

How Does the Canadian Court System Work?

Designed for:
Legal Studies module 1020
(You and the Law 2: Public)

Activity Overview

Time required

1 to 1.5 class periods

Materials/Resources Needed

Access to computer lab, handout of questions (included)

Lesson Format

Online videos and application questions, group work

For the Teacher

This lesson is designed to introduce students to Canadian court structures, and illustrate the variety of ways in which students may be required to participate in the judicial process at some point in their lives.

It is important to note that the videos which are central to this activity were produced in British Columbia by the Justice Education Society of BC. As such, not all of the information provided in the videos will pertain to Alberta's court systems. However, despite these minor discrepancies, the information provided in these videos is quite comprehensive and a good introduction to judicial structure.



The most important difference between the courts of British Columbia and Alberta, at least for the purposes of this activity, is that the *Supreme Court of BC* is called the *Court of Queen's Bench* in Alberta. Despite the difference in name, their jurisdiction and responsibilities remain largely the same. Further information about the specifics of the Alberta judicial system can be found in the Additional Resources section of this booklet.

It is recommended that students watch all of the videos in order to gain a solid and comprehensive understanding of the court structure as a whole. The manner in which students work through the scenario questions is at your discretion. Possible ways in which the activity could be broken down include the following.

1. A Jigsaw. Break students into groups and have each group complete the answers to the scenario questions based on what they learned from the video. Then mix up the groups and have students share the answers to their scenario with their classmates.
Note: Scenario 5 is rather large and may work best if the questions are divided between two groups.
2. Have students complete all questions together in groups and then discuss as a class.
3. Questions and their answers generally follow the order in which the videos are presented. After watching the introductory video (2 minutes), each group may be assigned a specific video and corresponding questions to answer and then share with their classmates:

Provincial Court Video (12 minutes): Questions 1-6

Supreme Court Video (15 minutes): Questions 7-11

Court of Appeal Video (8 minutes): Questions 12-16

Note: Some facts presented in some videos apply to more courts than the specific court focused on in the video. For example, the Court of Appeal video mentions that cameras are only allowed in court for special occasions, however this applies to all court levels and is not specific to the Court of Appeal.

Assessment

Teachers may choose to take in student responses to the activity questions for assessment. A suggested rubric is included.

Additional Resources

Alberta Courts

A comprehensive resource about Alberta's court structure. Includes descriptions of each court, virtual tours, and information about court services: <http://www.albertacourts.ab.ca>.

Alberta Justice

Government site with descriptions of justice programs and services:
<http://justice.alberta.ca/Pages/home.aspx>.

Supreme Court of Canada

As the highest court in Canada, the Supreme Court of Canada is slightly different than other courtrooms. Virtual tours and extensive photo galleries allow students to see these differences and learn about the specific role of the Supreme Court of Canada:

Virtual Tour: www.scc-csc.gc.ca/vis/tour/index-eng.asp.

Photo Gallery: www.scc-csc.gc.ca/vis/gal/index-eng.asp.

For the Student

How Does the Canadian Court System Work?

Watch the videos at www.courtsofbc.ca and apply that knowledge to the following scenarios. These scenarios are designed to not only solidify your understanding of court structure and process, but also demonstrate the different ways in which you or someone you know could possibly become involved in the judicial process at some point in your life.

Work together with your classmates or group to answer the following questions and refer back to the videos if you need to.

Scenario 1

1. A girl in your school, who is 15 years old, has been accused of shoplifting and is due to appear in court on Friday. Which court is her case most likely to be heard in initially? Justify your response.

2. Would a jury hear your schoolmate’s case?

3. Most criminal cases start and end in Provincial Court. List three crimes whose trials would be heard in Provincial Court.

Scenario 2

- 4. In your local newspaper there is a story about a man who has been accused of kidnapping. In the article, the journalist states that the accused has requested a jury trial. Describe the process that would be followed in attaining a jury trial, and what role a preliminary inquiry plays in this process. Also, why do you think someone may prefer to be tried by a jury, and why they might prefer to have a preliminary inquiry?

- 5. This case you read about in the paper interests you and you would like to go see the trial for yourself. As a member of the public, are you allowed to go watch?

Scenario 3

- 6. The house next door to your family’s house is under construction. One day a small forklift goes out of control and drives through the fence that divides your properties. Your father comes home from work to find a large part of the fence is destroyed, significant damage done to the garden and sod on that side of the house, a broken window, and large scratches and dents in the siding of your house. The materials and labor to fix all of the damage will cost about \$7,000. Your neighbour refuses to cover the cost of the repairs – what could your father do?

7. In the above scenario, who would be the Plaintiff (the “Petitioner” in BC) and who would be the Defendant (the “Respondant” in BC)? Where would your father file the forms?

Scenario 4

8. Your older brother has been summoned to sit on the jury for a civil case in the Court of Queen’s Bench. He is worried because he does not know very much about the law. What can you say to relieve his anxiety?

9. Why might some parties choose to settle their dispute before trial?

Scenario 5

10. While walking home from school one day you see 2 men run out of a house carrying a couple of very heavy looking black bags. They get in a pick-up truck and speed away. You notice that the front door has been kicked in and call 9-1-1. The police question you at the scene and ask what you saw, taking very detailed notes. If the police find the two men who they believe committed the robbery, could you be asked to testify at their trials?

11. What is Chambers? What does that process involve and, as a witness in the above case, would you be involved in it?

12. You are nervous about having to appear in court as a witness, so you decide to go watch other trials and watch other witnesses give testimony to get a better idea of what is involved in being a witness. Your mother suggests that you bring a camera with you and that you record a witness giving testimony so that you can watch it again later if you want. Do you think this would be allowed? Why or why not?

13. The two men who you saw running out of the house are caught, charged and tried. Based on your testimony and other evidence, the judge finds that the accused are guilty of breaking and entering and theft. The two men decide to appeal their conviction. Would you to have to testify again?

14. In your own words, summarize the judge's role in the Court of Appeal. How many judges hear an Appeal case?

15. How might a Court of Appeal look different than the court you were in when giving your testimony?

16. If the Court of Appeal supports the decision made by the Court of Queen's Bench, would the Supreme Court of Canada be likely to hear a further appeal from the 2 men? Describe the process to have your case heard before the Supreme Court and of Canada, and what types of issues or cases they consider when justifying your answer.

Answer Key and Additional Information

How Does the Canadian Court System Work?

Watch the videos at www.courtsofbc.ca and apply that knowledge to the following scenarios. These scenarios are designed to not only solidify your understanding of court structure and process, but also demonstrate the different ways in which you or someone you know could possibly become involved in the judicial process at some point in your life.

Work together with your classmates or group to answer the following questions and refer back to the videos if you need to.

Scenario 1

1. A girl in your school, who is 15 years old, has been accused of shoplifting and is due to appear in court on Friday. Which court is her case most likely to be heard in initially? Justify your response.

Provincial Court —nearly all young offender cases are heard here.

2. Would a jury hear your school mate's case?

No, there are no jury trials in the Provincial Court.

3. Most criminal cases start and end in Provincial Court. List three crimes whose trials would be heard in Provincial Court.

Responses may vary, but crimes which were mentioned in the video include:

- *assault;*
- *sexual assault;*
- *shoplifting (theft under \$5000);*
- *mischief, and*
- *kidnapping.*

Scenario 2

4. In your local newspaper there is a story about a man who has been accused of kidnapping. In the article, the journalist states that the accused has requested a jury trial. Describe the process that would be followed in attaining a jury trial, and what role a preliminary inquiry plays in this process. Also, why do you think someone may prefer to be tried by a jury, and why they might prefer to have a preliminary inquiry?

In the cases of some of the more serious crimes such as manslaughter, breaking and entering, or kidnapping (i.e.: cases that are not automatically heard by provincial court ["PC"]), the accused may "elect" to have his/her case heard in the Supreme Court (The Court of Queen's Bench ["QB"] in Alberta). This is called an "election".

As part of his/her election, the accused can also choose whether or not to first have a preliminary inquiry in provincial court, to determine if the Crown has enough evidence to hold a full trial in QB. (The accused can also choose to have a trial in PC without

a preliminary inquiry, or go straight to trial in QB, with or without a jury, without a preliminary inquiry).

Having a preliminary inquiry allows the accused to not only hear the evidence which the Crown has against him, as, at a preliminary inquiry, the Crown must show its case, but the accused does not have to show his/hers. This can help the accused to better prepare his/her case. For example, the accused can cross-examine cross witnesses (this help “know what you are in for” at trial).

The advantages of a jury are often a matter of preference. Some people prefer to be tried by “the people” rather than by a judge alone, as they feel that they will get a “fairer shake” from their peers. Some people like being able to control who gets to make the determination of guilt or not guilt (and an accused can control it a little bit, as s/he has a role in choosing who is/is not on the jury).

Reminder, this “election” applies to certain crimes only - this does not necessarily occur for every kind of criminal offence.

5. This case you read about in the paper interests you and you would like to go see the trial for yourself. As a member of the public, are you allowed to go watch?
Yes, it is your right and an important part of the democratic system for you to be able to go and observe court proceedings.

Scenario 3

6. The house next door to your family’s house is under construction. One day a small forklift goes out of control and drives through the fence that divides your properties. Your father comes home from work to find a large part of the fence is destroyed, significant damage done to the garden and sod on that side of the house, a broken window, and large scratches and dents in the siding of your house. The materials and labor to fix all of the damage will cost about \$7000 dollars. Your neighbor refuses to cover the cost of the repairs – what could your father do?

He could sue your neighbor for the damages and take him to Provincial Court. The amount which your father is asking for (\$7000) means that his case would be heard in the Small Claims division of the Provincial Court.

The burden of proof would then be on your father to prove that your neighbour is responsible for the damages and should pay for them. The burden of proof in civil cases is “on a balance of probabilities” as opposed to the criminal burden of proof of “beyond a reasonable doubt”.

7. In the above scenario, who would be the Plaintiff (the “Petitioner” in BC) and who would be the Defendant (the “Respondant” in BC)? Where would your father file the forms?

Your father would be the Plaintiff and your neighbor would be the Defendant. The documents would be filed at the courthouse.

Scenario 4

8. Your older brother has been summoned to sit on the jury for a civil case in the Court of Queen's Bench. He is worried because he does not know very much about the law. What can you say to relieve his anxiety?

Jury members are not required to know the law before sitting on a jury. It is the judge's responsibility to explain the law to them, as it applies to the case which they are hearing.

9. Why might some parties choose to settle their dispute before the trial?

Trials can be a long and very expensive process. In a civil case, the defendant and plaintiff can reach an agreement and choose to end the trial process at any time.

Scenario 5

10. While walking home from school one day you see 2 men run out of a house carrying a couple of very heavy looking black bags. They get in a pick-up truck and speed away. You notice that the front door has been kicked in and call 9-1-1. The police question you at the scene and ask what you saw, taking very detailed notes. If the police find the two men who they believe committed the robbery, could you be asked to testify at their trials?

You would be considered a witness to their crime, and as such you would be obligated to testify at the trial.

Additional note: As a minor, you may be granted permission to record your testimony on video. Your witness account would then be played in the courtroom without you having to be present.

11. What is Chambers? What does that process involve and, as a witness in the above case, would you be involved in it?

Chambers are for pre-trial matters. There are no witnesses present. All evidence is submitted via a sworn written document called an Affidavit.

12. You are nervous about having to appear in court as a witness, so you decide to go watch other trials and watch other witnesses give testimony to get a better idea of what is involved in being a witness. Your mother suggests that you bring a camera with you and that you record a witness giving testimony so that you can watch it again later if you want. Do you think this would be allowed? Why or why not?

There are no cameras allowed in any courtroom in Canada, unless special permission is given or it is a special occasion. This is only discussed in the online video about the Court of Appeal, yet it applies to all courts.

Additional note: In the United States, cameras and video recorders are commonly allowed in court rooms, which is why we often see photos or videos from American trials on American news channels. In Canada, court artists draw pictures of the events which take place in the courtroom.

13. The two men who you saw running out of the house are caught, charged and tried. Based on your testimony and other evidence, the judge finds that the accused are guilty of breaking and entering and theft. The two men decide to appeal their conviction. Would you to testify again?

No, witnesses do not normally appear in the Court of Appeal.

14. In your own words, summarize the judge’s role in the Court of Appeal. How many judges hear an Appeal case?

Judges in this court do not normally hear evidence given again. Their job is to go through transcripts of the original trial and decide whether the law was applied correctly in the original trial.

A panel of Court of Appeal judges is made up of either three or five judges.

15. How might a Court of Appeal look different than the court you were in when giving your testimony?

More than one judge.

No witness box.

No accused box.

No jury box.

The accused does not have to appear in the Court of Appeal at all.

16. If the Court of Appeal supports the decision made by the Court of Queen’s Bench, would the Supreme Court of Canada be likely to hear a further appeal from the 2 men? Describe the process to have your case heard before the Supreme Court and of Canada, and what types of issues or cases they consider when justifying your answer.

Except for a few exceptions for automatic rights of appeal, in order for a case to be heard before the Supreme Court of Canada, a panel of 3 judges must grant permission for the court to hear the appeal. Cases which are granted this kind of appeal normally involve errors of law, matters of national importance, such as human rights issues, or cases where a person feels one of the Charter rights has been violated.

Based on the facts given, it seems unlikely that these thieves would be granted an appeal before the Supreme Court of Canada. If they were granted an appeal, the Supreme Court of Canada’s decision would be final (unless the Supreme Court ordered a new trial).

Worksheet Rubric

Excellent	Good	Needs Work	Incomplete
All questions are answered and complete; thought and detail in answers goes above and beyond the required criteria.	All questions are answered and complete; thought and detail meets the required criteria.	Many answers are complete, but some questions are not answered; thought and detail in answers could be improved.	Most or all questions are not answered; insufficient effort was made to complete the assignment.