

Section 4: The Justice System

Lesson Plan 3: Overview of Court System

SNAPSHOT

Grade Level	5-7
Duration	2 periods

Introduction

In this section, students will become acquainted with Canada's Court System. They will begin by learning what the purpose of Canada's court system is, how it originated, and what makes it unique. They will also learn the types of courts in Canada, and learn the basics of what they do. Students will also discuss the pros and cons of having cameras in the courtroom.

Objectives

By the end of this lesson, students will:

- Discover what the purpose of Canada's court system is, how it came to be, and what are its distinguishing features
- Differentiate between six types of courts in Canada including Federal Court, Federal Appeal Court, Supreme Court of Canada, Court of Appeal for BC, Supreme Court of BC, and Provincial Court of BC
- Learn what are some of the arguments for and against having cameras in court and will form opinions on when it is appropriate to have them in the courtroom

Focus Questions

1. What role does Canada's court system play in the justice system?
2. What are the different types of courts in Canada and what authority do they have?
3. How did Canada's court system develop?
4. What are the pros and cons of having cameras in court?
5. What is your opinion on having cameras in courtrooms?

Teaching Summary

Topics 1, 2 & 3: Purpose of the Court System, Jurisdiction of the Courts & History and Traditions

Students will learn about why we have courts, where our court system began, the jurisdiction of the courts and about some distinct features of our court system by reading a handout and answering some questions either individually or in a discussion.

Topic 4: Canada's Court System

Students will learn about some federal and provincial courts and do a web-quest to find out which courts are being identified in *Handout 2: Canada's and BC's Court System*.

Topic 5: Cameras in the Courtroom

Students will look at why cameras are not allowed in court and will take a position on either side of the issue during a discussion or debate.

CONTENT

Topic 1: Purpose of the Court System

As civilization developed and people began to live together in large communities, conflicts were inevitable. In order to settle disputes, shared values and rules of conduct developed from mere custom into formal laws. In time, courts were established to enforce those laws.

The development of laws, with courts to enforce them, meant that similar actions came to be treated in similar ways. Therefore, people could understand, ahead of time, what the consequences of their actions might be.

Topic 2: Jurisdiction of the Courts

Jurisdiction means the range of powers and/or territory over which a body may act. In the case of a court, jurisdiction concerns the type of case and the physical area over which the court has legal authority.

Each level of court has a specific area of authority, called its jurisdiction. The procedures for deciding which court has jurisdiction in a civil case have been set down by the provincial legislature. The federal Parliament has decided which courts will try the various kinds of criminal cases, and it has established other courts to deal with matters within federal jurisdiction, such as taxation and immigration. Each level of court has its own rules for procedure. These rules specify, for example, the kinds of documents that must be used to start an action and certain time limits that apply. These rules are set out in legislation.

Topic 3: History and Traditions

Where Did Our Court System Begin?

The model for our court system comes from feudal times in England. Following the Norman Conquest in 1066, the King began to hold court to listen to his subjects' complaints. Gradually, this responsibility was passed to his advisors. They became judges in formal courts: the Court of the King's Bench (for criminal cases); the Court of Common Pleas (for private conflicts); and the Exchequer Court (for monetary disputes). These courts became the basis of the English court system.

What Features Distinguish Our Courts?

When you enter a courtroom, especially one of the higher courts, one thing that strikes you immediately is the formal, dignified atmosphere. Not so long ago, judges and

lawyers wore wigs to court, just as dignified courtiers wore in the 18th century. Today, judges and lawyers can still be found wearing flowing, black robes. These formalities are meant to emphasize the seriousness of court proceedings. Frivolity is out of place in court.

Another main feature is that courts are generally open to the public. You have only to think of the secret courts of military dictatorships to appreciate how an open court system helps to preserve fundamental human rights. Justice that is open to public scrutiny and criticism must be fair and have the support of the public. It is only in exceptional cases that the courts are closed to the public to protect the rights of individuals. The trials of young people are sometimes closed. The court can prohibit press coverage of preliminary criminal hearings in order to prevent the public, from which the jury will be selected, from prejudging an accused person.

Another distinguishing feature of our system is its independence, or impartiality. Once appointed, judges are difficult to remove from office and therefore enjoy a security of tenure (guaranteed permanent employment) that gives them some immunity (protection) from threats and bribes. Think of a judge as an impartial decision-maker who comes to court with an open mind, ready to be persuaded by either side of the case.

The structure of legal argument that was developed in our courts – the adversary system – allows the judge to hear both sides argued vigorously.

Topic 4: Canada's Court System

Federal Courts

Federal Court: This court deals with civil matters involving disputes by individuals or groups with the federal government; disputes by provincial governments with the federal government; and cases in specialized areas of federal law, including income tax, patents, customs, and maritime law.

Federal Court of Appeal: This court reviews decisions made by the Federal Courts. Decisions that are made here can only be appealed to the Supreme Court of Canada.

Supreme Court of Canada: This court can appeal any type of dispute, criminal or civil. Cases in this court are heard by three, seven, or all nine judges. Judgements that are made here are final, and cannot be appealed to any other court.

Provincial and Territorial Courts

Court of Appeal for BC: This court hears civil cases appealed from the Supreme Court of British Columbia and criminal cases appealed from the provincial levels of criminal trial courts. In this court, at least three judges and sometimes five hear appeals together.

Supreme Court of BC: This is the highest trial court in the province. The judges in this court may sit alone or with juries. It deals with civil cases involving money over \$25,000, serious criminal cases such as murder, and divorce and custody cases.

Provincial Court of BC: In this court, the judges sit alone as there are no jury trials. It hears matters in four areas: criminal, family, small claims (disputes amounting to \$25,000 or less) and traffic and by-laws.

The Courtwatcher's Manual is an all-in-one booklet for anyone wanting to watch and learn more about BC's court system. To view it online, visit the Justice Education Society's website at <http://www.JusticeEducation.ca/resources/Courtwatcher-Manual>.

Topic 5: Cameras in the Courtroom

The following are some of the common arguments for and against having cameras in the courtroom.

For Cameras

1. The fundamental argument is that it is essential to justice in a democracy that the public sees and understands the court system at work. That is the reason why courts are open to anyone, with very limited exceptions. Any person can choose to go into virtually any Canadian courtroom and no one is allowed to ask them why they are there. That means that some people will attend court for entertainment and that the presence of the public will make some participants in a trial uncomfortable, perhaps even intimidated. But the court have long acknowledged that is the price of making sure the courts are open to public scrutiny, which, in turn, should make the public more aware and respectful of the court process. But while the public has the right to attend court, most don't have the time to see the trials and hearings they are interested in. That's why the media attend. And that is why television news organizations want cameras in courtrooms: to be the eyes and ears of the public.
2. The proponents concede that some media organizations may indeed attend simply to boost ratings. But there is ample evidence that major media organizations attend many court hearings that are not sensational or even particularly interesting to the public. Those reports are there because the

proceedings are important.

3. The evidence from important, televised quasi-judicial proceedings show quite the opposite: that cameras have had no appreciable impact on the participants.
4. All types of cases which currently lead to publication bans, including most cases involving sexual assault and/or children will also be off-limits to cameras. Also, judges will always retain the discretion to ban cameras at any point. But there are certainly many trials and many moments in a trial where these concerns don't apply, for example, during sentencing of someone who is, obviously, convicted.
5. Banning the media or part of the media because of the potential that the media will make mistakes is a classic case made by censors the world over. Mistakes by media are part of the price of free speech and a free media. However, there is no evidence of such distortion in many televised public inquiries.
6. Lost in the debate is often the good cameras would do. Among the benefits are: keeping judges and lawyers on their toes, teaching people about the court system, and giving sentences greater impact in their community. On this last point, one of the basic roles of a criminal sentence is general deterrence (detering people from doing the crime because they see what the penalty is). How much more effective would sentences be if people, especially young people, could watch a judge handing down a sentence and the reaction of the guilty person as they are taken into custody?

Against Cameras

1. The media is only interested in sensational cases and wants to cover the courts to entertain, not to inform.
2. Cameras are likely to intimidate witnesses, and distract lawyers and jurors and even induce them to act in a different manner.
3. Cameras will invade the privacy of the accused, the alleged victims, and witnesses. This is especially problematic in sexual assault cases and/or cases involving children.
4. The television media will make mistakes or knowingly distort proceedings which will damage the credibility of the court.
5. The justice system is doing quite fine without cameras in the court so any possible harm is not worth risking.

Scenarios

The following scenarios are provided for students to read on *Handout 4: Should Cameras be Permitted in Court?*

Regina vs. Ted

A ten-year-old child named Sam is walking from the park when a van pulls up and a man gets out. The man introduces himself as Ted. He tells Sam that he has some free video games in the van and asks if Sam would like to look at them. Sam says yes and starts to walk to the open door of the van. Just as he gets to the door, he remembers that his mom told him not to talk to strangers. He turns and tries to leave. Ted grabs him and pushes him towards the door of the van. Sam is terrified and fights with all his strength to get free. He starts to scream and he attracts the attention of a family driving by in their car. The driver stops the car and steps out to see what is going on. Ted loosens his grip on Sam's arm and Sam kicks Ted in the shin and manages to get free and run to the family's car. Ted hops in his van and quickly drives off. The family writes down the license number of the van and Ted is stopped by the police and arrested for assault. This is not the first time that Ted has been in court as he has two previous convictions for sexual assault on young people.

Regina vs. Sarah and Allison

A group of young people goes to English Bay to see the fireworks display. The fireworks start at 10:00 p.m., and they have been at the beach since 7:00 p.m. drinking beer. Some of the people in the group have had too much to drink and start to get argumentative. Jody is not too popular with this group and has tagged along even though the others didn't ask her to go. Sarah is popular and starts to call Jody names and then begins flicking sand in her face. Jody pretends not to notice at first, but then all the girls do the same. She asks them to stop but they refuse to listen. Jody gets up and tries to leave, but Sarah and another girl, Allison, kick her feet from under her. Jody falls to the sand. Sarah kicks her in the head several times and Allison kicks her in the stomach and the back. Bystanders appalled by the fight call for the police, who arrive and arrest Sarah and Allison for assault causing bodily harm. Jody is covered in blood and unconscious by the time the police arrive and is taken to hospital. All of the people in the group are nineteen years old.

ACTIVITIES

Activity 1: Understanding What Makes Canada's Courts Unique

Provide students with *Handout 1: The Characteristics of Canada's Courts*. Students will read the information and answer the questions. If you are short on time, this can be given out as a homework assignment to complete before class.

See the Answer Key for *Handout 1* in the Assessment section.

Activity 2: Web-Quest of Canada's Court System

Provide students with *Handout 2: Canada's and BC's Court System*. Students will do some research on Canada's Court System in order to complete the flowchart on this handout. If you are concerned about time, provide students with the *Courtwatcher's Manual* online: www.justiceeducation.ca/resources/Courtwatcher-Manual.

See Answer Key for *Handout 2* in the Assessment section.

Activity 3: Cameras in the Courtroom

After reviewing the advantages and disadvantages of having cameras in courtrooms, provide students with *Handout 3: Cameras in the Courtroom – Both Sides of the Argument*. After students have read through the pros and cons of having cameras in court, have students read the scenarios on *Handout 4: Should Cameras be Permitted in Court?* You can either present it to them on an overhead projector or provide each student with a copy of the handout. After the students have read the scenarios, facilitate a discussion on whether cameras should be allowed in these particular trials.

If you want to extend the discussion, you could have students debate on this issue: BE IT RESOLVED that cameras should be allowed in court for every case.

Students could do some research as to where in Canada cameras have been allowed and find out how it worked in those cases. They can also look at cases where the media made application to film the case but were turned down.

RESOURCES

Activity 1: Understanding What Makes Canada's Courts Unique

Handout 1: The Characteristics of Canada's Courts

Activity 2: Web-Quest of Canada's and BC's Court System

Handout 2: Canada's and BC's Court System

Courtwatcher's Manual: www.JusticeEducation.ca/resources/Courtwatcher-Manual

Activity 3: Cameras in the Courtroom

Handout 3: Cameras in the Courtroom – Both Sides of the Argument

Handout 4: Should Cameras be Permitted in Court?

ASSESSMENT

Activity 1: Understanding What Makes Canada's Courts Unique

Have students turn in Handout 1: The Characteristics of Canada's Courts for marks. The answer key is below.

Answer Key: Handout 1: The Characteristics of Canada's Courts

1. Why it important to have laws that are enforced by courts?
It ensures that similar actions are treated in similar ways. This means that people can understand, ahead of time, what the consequences to certain actions might be.
2. What does a court's "jurisdiction" refer to?
A court's "jurisdiction" is the type of case and physical area that it has legal authority over.
3. Do all levels of court have their own rules for procedure? Gives two examples of rules this might refer to.
No, each level of court has its own rules for procedure. These might refer to rules regarding what kinds of documents must be used to start an action and the certain time limits that apply.
4. When and where did our court system begin?
The model for our court system comes from feudal times in England.
5. What are three distinguishing features of our courts?
 - *The atmosphere is dignified and formal. For examples, judges and lawyers wear flowing black robes.*
 - *Aside from a select few exceptions, the court is open to the public.*
 - *Judges are independent/ impartial. Once appointed, judges are difficult to remove from office and therefore enjoy a security of tenure (guaranteed permanent employment) that gives them some immunity (protection) from threats and bribes.*

Activity 2: Web-Quest of Canada's Court System

Handout 2: Canada's and BC's Court System can be turned in for marking. The answer key is below.

Answer Key: Handout 2: Canada's and BC's Court System

- A. *Provincial Court of BC*
- B. *Supreme Court of BC*
- C. *Court of Appeal for BC*
- D. *Federal Court*
- E. *Federal Appeal Court*
- F. *Supreme Court of Canada*

Activity 3: Cameras in the Courtroom

This activity does not require marking. You may, however, decide to make note of students who participate in the discussion and grant them participation marks. You can also mark participation in the debate if you have one.

ENRICHMENT

Canada's and BC's Courts

1. Have students write a paper comparing the court system in Canada to that of another country.
2. Research any of the following questions and prepare a short speech to present to the class. Use the Internet and type in the name of the court you are researching.
 - What is a Remand Court and what happens there?
 - What is the Federal Court of Canada? What type of cases do they hear?
 - What is the purpose of the Citizenship Court? How does it function and how often is it in session?
 - How does the Supreme Court of Canada decide which cases it will accept for appeal? What is the procedure for arguing an appeal?
 - How does the Court of Appeal for BC decide which cases it will accept for appeal? What is the procedure for arguing an appeal?
 - Who can go to Traffic Court? What if the decision made needs to be appealed? Is that possible? What is the procedure?
 - What is the difference between a justice of the peace, a judge, and a justice? What is the jurisdiction of each and how are they selected?
 - What is the difference between the Family Division of the Provincial Court and the Supreme Court when they handle family matters?

Cameras in the Courtroom

There was a recent case in BC where the judge allowed cameras in the courtroom to record the final submissions of counsel at the close of the trial of nine men accused of smuggling people into Canada.

Have students find out more about this case. The case citation is “*HMTQ vs. Cho et al.* (2000), BCSC 1162.” for the only case in Canada where cameras were allowed to film the closing summations of counsel. HMTQ stands for Her Majesty the Queen. The full text of the ruling can be found at www.courts.gov.bc.ca. Click the “Search JDB” button, then search the Supreme Court of BC database for the civil case, HMTQ vs. Cho et al.

Ask them to find out what the judge's reasons for allowing the cameras to come into the courtroom were, and whether there was an objection to it from either the Crown or the Defence? Have students prepare an oral report on their findings and present it to the class.