

*Teachers' Guide to*  
the **VIRTUAL** courtroom  
[www.virtualcourtroom.ca](http://www.virtualcourtroom.ca)

*Understanding the Criminal  
Justice System with Justice Wise*



*Published by the Courts of Nova Scotia*

# Introduction

*“Hello and welcome to the Virtual Courtroom! My name is Justice Wise. I’m here to tell you more about Canada’s system of criminal justice...”*

These are the words of The Virtual Courtroom’s mascot, Justice Wise, the animated owl. Justice Wise will introduce you to each of the ten modules on the criminal justice system before you explore the material, watch the videos and do the quizzes.

This guide is designed to provide you with innovative ideas for classroom discussions, group activities, written assignments and quizzes to help your students understand Canada’s criminal justice system and how it works. It is based on 10 video vignettes and written materials developed for The Virtual Courtroom, which is accessible at [www.courts.ns.ca](http://www.courts.ns.ca), the home page of the Courts of Nova Scotia website.

The Virtual Courtroom is presented in ten units that outline the basic principles of our criminal law and explain each stage of the court process, from arrest to trial and appeal. Each unit features a short video clip, locally produced and narrated by Lisa Taylor, host of CBC Newsworld’s The Docket, which depicts and describes what happens in the courtroom. The accompanying text provides additional information on each topic and challenges students to answer a multiple-choice quiz to test their knowledge. Once your students have completed all of the 10 modules on-line, including the in-class instruction and homework assignments you give them, they will be informed, educated and inspired about our legal heritage and the judiciary.

This Teacher’s Guide is presented in ten parts. Each section is tied to the corresponding unit of The Virtual Courtroom, where students will find much of the background information they need to undertake the suggested exercises. To assist you, the teacher, this guide provides additional resource materials and links to other on-line teaching aids.

The Virtual Courtroom is an interactive component of our broader Courtrooms and Classrooms Project, which is intended to provide an ongoing pool of resources about the law, for teachers and students.

We invite your comments on The Virtual Courtroom and the suggestions contained in this draft of the Teacher’s Guide.

Further copies of this guide can be downloaded from the Courtrooms and Courtrooms by clicking on Courtrooms and Courtrooms on the home page of the Courts of Nova Scotia, at [www.courts.ns.ca](http://www.courts.ns.ca).

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## Orientation

In order for you to become familiar with *The Virtual Courtroom*, we strongly suggest that you spend some time navigating through all ten modules before doing any in-class exercises. Go through each quiz and check your answers with the list of answers supplied at the back of this guide.

Once you are familiar with *The Virtual Courtroom*, ask your students to find explanations of a selection of underlined words or phrases that appear as pop-ups in the text portion of each of the ten modules of *The Virtual Courtroom*. The pop-up text explanations are included in the Appendix at the back of this guide. Ask students to read the section where the pop-up word or phrase appears, so they understand the context in which it is used. Ask students to reduce the information contained in the pop-up to 15 words more or less.

Have each student explain to the rest of the class what their legal definition means, then have them dictate their definition of the word or phrase to the other students to take down in their notes.

As a test or home work or in-class exercise, provide students with the information drawn from pop-ups, list the corresponding words and phrases, then ask students to match the word or phrase with the correct pop-up.



Teaching Aids &  
In-Class Exercises

# Part 1: Basic Principles

## A. THE NEED FOR LAW

### Teaching Aids and In-Class Exercises

1) Organize a classroom discussion based on this famous quote from Shakespeare: “*The first thing we do, let’s kill all the lawyers.*” (*Henry VI, Part II.*)

The words are spoken by a character who wants to create anarchy and disorder. Ask the class what they think Shakespeare meant by the phrase. Is this simply an early example of lawyerbashing, or was he saying something fundamental about the role of law in a civilized society? Why *do* we need lawyers and laws? Draw the class into a discussion of individual freedom versus the need for laws to protect the rights and safety of all citizens. Use the following examples:

a) Taking a fellow student’s CD player without permission.

Points for discussion: Did the student who took the CD player commit a crime? Why or why not? Has anyone been victimized? Why should people care if their possessions are “borrowed”? Does the student’s actions fall within the definition of theft if she intended to return the player?

See Criminal Code definition of theft:

Theft

322. (1) Every one commits theft who fraudulently and without colour of right takes, or fraudulently and without colour of right converts to his use or to the use of another person, anything, whether animate or inanimate, with intent

(a) to deprive, temporarily or absolutely, the owner of it, or a person who has a special property or interest in it, of the thing or of his property or interest in it;

b) The father of one of your friends installs an unauthorized cable TV hookup in your apartment.

Points for discussion: Is this a crime? Why or why not? Has anyone been victimized? Should the law protect a wealthy corporation that provides cable service? Who has committed a crime – the tenant, the man who installed the cable connection, or both?

See Criminal Code definition of theft of telecommunication service:

Theft of telecommunication service

326. (1) Every one commits theft who fraudulently, maliciously, or without colour of right,

(b) uses any telecommunication facility or obtains any telecommunication service.

Definition of “telecommunication”

(2) In this section and section 327, “telecommunication” means any transmission, emission or reception of signs, signals, writing, images or sounds or intelligence of any nature by wire, radio, visual or other electromagnetic system.

c) At a university frat party, the host gives students a bag of marijuana as they enter and tells them to have a great time.

Points for discussion: Is the host a drug dealer? Why or why not? If possession of small amounts of marijuana is not a crime, should it be an offence to give the drug to others? What is society’s interest in regulating this activity? What about the impact on the students’ freedom to live as they see fit?

See *Controlled Drugs and Substances Act* definition of trafficking:

Definitions

2. (1) In this Act,

...

“traffic” means, in respect of a [narcotic] substance ...

(a) to sell, administer, give, transfer, transport, send or deliver the substance,

(b) to sell an authorization to obtain the substance, or

(c) to offer to do anything mentioned in paragraph (a) or (b),

d) Invite students to suggest other laws they consider too restrictive – or not restrictive enough – and to explain why.

2) Use the same quote and examples of criminal offences as the basis for an in-class debate. Discuss the quote from Shakespeare and its meaning. Then break the class into two groups. Ask one side to argue in favour of laws and restrictions on individual conduct, the other to take the position that individual rights should supercede collective rights.

Each side can choose one or more of the *Criminal Code* provisions set out above to make their case. One group will put forward reasons why the law is justified to protect society, the other will suggest why the law may be overly restrictive and interfere with the rights of individuals.

End the discussion by asking students to suggest other laws that are too restrictive or situations where citizens should face no restrictions on their conduct. In each case, they should be ready to defend their choice and to address the implications for individuals and for society.

## **In-Class or Homework Assignment**

1) Do-It-Yourself Law Reform: Assign students to write an essay about a law they feel is unfair, outdated, too strict or not strict enough.

Suggest the following examples:

- Possession of a small amount of marijuana
- Leaving the scene of a car accident
- Buying a used stereo you suspect is stolen
- Taking your friend's car for a spin without permission

Ask students to explain any flaws or shortcomings they see in these laws, the changes they feel may be needed and the implications of these changes. What do more or fewer restrictions mean for an individual's right to live as they choose? What do the changes mean for the rights and protection of society as a whole?

## **B. THE PRESUMPTION OF INNOCENCE AND OTHER LEGAL RIGHTS**

### **Teaching Aids and In-Class Exercises**

### **Teaching Aids & In-Class Exercises**

1) Copy a recent newspaper account of an arrest (or use the sample provided below) and distribute it to the class. After students have read it, ask for a show of hands – based on the information the media has reported, who believes the person is guilty? Who believes he or she may be innocent of the crime?

Tally the results, then call on individual students to explain their choice. Direct the discussion toward the presumption of innocence and the burden on the state to prove guilt. Why is it risky to jump to conclusions about who is responsible for a crime? If readers assume the person charged is guilty, how can that person receive a fair trial? At the end of the discussion, ask students to re-read the story, this time substituting their own name for the name of the person charged. Do they feel they are being portrayed as innocent? Poll the class again to see if attitudes have changed. Ask students who have changed their vote to explain why.

Sample story:

#### **Man charged with abduction**

COURTVILLE - A Courtville man has elected trial by judge and jury after a man tried to coax a girl into his car last weekend. John E. Doe, 25, made a brief appearance Wednesday in provincial court on a charge of attempted abduction. He had been in custody since his arrest on Sunday but was released Wednesday on \$5,000 bail. Early Sunday afternoon, a man tried to lure a six-year-old girl into his vehicle on Court Street. The girl was unharmed. A preliminary hearing has been set for January.

2) Build a discussion around the case of William Sampson. The Canadian citizen was jailed in Saudi Arabia on false allegations, refused access to a lawyer, tortured until he confessed to committing murder, and denied a fair and open trial. Was this justice? Why

or why not? Even if he had committed the crime, would this treatment have been justified? Would the public have confidence that justice was done?

Background information about the William Sampson case:

Sampson's journal tells of torture, survival

Toronto - He was subjected to torture, humiliation and sleep deprivation during his "two years, seven months, three weeks and two days" inside a Saudi Arabia jail, William Sampson wrote in an exclusive diary for *The National Post* published Saturday.

"At the beginning of my incarceration, I was chained upright in my cell, 24 hours a day and subjected to sleep deprivation. I was punched, kicked, hung upside down from a metal bar and beaten with a bamboo cane on the soles of my feet," Sampson wrote.

The Saudis say Sampson and five Britons, who were freed on Aug. 8 after they were granted clemency by King Fahd, were terrorists who took part in a bombing campaign between rival gangs dealing in bootlegged alcohol. They were charged with the murder of a British engineer in a car bombing in Riyadh in November, 2000. The six men have denied the charges. Sampson, 44, who was born in Nova Scotia but also has British citizenship, was sentenced to death by beheading. He was shown on Saudi television confessing to the crime, but later retracted it, saying he was tortured until he admitted guilt.

What would be Sampson's legal rights if he were arrested and charged with murder in Canada?

Refer students to the following sections of the *Charter of Rights and Freedoms* for answers:

*Legal Rights*

Life, liberty and security of person

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Search or seizure

8. Everyone has the right to be secure against unreasonable search or seizure.

Detention or imprisonment

9. Everyone has the right not to be arbitrarily detained or imprisoned.

Arrest or detention

10. Everyone has the right on arrest or detention

a) to be informed promptly of the reasons therefor;

b) to retain and instruct counsel without delay and to be informed of that right; and

c) to have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful.

Proceedings in criminal and penal matters

11. Any person charged with an offence has the right

a) to be informed without unreasonable delay of the specific offence;

b) to be tried within a reasonable time;

c) not to be compelled to be a witness in proceedings against that person in respect of the offence;

d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;

e) not to be denied reasonable bail without just cause;

f) except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment;

3) Class Exercise: Requires groups of 5.

Present the William Sampson story to half of the groups. Present the courtroom story (inserting the name of each student in the group) to the remaining groups.

Ask each member of the group to develop three laws or rules that will protect a basic principle of justice. The student is required to view the video and text found in *The Virtual Courtroom, Part 1: Basic Principles*, to determine what basic principles of justice should be addressed in their laws.

Their review will turn up the following:

- Presumption of innocence – right to remain silent
- State must prove guilt – no onus on defendant to prove innocence
- Proof of guilt must be beyond a reasonable doubt
- Hearings held in public
- An impartial and unbiased judge or jury

Students who are not in a group or who wish to do other activities can do the following:

- Find newspaper articles about crimes, then present them to the class after the rules have been established. Discuss with the class whether their rules should be imposed in these cases.
- Have students draw a picture of the blindfolded figure representing justice, the same figure with one eye blindfolded, and then again with no blindfold. Have a class discussion on which figure best represents the ideal of justice.

### **In-Class or Homework Assignment**

1) Clip a recent newspaper account of an arrest or use the sample provided above. Assign students to write an essay discussing how well the news report reflects the presumption of

innocence. Ask the students to assess the tone of the story and the information presented. Is the reporting fair? Does the person appear guilty or innocent? Should more or less information be made public? Does the media do an adequate job of explaining a person's *Charter* rights and how the justice system operates?

## C. IMPARTIALITY AND FAIRNESS

### Teaching Aids & In-Class Exercises

#### Teaching Aids and In-Class Exercises

- 1) Organize a debate in class: Should judges be elected or appointed? Each side must assess the strengths and weaknesses of each method of selecting judges and the implications for judicial independence. (Direct students to the Virtual Courtroom: Part 1 and the reference materials given below for background material.)
- 2) Use the following scenarios as the basis for an in-class discussion. In each case, ask students to identify the potential problem that arises from what is said or done and how it could undermine judicial independence.
  - In a speech at a meeting of the Rotary Club, a judge declares there have been too many home invasions and promises to throw the book at the next offender who comes before him. (Problem: Pre-judging a case, showing bias)
  - As court adjourns, the judge invites the prosecutor to come to his office “to discuss a few things.” (Problem: Appearance of partiality)
  - A politician stands up in Parliament and criticizes judges for not imposing tougher sentences in domestic violence cases. (Problem: Appearance of political interference)
  - The Minister of Justice calls a press conference to complain about how judges are dealing with certain crimes and promises to take “appropriate action” when judges’ salaries are reviewed. (Problem: Government control of judges’ salaries)
  - Picketers descend on the courthouse to demand a tough sentence for a person who has pleaded guilty to murder. (Problem: Trying to influence the courts through public pressure.)

#### In-Class or Homework Assignments

- 1) Use the above scenarios illustrating the importance of judicial independence as the basis for an assignment. Ask students to identify the problem each one illustrates and to discuss the implications for judicial independence.
- 2) Assign students to write an essay in which they are asked to create the judiciary for a criminal court in a newly independent nation. How will judges be chosen? Who will set their salaries and pensions? Who will decide when they have to retire or should be removed from office? In each case, students must explain the rationale for their choices and how each one will ensure justice is dispensed fairly.

## Suggested Questions

For use in class or as a homework assignment

- 1) Who prosecutes criminal offences in Canada and why?
- 2) Identify three *Charter* rights and explain why they are important.
- 3) What steps are taken to ensure Canadian judges are independent? Why are they important?

## Additional Resource Materials

Virtual Courtroom. Part 1: Basic Principles and 10-part quiz.

*Criminal Code*: An electronic version is available online:

<http://laws.justice.gc.ca/en/C-46/index.html>)

*Charter of Rights and Freedoms*: Available on-line:

<http://laws.justice.gc.ca/en/charter/index.html>

Justice Canada Legal Guides:

“Canada’s System of Justice”: <http://canada.justice.gc.ca/en/dept/pub/just/index.html>

“Canada’s Court System”: <http://canada.justice.gc.ca/en/dept/pub/trib/index.html>



Teaching Aids &  
In-Class Exercises

## Part 2: Arrest

### A. WHAT IS A CRIME?

#### Teaching Aids and In-Class Exercises

1) Use the following scenarios to prompt a discussion of what constitutes a crime. In each case, is the act a crime? Are both of the necessary elements – a guilty act *and* a guilty mind – present? a) Dan and Joe are surprised to find the keys in the ignition of a car in the parking lot of their high school. After Joe dares Dan to take them for a ride around the block, they hop in and Dan drives away. When they return five minutes later, the car's owner and a police cruiser are waiting for them. Did Dan break the law? Did he intend to commit a crime? Can Joe be charged as well?

Refer to the Criminal Code offence of joyriding:

#### Offences Resembling Theft

Taking motor vehicle or vessel or found therein without consent

335. (1) Subject to subsection (1.1), every one who, without the consent of the owner, takes a motor vehicle or vessel with intent to drive, use, navigate or operate it or cause it to be driven, used, navigated or operated, or is an occupant of a motor vehicle or vessel knowing that it was taken without the consent of the owner, is guilty of an offence punishable on summary conviction.

b) A hiker happens upon a hunting cabin. Finding the door locked, he breaks a window to get in. He rummages through the cabin but takes nothing. He is arrested a week later after bragging about his adventure to friends. Has the hiker committed a crime? What was his intention? Should he be charged even if nothing was stolen? Would homes and buildings be safe if people were free to break in as long as they were simply “looking around?”

Refer to the Criminal Code section on break and enter

Breaking and entering with intent, committing offence ...

348. (1) Every one who

(a) breaks and enters a place with intent to commit an indictable offence therein,

(b) breaks and enters a place and commits an indictable offence therein,  
... is guilty

(d) if the offence is committed in relation to a dwelling-house, of an indictable offence and liable to imprisonment for life, and

(e) if the offence is committed in relation to a place other than a dwelling-house, of an indictable offence and liable to imprisonment for a term not exceeding ten years or of an offence punishable on summary conviction.

...

(2) For the purposes of proceedings under this section, evidence that an accused

(a) broke and entered a place or attempted to break and enter a place is, in the absence of evidence to the contrary, proof that he broke and entered the place or attempted to do so, as the case may be, with intent to commit an indictable offence therein ...

2) Hold a class discussion to explore who can be charged with an offence. Use the following examples:

a) A teenager is recruited to act as lookout while two men rob a bank. He never enters the bank but agrees to alert the robbers by walkie-talkie if he sees police or security officers approaching. Can he be charged with robbery? If so, why?

- Helping the men rob the bank makes him a party to the offence of robbery. See the *Criminal Code* section on parties to an offence:

Parties to Offence

21. (1) Every one is a party to an offence who

(a) actually commits it;

(b) does or omits to do anything for the purpose of aiding any person to commit it; or

(c) abets [encourages] any person in committing it.

b) Your boyfriend comes home carrying a gym bag, which you discover is full of CDs. He explains that he stole them after breaking into a music store and he's afraid he was followed home by the police. You hide the bag in a closet so he can escape out the back door. If the police show up, you agree to tell them your boyfriend is out of town. Have you committed a crime? If so, what did you do wrong?

- Helping your boyfriend to hide evidence and escape makes you an accessory to the crime of break, enter and theft. See the *Criminal Code* section on accessories:

Accessory after the fact

23. (1) An accessory after the fact to an offence is one who, knowing that a person has been a party to the offence, receives, comforts or assists that person for the purpose of enabling that person to escape.

c) Friends gather at your apartment to work out a plan to break into your school to steal computers. You agree to take part but back out before the break-in occurs. After one member of the group tips off the police, charges are laid. Can you be charged and, if so, what is your crime?

- Agreeing to the plan means you could be found guilty of conspiracy to commit the break in.

See the *Criminal Code* section on conspiracy:

Conspiracy

465. (1)

...

(c) every one who conspires with any one to commit an indictable offence ... is guilty of an indictable offence and liable to the same punishment as that to which an accused who is guilty of that offence would, on conviction, be liable ...

### **In-Class or Homework Assignments:**

1) Using the scenario of the joyriding teenagers or the hiker, ask students to write a report in class or as a homework assignment discussing whether the act described is a crime. Ask them to examine the scenario and, based on the relevant law, to identify the evidence that a criminal act occurred and was intentionally committed.

2) Use the examples of who can be charged with an offence and the relevant sections of the *Criminal Code* as the basis for an in-class assignment or homework essay. Ask students to review one or more of the situations and discuss why they think a crime has been committed. Is it fair that people not directly involved in a crime can be charged? Why or why not?

3) Assign an essay based on the following scenario:

The government of a new nation passes laws that make it a crime to damage property or to harm another person. There is no need to prove a person meant to harm someone or damage property.

Could drivers involved in a car accident be convicted under this law? What about a kid who breaks a neighbour's window while playing baseball? Ask students to use these examples or to devise their own to explore the shortcomings of the new nation's laws and whether they are fair.

## **B. GROUNDS FOR ARREST AND THE CHARGING DECISION**

### **Teaching Aids & In-Class Exercises**

#### **Teaching Aids and In-Class Exercises**

1) Class Exercise: Police Officer Visit

Invite a police officer to meet your class. Tell the officer the focus will be on arrest – when an arrest can occur and what a police officer must do from the time a person is arrested until the person is released. Explain to the officer that there likely will be other questions from students about a police officer's role and duties.

Prior to the visit, take the following steps to prepare the class:

Have students complete The Virtual Courtroom Legal Wise Challenge on arrest and have them record their score.

Ask students to view the video and the accompanying text of The Virtual Courtroom, Part 2: Arrest. Then ask students to list, in point form, nine things that happen when a person is arrested by a police officer:

Answers

- (a) The person must be told why he or she is under arrest.
- (b) The person can be handcuffed and taken to the police station.
- (c) The person can be charged with resisting arrest if he or she does not comply with the police officer's requests.
- (d) The person can be searched, as well as the person's car or home.
- (e) The person must be informed of his or her right to remain silent (s. 7 of the *Charter*) and the right to speak to a lawyer.
- (f) Police must assist the person in contacting a lawyer, unless the person waives this right.
- (g) For serious offences, the person's "mug shot" and fingerprints will be taken.
- (h) The person must give the police officer his or her name and address but no other information has to be disclosed.
- (i) The person must be released within 24 hours or appear before a judge or justice of the peace to determine if he or she should be released or kept in custody until a bail hearing is held.

The teacher can review these points with the class by calling on various students to suggest the answers. As well, have students prepare questions in advance that they would like to ask the police officer about police work or what it is like to a police officer.

After the visit ask students to complete The Virtual Courtroom quiz again, to see if their mark has changed.

2) The teacher can provide groups of two, three or more students with a fact situation and teach through a drama method. Students will be asked to act out a scene where a person is arrested. The teacher may want these students to view the video and then create a scene where a person is arrested at a school dance or a similar example. Class discussion can follow on what the police officers did, how the arrested person reacted and other ways the arrest could have unfolded. This drama could be prepared in advance of a police officer's visit and performed for the police officer, who could take part in the subsequent classroom discussion.

3) Use the following examples to prompt discussion of what are "reasonable and probable grounds" for the police to charge someone with a crime:

- The police receive an anonymous tip that you are dealing drugs. Is this information sufficient to arrest you for trafficking? Why or why not?
- What if the information comes from a person who has a long criminal record for crimes of fraud and deceit?

- What if the tipster is suspected of spreading false rumours in an attempt to curry favour with the police?
- What if the tipster is a person who has provided reliable information to the police in the past? Is this a sufficient basis for laying a charge?

If police feel the tip about you is solid, what investigative steps could be taken to give an officer enough evidence to lay a charge?

Possible steps:

- Try to find and interview people who have seen you selling drugs or with drugs in your possession
- Put you under surveillance at your school, workplace or home
- Apply to the courts for a warrant to search you, your home or your car.
- Use an undercover officer or agent to try to catch you in the act or buy drugs from you

4) Understanding *Charter* rights. Use the following scenario as the starting point for a debate or as an in-class assignment. Ask students to identify the *Charter* rights the police have violated:

A friend offers you a ride to a nearby take-out at lunch. As you approach his car, you discover two police officers are rifling through the front seat. One of them asks who owns the car, and when your friend says he does, the officer snaps him in handcuffs. The other officer emerges from the car holding a small bag containing a white powder. It looks like cocaine and the officer tells your friend he's under arrest. When your friend asks if they have a warrant to search the car, he's told the car was unlocked and the officers acted on a hunch that drugs might be inside.

Have the police acted lawfully? Are their actions fair? Have any of your friend's rights under the *Charter* been violated? If so, identify them and briefly explain how they have been violated. Is it acceptable to violate a suspect's rights as long as police find evidence of wrongdoing? Why or why not?

*Charter* rights violated:

- Section 8: Unreasonable search and seizure. Police can search without a warrant only in rare circumstances and cannot act on a hunch.
- Section 10(a): The right to be informed promptly of the reasons for arrest
- Section 10 (b): Police must inform a person arrested of their right to consult a lawyer and to give the person a chance to do so

5) Hold a classroom discussion on students' rights regarding a search. Do teachers or principals have the right to search a student or a student's locker for drugs or weapons? Do they have to get a search warrant first? Is a student entitled to privacy when on school grounds?

Use the following scenario, drawn from the Supreme Court of Canada's ruling in the case of *R. v. M. (M.R.)* (The facts of the case and the commentary below are excerpted from the Justice Canada website: <http://canada.justice.gc.ca/en/justice2000/145mile.html>)

A vice-principal of a junior high school had been informed by some students that another student, M.R., had planned to sell drugs at an upcoming school dance. The vice-principal asked M.R. and his friend to come to his office. The vice-principal advised them that he was going to search them for drugs. An RCMP officer, who had been called there by the vice-principal according to school policy, was in the office but did not interfere.

M.R. emptied his pockets and, after being asked by the vice-principal to do so, pulled up his pant legs. There was a bulge in his sock. The vice-principal removed a plastic bag of marijuana. The bag was given to the police officer who advised M.R. that he was under arrest for possession of a narcotic.

The constable read the police caution to M.R., told him that he had a right to counsel (a lawyer) and that he had the right to contact a parent or adult. M.R. tried to reach his mother but was not able to get in touch with her. He said that he did not want to call anyone else. The officer and M.R. then went to M.R.'s locker and searched it. No more drugs were found.

The case went to court. M.R.'s lawyer argued that his client's rights had been violated. Counsel pointed to two sections of the *Canadian Charter of Rights and Freedoms*. First, section 8 guarantees that everyone has the right to be secure against "unreasonable search and seizure." Second, section 10(b) states that "everyone has the right on arrest or detention to retain and instruct counsel without delay and to be informed of that right." According to the defence, both sections had been violated.

The Supreme Court disagreed. First, it was assumed, for the purposes of this case, that schools were a part of government and that the *Charter* therefore applied to the actions of the viceprincipal. Second, in order for an action to be a "search or seizure" under the charter, the person being searched must have a "reasonable expectation of privacy." Given that he was a student, did M.R. have a "reasonable expectation of privacy"? The Supreme Court believed that he didn't:

"The reasonable expectation of privacy of a student in attendance at a school is certainly less than it would be in other circumstances. Students know that their teachers and other school authorities are responsible for providing a safe environment and maintaining order and discipline in the school. They must know that this may sometimes require searches of students and their personal effects and the seizure of prohibited items. It would not be reasonable for a student to expect to be free from such searches."

In fact, the provincial *Education Act* implied that searches were reasonable and acceptable. The court concluded that the search was authorized by law, that the law was reasonable, and (in this particular case) that the vice-principal had

acted reasonably. Moreover, the court ruled that a teacher or principal does not have to get a warrant to search a student if he or she has reasonable grounds (a good reason) to believe that a school rule has been or is being broken *and* if he or she has good reason to believe that evidence of the violation will be found in the location or on the person of the student searched. Reasonable grounds can be information received from just one student if the principal or teacher thinks that the student is credible.

Third, M.R.'s lawyer had argued that section 10 (b) had been violated since his client had not received counsel immediately after being detained in the vice-principal's office. The court ruled that this section didn't apply to "detentions" within a school environment since it was designed to apply to cases where a person was detained by the police during a criminal investigation.

### **In-Class or Homework Assignments**

- 1) Ask students to write out, in point form, the basic rights they feel they should have if arrested by police. In each case, they must explain why the rights they have chosen are important.
- 2) Pass out copies of the story about the student whose car was searched. Assign students to write a report identifying the student's legal rights and how they were violated by police.

## **C. THE RIGHT TO SILENCE**

### **Teaching Aids & In-Class Exercises**

#### **Teaching Aids and In-Class Exercises**

Teacher's Note: While the Charter does not explicitly protect the right to silence, the *Supreme Court of Canada* has ruled this fundamental right is protected under Section 7, which reads:

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

- 1) Ask students to review the following excerpt from a newspaper story about a trial:

Defence lawyers for the six men accused of beating a student into a coma during a swarming outside a Halifax bar seem sure their clients will walk.

So sure, in fact, they didn't call any evidence or bring any witnesses forward after the Crown prosecutor wrapped up his case yesterday in Nova Scotia Supreme Court.

Ask them to discuss the following questions: Is the story fair or distorted? What basic legal right has the writer ignored? How has this oversight affected the tone of the story and the portrayal of the defendants and their lawyers? Do they think this story will affect readers' impressions about the justice system? In what way?

- 2) Set up an in-class debate about the right to silence. Question: "Should people accused of crimes have to answer questions and explain themselves?" What are the benefits?

(Suggested debating points – it would be easier to solve crimes; suspects would be easier to convict; criminals would no longer get an easy ride from the courts; suspects would have to face up to their actions.)

What are the drawbacks? (Suggested debating points – the presumption of innocence would be tarnished; suspects would be forced to prove their innocence, which may not be possible; a refusal to cooperate may be seen as proof of guilt; there could be more wrongful convictions.)

### **In-Class or Homework Assignments**

1) Hand out copies of the newspaper excerpt about the swarming trial and assign students to write a brief report on how well it reflects the right to silence. Ask them to rewrite the story about the decision of the defendants not to testify, this time properly reflecting the defendants' right to silence.

2) Assign students to write an essay that answers this question: "Should people accused of crimes have to answer questions and explain themselves? Why or why not?"

### **Suggested Questions**

For use in class or as a homework assignment

- 1) Identify three ways – besides actually committing an offence – that a person can be charged with a crime.
- 2) When someone is arrested for a crime, what legal rights do they have?
- 3) "The right to silence enables criminals to thumb their noses at the justice system." Explain why this statement is flawed and why the right to silence is important.

### **Additional Resource Materials**

Virtual Courtroom. Part 2: Arrest and 10-part quiz.

*Criminal Code*: An electronic version is available online:  
<http://laws.justice.gc.ca/en/C-46/index.html>)

*Charter of Rights and Freedoms*: Available on-line:  
<http://laws.justice.gc.ca/en/charter/index.html>



Teaching Aids &  
In-Class Exercises

## Part 3: Bail

### A. SHOW CAUSE HEARINGS

#### Teaching Aids and In-Class Exercises

##### 1) Scenario for class discussion:

The government has introduced a law that limits bail for persons accused of serious crimes. To be released while they await trial, anyone charged with murder, kidnapping, armed robbery or sexual assault must post a \$100,000 bond. Victims' rights groups say the change will keep dangerous criminals off the streets. Defence lawyers are warning that few suspects have the money needed to win their release.

##### Questions for discussion:

- Is this law fair? Should people remain locked up simply because the charges against them are serious? Explain why or why not.
- Is the law constitutional? What about the *Charter* right of citizens to be released on "reasonable" bail? Does this law offer everyone access to reasonable bail?
- Does this law reflect a defendant's right to be presumed innocent until proven guilty?
- Innocent persons will end up serving up to a year or more in jail, only to be acquitted at trial. Should this be of concern? Is it a small price to pay to protect society from criminals?
- Does this law create one justice system for the rich, another for the poor?

##### Relevant *Charter* provisions:

11. Any person charged with an offence has the right ...

d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;

e) not to be denied reasonable bail without just cause;

##### 2) Scenario for class discussion:

The parents of a murder victim are outraged when the man accused of the crime is released on \$20,000 bail. As they leave the courtroom, they angrily tell reporters that the justice system is too soft on criminals and has let them down. The whole process, the victim's father says, is a "farce."

- Discuss whether this criticism is fair. Does it properly reflect why bail is granted? Does it take into account the presumption of innocence?
- Should the parents have been surprised that the suspect was released? What does the *Charter* say about the presumption of innocence and the right to release on bail?

- Should judges consider the wishes of crime victims before granting bail? Why or why not?
- How should the media have reported the hearing's outcome and the parents' reaction?

### **In-Class or Homework Assignments**

1) Assign students to write a report based on the proposed law, set out above, that would require suspects charged with a number of serious crimes to post \$100,000 bail in order to win their release. Ask students to defend or criticize this law. Their answers must take into account *Charter* rights, the need to treat all suspects fairly, and the importance of protecting citizens from crime.

2) At a show cause hearing, the prosecution must convince a judge that a defendant should remain in custody. Should the suspect have to prove he can be trusted not to flee or commit more crimes in order to be released? Write a short report explaining and defending your answer.

## **B. DETERMINING WHETHER TO RELEASE OR DETAIN**

### **Teaching Aids and In-Class Exercises**

1) Discussion of why bail is granted or denied

There are three grounds for denying a suspect release on bail before a trial is held:

- To protect the public and witnesses and to ensure the suspect does not commit more crimes
- To prevent the suspect from fleeing to evade justice
- To maintain public confidence in the administration of justice if the crime is serious, the Crown has a strong case, and the suspect faces a lengthy prison term if convicted.

After outlining these grounds to the class, ask them to take the role of the judge presiding at the show cause hearing of the following suspects. Would they grant or deny release on bail? Ask them to explain their decisions, taking into account the grounds for denying release:

- A woman is charged with shoplifting. It is her first offence and she has a husband, two children and a full-time job.
- A homeless man has been arrested for striking a passerby. He has previous convictions for minor thefts and no history of violence. He is unlikely to be jailed if convicted.
- A member of a motorcycle gang is charged with first-degree murder. The prosecutor and police describe the crime as a contract killing tied to a turf war between rival gangs. The penalty for first degree murder is life in prison without parole for at least 25 years.

**Teaching Aids &  
In-Class Exercises**

- A man who associates with bikers is charged with theft of a credit card. He has no criminal record but the prosecutor urges the judge to consider him dangerous and deny bail because of his ties to the motorcycle gang.
- A man picked up on an arrest warrant is brought before the court. Police sought him for three years on a charge of stealing 10 DVD players until he was found living with relatives in a neighbouring province.
- A man wanted on a three-year-old charge of impaired driving is nabbed during a routine traffic stop. Police are surprised to discover he has been in the city all along. The prosecutor wants bail to be denied because the man has been at large so long. The suspect tells the judge he made no attempt to hide and mistakenly thought the charge had been dismissed long ago.
- A man is charged with threatening to kill the mayor. A police officer testifies the man has vowed to “get even” with his ex-wife, who turned him in.
- A businessman whose job takes him to South America once a month is arraigned on a charge of defrauding investors of \$200,000. The money has not been recovered and police are concerned he will skip the country if released. The defence lawyer protests that the man has no criminal record, is active and respected in the community, and the Crown’s case is weak. A conviction for this fraud could bring two years or more in prison.
- Invite students to suggest other cases, either fictional or ones they have heard about in the news, and assess whether bail should be granted or denied

Relevant section of the *Criminal Code*:

Justification for detention in custody

515 (10) ... the detention of an accused in custody is justified only on one or more of the following grounds:

(a) where the detention is necessary to ensure his or her attendance in court in order to be dealt with according to law;

(b) where the detention is necessary for the protection or safety of the public, including any victim of or witness to the offence, having regard to all the circumstances including any substantial likelihood that the accused will, if released from custody, commit a criminal offence or interfere with the administration of justice; and

(c) on any other just cause being shown and, without limiting the generality of the foregoing, where the detention is necessary in order to maintain confidence in the administration of justice, having regard to all the circumstances, including the apparent strength of the prosecution’s case, the gravity of the nature of the offence, the circumstances surrounding its commission and the potential for a lengthy term of imprisonment.

## 2) Classroom Exercise

Provide students with the following fact situation:

One of your classmates, Tom, is charged with assault causing serious physical injury. Tom was charged after taking a golf club from physical education classroom and beating Jeff. Jeff was dating Tom's girlfriend, Gloria, who had decided to dump Tom. Your classmate has no criminal record, he still loves his girlfriend, and he feels terrible and upset about being charged with a crime. Tom lives with his parents but has been suspended from school. School officials feel he is a risk to other students and there is a rule against fighting on school property, which is where the incident occurred.

Have students review The Virtual Courtroom video in Part 3: Bail and the accompanying text. Then tell each student to take on the role of judge at Tom's bail hearing and to write up their ruling: If the student decides not to release Tom, the student should identify which of the three requirements they feel justifies his detention.

If the student would release Tom, have the student fill out the "Release Conditions" form provided at the end of this section. Review the release conditions imposed by various students, and ask those students to explain why they feel each condition is necessary.

### **In-Class or Homework Assignment**

1) Use one or more of the scenarios set out in exercise #1 as the basis for a written assignment. Ask students to take on the role of judge and to decide whether each suspect should be freed on bail or held in custody. In each case, they must explain their reasons, drawing on the *Criminal Code's* grounds for denying bail.

### **Suggested Questions**

For use in class or as a homework assignment

- 1) Who must establish that a suspect should be denied release on bail, the state or the suspect? Explain.
- 2) What are the three grounds for refusing bail to an accused person who is awaiting trial?
- 3) Why is a publication ban imposed on most bail hearings?

### **Additional Resource Materials**

Virtual Courtroom. Part 3: Bail and 10-part quiz.

*Criminal Code*. An electronic version is available online:  
<http://laws.justice.gc.ca/en/C-46/index.html>

*Charter of Rights and Freedoms*. Available on-line at:  
<http://laws.justice.gc.ca/en/charter/index.html>

Nova Scotia Public Prosecution Service website:  
"The Criminal Case: Step by Step": [http://www.gov.ns.ca/pps/criminal\\_case.htm](http://www.gov.ns.ca/pps/criminal_case.htm)

# Part 4: Arraignment, Disclosure, Election and Plea

## A. ARRAIGNMENT AND DISCLOSURE OF CROWN EVIDENCE

## B. CATEGORIES OF OFFENCES

## C. ELECTION AND PLEA



Teaching Aids &  
In-Class Exercises

### Teaching Aids and In-Class Exercises

#### 1) Anatomy of an Arraignment

What happens when a person first appears in court to answer to a criminal charge? What happens next?

Exercise at the chalkboard – have students brainstorm and call out how they think the case will proceed (Part 4 of the Virtual Courtroom and the accompanying video provide the necessary reference material).

A suspect is arraigned on a charge of mischief to property (vandalism) for spray painting slogans on the side of a building. What happens next? Will the trial be held that day?

- The judge will read out the details of the charge unless this formality is waived
- Where does the case go from here? The Judge will ask the suspect to elect a court for trial and the person may enter a plea. For summary (minor) charges, there is no right to choose trial in a higher court. If a trial in superior court is an option, no plea will be taken.
- What about legal help? If the suspect does not have a lawyer, election and plea will be adjourned (delayed) for a week or two so he or she can consult a lawyer or seek representation through a legal aid program
- Suspects have the right to see the evidence against them before election and plea. The prosecutor must disclose all relevant evidence gathered by police. If the information is not yet available, the judge will adjourn the case for a number of days until disclosure is made ¶ If the prosecutor is opposed to the person's release (unlikely for such a minor offence), the case will be adjourned and a bail hearing will be set for a few days later
- What if the person wants to admit responsibility for the offence and plead guilty? The suspect can elect trial in provincial court and plead guilty. The case will proceed directly to sentencing.

2) Chalkboard exercise: How the nature of the charge determines election of court for trial.

Suggest the following criminal offences and ask students to suggest whether it is minor (summary) or serious (indictable) and what that means for a defendant's options

- A man walks into a corner store with a gun, threatens the clerk, and escapes with \$220 from the cash register. The charge is armed robbery (indictable offence) Where is the defendant arraigned? (Provincial Court) Does the defendant have the right to choose where to stand trial? (Options here – trial in Provincial Court, trial before judge in Superior Court, jury trial in Superior Court) What happens next? (If election is Provincial Court, a plea is taken – if the plea is not guilty, a trial date set in Provincial Court; if it is guilty, sentencing will take place that day or at a future date) If the election is trial in Superior Court with jury, or in Superior Court without a jury, a date will be set for a preliminary hearing in Provincial Court. If the defendant declines the right to a preliminary hearing, the case will be sent to Superior Court for plea to be taken)
- A college student shoplifts \$20 worth of cosmetics from a drug store The charge is theft of goods worth less than \$5,000 (summary conviction offence) Where is the defendant arraigned? (Provincial Court) Does the defendant have the right to choose where to stand trial? (No option – trial must be held in Provincial Court) What happens next? (The plea is taken – if the plea is not guilty, a trial date is set in Provincial Court; if it is guilty, sentencing will take place that day or at a future date)
- A hacker manages to bypass the security system and gains access to the book index database at the public library. He causes no damage and the database contained no confidential or sensitive information. He's caught because he contacts the library to warn the staff that their system is not secure The charge is mischief (vandalism) in relation to data (hybrid offence – severity of offence and damage caused can range from minor to serious) Where is the defendant arraigned? (Provincial Court) Does the defendant have the right to choose where to stand trial? (Prosecutor first chooses whether to pursue charge summarily or by indictment.) What happens if the prosecutor chooses to proceed summarily? (No option for election – trial must be held in Provincial Court) What happens if the prosecutor chooses to proceed by indictment? (Defendant's options for election are trial in Provincial Court, trial before judge in Superior Court, jury trial in Superior Court) What happens next? (If prosecutor proceeds summarily or the election is Provincial Court, the plea is taken – if the plea is not guilty, a trial date is set in Provincial court; if it is guilty, sentencing will take place that day or at a future date. If the election is trial in Superior Court with jury, or in Superior Court without a jury, a date will be set for a preliminary hearing in Provincial Court. If the defendant declines the right to a preliminary hearing, the case will be sent to Superior Court for plea to be taken)

Use other offences to illustrate how the nature of the offence (or the prosecutor's decision on how to proceed, in the case of hybrid offences) affects a defendant's options at the election and plea stage.

3) Use the Donald Marshall case as the basis for an in-class discussion of why the disclosure of Crown evidence is important to ensuring a fair trial:

Donald Marshall, a native teenager in Sydney, Nova Scotia, was charged with murder in the stabbing death of a young friend in 1971. Two witnesses said they were in the park when the incident occurred and saw Marshall stab the victim. Marshall testified a man who wore a cape and looked like a priest stabbed his friend. The jury convicted him of murder. Years later, it was discovered that police officers had pressured the eyewitnesses to change their stories; both initially insisted they had seen nothing or were not near the scene. Marshall's lawyers were not told about the initial statements before the trial – when they could have used them to challenge the eyewitnesses – or afterwards, when the new information could have won an appeal. Marshall served 11 years in prison before he was freed and exonerated. Rob Ebsary – an eccentric local man who often wore a cape – was ultimately convicted of stabbing Marshall's friend.

Points for discussion:

- Did Marshall have a fair trial? Why or why not?
- Should it have been up to Marshall's lawyers to discover that witnesses had changed their stories? What should be the prosecution's responsibility if there is evidence that will help a defendant?
- How might disclosure of the initial witness statements, which did not implicate Marshall, have affected the outcome? Would he still have been convicted of murder?
- What does the Marshall case tell us about the importance of ensuring those charged with crimes have a fair trial?

4) Classroom Exercises

- Have students review the text and video in *The Virtual Courtroom*, Part 4: Arraignment, Disclosure, Election and Plea, then ask them to answer the following questions in their notebooks:
  - a) Name and describe the three types or categories of criminal offences.
  - b) Go to the *Criminal Code* and find an example of each of the three categories of criminal offence, other than those described in *The Virtual Courtroom* materials. Ask students to write out these criminal offences in their own words or exactly as found in the *Criminal Code*.
- Ask students to write down what "full disclosure" means to an accused. What does full disclosure enable the accused to know?
- Screen the video "Justice Denied," the National Film Board drama based on the Donald Marshall story. Then ask students to answer the following question: How and when was disclosure denied in this case?

5) Use the following scenario to lead a classroom discussion of how plea negotiations work:

Sue is arrested as she runs from the scene of a swarming, where an elderly man has been beaten and left with severe head injuries. Two witnesses saw her kick the man while he was on the ground, but the main offenders have escaped. Sue is charged with assault causing bodily harm and could face a jail term if she is convicted. The police have few leads on the other culprits and the prosecutor tells Sue's lawyer he'll reduce the charge to assault and won't seek a jail term if she agrees to testify against the others involved. If the judge accepts the plea arrangement, she will be put on probation and required to do community service work at a senior's home.

Points for discussion: Is a plea negotiation justified in this case? What are the benefits?

- A serious crime could be solved
- Other offenders may be brought to justice
- The victim may be spared the ordeal of testifying
- The time and expense of prosecuting Sue – a minor player – is reduced
- Sparing Sue a harsher sentence could improve the chances she will be rehabilitated and commit no more crimes

What are the drawbacks?

- Sue evades some of the responsibility for her actions
- There is no guarantee she will keep her promise to testify
- Police may never find the other offenders, even if Sue identifies them
- The victim of the crime and the public may not see this as justice

Discuss whether an agreement to accept Sue's plea to a less serious charge would be justified in the same case if:

- Sue has a record of committing previous assaults and robberies
- The witnesses are not certain it was Sue who kicked the victim
- Sue is known to police to be the ringleader of the group responsible for the beating
- Sue is a straight-A student who has no previous criminal record
- The other persons involved turn themselves in to police

### **In-Class or Homework Assignments**

1) "Plea negotiations should be abolished. Justice can only be done when suspects stand trial." Assign students to write a report explaining why they agree or disagree with this statement.

2) Ask students to think about the seriousness of the following crimes, then assign each one to a category – either summary or indictable:

- Spray painting graffiti
- Murder
- Kidnapping
- Stealing a bicycle

- Slapping someone's face
- A violent sexual assault
- Stealing \$20 from a friend's knapsack
- Breaking into a home and assaulting the occupants
- A bookkeeper who steals \$200,000 from his employer

### **Suggested Questions**

For use in class or as a homework assignment

- 1) Why is disclosure of evidence so important to a fair trial? What can happen if a defendant does not have all of the facts?
- 2) What are the benefits of plea negotiations? What are the drawbacks?
- 3) Explain the procedure for election and plea when a suspect is charged with a serious crime.

### **Additional Resource Materials**

Virtual Courtroom Part 4: Arraignment, Disclosure and Election and Plea and 10-part quiz.

Nova Scotia Public Prosecution Service website:

“The Criminal Case: Step by Step”: [http://www.gov.ns.ca/pps/criminal\\_case.htm](http://www.gov.ns.ca/pps/criminal_case.htm)

# Part 5: Preliminary Inquiry

## A. THE NATURE OF THE HEARING

## B. STANDARD OF PROOF

### Teaching Aids and In-Class Exercises

1) Lecture on:

- When a preliminary inquiry can occur
- What happens at a preliminary inquiry
- What happens at the end of a preliminary inquiry
- Who calls witnesses and the standard of proof
- Re-electing
- Why a defendant might not want a preliminary inquiry

Then ask students to review the video and text in The Virtual Courtroom, Part 5: Preliminary Inquiry, and complete the 10-part quiz.

2) Set up an in-class debate on the following topic: “Be it resolved that preliminary inquiries should be abolished. They waste time, money and serve no useful purpose in the justice system.”

Points for discussion:

Arguments for:

- Why is a preliminary inquiry necessary? Is it a wasteful duplication of a trial? These hearings clog up the justice system by using courtrooms that could be better used for trials. The evidence required for the judge to order a trial is low, so why bother? Disclosure of the prosecution’s evidence gives defendants the information they need to prepare for trial. The hearing drags out a prosecution, enabling defendants to delay their day of reckoning. The additional hearing puts unnecessary strain on victims of crime and witnesses.

Arguments against:

- Preliminary hearings are an important check on the power of the state. They weed out marginal cases where the evidence is so weak that no trial is necessary. Despite disclosure of the prosecution’s case, defence lawyers need to use the hearing to cross-examine witnesses and to test the strength of the Crown’s case. Defendants should have the right to a discharge and should be spared the trauma and expense of undergoing a trial if the Crown’s case is too weak to justify a trial.

3) Lead a class discussion on why it is important that the defendant have the right to seek a ban on publication of the evidence presented at a preliminary hearing.

Points to stress:

- The evidence is one-sided because the defence rarely calls witnesses



Teaching Aids & In-Class Exercises

- The legal test for ordering a trial is low and members of the public (including potential jurors) may assume an order to stand trial means the judge believes the defendant is guilty
- The right to a fair trial may be compromised. If there is no ban, people summoned for jury duty at trial will have heard the evidence through media accounts and may have made up their minds that the defendant is guilty.

4) Ask students to cast themselves in the role of a judge presiding at a preliminary hearing. The case is a charge of robbery against a 21-year-old university student. The following evidence is presented:

The Crown calls two witnesses who identify clothing seized from the defendant's apartment as resembling what the robber wore. The suspect matches the general description of the robber, who was about 6 feet tall and 180 pounds with dark hair and a moustache. When asked if they see the man who committed the robbery in the courtroom, neither is able to point out the defendant. In fact, one of the witnesses is adamant that he sees the robber sitting in the public gallery; the person turns out to be a lawyer waiting for the next case to begin.

The legal test is whether there is "some evidence" that could lead a jury to find the defendant guilty. Based on the evidence presented, would the students order the defendant to stand trial or would they order a discharge. Ask those who respond to explain their reasons. To continue the discussion, ask students what additional evidence the prosecution would need to meet the test and have the defendant ordered to stand trial.

### **In-Class or Homework Assignments**

- 1) Ask students to write an essay discussing the advantages and disadvantages of having preliminary hearings in criminal cases.
- 2) Assign students to write a report explaining why a judge at a preliminary hearing should not order a trial based on the evidence outlined in teaching aid #3 above. Ask students to identify and discuss the weaknesses in the Crown's evidence.

### **Suggested Questions**

For use in class or as a homework assignment

- 1) Why does a defendant have the right to have a ban imposed to prevent media coverage of the evidence presented at a preliminary hearing?
- 2) What is the test the judge at a preliminary hearing must apply in deciding whether to order a defendant to stand trial? Is this an onerous test? Why or why not?
- 3) How does a preliminary hearing benefit a defendant?

### **Additional Resource Materials**

Virtual Courtroom Part 5: Preliminary Inquiry and 10-part quiz.

Nova Scotia Public Prosecution Service website:

"The Criminal Case: Step by Step": [http://www.gov.ns.ca/pps/criminal\\_case.htm](http://www.gov.ns.ca/pps/criminal_case.htm)

# Part 6: The Role of the Jury

## A. WHO CAN BE A JUROR?

## B. DOES A JUROR NEED TO KNOW THE LAW?



Teaching Aids &  
In-Class Exercises

### Teaching Aids and In-Class Exercises

1) Topic for class discussion: In our system of justice, defendants charged with serious offences are entitled to be tried by a jury of their peers. Jurors used to be chosen from lists of people who owned homes and paid property tax. Ask students if this section of society provided a jury of peers for the following defendants:

- An elderly woman, who sold her prescription medication to a teenager to get money to buy food, is charged with trafficking drugs
- A homeless man charged with robbery
- A businessman accused of defrauding investors
- A landed immigrant from Asia charged with kidnapping
- A homeowner who shot and killed an intruder
- A high school student accused of a violent assault
- A merchant charged with defrauding customers
- A member of a visible minority charged with trafficking drugs

Jurors are now chosen from health insurance or voters' lists, ensuring a more representative group of people is called for jury duty. Ask the students to revisit the above examples to explore why this diversity is important to ensuring a fair trial.

2) Lead a class discussion on who should be exempt from jury duty. Refer to each of the following examples and ask students whether the person should be exempt from jury duty or should have to request an exemption. In each case, ask them to discuss the concerns that may arise if they serve on a jury:

- Lawyers and law students (with their knowledge of the law, they might dominate deliberations)
- Judges (obviously, jurors would defer to a judge in their midst)
- Police, court officials (likely know witnesses and players, may not appear objective)
- Politicians (concerns they might be more interested in political ramifications of a verdict than in seeing justice done)
- Members of armed forces (could be called away on active duty at any time – at least 10 jurors are needed to complete a criminal case)
- Convicted criminals who have served two years in prison (may be overly sympathetic to the defendant)
- Relatives and acquaintances of the defendant or a witness (unlikely to be seen as objective)
- People who know about the case (may not be able to put this knowledge out of their minds and reach a verdict based only on the evidence presented)

- People who have made up their minds about the person's guilt or innocence (they have prejudged the case and may ignore evidence that supports a defendant's innocence)
- Doctors and dentists (may find it difficult to spare time from practices, may be influential figures in the community)
- Members of the clergy (may bring morals rather than law to deliberations, their opinions could be overly influential with jurors who share their religion, a replacement may not be available to take over church services)
- Journalists (may know the players or have too much knowledge of the case or the law)
- Spouses of those exempt, such as judges, lawyers, police officers, court officials (will likely know witnesses and players, may have knowledge of the case or the law, may not appear objective)

3) Classroom discussion: Ask students to assume the role of the judge hearing requests for exemptions from jury duty. The trial is to take at least a month to complete and the judge is concerned that not enough people have been summoned to ensure a 12-member jury can be empaneled.

Do these people have valid reasons for being exempted?

- An elderly man who has trouble sitting for long periods of time
- A new mother who is unable to arrange for babysitting
- A woman scheduled to leave the next day for a vacation in Florida
- A caregiver to a terminally ill relative
- A person who has just bought a new puppy that is not housebroken
- A teacher's aid who is the only one able to work with an autistic student
- A man who is leaving town to attend his parents' 50<sup>th</sup> wedding anniversary
- A woman who has just started a new job and is afraid to take time off so soon after being hired
- A self-employed consultant who will lose a month's income
- A person who fears their strong religious beliefs will make it hard for them to keep an open mind

Can students suggest other reasons for seeking an exemption? Which ones are reasonable and which are not?

4) In-Class Exercise: Choosing a Jury

Select: 3 defence lawyers

3 Crown prosecutors

3 judges

3 court clerks

The remaining class members are potential jurors

The lawyers are to participate in selecting a 12-member jury for the trial of one of the following cases:

- a) A nineteen-year-old boy has sexually assaulted a girl who is under the age of nine.
- b) Two nineteen-year-olds have broken into the home of an elderly couple, tied them to their dining room chairs, trashed the house and stolen \$30 from a cookie jar.

Instructions for defence lawyers:

1. Go to The Virtual Courtroom, Part 6: The Jury, to learn what a defence lawyer can and cannot do in selecting persons to be on the jury.
2. Each team of lawyers will be allowed to ask each potential juror questions - a minimum of three and a maximum of five. Questions should be written down in advance to prepare for jury selection.
3. Unknown to the Crown prosecutors, the defence lawyers will attempt to have only males on the panel.

Instructions for Crown prosecutors:

1. Go to The Virtual Courtroom, Part 6: The Jury, to learn what a prosecutor can and cannot do in selecting persons to be on the jury.
2. Each team of lawyers will be allowed to ask each potential juror questions - a minimum of three and a maximum of five. Questions should be written down in advance to prepare for jury selection.
3. The prosecutors will attempt to have all females on the panel.

Instructions for court clerks:

1. Go to The Virtual Courtroom to determine your role.
2. Organize the classroom for the jury selection process based on what you learn see in The Virtual Courtroom video.
3. Obtain the name of all jury candidates and prepare for jury selection as described in the video.
4. One clerk will record the names of the jurors chosen as well as the names of those excluded and reasons for their exclusion.

Instructions for judges:

1. Go to The Virtual Courtroom to determine your role in selecting a jury.
2. Each judge must do at least one task in the jury selection process.
  - speak to the jury
  - decide whether or not a candidate is qualified
  - once all jurors are chosen, inform them of their responsibilities

Instructions for jurors

1. To qualify for jury duty, each person must obtain 10 out of 10 on The Virtual Courtroom jury quiz. The teacher is to see the results.
2. In their notebooks, each juror is to write out Virtual Courtroom's definition of:
  - Indictable offence
  - Mistrial

### Other Activities:

- Artistic or Media Presentation: Any class member who wants to can complete a composite drawing or other visual presentation on the process. This could include a power-point presentation, videotaping and interviews with court personnel on video.
- Mathematical Analysis: Other class members could do a mathematical analysis by finding the number of eligible voters and then determining a person's likelihood of serving on a jury, considering variables such as the typical number of persons called for jury duty, the percentage of persons who are excused, and the number that can be challenged.

At the end of the exercise, through student suggestions, list on the board observations, difficulties, and the effectiveness of the jury selection process. These points will serve as reminder notes for the students.

### **In-Class or Homework Assignments**

- 1) Choose from the examples of people seeking exemptions from jury duty, as listed in teaching aid #3 above. Ask students to take on the role of the judge assessing each request, and have them write a report explaining why they would grant an exemption or require the person to serve.
- 2) A law requires that only people with incomes in the top ten percent are eligible to serve on a jury. Only a few citizens qualify and those who do are almost all white males. Write an essay discussing the implications of this law for ensuring justice will appear to be done when each of the following defendants stands trial before a jury: A white man; A woman; A member of a visible minority.

### **Suggested Questions**

For use in class or as a homework assignment

- 1) Even though young persons charged with crimes do not have the right to a jury trial, should persons younger than 18 be entitled to serve on a jury? Why or why not? What perspective might young persons bring to a jury's deliberations?
- 2) Identify five jobs or factors that disqualify a person from serving on a jury.
- 3) "Jury trials are an outdated concept and should be abolished in criminal cases." Ask students to write an essay explaining why they support or reject this statement.

### **Additional Resource Materials**

Virtual Courtroom Part 6: The Role of the Jury and 10-part quiz

"A new and improved jury selection process for Nova Scotians":  
<http://www.courts.ns.ca/General/jury.htm>



Teaching Aids & In-Class Exercises

# Part 7: The Trial

## A. ROLES OF THE KEY PLAYERS

### Teaching Aids and In-Class Exercises

1) Role-playing exercise: Divide the class into four groups. Designate each one to be one of the main players in a criminal trial – judge, prosecutor, defence lawyer and jury. Ask each group to prepare a list of the duties and responsibilities that accompany their role, then have one student from each group report the results to the class. Allow students in other groups to ask questions or add comments.

#### 2) Classroom Visit by a Trial Participant

Invite a judge or a Crown prosecutor and/or a criminal defence attorney to the classroom. Prior to their visit, have the students review the person's role in the criminal process by consulting the material provided in *The Virtual Courtroom, Part 7: The Trial*.

Provide the students with a slip of paper and ask them to write down a question they would like the visitor to answer. Provide the invitee with the questions, so they have topics to discuss during the visit. These questions may require some brainstorming with the class before they are reduced to writing. Typical questions might be:

- Do you have a difficult time sentencing a young offender?
- How do you become a lawyer or judge?
- Why do lawyers use legal jargon?

Students seldom come up with questions like “What does beyond reasonable doubt mean to you?” or “How do you prove mens rea?” but these ideas can be encouraged through the class discussion.

#### 3) Hold a class discussion to compare the roles of the prosecutor and the defence lawyer.

Points for discussion:

- Can a defence lawyer represent someone they think may be guilty? Are there limits on what a lawyer can do in defence of a client? Why is a forceful defence important to ensuring a fair trial? Should people be forced to defend themselves against criminal charges without legal help?
  - Do prosecutors act for victims of crime and the police? Should a prosecutor strive to win a conviction at all cost? Why is it important that prosecutors treat defendants fairly?
- Should charges be pursued in the courts even if a conviction is unlikely?

(For background information, refer to the *Virtual Courtroom: Part 7*, the accompanying video, and other resource materials listed below.)

### In-Class or Homework Assignments

1) Ask students to prepare a written assignment describing the role of the judge, prosecutor, defence lawyer and the jury in a criminal trial.

## B. PROOF BEYOND A REASONABLE DOUBT

### Teaching Aids & In-Class Exercises

#### Teaching Aids and In-Class Exercises

1) In-class discussion based on the O.J. Simpson case:

In 1995 a California jury acquitted former football star O.J. Simpson of murdering his estranged wife and one of her friends. In a later civil trial, another jury ruled that Simpson had caused the deaths and must pay compensation to the families of both victims.

This famous case highlights the stark difference between the standard of proof in criminal cases and civil cases. In criminal cases, a judge or jury must find there is proof beyond a reasonable doubt that the defendant is guilty. Expressed in numbers, the judge or jury must be 90 per cent or more convinced of the defendant's guilt. In a civil action or lawsuit, on the other hand, the person suing only has to prove on the balance of probabilities, based on a preponderance of evidence, that the defendant is responsible. The evidence must establish that it is more likely than not – something greater than 50-50, to use numbers – that the defendant is responsible.

Points for discussion: Ask students if they can explain these contrary results. What does the outcome of the Simpson case say about how difficult it is to prove someone is guilty of a crime? Why do students think the hurdle is set so high? Is it set too high, enabling guilty persons to “get off” without being punished? Should the criminal courts adopt a standard of proof closer to the one used in civil cases? What could be the consequences of making it easier to convict someone of a crime?

2) Lead students in a discussion based on the following quotation from William Blackstone, an influential 18<sup>th</sup> century British judge: “It is better that ten guilty persons escape than one innocent suffer.” Blackstone was explaining the rationale for the high standard of proof required for a criminal conviction. In our justice system, it is understood that the Crown will not be able to present sufficient proof to convict some suspects who are guilty. This is the price we are willing to pay to avoid wrongfully convicting innocent persons.

Points for discussion: What was Blackstone saying? Do students agree or disagree with the idea that it is acceptable – even expected – that guilty persons will go unpunished? Is the standard of proof too onerous in criminal cases? Where would they draw the line – how much proof do they feel should be needed to convict? Ask students to put themselves in the position of an innocent person wrongly accused of a crime – do they still feel the standard of proof is too onerous? Given that wrongful convictions do occur, is it perhaps not stringent enough?

3) Exercise in applying reasonable doubt to the evidence:

A mugging occurs on a city street. A woman is knocked down by a passerby, who grabs her purse and flees. Two people walking on the other side of the street watch the incident and give the police a description of the assailant. John Doe is arrested and charged after both witnesses pick him out of a police line-up. The purse and its contents are never found.

- Is the eyewitness testimony sufficient to convict Doe? Why or why not?
- What if one witness is certain Doe is the assailant, but the other is not sure?
- What if the crime happened at night and all the nearby streetlights were burned out?
- What if the police asked the witnesses to pick out the assailant from a line up of only three people, instead of the usual ten?
- What if one of the witnesses needs eyeglasses to see objects in the distance but was not wearing them that night? Would this witness's identification be reliable? If not, would the testimony of the other witness be sufficient to convict?
- What if one of the witnesses has a criminal record for theft and fraud? Would this witness's identification be reliable? If not, would the testimony of the other witness be sufficient to convict?
- What if neither witness is sure the defendant was the man who took the purse?
- What if both witnesses are certain the defendant is the man they saw take the purse, but the defendant produces three witnesses – all of them prominent citizens – who testify he was at a social function on the other side of town at the time of the offence?

### **In-Class or Homework Assignments**

- 1) "It is better that ten guilty persons escape than one innocent suffer." Assign students to write an essay explaining the meaning of this quotation from William Blackstone and what it says about the evidence needed to convict someone of a crime. Ask whether they agree or disagree that this is a desirable goal, and to explain their reasons.
- 2) Use the examples of the possible strengths and weaknesses of eyewitness testimony, as set out in the above exercise involving a mugging, as the basis for a written assignment. Pick several of the scenarios and ask the students to explain whether they raise sufficient doubts about the defendant's guilt to support a verdict of not guilty.

## **C. HOW A TRIAL UNFOLDS**

### **Teaching Aids and In-Class Exercises**

- 1) Organize a mock criminal trial in class. Assign students to the roles of judge, prosecutor, defence lawyer, defendant, witnesses, and jurors. Double-up as necessary to ensure each student has a role (if three students end up as prosecutor or defence lawyer, for instance, ask them to collaborate and to share duties).

<NOTE: Mock trial scenario to come>

- 2) Use the following scenarios as an in-class exercise to help students understand the rules for the admissibility of evidence in trials.

Is the following evidence relevant to the charges before the court?

- You are charged with breaking into a house. The prosecution wants to present a witness who will say that you stole a candy bar years ago, when you were in high school.

**Teaching Aids &  
In-Class Exercises**

- You are charged with robbing a corner store while wearing a ski mask. The prosecutor proposes to call a witness who will say you are the outdoors type and like winter sports.
- The suspect was seen fleeing from the area where the crime occurred
- The defendant had threatened to kill a murder victim in the past
- A person charged with murder has a criminal record – 20 years earlier, the person was convicted of possession of five grams of marijuana. Should this fact be admissible at the murder trial? Why or why not?

Which of the following is hearsay (second-hand) evidence and inadmissible in court? Which is direct evidence and admissible? Which is admissible as circumstantial evidence?

- A witness testifies she saw you punch the victim (direct)
- A witness says she has heard from a friend that you punched the victim (hearsay)
- A man charged with murder was found with a piece of jewelry that belonged to the victim (circumstantial)
- A police officer testifies that three people heard the defendant confess (hearsay)
- A surveillance video shows the defendant robbing the store (direct)
- The suspect was twice seen walking around outside a house shortly before it was burglarized (circumstantial)
- The suspect's watch is found at the scene of a crime (circumstantial)
- There are rumours that the defendant confessed to a friend (hearsay)

### **In-Class or Homework Assignments**

- 1) Rework the rules of evidence exercise as a written assignment. Ask students to explain whether the evidence set out in the examples would be admissible and to explain why or why not.
- 2) Ask students to read the following newspaper story about a trial, then write a report answering the following questions: What level of court is hearing the case? Is this a trial before a judge or a judge and jury? At what stage is the trial? Which side is presenting evidence? Which side is cross-examining? What type of evidence is being presented – witnesses, documents or both? Identify which evidence is direct evidence and which is circumstantial. What will likely happen next in this trial?

#### **Witness saw blood on accused's clothes**

Pleasantville - Bloodstains the size of loonies were caked on the white jeans of the youth charged with killing local teenager John Doe, a witness testified Tuesday. James Smith, 17, is charged with second-degree murder and aggravated assault in the 14-year-old's death.

Jane Jones, also 17, said she noticed the blood spots on Smith's pants while they were at a friend's house on the night Doe died. Smith washed his clothes the next day, she said. "He had blood and mud on his pants from his knee down to his cuffs on his ankles," said Jones. "He told us he got into a fight with some guy."

Earlier that evening, Jones said he saw Smith viciously kick Doe in the head as many as five times as a group of teenagers swarmed around the victim. “He (Doe) was pretty beaten up. His eyes were almost swollen shut and he had gashes on his face.”

The Crown attorney showed Jones a pair of jeans. Jones said they resembled the pair Smith was wearing that night. A forensic report, presented earlier in the trial, says that lab tests found traces of blood on the fabric. Smith’s knapsack was found near the scene of the beating.

Smith’s lawyer asked Jones if she could be mistaken about who she saw kicking Doe. Jones replied she was certain but admitted she was some distance away and the area was dark.

The Crown closed its case Thursday. The judge instructed jurors to return to court Monday, when the trial resumes.

### **Suggested Questions**

For use in class or as a homework assignment

- 1) Identify four possible verdicts in a criminal case.
- 2) What is the standard of proof in a criminal case and how certain must a judge or jury be of a defendant’s guilt?
- 3) Give a step-by-step account of how a jury trial unfolds in a criminal case.

### **Additional Resource Materials**

Virtual Courtroom. Part 7: The Trial and 10-part quiz.

Nova Scotia Public Prosecution Service website:

“The Role of the Prosecutor”: <http://www.gov.ns.ca/pps/role.htm#Crown>

“The Criminal Case: Step by Step”: [http://www.gov.ns.ca/pps/criminal\\_case.htm](http://www.gov.ns.ca/pps/criminal_case.htm)



Teaching Aids &  
In-Class Exercises

## Part 8: Sentencing

### A. THE JUDGE'S DECISION-MAKING PROCESS

#### Teaching Aids and In-Class Exercises

##### 1) Case study for use as an in class discussion:

After a man pleaded guilty to manslaughter for brutally beating to death his ex-wife, a group of protesters – including members of the victim's family – descended on the courthouse to demand that the maximum sentence, life in prison, be imposed. In sentencing the man to 10 years in prison, the judge made the following comments:

“I am not unaware of the emotion that this incident has caused the families involving marching with signs around the courthouse, but judges and courts cannot respond to the public perception of what should be justice when the law clearly sets forth the road that the judge or court must follow .... Vengeance is not an integral part of our legal system. We are not living in a country where an ‘eye for an eye’ theory of justice is carried out. We have risen above that type of system and as much as one may be hurting and want revenge, our healing must be achieved by means other than revenge.”

– Source: Judgment of PEI Supreme Court in *R. v. Sheppard* 2001 PESCTD 56 (June 8, 2001)

Ask students to read and discuss the judge's comments. Do they agree or disagree? Should vengeance have a place in sentencing? Why or why not? Was the judge right to ignore the protesters' demand for a harsher sentence? What about society's interest in seeing criminals punished? What about the rights of the victim's family to see that justice is done? If judges can ignore popular opinion, does this mean judges are unaccountable? Does the law – which in this case dictated a sentence in the 10-year range – prevent judges from doing justice? What would happen if judges made decisions based on popular opinion, or were free to ignore the law?

2) In-class discussion: Ask students to read the following story, then discuss how well it reflects principles of sentencing as set out in the *Criminal Code* (see below). Are the reasons for the sentence clear? Does the story reveal the principles of sentencing the judge applied to the case? Which principles do students think would apply in this case? What does the story say about the offender's circumstances and how they may have influenced the sentence imposed? Does the story refer to the maximum sentence and the sentences imposed for similar offences, so the reader can assess whether the sentence is fair? Is too much weight given to the criticisms of the victim's family and friends? What effect do reports such as this have on the public's perception of the justice system and whether the courts are tough on crime?

#### **Sentence met with outrage**

12-year term 'pathetic,' victim's friends, family say

A 12-year sentence for the woman who set a neighbour aflame doesn't sit well with the injured woman's friends or family.

“It’s not enough, not nearly enough,” said Susan Jones, whose sister, Ruth Jones, was doused with a flammable liquid and set afire. “My sister will have to live with her scars forever.”

Jane Smith, 38, pleaded guilty to attempted murder in the attack on Jones, a mother of three.

“It’s pathetic,” said a friend who witnessed the attack. “There’s not a harsh enough sentence that would make up for what was done.”

The sentence was a joint recommendation of the prosecution and defence. The judge said a long prison sentence was warranted, given the severity of the crime.

A community leader said while the sentence may not satisfy everyone, it sets a new benchmark. “I’m told that up until this sentence, no one charged with attempted murder in this province had ever received more than 10 years, so this is a harsh sentence.”

Jones has had multiple operations to fix burns to her face and neck and may still need follow-up treatment.

Refer students to the following sections of the Criminal Code:

#### Purpose and Principles of Sentencing

718. The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:

- (a) to denounce unlawful conduct;
- (b) to deter the offender and other persons from committing offences;
- (c) to separate offenders from society, where necessary;
- (d) to assist in rehabilitating offenders;
- (e) to provide reparations for harm done to victims or to the community; and (f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims and to the community.

#### Fundamental principle

718.1 A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

#### Other sentencing principles

718.2 A court that imposes a sentence shall also take into consideration the following principles:

- (a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing,

- (i) evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor,
- (ii) evidence that the offender, in committing the offence, abused the offender's spouse or common-law partner or child,
- (iii) evidence that the offender, in committing the offence, abused a position of trust or authority in relation to the victim,
- (iv) evidence that the offence was committed for the benefit of, at the direction of or in association with a criminal organization, or
- (v) evidence that the offence was a terrorism offence shall be deemed to be aggravating circumstances;
- (b) a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;
- (c) where consecutive sentences are imposed, the combined sentence should not be unduly long or harsh;
- (d) an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and
- (e) all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.

3) In-class discussion: Ask students to take the facts set out in the newspaper account and to discuss how the following factors could or should affect the sentence imposed:

- The offender is aboriginal
- The offender has no record of previous criminal convictions
- The offender has expressed deep remorse and is considered an excellent candidate for rehabilitation
- The offender has a long history of violence and was on parole at the time of the offence
- The offender is a member of a motorcycle gang
- The victim was attacked because she is Asian

### **In-Class or Homework Assignments**

1) Exercise is crafting a sentence. Assign students to analyze the newspaper account of the sentencing provide above, or a clipping of a recent newspaper story about a sentencing. Ask them to apply principles of sentencing from the *Criminal Code* and to justify what they consider to be an appropriate sentence for the offender.

2) Written assignment: The role of the victim in sentencing.

Should victims have greater say in sentences? Do they have too much now? How would you expand or curb their input? Explain what the changes you suggested would mean in terms of fairness and the goal of imposing similar sentences for similar crimes.

## B. SENTENCING OPTIONS

### Teaching Aids and In-Class Exercises

### Teaching Aids & In-Class Exercises

1) Have the class review the video and text provided in The Virtual Courtroom, Part 8:

Sentencing. Students are to make a list of the various kinds of sentences in their notebooks.

Provide eight students with a summary of one of eight criminal cases <case summaries to be provided>. Divide the remaining students into three groups of judges, then have each of the eight students describe for the judges the crime they committed and the other background information contained in the case summary.

Ask each group of judges to agree on the appropriate punishment. Have one student record the group's answer and have a marking scheme so each group can receive a mark. Then let the judges know the actual sentence.

Suggested marking scheme:

- 5 marks for a group that guessed the exact sentence
- 4 marks if the sentence is within 2 years
- 3 marks if the sentence is within 5 years
- 1 mark if the sentence is outside by five years or more

2) Organize an in-class debate on whether capital punishment should be restored in Canada.

Points for discussion: Why was the death penalty abolished in Canada? Is there evidence that this form of punishment reduces the crime rate? If the death penalty is restored, what crimes should be subject to execution upon conviction? Would juries have a say in whether an offender should be executed? What safeguards would there be to protect persons who have been wrongfully convicted?

<Resource material to come>

### In-Class or Homework Assignments

1) Use the eight case summaries set out above as the basis for a homework assignment. Ask students to look at one or more of the fact situations, suggest a sentence and explain their reasons.

### **Suggested Questions**

For use in class or as a homework assignment

- 1) The public wants more severe punishment for criminals. Should popular opinion be one of the principles for judges to follow in passing sentence? Why or why not?
- 2) Ask students to clip a recent newspaper account of a sentencing and to explain the principles of sentencing they think apply to the case.
- 3) Should conditional sentences, which enable offenders to serve their time under house arrest, be a sentencing option? Why or why not?

### **Additional Resource Materials**

Virtual Courtroom. Part 8: Sentencing and 10-part quiz.

Nova Scotia Public Prosecution Service website:

“The Criminal Case: Step by Step”: [http://www.gov.ns.ca/pps/criminal\\_case.htm](http://www.gov.ns.ca/pps/criminal_case.htm)

*Criminal Code*: An electronic version is available online:

<http://laws.justice.gc.ca/en/C-46/index.html>)

# Part 9: Appeals

## A. ABOUT APPEALS

## B. APPEAL PROCEDURES

### Teaching Aids and In-Class Exercises

1) Cast the class in the role of a court of appeal, and ask them for a ruling on the following cases:

- A man charged with robbery has confessed, but the police denied him the right to speak to a lawyer before the statement was given. The confession was crucial to Crown's case but was ruled inadmissible at trial because the defendant's *Charter* rights were breached. The Crown asks the Court of Appeal to overturn the ruling and order a new trial. What is an appeal court likely to do? (Uphold the acquittal as correct in law)
- A prison inmate says the defendant in a murder case confessed to him while both men were being held in the same cellblock. The defendant was acquitted because the judge at trial said he didn't believe the informer. The Crown appeals. What is an appeal court likely to do? (Uphold the acquittal, which is based on a judge's finding of fact)
- A man convicted of a crime appeals, complaining that after his trial was over he discovered the names of two witnesses who can provide him with an alibi. What is an appeal court likely to do? (Hear the fresh evidence and, if it could affect the verdict, order a new trial)
- A judge makes a crucial ruling during the course of a trial that runs contrary to a precedent set down by the Supreme Court of Canada. The defendant is convicted and appeals, seeking a new trial. What is an appeal court likely to do? (Overturn the verdict based on an error of law and order a new trial)

### In-Class or Homework Assignments

1) Assign students to write a short report on one or more of the cases set out above, explaining how they think an appeal court would rule and why.

### Suggested Questions

For use in class or as a homework assignment

- 1) Why is the principle of *stare decisis* (following precedent) so important in our justice system?
- 2) Why are appeal courts reluctant to overturn a lower court's decision on whether a witness is telling the truth?.



Teaching Aids & In-Class Exercises

3) Arrange following courts in order or precedent, from highest to lowest:

- Provincial Court
- Supreme Court of Canada
- Superior Trial Court
- Court of Appeal

**Additional Resource Materials**

Virtual Courtroom. Part 9: Appeals and 10-part quiz.

Nova Scotia Public Prosecution Service website:

“The Criminal Case: Step by Step”: [http://www.gov.ns.ca/pps/criminal\\_case.htm](http://www.gov.ns.ca/pps/criminal_case.htm)



Teaching Aids &  
In-Class Exercises

# Part 10: Open Justice

## A. ACCESS TO JUSTICE

### Teaching Aids and In-class Exercises

1) Use the following scenario to lead off a class discussion of why the courts should be open:

A national group of concerned citizens contends that media coverage of sex-related crimes is corrupting the morals of Canada's young people. The group is pressuring politicians to amend the *Criminal Code* to require that all court proceedings involving these allegations be heard in secret.

Points for discussion: Is this a good idea? What are the potential benefits? The drawbacks? Will the public have confidence that justice is being done behind closed doors? Could the news blackout lead to rumours of favouritism or unfair treatment of offenders? Can you suggest other ways to accommodate the group's concerns without banning all media coverage of sexual offences (ie. a limited ban on graphic details of the offences)?

2) Organize an in-class debate on the following topic:

The media's only interest in covering the courts is to find sensational stories that sell newspapers and boost audience ratings. Ask students who agree with this statement to raise their hands. Ask who disagrees. Divide the class into two groups based on how they voted, then ask each group to gather to discuss their reasons. Each side will compile the various arguments and opinions in support of their position and nominate a member to present it to the class. Once each side has made its case, invite questions and comments on the points made to continue the debate. As problems are highlighted, ask students to suggest possible solutions.

Ensure the following points are discussed:

For:

- The media tends to focus on violent and sensational crime – this is not a true depiction of the cases that come before the courts
- The media is highly selective in what gets covered in a trial, presenting a distorted version of events
- As an independent body, the media has no duty to act in the public interest and there is a temptation for news organizations to act in their own interest and make money
- The media may not have sufficient understanding of how the justice system works to properly inform the public

Against:

- Openness is a means to expose judges, prosecutors, and the police who abuse their power
- Publicity ensures public confidence that justice is being done and people are being treated fairly, regardless of their race, wealth or status

- The media plays the role of the public's eyes and ears in the courtroom – few people have the time or interest to attend court hearings
- Media coverage and comment promote public debate about justice issues, such as whether penalties for crimes are adequate and trials are conducted fairly

3) Organize a class discussion about the characteristics that students feel are necessary to promote an open and fair justice system. Write each characteristic on the chalkboard as it is introduced, then discuss how each one works, why it is important, whether it is realistic and whether it really promotes open justice. Characteristics that should be discussed include:

- Public access
- Media access
- Accountability and promoting public confidence
- Education of the public
- Exposure of possible abuse of power

After the class discusses each characteristic, ask students to write a note in their own words about that characteristic and why it is important.

### **In-Class or Homework Assignments**

- 1) British philosopher Jeremy Bentham once said: "Publicity is the very soul of justice." Assign students to write an essay explaining what he meant by this statement.
- 2) "The media's only interest in covering the courts is to find sensational stories that will sell newspapers and boost ratings." Ask students to write an essay explaining whether or not they agree with this statement, and why.

## **B) PUBLICATION BANS AND OTHER RESTRICTIONS ON MEDIA COVERAGE**

### **Teaching Aids & In-Class Exercises**

#### **Teaching Aids and In-class Exercises**

1) In-class discussion: Ask students to read the following newspaper story about a hearing that involves a publication ban (or select one from a recent edition of your local paper). Can they tell which ban is involved? What has the writer been able to report? What information or evidence appears to be missing? Discuss whether the ban makes it difficult to understand what's happening in the courtroom. If so, how? Why has the ban been imposed? How does it affect the media's *Charter* right to freedom of expression?

#### **Far Cove man to stand trial in robbery**

A Far Cove man charged with robbing a 60-year-old local man in April has been committed to stand trial in Nova Scotia Supreme Court.

Joseph Stuart Smith, 24, had his preliminary hearing in provincial court Wednesday and the judge ruled there is enough evidence to warrant a trial. He remains in custody and a trial date will be set later.

## In-Class or Homework Assignments

- 1) Assign students to write a report based on the newspaper story about a hearing that involves a publication ban. Ask students to identify the ban involved. What has been the effect of the ban – what has the writer been able to report and what information or evidence appears to be missing? Does the ban make it difficult to understand what's happening in the courtroom? If so, how? What is the purpose of this ban? Is it necessary? Why or why not?
- 2) An item similar to this was published on the front page of *The Globe and Mail* in 1992:

### Banned

Somewhere in Canada yesterday, a group requested a court ban on the publication/broadcast of a certain hearing for certain reasons. The court granted the ban on publication/broadcast and, in addition, imposed a ban on reporting the fact of the ban. Does this news item make the courts seem open? What possible reasons could there be for this ban? Is this writer merely upset that he or she cannot report details of the case to boost the newspaper's circulation, or are there other reasons the media should feel able to cover it? Can the public have confidence justice will be done in this case, despite the lack of public scrutiny? Collect your thoughts and write an essay exploring this ban and its implications.

## Suggested Questions

For use in class or as a homework assignment

- 1) Discuss why is it important court hearings are open to the media and the public.
- 2) "The media plays no useful role in the justice system." Is this a fair statement? Explain and defend your answer.
- 3) A newcomer to Canada asks you the following question: "If Canada's courts are open to public scrutiny, why are there so many publication bans?" How would you answer this question?

## Additional Resource Materials

Virtual Courtroom. Part 10: Open Justice and 10-part quiz.

Justice Canada Fact Sheet – Publication Bans:

[http://canada.justice.gc.ca/en/news/nr/1999/doc\\_24280.html](http://canada.justice.gc.ca/en/news/nr/1999/doc_24280.html)

CBC On-Line Backgrounder – Publication Bans:

[http://www.cbc.ca/news/indepth/background/publication\\_bans.html](http://www.cbc.ca/news/indepth/background/publication_bans.html)

# Pop-up text explanations

## Part 1: Basic Principles

### Origins of the Constitution

The **Constitution Act**, 1982 is the basis for the Canadian state. It incorporates the **British North America Act**, the British statute that united the first four provinces in 1867 and sets out the responsibilities of each level of government. The federal government regulates matters of national importance, like defence, foreign policy, transportation and the criminal law. Provinces and territories control matters of local concern – ownership of land, education, hospitals and natural resources. The **Constitution Act** incorporates **The Charter of Rights and Freedoms**, a declaration of every citizen's legal, social, and political rights that shields citizens from unfair laws, discriminatory government policies and arbitrary police actions.

### Justice is blind

Courts provide an independent, dispassionate forum for determining whether the law has been broken and the consequences for those responsible. Justice must be administered with fairness and predictability, based on the law and provable evidence. Our justice system is said to be governed by the rule of law, not by public opinion or the arbitrary acts of government officials. A blindfolded figure, balancing a set of scales, has come to symbolize justice – and to remind us that facts and arguments must be weighed and assessed without interference from outside influences.

### The Criminal Code

Criminal law has been part of the jurisdiction of the federal government since Confederation in 1867. Before Confederation, the colonies used the statutes and case law that made up the criminal law of England. This continued after Confederation, but Parliament also passed the first **Criminal Code** in 1892. The Code began the process of collecting most Canadian criminal law in one place. Parliament is constantly amending the **Criminal Code**.

### Who decides what is a crime?

Parliament defines crimes in the **Criminal Code** or some other statute, such as the **Controlled Drugs and Substances Act**. The provincial legislatures have the power to create "quasi-criminal" offences connected to subject matter under their jurisdiction, such as certain driving offences.

### The Charter of Rights and Freedoms

The **Charter** is part of the **Constitution Act, 1982**. It protects certain rights, such as freedom of expression and freedom from discrimination. In criminal law, the most important **Charter** rights are the "Legal Rights", including "Life, liberty and security of the person"; the right not to be subject to unreasonable searches or to be arbitrarily detained or imprisoned, and the procedural rights available in criminal matters, such as the right to be presumed innocent until proven guilty.

## Part 2: Arrest

### **Actus Reus and Mens Rea**

These are the two elements that are usually necessary before a crime can be committed. The *actus reus* is the actual conduct that constitutes the offence. *Mens rea* is the mental element of a crime, usually the intention to carry out the *actus reus*. These two concepts came to Canada from English law.

### **Conspiracy**

A conspiracy exists where two or more people plan to commit a crime, or to do something by criminal means. They do not have to actually attempt to carry out the crime in order for a conspiracy to be proven.

### **Youth Criminal Justice Act**

In April 2003 the federal government introduced the **Youth Criminal Justice Act** to govern how the criminal law applies to young persons aged 12 to 17. The Act's objectives are to deal with youths fairly and consistently while recognizing that they may lack the maturity to fully appreciate their actions. Cases are heard in a separate court system and youths are held in special facilities, away from adult inmates. Non-custodial punishments are encouraged for theft, break-ins and other offences involving property, and police can issue warnings to those responsible for minor offences. Jail time is reserved for violent crimes and repeat offenders. Murder and other serious crimes of violence can be punished with the same sentence an adult would receive.

### **What drugs are illegal?**

The **Controlled Drugs and Substances Act** identifies the substances it is illegal to possess, use or sell in Canada. The list includes well-known street drugs such as marijuana, hashish, cocaine, LSD and heroin. It is also illegal to take or possess amphetamines, barbiturates and other controlled drugs without a doctor's prescription. Plants and materials that contain a narcotic are also banned, such as the opium poppy used to manufacture opium, morphine and heroin.

## Part 3: Bail

### **Judicial Interim Release**

Those charged with an offence have the right to appear in court within 24 hours so a judge or justice of the peace can deal with the issue of release on bail. The **Charter** gives everyone the right to be released on reasonable bail, even those accused of serious crimes like murder, robbery and sexual assault, reflecting the principle that they are innocent until proven guilty. A person may be freed without conditions or may have to observe a curfew and promise not to contact potential witnesses or use alcohol or illegal drugs. If a judge requires money to be deposited with the court as bail, a relative or friend may act as a surety, offering their own money or pledging a home or other property as security.

## **Show Cause Hearings**

At a bail hearing, the Crown attorney must establish or “show cause” why an accused person should remain in custody until the trial is held. No one has to prove that they deserve to be released. The prosecutor outlines the strength of the Crown’s case and information about the person’s record of violence or past crimes. To deny release on bail, a judge or justice of the peace must be convinced the person will flee, commit more offences or intimidate witnesses. If the allegations are serious, bail can be denied to maintain confidence in the administration of justice.

## **Surety**

A surety is someone who pledges money or some other asset on behalf of the accused to ensure that the accused appears for trial. If the accused defaults on the terms of his bail, the accused and his surety can be ordered to pay the amount pledged to the court. They become judgment debtors of the Crown, which means the Crown can sue to recover the amount ordered.

## **Part 4: Arraignment**

**Plea Negotiation Arrangements** If a defendant pleads guilty before trial, it is usually the result of an agreement worked out between the defence lawyer and the prosecutor. This is informally referred to as a “**plea bargain**” A typical arrangement will see some allegations withdrawn or the substitution of less-serious charges. The defendant may agree to testify against a co-accused or to provide information about other crimes. Plea agreements may be made for a variety of reasons, for example, to save a victim of crime the trauma of testifying. If the Crown is not certain that it can prove the guilt of the accused on the crime charged it may agree to substitute a lesser charge or seek a lower than usual sentence in exchange for a guilty plea. Such arrangements are an integral part of the justice system and save the public the cost of conducting trials. The agreement usually includes a suggested sentence. While judges are not bound to accept the terms of a plea bargain and are free to impose a harsher penalty, they must have compelling reasons for ignoring such recommendations.

## **Knowing the case to meet**

The accused must be informed of the specific offence with which she is charged within a reasonable time so that she can make “full answer and defence” and receive a fair trial. The Crown is required to produce, or disclose, all the relevant material in its possession, so that the accused knows who the witnesses are likely to be and what the Crown is likely to allege.

## **Alibi**

An accused has an alibi when he can prove that he was somewhere other than the scene of the crime at the time the crime was committed.

## Part 5: Preliminary Inquiry

### Preliminary Inquiry Publication Ban

The **Criminal Code** gives accused persons the right to request that the media be prohibited from publicizing evidence presented at a preliminary inquiry. The ban covers the testimony of witnesses and physical evidence like photos and weapons, but allows news coverage of legal arguments and statements that do not reveal the evidence. As well, there is an automatic ban on any mention that an accused person has made a statement or confession to the police. The bans expire when the trial is over or if the accused person is discharged at the end of the preliminary hearing.

### Discharges

The hurdle facing the Crown at a preliminary inquiry is low – to send a person to trial, the provincial court judge must be satisfied there is some evidence that, if believed, could lead a jury to convict. (This legal test is applied even if the trial is to be heard by a judge sitting without a jury.) If the judge finds that the Crown's case is so weak that no trial is warranted, the defendant will be discharged. A discharge is like an acquittal and the prosecution ends. A defendant facing multiple allegations could be ordered to stand trial on some charges and discharged on others.

### Direct indictment

When there is no preliminary inquiry held, or the accused has been discharged at the end of the preliminary inquiry, the **Criminal Code** permits the Crown to “**prefer an indictment**” with the written consent of the Attorney-General or the Deputy Attorney-General, although this is an unusual step and rarely taken. To “**prefer an indictment**” is a term that basically means to “lay” or “bring forward”.

## Part 6: The role of the jury

### Charge to the jury

In a trial before a judge and jury, the judge must charge the jury before it begins its deliberations at the end of the case. This means the judge sets out the law that the jury must apply to the facts in reaching its decision. It is for the jury, not the judge, to decide what the “facts” are.

### Hung jury

When the members of a jury cannot agree on a verdict, the jury is said to be a hung jury. Before the judge accepts that the jury is unable to reach a verdict, she will usually encourage them to continue to deliberate. This is called “exhorting the jury”. If, after a further period of deliberation, the judge is satisfied that the jury cannot agree, she will discharge the jury. The Crown may commence a new trial of the accused.

### Indictable offences

The *Charter* gives accused persons the right to a jury trial if a conviction for the offence could bring a prison term of five years or more. These are known as indictable offences, a category that includes the most serious crimes on the books –

murder, manslaughter, robbery, violent physical and sexual assaults, thefts and frauds involving large sums of money – as well as the trafficking or smuggling of drugs. There is no deadline on filing charges alleging an indictable offence; people have been charged with murder and other serious crimes years or even decades after the offence occurred.

### **Mistrials**

When a trial is being heard by a jury, the judge may be forced to declare a mistrial if the accused person's right to a fair trial has been compromised. This step is usually taken if jurors are exposed to information that is not admissible as evidence, either through media reports or statements made by a witness or other participant in the trial. If a mistrial is declared, the accused person will stand trial before a new jury at a later date.

## **Part 7: Trial**

### **How judges are chosen**

In Canada, unlike some jurisdictions in the United States, citizens do not elect judges. Experienced lawyers apply for judicial posts and arm's-length screening committees – made up of judges, lawyers and, in some cases, representatives of the public – recommend qualified candidates. The federal government appoints judges to the Supreme Court of Canada and the court of appeal and superior court of each province. Provincial and territorial governments appoint judges to the provincial court and other inferior courts. There have been calls to adopt American-style confirmation hearings for nominees to the Supreme Court of Canada.

### **Included offences**

An included offence is a less-serious crime that contains elements of the charge before a court. Consider the case of a man standing trial on a charge of second-degree murder for shooting another person. If the evidence showed he did not mean to fire the gun, he cannot be convicted of murder, which is defined as the intentional killing of another person. But he clearly mishandled the gun and can be convicted of the included offence of manslaughter – an unintentional killing committed through an illegal act, in this case the offence of recklessly using a firearm.

### **Adversarial system of justice**

The adversarial system requires the Crown to prove beyond a reasonable doubt that the accused committed the crime. If the accused is satisfied that the Crown has not proved its case, he may choose not to present any evidence, or the accused may call evidence of his own in response to the Crown's. If the Crown cannot prove the guilt of the accused beyond a reasonable doubt, he is entitled to be found not guilty. The adversarial system came to Canada from English law.

## **Proof beyond a reasonable doubt**

In order to establish that the accused is guilty, the Crown must prove every necessary element of the crime beyond a reasonable doubt. According to the Supreme Court of Canada, a reasonable doubt must be based on reason and common sense and must be logically related to the evidence or lack of evidence. If the jury is sure that the accused committed the offence, he should be convicted.

## **Part 8: Sentencing**

**Pre-Sentence Reports** In passing sentence, a judge must examine the circumstances of the offender as well as the offence. Is the person a good candidate for rehabilitation? Does something in her background explain the behaviour that brought her before the courts? Does she have a long history of violent acts? To answer these questions and to craft a proper sentence, judges often direct the probation service to prepare a pre-sentence report assessing the offender's circumstances and prospects.

### **Victim Impact Statements**

The justice system has faced criticism for focusing too much attention on the rights of accused persons and too little on the rights of victims of crime. To restore some balance and ensure those affected by crimes are heard, victims or members of their family may submit a written statement, or read it aloud in court, before sentence is passed. The statements are often emotional, describing the

impact of the crime and its lingering effects. Victim impact statements provide additional information for a judge to take into consideration in arriving at a suitable sentence.

### **Restitution**

Judges may order offenders to compensate their victims for the money lost or property damaged as a result of a crime. Restitution orders are often incorporated into a probation order or a conditional sentence, so offenders who fail to pay up can be charged with breaching probation or jailed for violating the terms of their conditional sentence. The *Criminal Code* also makes it possible for victims injured in assaults to receive restitution for their medical costs.

### **Probation**

Probation is a sentence or a portion of a sentence that is served in the community. The offender must report to a probation officer. There are certain necessary conditions of a probation order – such as the requirement to “keep the peace and be of good behaviour” – as well as optional conditions that the court may prescribe, such as requirements to abstain from alcohol or to do community service work.

## **Parole**

The parole system allows a prisoner to be released back into the community before his term of imprisonment is finished, on certain conditions. Most prisoners in federal penitentiaries can apply for parole after serving one-third of their sentence or seven years, whichever is less. Parole may or may not be granted at this point. After serving two-thirds of their sentence, most prisoners are entitled to be released to serve the rest of the sentence in the community. There are exceptions, such as offenders that the Parole Board believes are likely to commit violent offences if released.

## **Conditional sentences**

A conditional sentence allows an offender to serve his sentence in the community, subject to certain conditions. In order for a conditional sentence to be an option, the offence must be one for which there is no minimum sentence of imprisonment, where the judge has decided that a prison term of less than two years is appropriate and is satisfied that serving the sentence in the community would not endanger the safety of the community. The judge must also be convinced that allowing the offender to serve the sentence in the community would be consistent with the “fundamental purpose and principles of sentencing” set out in the *Criminal Code*.

## **Part 9: Appeals**

### ***Stare decisis***

The doctrine of ***stare decisis*** requires a court to consider how a legal issue has been handled in earlier cases, or precedents. Some precedents – such as those from the Supreme Court of Canada or a provincial court of appeal – are “binding” upon the courts below. Others are only “persuasive”, so that courts are not compelled to follow them. For instance, a decision from a court in another province may be persuasive, but is not binding. A decision of the Supreme Court of Canada is always binding.

### **Supreme Court of Canada**

The Supreme Court of Canada was created by Parliament in 1875 as an appeal court for the entire country. Until 1933 it was still possible to appeal criminal cases from the Supreme Court to the Judicial Committee of the Privy Council in England. The Supreme Court became truly “Supreme” in 1949 when appeals to the Privy Council in civil cases were eliminated. It is usually necessary to obtain leave to appeal to the court, although there is a right to appeal in a criminal case when a provincial appeal court judge dissents on a point of law.

### **Civil Procedure Rules**

The courts in each province have established detailed rules that set out procedures for appealing a verdict or sentence. In Nova Scotia the Civil Procedure Rules govern all aspects of the appeal process – how the appeal is filed, who must be notified and when, and the deadlines for a response. For instance, the rules require that written notice of an appeal must be filed within 30 days of the verdict or, if the penalty is being challenged, no more than 30 days after sentence was passed.

## Part 10 – Open Justice

### Open Courts: A Hallmark of a democratic society

Since 1982 the *Charter* has guaranteed “a fair and public hearing” to every person accused of a crime. Long before, however, Canada’s courts recognized the importance of open justice. Openness is the rule, restrictions on access to court hearings are the exception. The Ontario Court of Appeal has described the openness of the courts as “one of the hallmarks of a democratic society,” subjecting those involved in court hearings and trials to public scrutiny and exposing any unfair or arbitrary actions.

### Right to a fair trial

The right to a fair trial is one of the basic principles of Canadian criminal law. Many of the elements of a fair trial are protected by section 11 of the *Charter of Rights and Freedoms*:

- the right to be informed of the specific offence without unreasonable delay;
  - the right to be tried within a reasonable time;
  - the right not to be forced to give evidence against oneself;
  - the right to be presumed innocent until proven guilty;
  - the right not to be denied bail without just cause;
  - the right to a jury trial for more serious offences;
  - the right not to be found guilty of a crime that was not a crime at the time the accused committed the act;
  - the right not to be tried again for the same offence if the accused is found not guilty, and not to be tried and punished a second time if found guilty; and
  - the right to the benefit of the lighter punishment if the punishment has been changed between the time of the offence and the time of sentencing
- Other areas of the law, such as the law of evidence, also help ensure a fair trial.

### Protecting Privacy

To ensure justice is done, it is sometimes necessary to shield those involved in criminal cases from public scrutiny. Judges have the power under the *Criminal Code* to bar the media from identifying victims of sexual offences, extortion or loan-sharking, as well as witnesses under age 18 involved in such cases. The goal is to encourage victims of such crimes to come forward without having to endure embarrassing publicity. Bans also apply to evidence of a victim’s sexual history and confidential medical and psychiatric records.

The ban was extended in 1999 to enable victims and witnesses involved in any crime to seek a ban on their identities. As a security measure, judges, lawyers, jurors, court clerks, police officers, prison guards and other justice system officials can

seek anonymity in cases involving criminal organizations like biker gangs. Accused persons have no right of privacy, unless naming them could disclose the identity of a victim who is a relative or close associate.

**Publication Bans in the *Youth Criminal Justice Act***

The ***Youth Criminal Justice Act*** imposes tight restrictions on media coverage of cases involving young persons. There are automatic bans on publishing information that would identify the accused and any crime victim or witness under the age of 18. The media can identify convicted young offenders if a judge decides to sentence them as adults. The ban also may be lifted for offenders 14 and older who have been convicted of murder, attempted murder, manslaughter, aggravated sexual assault or repeat offences.

# Answers to the 10 quizzes

## 1. Basic Principles

### 1. Which of the following is not a *Charter* right?

- a) The right to silence
- b) The right to a private trial
- c) The right to consult a lawyer
- d) The right to be presumed innocent

Answer: B

### 2. Who is responsible for proving that an accused person is guilty?

- a) The defence lawyer
- b) The judge
- c) The police
- d) The Crown

Answer: D

### 3. Whose rights are protected under the *Charter*?

- a) Criminals
- b) Victims of crime
- c) All citizens
- d) Lawyers

Answer: C

### 4. Why are judges independent?

- a) So judges can live wherever they like
- b) To make certain their decisions reflect popular opinion
- c) To ensure external pressures will not influence their decisions
- d) To ensure they cannot be charged with crimes

Answer: C

### 5. What is the rule of law?

- a) A form of measuring stick
- b) The right of judges to enact legislation
- c) That law comes before justice
- d) The principle the justice flows from the fair and consistent application of legal principles

Answer: D

**6. What is the supreme law of Canada?**

- a) The constitution
- b) Whatever the prime minister says
- c) The House of Commons
- d) The *Criminal Code*

Answer: A

**7. Why is justice sometimes described as being blind?**

- a) To illustrate that the courts are fair and impartial
- b) To reflect the rights of the disabled
- c) To ensure inadmissible evidence is ignored
- d) Because judges close their eyes before delivering a verdict

Answer: A

**8. What is the presumption of innocence?**

- a) The right to be found not guilty of an offence
- b) The right to be considered innocent until proven guilty
- c) An offender's right to pretend he has not been charged
- d) A factor taken into consideration on sentencing

Answer: B

**9. Which country is the source of Canada's criminal justice system?**

- a) Britain
- b) The United States
- c) Germany
- d) Spain

Answer: A

**10. Who prosecutes an allegation of crime?**

- a) The victim of the crime
- b) The judiciary
- c) The courts
- d) The government

Answer: D

**2. Arrest**

**1. What is a crime?**

- a) A deliberate or negligent act that causes harm
- b) An act that offends the police
- c) Any act that violates the *Charter*
- d) An accident that causes harm

Answer: A

**2. What does the right to silence mean?**

- a) It ensures judges can hear what witnesses say
- b) People must not play loud music after 10 p.m.
- c) A suspect is never required to explain her actions
- d) A person accused of a crime must give a statement to police

Answer: C

**3. In Nova Scotia, who files criminal charges against most suspects?**

- a) The prosecutor
- b) The police
- c) The judge
- d) The media

Answer: B

**4. What is *mens rea*?**

- a) A guilty act
- b) A flightless bird
- c) A guilty mind
- d) A crime committed by a male offender

Answer: C

**5. What are the grounds for a police officer to arrest a suspect?**

- a) Absolute certainty an offence has been committed
- b) Reasonable and probable grounds
- c) Moral and ethical grounds
- d) Reasonable and reliable suspicion

Answer: B

**6. Which of the following is *not* a party to a criminal offence?**

- a) Someone who helped a suspect escape
- b) The driver of the getaway car
- c) Someone who conspires to break the law
- d) The company that manufactured the gun used in a murder

Answer: D

**7. What are the *Charter* rights of a person placed under arrest?**

- a) To be given access to the *Criminal Code*
- b) To be searched in private and to consult a justice of the peace
- c) To be informed of the charge and to speak to a lawyer
- d) To be given 48 hours to report to the police station

Answer: C

**8. What is a summons?**

- a) An illegal arrest
- b) An order to appear in court
- c) A document demanding the police take action
- d) A form of search warrant

Answer: B

**9. The *Youth Criminal Justice Act* applies to persons between what ages?**

- a) Older than 12 but younger than 18
- b) Younger than 17 but older than 10
- c) Anyone older than 12
- d) Those between the ages of 13 and 15

Answer: A

**10. Which of the following is *not* a crime?**

- a) Assault with a weapon
- b) Stealing money
- c) Murder
- d) A car accident that is no one's fault

Answer: D

**3. Bail**

**1. The *Charter* guarantees an accused person the right to:**

- a) A clean cell
- b) Reasonable jail time
- c) Reasonable bail
- d) To be told the reasons for bail

Answer: C

**2. When must a person in custody be brought before a judge or justice of the peace?**

- a) Within 24 hours
- b) Within 2 to 4 hours
- c) Within 48 hours
- d) No more than three days after arrest

Answer: A

**3. What is an undertaking?**

- a) A written promise to plead guilty
- b) A written promise to appear in court
- c) A police promise not to re-arrest an accused person
- d) The judge's agreement to hear the case

Answer: B

**4. What issue is dealt with at a “show cause” hearing?**

- a) Release on bail
- b) Whether an arrest is reasonable
- c) Whether allegations have been proven
- d) The right to counsel

Answer: A

**5. Who must convince a judge that the defendant should be kept in jail until trial?**

- a) The accused person
- b) The Crown attorney
- c) The judge
- d) The defence lawyer

Answer: B

**6. Why can a defendant ask a judge to ban media coverage of a bail hearing?**

- a) To undermine freedom of the press
- b) To protect the defendant’s family from embarrassment
- c) To delay disclosure of information that could influence jurors
- d) To shield the judge from public pressure

Answer: C

**7. Which is *not* a ground for denying release on bail?**

- a) Risk of committing more crimes
- b) Whether the accused person is likely to flee
- c) Maintaining confidence in the administration of justice
- d) The accused person’s refusal to confess

Answer: D

**8. A superior court judge determines release on bail in which of the following cases?**

- a) Murder
- b) Robbery
- c) Sexual assault
- d) None of the above

Answer: A

**9. Which of the following is not a requirement for release on bail?**

- a) To refrain from using alcohol or illegal drugs
- b) To observe a curfew at night
- c) To stay away from witnesses
- d) To complete a 10-part quiz on the justice system

Answer: D

**10. What is a surety?**

- a) Something that is a certainty
- b) A justice of the peace who hears bail matters
- c) A person who pledges money or property to support someone's release on bail
- d) A superior court judge

Answer: C

**4. Arraignment, disclosure, election and plea**

**1. What name is given to an accused person's first appearance in court?**

- a) Inauguration
- b) Committal
- c) Arraignment
- d) Arrest

Answer: C

**2. Which party is required to disclose evidence to a defendant?**

- a) The Crown attorney
- b) The judge
- c) The jury
- d) The media

Answer: A

**3. What is plea negotiation?**

- a) The police decision to file a charge
- b) A debate between the defendant and the judge
- c) A judge's request that the defendant enter a plea
- d) An agreement between the prosecution and defence for a suspect to plead guilty

Answer: D

**4. What are the three classifications of crime in Canada?**

- a) Felony, misdemeanor, indictable
- b) Summary, indictable, hybrid
- c) Summary, felony, hybrid
- d) Nasty, even nastier, and very bad

Answer: B

**5. Preliminary inquiries are held in which court?**

- a) Superior court
- b) Provincial court
- c) Probate court
- d) Federal court

Answer: B

**6. Which offence *must* be heard in superior court?**

- a) Murder
- b) Kidnapping
- c) Robbing a bank
- d) Shoplifting a candy bar

Answer: A

**7. Which offence is *most likely* to be heard in provincial court?**

- a) Murder
- b) Kidnapping
- c) Robbing a bank
- d) Shoplifting a candy bar

Answer: D

**8. When do defendants who choose a jury trial enter a plea?**

- a) After the preliminary inquiry, if a trial has been ordered
- b) Upon arraignment
- c) Before the preliminary hearing
- d) During arrest

Answer: A

**9. What is the maximum penalty for a summary conviction offence?**

- a) House arrest
- b) Two years in prison
- c) Five years in prison
- d) A \$2,000 fine and six months in jail

Answer: D

**10. What is an “election”?**

- a) The decision to charge a suspect
- b) The defendant’s right to choose which court will hear the trial
- c) A judge’s order
- d) The Crown’s decision to disclose evidence

Answer: B

**5. Preliminary Inquiry**

**1. What is the purpose of a preliminary inquiry?**

- a) To determine guilt or innocence
- b) To assess the strength of the Crown’s case
- c) To keep the evidence under wraps
- d) To determine whether an accused person should be released from custody

Answer: B

**2. Which is *not* a power of the judge at a preliminary inquiry?**

- a) To find a defendant guilty
- b) To discharge a defendant
- c) To amend charges
- d) To order a defendant to stand trial

Answer: A

**3. Which test must the judge apply at a preliminary inquiry?**

- a) Can the evidence be believed?
- b) Is the accused guilty as charged?
- c) Is there some evidence that could lead a jury to find the defendant guilty?
- d) None of the above

Answer: C

**4. Who must approve a preferred indictment?**

- a) A court of appeal
- b) A judge
- c) The attorney general
- d) The police

Answer: C

**5. What is the term used for an order to stand trial?**

- a) A committal
- b) A verdict
- c) A sentence
- d) An indictment

Answer: A

**6. When does a publication ban on preliminary inquiry evidence expire?**

- a) When the trial begins
- b) When the judge orders the defendant to stand trial
- c) When an indictment is preferred
- d) When the trial is over

Answer: D

**7. What is a discharge?**

- a) A judge's order ending a prosecution after a preliminary inquiry
- b) A judge's order adding charges to an indictment
- c) The opposite of "that charge"
- d) The document outlining criminal allegations

Answer: A

**8. Who hears evidence at a preliminary inquiry?**

- a) A jury
- b) A superior court judge
- c) A provincial court judge
- d) The court of appeal

Answer: C

**9. What is the purpose of banning publication of evidence presented at a preliminary inquiry?**

- a) To spare the accused from being embarrassed
- b) To undermine the public interest
- c) To shield witnesses from the media spotlight
- d) To protect the right to a fair trial

Answer: D

**10. Who waives the right to a preliminary inquiry?**

- a) The defendant
- b) The Crown attorney
- c) The judge
- d) The police

Answer: A

**6. The Role of the Jury**

**1. Which phrase best describes the jury's role?**

- a) To correct mistakes by the judge
- b) To determine the facts based on the evidence presented
- c) To change the law
- d) To assist the Crown

Answer: B

**2. What is the charge to the jury?**

- a) A fee levied on those called for jury duty
- b) The offence of breaching jury secrecy
- c) The judge's instructions on the law
- d) A juror's mileage claim

Answer: C

**3. Which of the following is *not* a ground for exemption from jury duty?**

- a) Religious belief
- b) Legal training
- c) Friendship with the accused
- d) Illness

Answer: A

**4. Who selects the members of the jury?**

- a) The Crown attorney and the defence lawyer
- b) The defence lawyer and the judge
- c) The judge and the jury coordinator
- d) The police and the prosecutor

Answer: A

**5. Who has the *Charter* right to a jury trial?**

- a) Anyone who has no previous record of criminal offences
- b) Members of the armed forces
- c) Anyone charged with an offence punishable by more than five years in prison
- d) People accused of minor crimes

Answer: C

**6. How many jurors must agree on the verdict?**

- a) Three-quarters
- b) Nine out of ten
- c) All of them
- d) A simple majority

Answer: C

**7. Jurors recommend the sentence for which crime?**

- a) Manslaughter
- b) Second-degree murder
- c) Aggravated assault
- d) Armed robbery

Answer: B

**8. When are jurors sequestered?**

- a) At the beginning of the trial
- b) Once deliberations begin on the verdict
- c) If there is a hung jury
- d) Once the verdict is delivered

Answer: B

**9. How many members serve on a jury in a criminal case?**

- a) 12
- b) 10
- c) 7
- d) 14

**Answer: A**

**10. Which profession is automatically exempt from jury duty?**

- a) Scientist
- b) Accountant
- c) Engineer
- d) Police officer

Answer: D

**7. The Trial**

**1. What is proof beyond a reasonable doubt?**

- a) Conclusive proof the accused is guilty
- b) The judge finds some evidence of guilt
- c) It's more likely than not the accused is guilty
- d) The jury is sure the accused is guilty

Answer: D

**2. Who does the Crown attorney represent at trial?**

- a) The victim of the crime
- b) The state
- c) The police
- d) The accused

Answer: B

**3. At trial, which side presents evidence first?**

- A) The defence
- b) The judge
- c) The Crown
- d) The media

Answer: C

**4. Which of the following is *not* a defence?**

- a) Mental illness
- b) Self-defence
- c) Show cause
- d) Alibi

Answer: C

**5. What is hearsay?**

- a) Information heard from someone else
- b) Foul language
- c) Circumstantial evidence
- d) Legal argument

Answer: A

**6. When is a defendant required to testify during a trial?**

- a) When asked by the judge
- b) As soon as the Crown proves its case
- c) Immediately before the judge instructs the jury
- d) The accused is never required to testify

Answer: D

**7. A defence lawyer's primary duty is to:**

- a) The accused
- b) The Crown
- c) The solving of crime
- d) Mislead the court

Answer: A

**8. What is the adversarial system of justice?**

- a) A battle between the judge and the defence lawyer
- b) A contest between two opposing sides to ensure cases are argued fully
- c) Opponents agree which side will win
- d) None of the above

Answer: B

**9. Which is a ground for a prosecutor to withdraw charges?**

- a) Concern for the image of the defendant
- b) The judge's schedule
- c) Sympathy for the accused
- d) The public interest

Answer: D

**10. Who decides what evidence is admissible in court?**

- a) The jury
- b) The defendant's lawyer
- c) The judge
- d) The investigating police officer

Answer: C

**8. Sentencing**

**1. Why did Parliament create conditional sentences?**

- a) To be soft on criminals
- b) To reduce the number of people behind bars
- c) To outrage victims of crime
- d) To encourage others to commit crimes

Answer: B

**2. Which of the following crimes would carry the lightest sentence?**

- a) Manslaughter
- b) Vandalism
- c) Murder
- d) Armed robbery

Answer: B

**3. Where are sentences of less than two years served?**

- a) At an accredited university
- b) In federal prison
- c) In exile
- d) In a provincial jail

Answer: D

**4. Which of the following is *NOT* a factor to be considered in sentencing an offender?**

- a) The offender's income
- b) The offender's prior criminal record
- c) Prospects for rehabilitation
- d) The nature of the offence

Answer: A

**5. Which group must be considered for non-custodial sentences, where possible?**

- a) Police officers
- b) Aboriginal Canadians
- c) Lawyers
- d) Low-income Canadians

Answer: B

**6. Which of the following factors calls for a stiffer sentence?**

- a) If the crime was motivated by racial hatred
- b) The offender's racial background
- c) The offender's failure to plead guilty
- d) If the victim is a judge

Answer: A

**7. Which of the following is *NOT* a sentence for a crime committed in Canada?**

- a) A discharge
- b) Life in prison
- c) House arrest
- d) Capital punishment

Answer: D

**8. When does an inmate of a federal prison become eligible to apply for release on full parole?**

- a) After 90 days
- b) At the six-month mark
- c) After serving one-third of the sentence
- d) At the halfway point

Answer: C

**9. Which of the following could be a condition of probation?**

- a) Completing community service work
- b) A bread and water diet
- c) A discharge
- d) A jail term

Answer: A

**10. What is a pre-sentence report?**

- a) A victim impact statement
- b) A report that assesses an offender's background and prospects for rehabilitation
- c) A news story published before sentence is passed
- d) None of the above

Answer: B

## **9. Appeals**

**1. Which court hears summary conviction appeals?**

- a) Bankruptcy court
- b) The superior court
- c) The provincial court
- d) The federal court

Answer: B

**2. What is *stare decisis*?**

- a) A kind of sound system
- b) The presumption of innocence
- c) The principle of following higher-court rulings
- d) A close examination of court decisions

Answer: C

**3. Which of the following can be the basis for an appeal?**

- a) The judge's interpretation of the law for the jury
- b) A jury's finding of fact
- c) A judge's refusal to believe a witness
- d) None of the above

Answer: A

**4. When is new evidence heard by an appeal court?**

- a) If the evidence was available at trial but not used
- b) When the court thinks the trial judge made a legal error
- c) When the evidence is relevant and was not known at trial
- d) If the jury has asked a question during deliberations

Answer: C

**5. Which court's decisions must be followed by all other Canadian courts?**

- a) The British Columbia Court of Appeal
- b) The Supreme Court of Canada
- c) The provincial court
- d) The superior court

Answer: B

**6. Which of the following is something an appeal court CANNOT do?**

- a) Convict a defendant found not guilty by a jury
- b) Overturn a conviction
- c) Order a new trial
- d) Uphold an acquittal

Answer: A

**7. How many judges usually hear cases in the court of appeal?**

- a) Four
- b) Three
- c) Nine
- d) Only one

Answer: B

**8. What is leave to appeal?**

- a) A court's decision to agree to hear an appeal
- b) A judge's sabbatical
- c) An appeal court document
- d) An appeal to a court in another province

Answer: A

**9. How many judges serve on the Supreme Court of Canada?**

- a) 12
- b) 6
- c) 8
- d) 9

Answer: D

**10. What is the name given to a judgment that disagrees with the majority of an appeal court?**

- a) A *stare decisis*
- b) A rebellion
- c) A dissent
- d) None of the above

Answer: C

**10. Open Justice**

**1. Why are Canada's courts open?**

- a) To subject witnesses to embarrassment
- b) To instill confidence and ensure accountability
- c) To feed the public's curiosity
- d) To help the media sell newspapers and boost TV ratings

Answer: B

**2. Whose identity is rarely banned from publication?**

- a) An adult accused of a crime
- b) A witness
- c) A crime victim
- d) A young person accused of a crime

Answer: A

**3. What did philosopher Jeremy Bentham consider the "very soul of justice"?**

- a) The judge
- b) The presumption of innocence
- c) Publicity
- d) The jury

Answer: C

**4. Which *Charter* right limits media coverage of criminal cases?**

- a) The right to counsel
- b) The right to silence
- c) The right to a fair trial
- d) The right to a public trial

Answer: C

**5. How might the media commit a contempt of court?**

- a) By putting a story on the front page of a newspaper
- b) By revealing the name of a person accused of a crime
- c) By taking notes at a preliminary hearing
- d) By reporting information that could prejudice a case

Answer: D

**6. How do most Canadians find out what is happening in the courts?**

- a) By attending trials every day
- b) Through media reports
- c) By calling the courthouse
- d) By word of mouth

Answer: B

**7. What did an Ontario court describe as a hallmark of a democratic society?**

- a) Open courts
- b) Police powers
- c) Publications bans
- d) Contempt of court

Answer: A

**8. Which hearing is most likely to be the subject of a publication ban?**

- a) The arraignment
- b) The preliminary inquiry
- c) The trial
- d) The appeal

Answer: B

**9. Who imposes a publication ban?**

- a) The media
- b) The police
- c) The defendant
- d) The judge

Answer: D

**10. What must not only be done, but must be seen to be done?**

- a) Media reports
- b) Publicity
- c) Justice
- d) Publication bans

Answer: C

# A Guide to On-Line Legal Resources

## 1) Teaching Tools and Lesson Plans

### **The Law Room**

This site offers lesson plans, sample mock trials and other teaching materials for Canadian students at all levels – elementary, junior high and high school.

Highlights include The Crime Primer, an introduction to criminal law aimed at students in grades 9 -12, and a page of links students can use to access other on-line legal resources.

[www.uottawa.ca/hrrec/lawroom/lawroom.html](http://www.uottawa.ca/hrrec/lawroom/lawroom.html)

### **Street Law**

This American site is designed for teachers and offers an array of links to classroom resources and mock trials, offering ideas and lessons that can be adapted for Canadian students.

[www.streetlaw.org/freeforteachers.html](http://www.streetlaw.org/freeforteachers.html)

### **Justice for Youth**

Justice Canada offers legal information aimed at youth, including a guide to the *Youth Criminal Justice Act* and a legal quiz.

<http://canada.justice.gc.ca/en/foryouth/>

## 2) Legislation

### **Federal**

The Government of Canada's website features electronic versions of all federal statutes and regulations, including the *Criminal Code* and the *Youth Criminal Justice Act*, and *The Charter of Rights and Freedoms*. The legislation is in fulltext and searchable by keyword.

[http://canada.justice.gc.ca/Loireg/index\\_en.html](http://canada.justice.gc.ca/Loireg/index_en.html)

### **Provinces and Territories**

Searchable, full-text versions of statutes, regulations and bills for each jurisdiction are available through the following websites:

**National Library of Canada:** [www.nlc-bnc.ca/8/4/r4-201-e.html#internet](http://www.nlc-bnc.ca/8/4/r4-201-e.html#internet)

**Legis.ca:** [www.legis.ca/en/index.html](http://www.legis.ca/en/index.html)

## 3) Court Rulings

### **Canadian Legal Information Institute (CanLII)**

This fully searchable site provides access to the full-text of recent decisions of most superior and federal courts. Older decisions will be added in future,

and the database includes rulings of courts that do not provide access through their own websites. Maintained by the University of Montreal and the Federation of Canadian Law Societies.

[www.canlii.org/ns/cas/nsca/index.html](http://www.canlii.org/ns/cas/nsca/index.html)

### **Supreme Court of Canada**

Full-text of decisions since 1989, searchable by keyword.

[www.droit.umontreal.ca/doc/csc-scc/en/index.html](http://www.droit.umontreal.ca/doc/csc-scc/en/index.html)

### **Federal Court of Canada**

Handles legal actions arising from federal laws (such as the parole and customs acts) maritime law, patent and copyright disputes. On-line access to database of rulings:

<http://decisions.fct-cf.gc.ca/fct/>

### **Superior and Provincial Court Websites**

Courts in the following provinces maintain websites offering access to recent rulings plus links to statutes and regulations, local legal resources and other sites providing legal information:

**Alberta:** [www.albertacourts.ab.ca/](http://www.albertacourts.ab.ca/)

**British Columbia:** [www.courts.gov.bc.ca/welcome.htm](http://www.courts.gov.bc.ca/welcome.htm)

**Manitoba:** [www.jus.gov.mb.ca/registry/index.htm](http://www.jus.gov.mb.ca/registry/index.htm)

**Nova Scotia:** <http://mail.nsbs.ns.ca/dbtw-wpd/qsets/LNOBE.HTM>

**Ontario:** [www.ontariocourts.on.ca/](http://www.ontariocourts.on.ca/)

**Prince Edward Island:** [www.gov.pe.ca/courts/supreme/index.php3](http://www.gov.pe.ca/courts/supreme/index.php3)

**Saskatchewan:** [www.lawsociety.sk.ca/NewLook/Library/database.htm](http://www.lawsociety.sk.ca/NewLook/Library/database.htm)

## **4) Legal Information**

### **A Compendium of Law and Judges**

A primer on Canadian law, the *Charter*, the role of the judiciary, and the parole system, with a focus on the British Columbia courts.

<http://www.courts.gov.bc.ca/LegalCompendium/index.html>

### **Duhaime's Canadian Legal Information Centre**

This site offers detailed information on Canadian and American law, specific fields such as criminal, family, contracts, and defamation, and links to legal websites in all provinces. There's even a legal dictionary.

[www.wwia.org/ca-home.htm](http://www.wwia.org/ca-home.htm)

### **Overview of the Criminal Justice System of Canada**

A primer on criminal law, policing, and corrections, with useful parallels to the American justice system.

[www.cjprimer.com/canada.htm](http://www.cjprimer.com/canada.htm)

### **Jurist Canada**

Designed for law professors, this site provides access to academic studies of legal issues and other legal resources.

<http://jurist.law.utoronto.ca/>

## **5) Links to Law-Related Websites**

### **Canadian Legal Portal**

This site provides comprehensive links to sites offering access to lawyers, legal experts, statutes, case law, legal publishers, law libraries and a host of other resources.

[www.gahtan.com/links/](http://www.gahtan.com/links/)

### **Canadian Legal Resources on the Web**

Provides similar links to a wide range of legal resources.

[www.legalcanada.ca/](http://www.legalcanada.ca/)

### **Access to Justice Network**

Links to the websites of Canadian law firms, bar societies, legal education societies and other justice system organizations.

[www.acjnet.org](http://www.acjnet.org)

### **Canadian Judges' Home Page**

This site, intended to give judges a starting point for seeking information on the web, provides excellent links to Canadian and international legal sites.

[www.law.ubc.ca/links/jurist/judges.html](http://www.law.ubc.ca/links/jurist/judges.html)

### **Canadian Forum on Civil Justice**

This site includes a list of useful links to court, government and other law-related websites.

[www.cfcj-fcjc.org/links.htm](http://www.cfcj-fcjc.org/links.htm)

## **6) American Legal Links**

### **Findlaw**

An array of U.S. legal resources – news on cases and law-related issues, law journals, links to databases of rulings from federal and state courts.

<http://stu.findlaw.com/>