

Scene 1, Take 2

The Two American Legal Systems

In this lesson, students will learn that in the American Judicial System there are separate laws and procedures for civil and criminal acts, and a single act could have either or both criminal and civil consequences for the actor.

GRADES	4th, 5th, and higher
TIME	1 class period
SUBJECTS	Civics – judicial system, civil v criminal court system, protections for criminally accused; Social Studies – Constitution and Bill of Rights provisions
STRATEGIES	Discussion and teamwork
TAGS	civil law, criminal law, crime, loss of liberty, judicial system

Glossary

- civil - cases in which private citizens sue each other in court to settle disagreements or prevent unfair acts.
- consequences - results caused or triggered by an act or by failure to act
- crime - an act or failure to act that is against a law - usually because it endangers or harms individuals or society. Crimes are punishable by the State.
- criminal - a person found guilty of committing crimes
- judicial - of, by, or appropriate to a judge or court
- judicial system - the courts that adjudicates legal disputes/disagreements and interpret, defend, and apply the law in legal cases
- jury - a body of people (usually 12) sworn to render a verdict based on the law and evidence produced in court during a trial.

- liability - state of being responsible, especially by law
- misdemeanor - a lesser crime, punishable by up to 1 year in jail/prison or fine or community service
- trial - formal proceeding in which civil disputes or criminal guilt/innocence are adjudicated after presentation of sworn evidence to judge or jury

Setting the Stage

Present in your own words and discuss:

You know that in your family there are rules by which you live. They set standards of behavior and expectations, and if they are always followed, everyone in the family knows what behaviors are expected of each of you. They help all of you get along well. What are some rules you follow in your family?

The same is true for school. There are rules every student is supposed to follow. There are rules every teacher must follow. And there are rules that every single person is supposed to follow. These rules are intended to treat everyone fairly, to keep the peace and safety among you, and allow the important work of learning to be done. What are some of these rules?

The same is also true for the state and for the whole nation. Many of the rules are called laws, and they have been made mainly by the state or national legislators elected by the people. There are many laws, and among them are the laws that establish expectations of behavior that are fair to others and set consequences for behaviors that are not fair **for** other people or for our country.

There are two systems of law set up to handle situations where a person or company disagrees with another or harms another.

Civil Law

Civil laws deal mostly with disagreements between people. These laws allow people to bring the matter to the attention of a judge who will look at all the evidence in a civil trial and decide (sometimes with a jury, sometimes by himself) what is fair. Bringing it to the court for a trial is called suing someone. If the court (in a trial by a judge or jury) finds from evidence presented in court that person A did indeed wrong person B, the judge or jury can stop person A from doing it, force him to undo the damage where possible, and/or make person A pay person B (usually money) for what they did.

Activity 1: Discuss until students grasp what CIVIL LAW is designed to handle

Let's look first at acts that could end up in a civil trial if people cannot work out their differences.

- A and B own a business together, and A wants to quit. He wants to sell his half to B, but they disagree on what B should pay for it.
- A and B are neighbors. A puts up a fence between their properties, but B thinks the fence is over the line onto his property and wants A to move it. A disagrees.
- A's son accidentally loses his grip on a tool and it goes through B's window. The damage is considerable, more than the cost of the window, because the tool hit things inside, and the glass cut B's arm. B demands that A cover his costs. A refuses.

Criminal Law

Criminal laws cover actions by a person or company that break a law proscribing that act, usually because it is harmful to individuals or for all of society. These are called crimes and are often divided into felonies and misdemeanors. An example of this would be robbing a bank, a felony. If someone is indicted of committing a crime, the state or nation brings criminal charges against him. Depending how bad the crime, the person could be sent to jail or prison if the state proves his guilt beyond reasonable doubt and he is found guilty during the trial. Because the person accused of a crime could lose his liberty by being sentenced to prison, he has personal rights and there are rules that protect him, based on those laid out in the US Constitution. The presumption of innocence, his right to not testify in trial if he doesn't want to, and his right to an attorney are among the many rights.

Activity 2: Present and discuss CRIMINAL LAW until students grasp what it is designed to handle.

Acts that break a law and could end up in a criminal trial.

- A intentionally blockades a post road bridge, stopping all traffic, for days.
- A breaks into a store and steals money.
- A shoots a rifle straight up into the air in a city.

There are specific laws that state why each of these things are crimes, but in most cases, the acts are dangerous to the safety and wellbeing of one or more people, and if they were allowed generally, would be harmful for the nation.

Two different kinds of laws. Two different kinds of possible punishment if the actor is found guilty. Two different sets of rules for trials.

Acts with Both Civil and Criminal Consequences

Some acts can result in both civil and criminal charges. For example, a horse is at the stables when he is badly injured by a fire. The owner of the stables discovers that the fire was intentionally set, and the owner of the building next door confesses he did it but meant to only burn his own building. He is charged criminally with the felony crime of arson, and the owner of the horse sues him civilly as well for the harm to his horse.

Activity 3: Discussion

Discuss:

What can the owner of the horse expect to receive if he wins his civil case against the arsonist?

Why do you think there are laws against arson?

Activity 4: Discerning Civil from Criminal Acts

Divide students into teams. Give each the same list of acts (below) and tell them that as a group they should decide whether each act could have criminal consequences, civil consequences, or both.

Discuss findings as a class after completion.

Do these Acts have Civil Consequences, Criminal Consequences, or Both?

What might those consequences be?

- Dogs owned by A are constantly barking loudly, disturbing neighbors. A doesn't even try to stop them from barking even though asked many times by neighbors.
- Dog owned by A bites B on B's property.
- Tree owned by A has grown so big that it shades B's vegetable garden and B wants A to cut it back so that it does not block sunlight from his garden, but A disagrees because the tree has been casting some shade on that part of the yard since before B moved in, and an arborist (tree specialist) said doing so might kill the tree.

- B cuts off the limbs of A's tree that hang over B's yard, and the tree dies.
 - A goes into B's yard and cuts down B's cherry tree.
- A, driving a heavy wagon, whips his team of horses into galloping at a recklessly high speed down a city street. The wagon skids and accidentally destroys B's vegetable stand and all the produce on it.
 - B, the owner of the hit stand pulls A off of A's wagon and throws him to the ground.
 - Weeks later, B goes to the provost (city police) and lies, saying A has just stolen his cow. B tells many others the same thing. (The cow is found in two days, hidden on B's own property out in the country, and A had been in church with many others when he supposedly did the stealing.)
 - After A finds out that B lied about him committing a crime, he sues him for slander, harm to his reputation, for causing him to lose his job and depriving him of income, and for intentionally causing him and his family emotional harm.
- C robs a store.

Source

<https://www.britannica.com/story/what-is-the-difference-between-criminal-law-and-civil-law>

In the United States, there are two bodies of law whose purpose is to deter or punish serious wrongdoing or to compensate the victims of such wrongdoing. Criminal law deals with behavior that is or can be construed as an offense against the public, society, or the state—even if the immediate victim is an individual. Examples are murder, assault, theft, and drunken driving. Civil law deals with behavior that constitutes an injury to an individual or other private party, such as a corporation. Examples are defamation (including libel and slander), breach of contract, negligence resulting in injury or death, and property damage.

Criminal law and civil law differ with respect to how cases are initiated (who may bring charges or file suit), how cases are decided (by a judge or a jury), what kinds of punishment or penalty may be imposed, what standards of proof must be met, and what legal protections may be available to the defendant.

In criminal cases, for example, only the federal or a state government (the prosecution) may initiate a case; cases are almost always decided by a jury;

punishment for serious (felony) charges often consists of imprisonment but may also include a fine paid to the government; to secure conviction, the prosecution must establish the guilt of the defendant "beyond a reasonable doubt"; and defendants are protected against conduct by police or prosecutors that violates their constitutional rights, including the right against unreasonable searches and seizures (Fourth Amendment) and the right against compelled self-incrimination (Fifth Amendment).

In civil cases, by contrast, cases are initiated (suits are filed) by a private party (the plaintiff); cases are usually decided by a judge (though significant cases may involve juries); punishment almost always consists of a monetary award and never consists of imprisonment; to prevail, the plaintiff must establish the defendant's liability only according to the "preponderance of evidence"; and defendants are not entitled to the same legal protections as are the criminally accused.

Importantly, because a single wrongful act may constitute both a public offense and a private injury, it may give rise to both criminal and civil charges. A widely cited example is that of the former American football player O.J. Simpson: in 1995 he was acquitted of having murdered his wife and her friend, but two years later he was found liable for their killings in a civil suit for wrongful death.