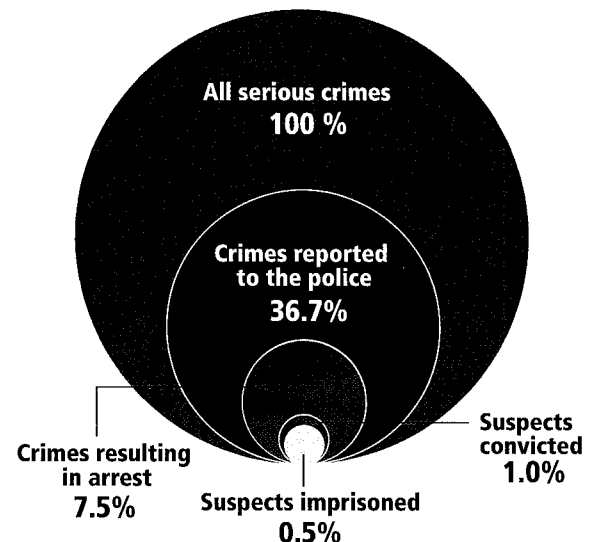
In that year, the FBI estimates that about 13 million serious crimes were committed. The graph's largest circle represents this total number.

Each of the smaller circles represents a percentage of the largest circle. The second-largest circle, for example, represents the percentage of serious crimes that were reported to the police.

### Skill Assessment

1. Were a majority of the serious crimes committed in 1997 reported to the police? What percentage of the serious crimes were reported?
2. What percentage of serious crimes in 1997 resulted in the suspect being arrested?
3. Do all convictions for serious crimes lead to a prison sentence? Explain.

#### Crime and Punishment



# CHAPTER 19 ASSESSMENT

## Building Civics Vocabulary

The vocabulary terms in each pair listed below are related to each other. For each pair, explain what the terms have in common. Also explain how they are different.

1. *arraignment* and *indictment*
2. *probable cause* and *warrant*
3. *probation* and *parole*
4. *delinquent* and *status offender*

## Reviewing Main Ideas and Skills

5. Why is robbery considered both a crime against a person and a crime against property?
6. Why do many people believe that some “victimless” crimes really do hurt innocent people?
7. What are the two responsibilities that the criminal justice system must balance?
8. What is the role of a grand jury?
9. What are some of the factors a judge considers when deciding the sentence of a lawbreaker?
10. **How to Analyze an Area Graph** Look back at the area graph on page 428. For every person imprisoned for a crime, how many serious crimes are committed?

## Critical Thinking

11. **Making Decisions** Do you agree with the use of plea bargaining as a method of settling criminal cases quickly? Why or why not?

12. **Defending a Position** Do you think juveniles who commit serious crimes should be treated as adults? Explain.

## Writing About Civics

13. **Writing an Editorial** As you read in this chapter, the death penalty is a controversial issue. Suppose you were an editor for your local newspaper. Write an editorial stating your opinion on the death penalty. Should it ever be used? If so, for what crimes? If not, why not? Include the editorial in your portfolio.

## Citizenship Activities

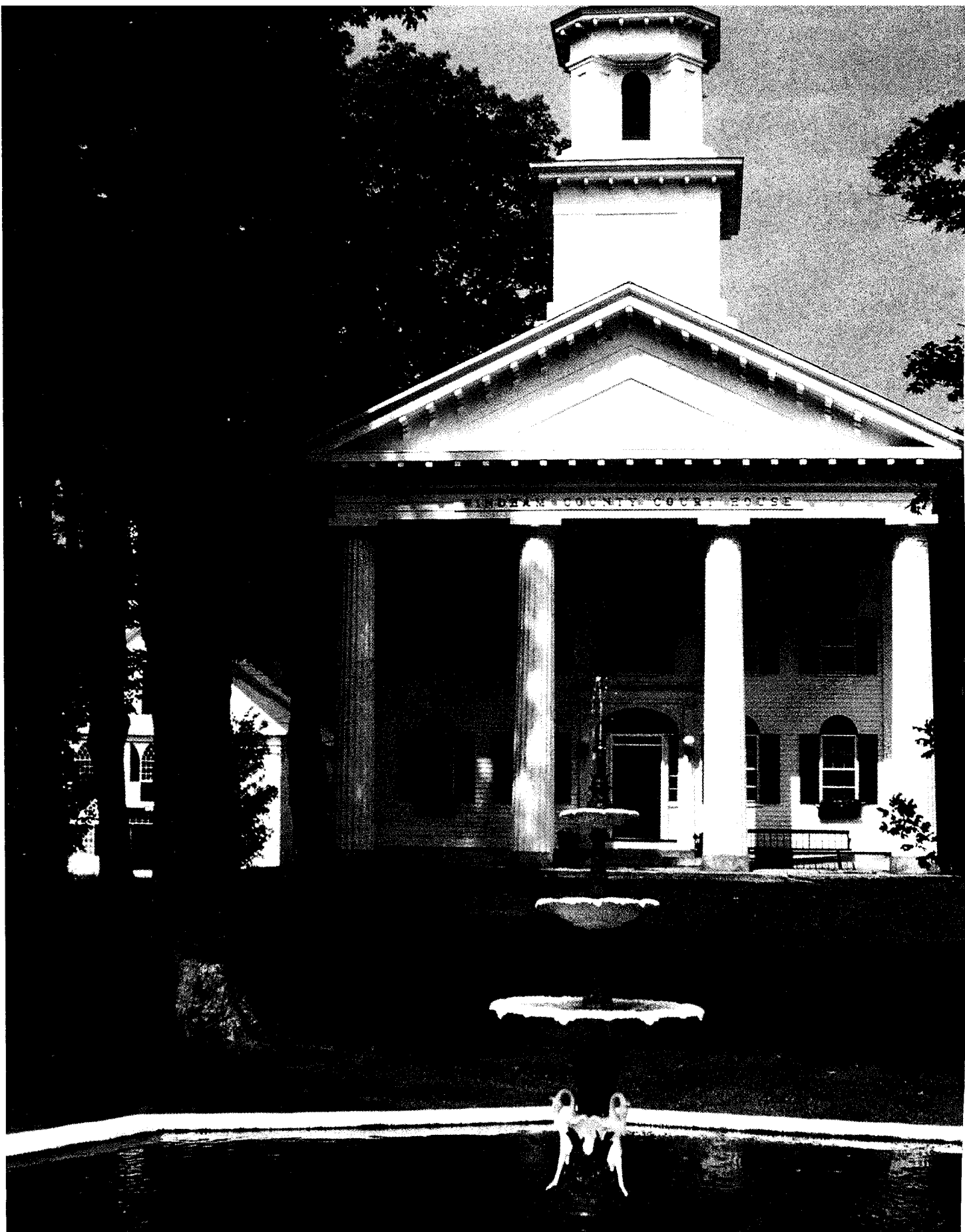
14. **Working in Groups** In a small group, design your own treatment program for juvenile offenders. Your goal is to help youths in trouble with the law increase their self esteem and learn how to settle conflicts peacefully. Describe what you would have participants do, and how you would measure their success. Share your proposals with the class.



## Take It to the NET

Access the **Civics: Participating in Government** Internet site at **www.phschool.com** for the specific URLs to complete the activity.

Explore online information about crime rates, both in your area and across the nation. Prepare a chart showing the change in the overall national crime rate over the last few years. Write a paragraph explaining why you think these changes took place.





## CHAPTER 20

# Civil Justice

### Citizenship and You

First you hear it—the tinkling of bells. Soon a familiar scene is taking place. Children are forming a crooked line next to a brightly colored ice cream truck. The pictures of the frozen treats look mouthwatering, and excitement fills the air.

Whenever children gather near a busy street, though, accidents are likely to happen. A recent incident in Ohio illustrates this fact.

On a summer afternoon, five-year-old Tommy heard the sounds of an ice cream truck. Clutching a handful of change, Tommy dashed out of the house. Instead of using the crosswalk, he ran out into the street. Just then a car turned the corner and struck him.

Tommy was badly injured. The question of who should pay his medical bills became the subject of a serious dispute. Tommy's parents blamed the driver of the car, as well as the ice cream truck driver for parking in a dangerous location. Neither driver, however, would accept responsibility for the accident. Both of them said that Tommy should have used the crosswalk. How could this disagreement be settled? Tommy's parents realized that they might have to go to court.



### Keep It Current

Items marked with this logo are periodically updated on the Internet. To keep up-to-date, go to [www.phschool.com](http://www.phschool.com)

### What's Ahead in Chapter 20

In this chapter you will learn about the American civil justice system, which provides a way for people to settle conflicts in a fair, orderly manner. You will read about some types of cases that are decided in civil courts, how the civil justice system works, and what problems the system is facing.

- Section 1**      **The Role of Civil Law**
- Section 2**      **Civil Procedure**
- Section 3**      **Choices in Civil Justice**

### *Citizen's Journal*

Suppose Tommy's case went to court and you were on the jury. Who do you think should pay Tommy's medical bills? Why? Write a paragraph explaining your decision to the other jurors.

## The Role of Civil Law

### SECTION PREVIEW

#### Objectives

- Explain the main principles of civil law.
- Summarize several types of civil cases.
- Explore examples of how civil courts settle disputes.

#### Building Civics Vocabulary

- **Lawsuits** are cases in which a court is asked to settle a dispute.
- Under civil law, a person has a right to **compensation**, a payment that is meant to make up for the harm caused by another's acts.
- Money paid in an effort to compensate a loss is called **damages**.
- **Equity** is the use of general rules of fairness to settle conflicts.
- A court may issue an **injunction**, which is an order to do or not do a certain act.
- **Contracts** are legal agreements between buyers and sellers.



#### Focus

Our civil justice system includes the judges, juries, and lawyers who help people settle conflicts according to the rules of civil law. In a typical year, Americans file more than a million lawsuits, or cases in which a court is asked to settle a dispute. Some people who file lawsuits believe that someone has injured them physically. Others believe that someone owes them money. Some think that their rights have been violated.

People who file lawsuits usually have two things in common. They believe that they have been harmed, and they want the courts to do something about it. Our civil justice system is based on the idea of re-

sponsibility. Civil trials are one way to make people take responsibility for the harm they have caused others.

A civil case, like a criminal case, always has a plaintiff and a defendant. In a criminal case, the plaintiff is always the government. The defendant is the person or persons accused of a crime. In a civil case, however, the plaintiff is most often an individual. The defendant may be an individual, a group, a business, or even a government body. For instance, a person may sue the maker of a product that does not work. Someone may also sue the government to try to make it do or stop doing something.

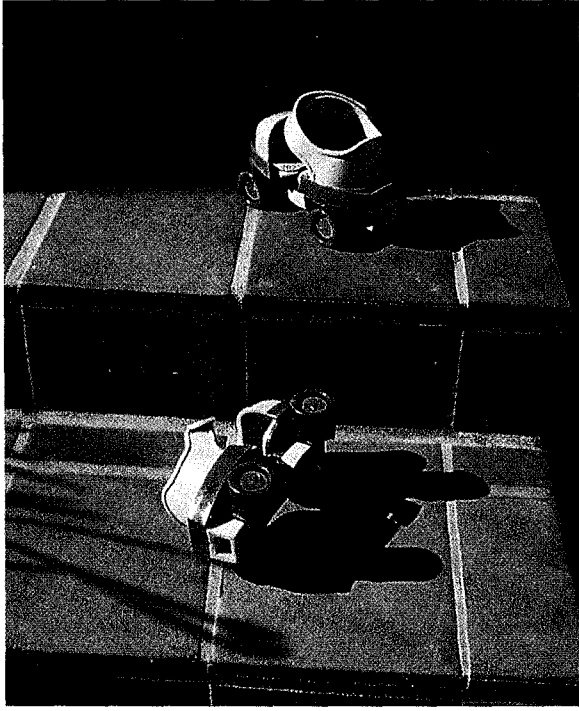
### Principles of Civil Law

As you already know, civil law has different purposes than criminal law. Criminal law protects society by punishing people who break the law. The main purpose of civil law, however, is not to punish wrongdoers but to settle disagreements fairly. Civil courts depend on two main principles for settling conflicts: the principle of compensation and the principle of equity.

**Compensation** Under civil law a person has a right to **compensation**, or being “made whole” for harm caused by another person’s acts. Suppose someone breaks your bicycle, and you have to pay \$45 to get it repaired. The person refuses to pay you back, so you decide to take him or her to court. The judge rules that the person must give you \$45. This money is not a fine because it is not meant to be a punishment. Instead it is called **damages**, money that is paid in an effort to compensate, or make up for, a loss.

Sometimes the payment of damages completely makes up for a loss. For instance, if you get the \$45 you paid to repair your bike, you are back in the same place you were before the bike was broken.

In many cases, though, the payment of damages cannot completely make up for the



Suppose a visitor is injured by slipping on skates that a child left in a dangerous spot. The next step could be a lawsuit against the parents.

harm done. An example would be money a court gives to a person left paralyzed by an auto accident. The money will not make the person able to walk again. Instead, it is an effort to soften the effects of the injury.

**Equity** Not every problem can be settled by the payment of money. Sometimes courts rely on **equity**, the use of general rules of fairness to settle conflicts. Suppose, for example, that bad-smelling fumes are coming from a nearby factory. Forcing the factory owners to pay money to everyone in town will not stop the smell. The dispute between the owners and the community has to be settled in a different way.

Under the rules of equity, a court may issue an **injunction**, an order to do or not do a certain act. For instance, a court could order

the factory to keep the fumes from escaping. Unlike damages, which make up for past injuries, an injunction prevents future harm.

## Some Types of Civil Cases

In almost every area of our lives, problems come up that can be settled in court through compensation or equity. Many civil cases, such as Tommy's, are personal injury cases. Personal injury cases can involve both physical and mental suffering. In some cases, such as those involving plane crashes, survivors may seek compensation for emotional stress. Also, relatives of a person killed in an accident may receive payments for mental suffering if the death was caused by someone else's carelessness.

In addition to personal injury cases, there are many other types of civil cases. Some kinds that you are most likely to hear about are property cases, consumer cases, housing cases, domestic relations cases, and probate cases.

**Property Cases** People often want payment for damage to their property. For instance, a car owner might sue a repair shop if the car comes back with a new dent. A homeowner might sue a neighbor whose tree fell over and damaged the homeowner's roof.

Before going to court, however, a person should carefully consider whether it is fair to blame someone else for the damage. If the case comes to trial, the plaintiff must prove that the defendant did the damage either on purpose or out of carelessness.

Another common type of property case involves charges of trespassing. In many trespassing cases, a plaintiff is trying to prove that the defendant knowingly and wrongfully crossed over his or her land. Property owners do have rights, of course, and signs saying "Private Property—Keep Out" are quite common. However, laws also protect people who have good reasons

In order to claim compensation for damage caused by a neighbor's fallen tree, the homeowner must prove that the tree's owner was guilty of negligence.



for crossing someone's property. For example, the person who reads your gas meter is not trespassing.

Property cases may be settled through compensation or through equity. Payment of money, for instance, may make up for damage to a person's roof. However, courts usually settle trespassing cases through equity. A court may issue an injunction ordering a defendant to stay off the plaintiff's land in the future.

**Consumer Cases** "This computer you sold me broke down just one week after I took it home," declared Sharon. "I want my money back."

What happens if a product does not work as it was supposed to? What can consumers do if they are misled by an advertisement or by a salesperson? What guarantees must come with products you buy?

These questions and many others related to consumers' rights are covered in a collection of laws called the Uniform Commercial Code. Many of these laws set basic rules for **contracts**, legal agreements between buyers and sellers. The buyer promises to pay for a product or service, and the seller agrees that

it will meet certain standards. Conflicts arise when either a buyer or a seller says that the other has not lived up to the contract.

In Sharon's situation, for instance, if the computer store does not settle the problem, she may decide to sue the store. If the court finds that Sharon is not to blame, it may order the store to repair or replace the computer for free. In this way, Sharon's rights as a consumer are protected by law.

**Housing Cases** Suppose that you live in an apartment building where the landlord refuses to repair some broken stairs. Do you have a legal right to do something about it?

Housing cases involve relationships between landlords and tenants. When you rent an apartment or a house, you usually sign a lease, an agreement stating the rights and responsibilities of the landlord and the tenant. The tenant agrees to pay rent every month, and the landlord agrees to keep the rental unit safe and in good repair.

Under civil law, a tenant and a landlord may take certain steps if either one believes that the other has not lived up to the lease. In some situations tenants can pay for needed repairs and take the cost out of the

rent. If living conditions get too bad, tenants have the right to end their leases and move out without paying rent.

On the other hand, landlords who meet their responsibilities can force tenants to leave for not paying rent or violating other terms of the lease. In cases of housing law, the courts must consider the rights and responsibilities of both landlords and tenants.

**Domestic Relations Cases** Cases that concern family relationships are called domestic relations cases. Most domestic relations cases relate to divorce. The problems in divorce cases are often complicated and emotional. How will the couple divide up their property? Who will have custody of the children? Who will support them? In a divorce case, there are seldom easy answers.

**Probate Cases** Disagreements can also arise over how to divide up the property of a friend or relative who has died. Such cases are called probate cases.

Sometimes there is no will, a document that tells what is to be done with the dead person's money and other property. Usually, however, probate cases involve questions about whether the will can be trusted. Is the signature real? Was the person who made the will unfairly influenced or not thinking clearly? In probate cases, it may take years for the court to decide how to divide the property.

## The Wide Range of Civil Cases

You have looked at just a few of the many types of civil cases. In fact, cases can arise over just about any area of people's lives—family relationships, school, jobs, recreation activities, and so on.

Civil courts can find ways to settle any type of disagreement. In some cases, such as property damage, the courts use compensation. Others, such as probate cases, are usually settled through equity. Sometimes courts



When buying a car, a customer signs a contract with the dealer. If either party breaks the terms of that contract, the other party may sue.

use a combination of compensation and equity. For instance, a person who dumps trash on your land may have to pay you back for the cost of removing it. In addition, the court may issue an injunction ordering the person never to dump trash there again.

Regardless of how civil cases are settled, they all have something in common. Their goal is to make a fair settlement and to place the responsibility where it belongs.

## Section 1 Assessment

1. Define lawsuits, compensation, damages, equity, injunction, contracts
2. Compare the two main principles of civil law.
3. What are the main types of civil cases?
4. What is the goal of most civil case settlements?
5. **Analyze** How does our civil justice system help to make people responsible for their actions?

## Civil Procedure

### SECTION PREVIEW

#### Objectives

- Describe the steps leading up to a civil trial.
- Compare civil trials to criminal trials.
- Identify problems in the civil justice system.
- Explore the need for alternatives to trials.

#### Building Civics Vocabulary

- A **complaint** is a legal document that charges someone with having caused harm.
- The defendant's written response to a complaint is called an **answer**.
- The process of gathering evidence before a trial is known as **discovery**.
- A **subpoena** is a court order to produce a witness or document.
- The record of answers to questions asked of a witness before a trial is called a **deposition**.



Civil procedure is the process followed in taking a case through the civil justice system. The federal courts and many state courts have rules about how a disagreement must be brought to trial. The purpose of these rules is to settle disputes in a fair and orderly way.

### Preparing for a Civil Trial

Think back to the accident described at the beginning of this chapter. Tommy's parents thought that one or both of the drivers were responsible. The parents hired a lawyer. The lawyer tried to get either of the two drivers to pay the medical bills. When that failed, she advised the parents to go to court.

**Court Filings** A civil lawsuit begins with a **complaint**, a legal document that charges someone with having caused harm. The complaint, which is filed with a court, describes the problem and suggests a possible solution—damages, equity, or both. By filing a complaint against each driver, Tommy and his parents became the plaintiffs in the case.

The defendant learns about the civil lawsuit when he or she receives a copy of the complaint and a summons, an order to appear in court. Next, the defendant is permitted to tell the court his or her side of the story.

The defendant's written response to a complaint is called an **answer**. In the answer

### Facts & Quotes

#### Who's Responsible?

In September 1999, the Justice Department filed a massive civil lawsuit, accusing cigarette companies of misleading the public about the dangers of smoking. The lawsuit sought to recover billions of dollars that the government has spent providing health care to people with smoking-related illnesses. "The tobacco companies should answer to the taxpayers for their actions," said President Clinton when asked about the lawsuit.

Representatives of the tobacco industry, however, argue that people have long known about the health risks of smoking and should take responsibility for their choice to smoke. "We're right on the law," said a tobacco industry lawyer. "We're right on the facts. We will prevail in this lawsuit."

What do you think?

the defendant will either admit or deny responsibility. For example, the driver whose car hit Tommy may blame Tommy for not using the crosswalk and the ice cream truck driver for parking in a dangerous place. The driver of the ice cream truck, meanwhile, may blame both Tommy and the driver of the car.

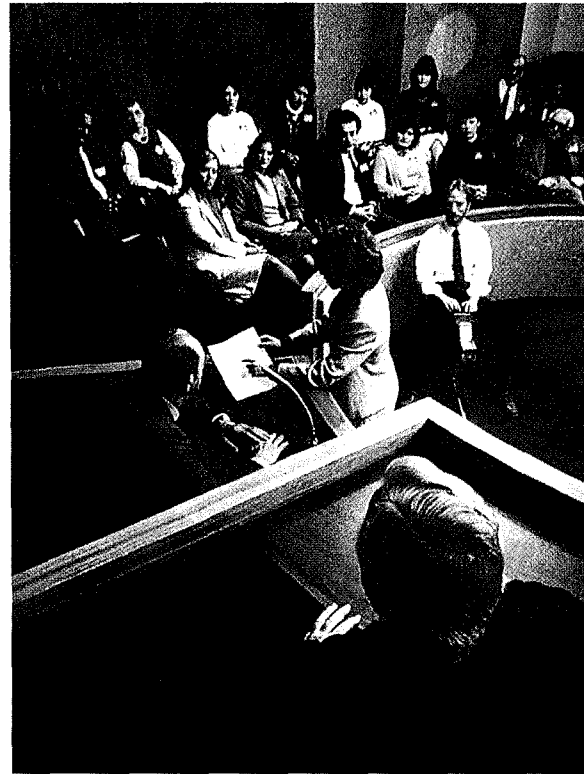
**Obtaining Evidence** The next step is for the parties—the two sides in the lawsuit—to gather evidence. Each party has a right to know any relevant information, including information held by the other party. The process of gathering evidence before a trial is known as **discovery**.

The purpose of discovery is to make sure that the plaintiff, defendant, and lawyers know of any evidence that might be presented at the trial. You may hear about “surprise witnesses” in movie or television courtroom dramas, but they have no place in a real civil or criminal trial.

One method of discovery is a **subpoena** (suh PEE nuh), a court order to produce a witness or document. A plaintiff who was injured when her car’s brakes failed might ask for a subpoena ordering the car maker to provide written records of factory brake tests.

Information may also be gathered by asking questions. The record of answers to questions asked of a witness in person before a trial is called a **deposition** (dep uh ZISH uhn). A court reporter is present at the interview and writes down what is said. Lawyers often use depositions to find out what witnesses will say in court. The lawyer representing Tommy and his parents, for instance, might get depositions from both drivers and from any neighbors who saw the accident.

Questions can also be mailed to a person, who must then answer them in writing. Written questions are often used to get detailed or technical information. Both deposi-



In a civil trial, as in a criminal trial, lawyers present pieces of evidence, called “**exhibits**,” to support their arguments.

tions and written answers must be truthful. They are given under oath, just like testimony during the trial itself.

## **Juries and Verdicts in Civil Trials**

Once the evidence has been gathered, the parties are ready for the trial to begin. As in criminal trials, witnesses are questioned, evidence is presented, and a judge makes sure that the trial proceeds in an orderly manner. However, there are some important differences between criminal and civil trials.

First of all, there is usually more at risk in a criminal trial. Someone convicted of a crime can be sentenced to jail or prison and may even be sentenced to death. Therefore,

the defendant has the right to a jury. The verdict must be based on the unanimous vote of a group of citizens rather than on the judgment of one person. A criminal case may be tried without a jury only if both parties agree.

Parties in a civil case, who run less risk, do not always have the right to a jury. Under the Constitution, federal courts must allow juries in civil cases that involve more than \$20. However, most civil cases are heard in state and local courts, where the minimum amount is usually over \$2,000. Furthermore, juries are used mostly for compensation cases. They are rarely used in equity cases. In most civil trials, both parties may agree to have a judge decide the case without a jury.

A jury in a civil trial is often made up of twelve people. In some states, though, there can be as few as six jurors, if both parties agree. Also, the jury does not always have to reach a unanimous decision. Agreement by as little as three fourths of the jury is enough for a verdict in some states.



Because of overcrowding and delays, it may be months before the courtroom door finally opens for a trial to begin.

**The Burden of Proof** Verdicts in civil cases are based on a less difficult burden of proof than in criminal cases. In a criminal case, the government must prove the defendant's guilt "beyond a reasonable doubt." In civil cases the plaintiff must prove the case only "with a preponderance [greater weight] of the evidence." The difference is like that between "probably so" and "without a doubt."

The expression "preponderance of the evidence" does not mean a greater amount of evidence. It refers to the "weight" of the evidence. In other words, the courts decide which side presents evidence that is more convincing and reasonable. You may recall that the symbol of justice holds scales, showing each side's evidence weighed on the scales of justice. The side whose evidence has the greatest "weight" should win the case.

## Problems in the Civil Courts

Tommy and his parents were very happy when their trial was over. The jury decided that the ice cream truck driver was at fault because his truck had blocked the view of on-coming traffic. The jury awarded the family enough money to pay Tommy's medical bills. Still, the whole process had taken nearly two years and had been very expensive.

**Court Delays** Why do lawsuits often take a long time to settle? First of all, there are not enough judges and courtrooms to handle the growing number of cases being filed. From 1950 to 1990, federal district courts had a three-hundred percent increase in cases. Someone filing a lawsuit can expect to wait weeks or months before a judge has time to hear the case.

Once the trial finally starts, it can take weeks, months, or even years to settle. The average federal lawsuit takes less than twelve months from start to finish. However, as of





## CIVIL CASES IN U.S. DISTRICT COURTS, 1988–2000

Year	Cases Begun	Non-jury Trials	Jury Trials
1988	239,000	5,422	4,329
1989	233,500	5,128	4,010
1990	217,900	4,772	3,829
1991	207,700	4,390	3,572
1992	226,900	4,378	3,410
1993	226,165	4,225	3,322
1994	236,391	4,380	2,987
1995	243,345	4,249	2,801
1996	269,132	4,401	2,646
1997	272,027	4,491	2,380
1998	256,787	4,125	2,148
1999	260,271	4,737	1,795
2000	259,517	4,529	3,404

Source: Judicial Business of the United States Courts



Only a small percentage of civil cases are heard by juries. **Government In** what year shown on the chart were the fewest cases begun?

1999 there were some 17,000 federal cases that were three or more years old. Delays in state courts are sometimes much longer.

One cause of delay is the time it takes to gather evidence, especially in complicated cases. Also, selecting a jury can take a long time because both sides have to approve the members. In addition, court rules make it possible for lawyers to delay trials in ways that will help their side.

**High Costs** Why are trials often expensive? For many civil trials people need the help of lawyers, who understand the law and know how to prepare the case. Lawyers' fees make up much of the cost of most civil cases.

In some cases, the lawyers are paid by the hour. When there is a great deal of evidence to gather and study, and many hours to spend in court, the fees can add up. In personal injury cases, like Tommy's, the

lawyer's fee is often a large percentage of the money awarded by the judge or jury. Other costs include filing fees for court papers and payments for expert witnesses, such as doctors. Of course, there is also the cost in time and inconvenience to the parties themselves.

## The Need for Alternatives

Many Americans know that trials are often long and costly. But did you know that most lawsuits never make it to trial? As the chart on this page shows, few cases actually get heard by a judge or jury. Plaintiffs often drop cases if they think they have little chance of winning. Sometimes what a trial will cost causes parties to settle out of court.

Also, the judge and lawyers involved in a case may strongly encourage the parties to find other ways of settling the conflict. In some states, courts will not even hear certain types of cases, such as those involving child custody, unless the parties have already tried to settle the conflict out of court.

In recent years, more and more people have been looking for ways of settling conflicts more quickly and cheaply. In the next section, you will explore some of the methods they have used.

## Section 2 Assessment

- 1. Define** complaint, answer, discovery, subpoena, deposition
- 2.** How is evidence gathered for a trial?
- 3.** How does the burden of proof in a civil trial differ from that in a criminal trial?
- 4.** Why are civil trials often long and costly?
- 5. Evaluate** What are the benefits and drawbacks of serving on a jury?
- 6. Analyze** Why do you think that many states do not use juries in cases involving fairly small amounts of money?

## SECTION 3

# Choices in Civil Justice

### SECTION PREVIEW

#### Objectives

- Describe some alternatives to civil trials.
- Explore several ways to reduce the cost of civil trials.
- Summarize the arguments for and against large awards in civil cases.

#### Building Civics Vocabulary

- **Mediation** is a process by which people agree to use a third party to help them settle a conflict.
- **Arbitration** is the use of a third person to make a legal decision that is binding on all parties.
- **Small claims court** is a civil court that people may use to settle disputes involving small amounts of money.



Many people go to court without being aware of the time and cost involved in a civil trial. Often they do not know about other ways to settle conflicts peacefully. In this section, you will look at some methods of settling disagreements without a civil trial. You will also see that even when people do have to go to court they can find ways to save time and money.

### Avoiding Civil Trials

There are a number of ways to keep from going to trial. One possibility, of course, is for the people to discuss the problem themselves and come to an agreement. However, what happens if people cannot reach an agreement but still want to avoid a regular trial? Often they can bring in a third per-

son to help them settle the conflict. There are three main methods for doing this: mediation, arbitration, and “rent-a-judge” programs.

**Mediation** In 1994, major league baseball players went on strike, causing the cancellation of that year’s World Series. After months of negotiations, players and team owners finally came to an agreement with the help of mediation.

Mediation is a process by which people agree to use a third party to help them settle a conflict. The third party, called a mediator, does not make a decision. Instead, mediation is a way to bring people together so that they can settle their own disagreement. When people ask for mediation, they are saying to the mediator, in effect, “Listen to each of us and help us reach a compromise.”

In many states there are programs that train people to be mediators. Many mediation programs are sponsored by city or county courts, while others are run as private businesses. Mediation programs handle a variety of problems, including child custody, housing, and consumer problems. Mediation helps people solve their problems in an inexpensive and convenient way.

Mediation can also be used to settle conflicts between students. Schools in many states have successful mediation programs. Students in elementary schools as well as in junior and senior high schools act as official “conflict managers,” helping their fellow students end disputes.

**Arbitration** For mediation to work, both sides must be willing to compromise. No one is legally required to obey an agreement reached by mediation. Therefore, people who want a conflict settled “once and for all” often turn to arbitration, the use of a third person to make a legal decision that is binding on all parties. In effect both sides are saying to the third person, or arbitrator,

“Listen to each of us. Then we will obey whatever decision you make.”

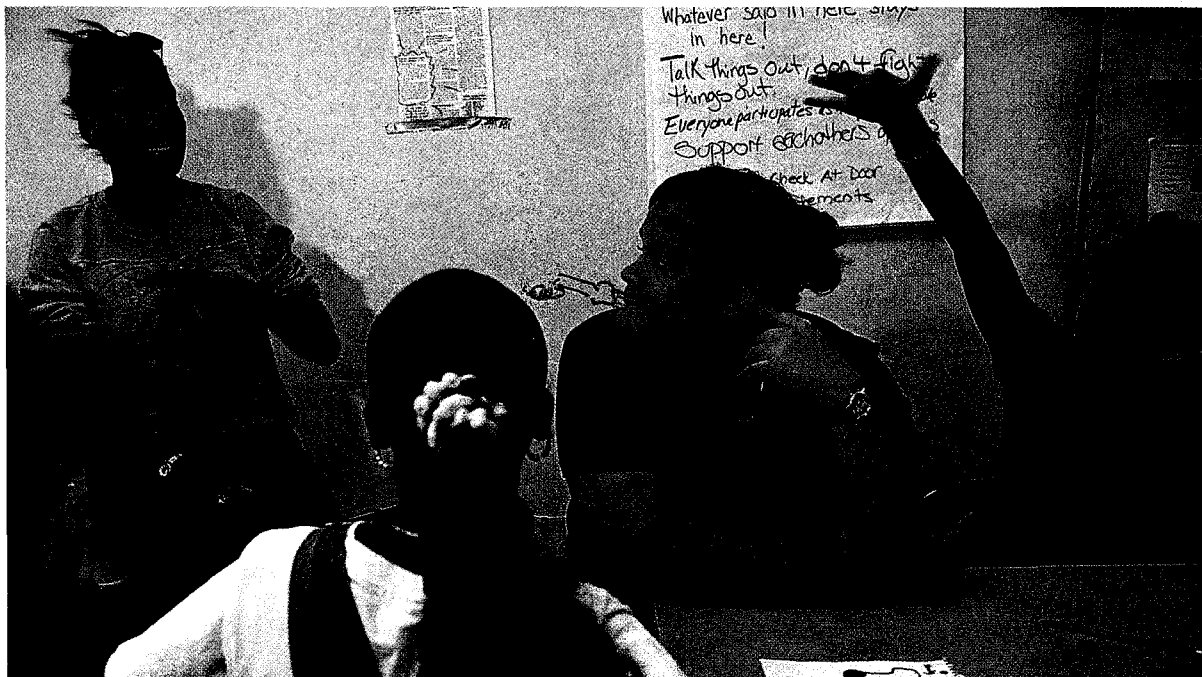
Arbitration almost always costs less than a civil trial and is considerably faster. One reason is that the arbitrator is usually an expert on the subject in dispute. Therefore, it takes less time to hear a case and come to a decision. Another reason is that the parties save the expense of filing court papers. Also, people who choose arbitration are less likely to have cases that need lawyers.

Arbitration has become so successful that today the federal government and more than forty states have laws requiring that arbitrators' decisions be obeyed. Many courts will make arrangements for people to use arbitration. In certain conflicts involving public employees, such as firefighters or police officers, federal and state laws actually require arbitration.

**Private Judges** People can settle conflicts through private judges. Using this method, the two sides hire a person to hear and decide their case. This process is sometimes called “rent-a-judge.”

**Referees** Another alternative is using a referee. A judge can appoint a referee who listens to both sides of a case and makes recommendations to the judge. A referee is usually a lawyer. In some places, when two sides agree to the use of a referee, they give up their right to a jury trial. In the end, though, a judge makes the final decision in the case.

**Mock Trials** Even after both sides in a conflict have filed court papers, they may change their minds and decide not to go to trial. In some cases this change of mind comes as a result of a “mock trial,” a pre-



Mediation, which helps people avoid going to court, also provides students with a way to settle conflicts peacefully at school.

## Judith Kaye

**I** like to accomplish something every day,” says Judith Kaye, Chief Judge of New York State’s Court of Appeals. “It’s important to me, at the end of the day, to say I’ve done something.”

New York courts, like those in most states, face a growing number of cases—over 3.5 million new filings in 2000. As Judge Kaye explains, one of the biggest problems facing the state’s legal system is the “sheer volume” of cases. “We must use every tool available to keep up with these enormous demands,” she says.

Since being appointed Chief Judge in 1993, Kaye has led a successful drive to make the New York state court system more efficient. In the future, she

hopes to see courtrooms using interactive computers and video conferencing to speed up the process of moving cases through the courts.

Additional reforms under Judge Kaye have helped make courthouses more “user friendly.” For example, many New York



courthouses now have computerized booths that provide information about the courts in both English and Spanish.

While Judge Kaye is committed to improving the efficiency with which state courts serve the public, she is equally dedicated to raising the quality of those services. “We want to process cases faster, but we also want to process them better,” explains Kaye. “A well-run court system does not just count its cases. It makes sure every case counts.”

### Recognizing Viewpoints

According to Judge Kaye, why is it important for New York’s courts to become more efficient?

view of how the case would probably be settled if a civil trial were held.

A mock trial has been described as a “trial on fast-forward” because there are no witnesses, and no evidence is presented. Instead, the lawyers for each side summarize their case before a jury, which then gives an unofficial verdict. The two sides

do not have to follow the jury’s verdict. However, they get a very good idea of what the result would be if a real trial were held. With this in mind, the parties are often able to reach a compromise without having to spend months in court.

## Cutting the Cost of Civil Trials

Although conflicts can often be settled out of court, there are still good reasons for having civil trials. Sometimes one or both sides are unwilling to compromise or to accept an arbitrator or referee. Perhaps they want to make sure that the verdict or settlement can be legally enforced in any state. Often a plaintiff thinks that he or she can get a better settlement by going to trial. In such situations, a civil trial may be the only solution. A trial, however, does not always have to involve a lot of time and money.

**Small Claims Court** When people have a conflict over a fairly small amount of money, they have a good chance of getting a quick, inexpensive trial if they use a special kind of court. Small claims court is a civil court that people may use when the amount of money they want to recover is small, usually not more than \$3,000.

Most small claims courts are part of larger city or county courts. They are one answer to the question of how to cut the high costs of taking a case to court.

In small claims court, the whole trial may take less than an hour, and the costs are not much more than the filing fee—which is usually less than \$100 in most states. Usually there are no lawyers or juries. Instead, both parties tell their stories directly to the judge. Either side can bring witnesses, but there are no formal rules for questioning them. The judge either decides the case on the spot or mails the decision to the parties in a day or two.

**Prepaid Legal Plans** Even when a dispute involves too much money to qualify for small claims court, the costs of going to trial can still be reduced. One method is prepaid legal plans, which are like insurance policies. For a fixed fee, these plans cover almost all of the costs of going to court, no matter how high.

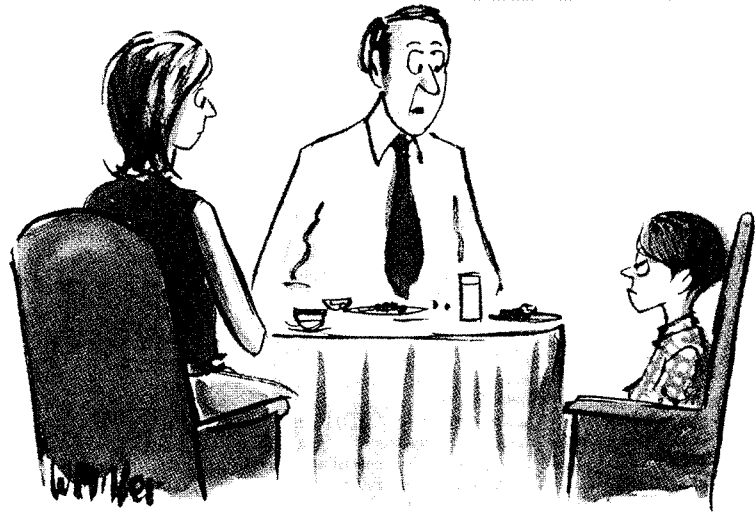


Low-cost legal services help people who otherwise could not afford lawyers' fees and the other costs of going to court.

**Storefront Law Offices** Another trend in low-cost legal services is the "storefront law office." Storefront law offices provide legal services for low prices. These offices are often located in convenient places such as shopping malls. They often advertise on television.

Traditional lawyers generally charge their clients by the hour at rates that can range from \$100 to \$400 per hour or more. Storefront offices, however, usually have a printed "menu" of set prices for specific services, such as preparing legal papers. For example, the cost to prepare a simple will might be \$150. Because customers are told the total fee for services ahead of time, they

In this cartoon the artist is making fun of the idea that every kind of dispute can be settled by bringing a lawsuit.



*"If I make you drink your milk you'll sue me?"*

are able to shop around and compare prices before selecting a lawyer.

Of course, when choosing a lawyer a person should not simply look for the least expensive one. A better guide is the advice of trusted friends who have had experience with various lawyers. A person should also look for a lawyer who is an expert in the kind of problem he or she has.

## The Debate over Large Awards

Several years ago, a California family was seriously injured in a car accident when the gas tank of their car exploded after a collision. The family sued the manufacturer of their car, claiming the explosion could have been prevented if the car's design had included certain safety features. In 1999, a jury in Los Angeles agreed, ordering General Motors to pay damages of \$4.9 billion—the largest verdict ever in a personal injury case.

Large awards in civil law suits are the subject of major public debate. Some people argue that such awards are needed to make up for serious losses. They also argue that

the largest awards are usually paid by those who can afford to pay them—insurance companies and large businesses.

Other people argue, however, that in the long run the average American consumer bears the burden of large awards. To cover their costs, businesses raise prices and insurance companies raise the rates that everyone who owns insurance must pay.

Also, some services are no longer provided because the cost of insurance is too high. For instance, many public swimming pools no longer have diving boards. Some schools do not allow certain "high-risk" sports, such as pole vaulting. Others no longer take students on field trips.

Both sides in the debate think that awards should be fair and reasonable. However, the question of what is fair and reasonable is often hard to answer. As the debate continues, a number of efforts have been made to limit the size of awards.

First of all, judges usually have the power to reduce the amount of an award made by a jury. In addition, laws have been passed that limit awards in certain types of cases. Under federal law, for example, airlines do not have

to pay more than \$1,250 per person for lost baggage, no matter how much it was worth. Another federal law limits the amount of damages a person may collect when injured by an accident at a nuclear power plant.

“No-fault” auto insurance plans are another way to avoid large awards. Under these plans, people hurt in auto accidents do not sue the person responsible for their injuries. Instead, their medical bills are paid directly by their own insurance companies. In many cases, this means that the parties do not have to go to court.

## To Sue or Not to Sue?

As you have seen, the civil justice system is burdened with many cases. Civil trials are often long and costly. People may have to wait months before their trial can start. Once the trial has begun, months or even years may pass before the case is finally settled.

In short, people involved in a conflict should think carefully about what is the best

way to settle it. Going to court may be the best solution in some cases. However, many judges and lawyers agree that people should first explore whether other methods might work, such as mediation, arbitration, or other alternatives. In many cases, going to court may be the last, not the first, resort.

## Section 3 Assessment

1. **Define mediation, arbitration, small claims court**
2. Describe two of the ways in which people can settle conflicts without going to trial.
3. When people have to go to court, how might they reduce the cost?
4. Why do some people criticize large awards in civil cases?
5. **Evaluate** Give an example of a conflict that you think would be best settled in court. Give an example of one that you think would be best settled out of court. Give reasons to support your opinion.

## Extending the Chapter

### Historical Views

**A**mericans often turn to the courts to make people take responsibility for the harm they have caused. This is nothing new.

In ancient Rome, for example, a larceny, or theft, victim could take the suspected thief to court. If found guilty, the thief was forced to pay a penalty of double the value of whatever he or she stole. Romans could also sue fellow citizens for insulting them or damaging their reputation.

In traditional Japanese society, by contrast, courts played a much less active role in resolving conflicts. Rather than relying on legal arguments and written law, Japanese people often turned to respected community members

to help them find a peaceful solution to their disputes.

Some traditional methods of conflict resolution are still used in Japan today. Many local police stations, for example, provide “conciliation rooms” where parties are encouraged to resolve their disputes, often with the help of a mediator.

The influence of this traditional approach to conflict resolution can be seen in our society today. As you read in this chapter, overcrowded courts and increasing legal costs have encouraged many people to try mediation, arbitration, and other alternatives before taking their cases to court.

## Personal Injury Suits

The batter swung, getting a piece of the fastball. The ball, however, flew back into the stands, hitting Mrs. Uzdavines on the side of the face.

Later, Mrs. Uzdavines explained that she had just at that instant turned to say something to her husband, who was sitting beside her. "It happened so fast," she said.

---

***Mr. Uzdavines recalled counting at least six holes in the screen.***

---

Getting hit by a foul ball was the last thing Mrs. Uzdavines had expected that evening. She and her family had looked forward to an exciting baseball game at Shea Stadium in New York between the New York Mets and the Philadelphia Phillies.

They had really good seats, too—right behind home plate. They were less than forty feet from the batter. Fans in this area of

the ballpark were supposed to be protected from any foul tips by a huge protective screen.

As it turned out, however, the screen had holes in it. Mr. Uzdavines recalled counting at least six holes in the screen when he returned to his seat after taking his wife to the first aid station. Aware of the holes, the entire family moved to safer seats for the rest of the game.

Mrs. Uzdavines's injury was emotionally as well as physically painful. She believed that the accident would not have occurred if the protective screen had been kept in good repair. She claimed it was the responsibility of the New York Mets management to see to it that the facilities at Shea Stadium were safe and in good condition for the baseball season. Therefore, Mrs. Uzdavines decided to file a civil lawsuit against the Mets for being careless in carrying out their responsibility.

The Mets, however, did not believe that their carelessness had caused the accident. In court, they argued that when people attend a



sporting event, they "assume the risk" that an object such as a baseball could fly into the crowd. It would be impossible, they said, for the operators of a baseball park to construct safety screens which could protect every person in every seat from such harm. Moreover, said the Mets, the fans are aware of this fact when they attend a game.

The court, however, ruled in favor of Mrs. Uzdavines. It said the Mets would have to pay her



damages. The size of this sum of money would be determined later.

Explaining its decision, the court said that the Mets did have the responsibility to keep the safety net in good repair. The fans who were watching the game from behind home plate, it said, normally would have thought that they were seated in a safe place.

To reach this conclusion, the court looked to see how other courts in New York had decided this same kind of question. The court paid particular attention to a similar case, *Akins v. Glens Falls School District*, that had been decided just the year before.

In that case, Robin Akins had gone to watch a baseball game at her high school. The field was equipped with a backstop 24 feet high and 50 feet wide. Behind the backstop were bleachers which could seat about 120 people. In addition, two three-foot-high chain link fences ran from each end of the backstop along the base lines of the field.

Robin chose to watch the game from behind the

chain link fence near third base. During the game, a foul ball struck Robin in the eye. She filed a civil suit against the school for failing to provide safe and proper screening along the base lines to protect spectators.

---

***The Mets argued that when people attend a sporting event, they "assume the risk."***

---

The court deciding the *Akins* case said that the owner of a baseball field must provide a safety screen only in the most dangerous place—the area behind home plate. Because Robin chose not to sit behind the backstop, she had “assumed the risk” that she could be hit by a stray ball. Therefore, she could not hold the school responsible for her injury.

However, the court also said that any safety screen must be in good repair so

that people sitting behind it are protected. The court deciding Mrs. Uzdavines’s case took careful note of this part of the earlier decision. The New York Mets had not kept their safety screen in good repair. The court reasoned that while some fans want to watch a baseball game without a screen or net in front of them, those who choose to sit behind a screen have the right to expect that their seats are in a completely safe location.

### **Analyzing the Case**

1. Why did the Mets believe that they were not responsible for Mrs. Uzdavines’s injury?
2. What was the ruling in the *Akins* case that the court followed as precedent?
3. Do you think that the court made the correct decision in this case? Why or why not?
4. Do you think that the court would have decided the case differently if the net had been in good repair but the foul ball had torn a hole in the net before it hit Mrs. Uzdavines? Explain your answer.

## How to INTERPRET COMIC STRIPS

As you read in this chapter, our courts are overcrowded with lawsuits. Some people feel that one reason for this is that many people file frivolous, or unnecessary, lawsuits in the hope of financial gain.

In one recent case, a woman went into a department store to buy a blender. She walked to the stack of blenders on display and decided to take a box from the bottom of the stack. The other blenders fell on her, and she sued the store, claiming it was responsible for the accident. It was three years before the case was resolved—the jury ruled in favor of the store.

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### Explain the Skill

The cartoon on page 444 makes fun of frivolous lawsuits. Many cartoonists use humor to

make these types of observations or comments about life and politics in the United States and other nations. In the comic strip on this page, cartoonist Jim Unger pokes fun at how some Americans use the civil justice system.

### Analyze the Skill

Comic strips often create a situation or tell a story with just a few words and pictures. Read the comic strip on this page and follow the story it tells.

From the pictures, we see that this husband and wife have just received a letter. From the dialogue, we learn that the letter is from a mailman who recently tripped on the couple's front step. In his last line, the husband reveals the contents of the letter. This last line, or "punch line," is funny, but it also sums up the serious message behind the cartoon.

### Skill Assessment

1. Cartoonists often make a situation funny by taking it to extremes. What is extreme about this situation?
2. In the cartoonist's view, who is the innocent victim in this situation? How does the cartoonist show this?
3. What do you think is the main message the cartoonist is trying to get across?
4. Is the message of this comic strip similar to the message of the cartoon on 444? Explain.

# CHAPTER 20 ASSESSMENT

## Building Civics Vocabulary

The vocabulary terms in each pair listed below are related to each other. For each pair, explain what the two terms have in common. Also explain how they are different.

1. *damages* and *injunction*
2. *complaint* and *answer*
3. *arbitration* and *mediation*

## Reviewing Main Ideas and Skills

4. Explain how both equity and compensation are ways of making people take responsibility for their actions.
5. Explain what discovery is in a civil procedure and why it is important.
6. How is a civil trial similar to and different from a criminal trial?
7. Pick two alternatives to regular civil trials and explain how they can be used to settle conflicts in a quicker, less costly way.
8. **How to Interpret Comic Strips** Look through this book and find a comic strip or cartoon that has a political message. Describe the cartoonist's message and explain how he or she gets this message across.

## Critical Thinking

9. **Defending a Position** Do you think that large awards in civil cases are fair? Support your opinion with reasons.
10. **Understanding Causes and Effects** Your text states that civil lawsuits are often "long

and costly." Why do lawsuits usually take a long time to settle? What causes them to be costly? Describe one effect that lengthy and costly trials have on the civil justice system.

## Writing About Civics

11. **Writing a Complaint** Look back at the story about Tommy being hit by a car on page 431. Suppose you are the lawyer representing Tommy. Write a complaint to be filed with the civil court in your community. Describe the accident, who you think is responsible and why, and what settlement you are seeking.

## Citizenship Activities

12. **Working in Groups** In groups of three or four, plan a mediation program that could be used to resolve conflicts between students in your school. Describe how the program would work. Decide what would have been done if a student refused to cooperate with a mediator. Then compare your plan with those of other groups.



## Take It to the NET

Access the **Civics: Participating in Government** Internet site at [www.phschool.com](http://www.phschool.com) for the specific URLs to complete the activity.

Explore online information about recent important civil law cases. Write a report about three of these cases. For each case, examine both sides of the issue and, where applicable, explain what ruling has been made. Also explain how you think the outcomes of these cases could affect our everyday lives.

## Don't Go the Way I Went!

*At age thirteen, Katherine Olson began selling drugs and ran away from home. At first she liked the excitement of being a "gangster," but after witnessing a murder she became a police informant to protect her own life. Two narcotics officers helped bring her off the street and into the Fellowship of Lights, a shelter for run-away and homeless teens. Now Katherine wants to be a narcotics officer herself.*

*Before you read the selection, find the meanings of these words in a dictionary: homicide, narcotics.*

I ended up joining the Fellowship of Lights because I had gotten really bad into dealing drugs. I was working out of this house where four [dealers] were dealing out of. One night, me and my best friend John and this other guy were talking to friends through a bedroom window when this guy named Marky called John over. Then I saw Marky shoot John. He knew I saw it. Somehow the police also found out that I saw it, and they were tracking me down. When they came to my house two days later looking for me, the people in the house thought I told the police.



When I went back, the [dealers] beat me up....I don't know why they didn't kill me....I called homicide the next day and decided to tell them everything that happened.

The next thing you know, I was helping the narcotics police....

I kept on helping these narcotics officers bust people by tipping them off with information. But then one of the guys that had gotten locked up got out of jail and came to my apartment. He

held a gun to my head and was saying, "You're a snitch, you're Five-O, you called the cops, you got me busted!" So I ran and called the narcotics officers and asked them to come pick me up....

He told a lot of people that I was a snitch, though, and they believed it. It wasn't safe for me to go back there anymore, so they put me in the Fellowship of Lights....

Don't go the way I went! It may be fun, exciting, dangerous, and all that, but a lot of my friends didn't make it. Me and my best friend are the only—I guess you could say survivors. Everybody else is dead. I would tell [teens] to stay in high school, get an education, get a legal job.

*Source: Marcia A. Thompson, ed., Who Cares What I Think? American Teens Talk About Their Lives and Their Country (Alexandria, Va.: Close Up Foundation, 1994), pages 27–40.*

### Analyzing Primary Sources

1. Why do you think Olson decided to join sides with the police?
2. What kinds of things does Olson urge young people to do and not do?

# UNIT 6 ASSESSMENT

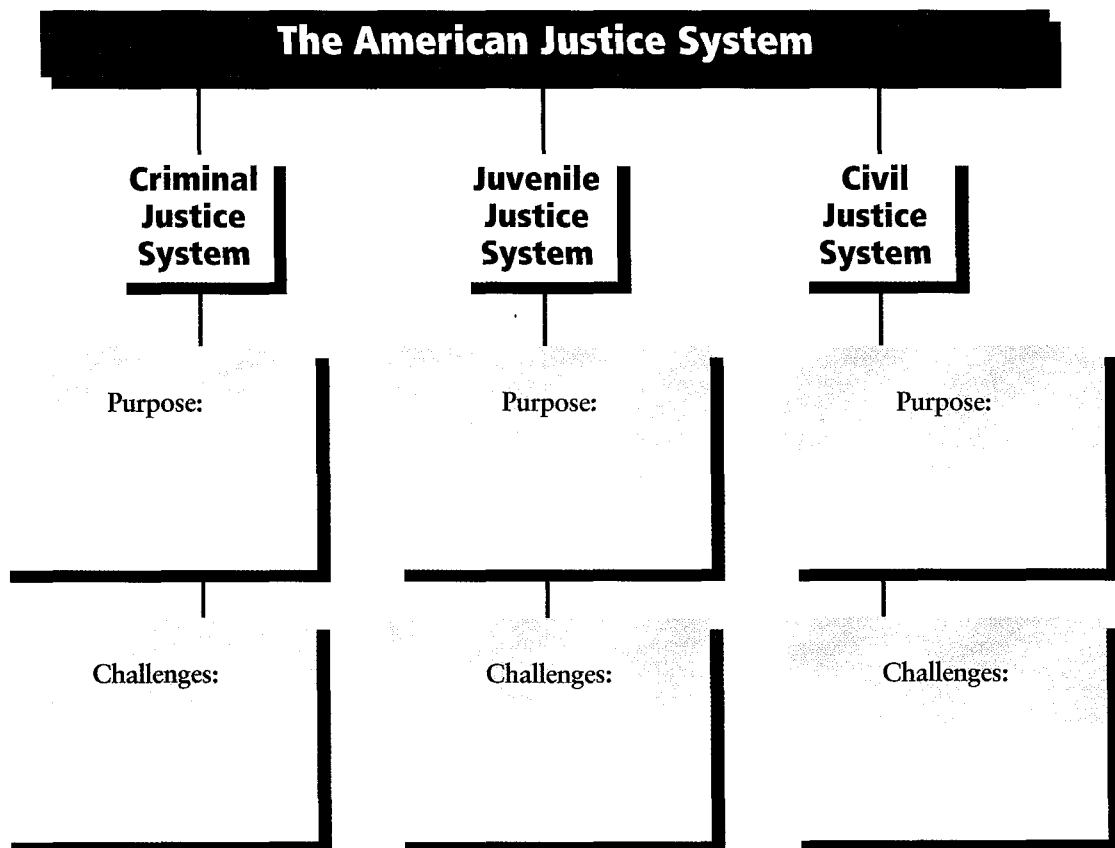
## Reviewing Main Ideas

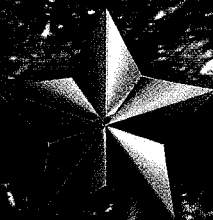
1. Name two purposes of laws and explain how those purposes relate to both criminal law and civil law.
2. How do the purposes of criminal and civil law differ?
3. Describe some problems facing the criminal and juvenile justice systems.
4. Describe some problems facing the civil justice system.

## Summarizing the Unit

The tree map below will help you organize the main ideas of Unit 6. Copy it onto a separate sheet of paper. Review the unit and complete the graphic organizer by filling in the purpose of each justice system

and giving examples of the challenges facing each system. Then pick three of these challenges and write a short essay describing potential solutions to each of the problems.





# UNIT 7

