

LESSON NINE

Core Learning Goal: 1

The student will demonstrate an understanding of the historical development and current status of principles, institutions, and processes of political systems.

Expectation: 2

The student will evaluate how the United States government has maintained a balance between protecting rights and maintaining order.

Indicator 1.2.5

The student will analyze elements, proceedings, and decisions related to criminal and civil war.

Assessment Limits:

- ? *Civil Law: **plaintiff, defendant**, contract, breach of contract, torts, negligence, damages, **preponderance of evidence**, petit jury and out-of-court settlement.*
- ? *Criminal Law: **defendant, prosecutor, reasonable doubt**, felony, misdemeanor, grand jury, indictment, probable cause, presumption of innocence, plea bargaining, habeas corpus, and subpoena.*

Overview:

This lesson can be used as an introduction to civil/criminal proceedings. Students will identify the steps of criminal and civil trials. Teachers can utilize classroom texts or use the Teacher Resource information.

Lesson Objectives:

Students will compare the steps of a criminal case and a civil case. Students will analyze the differences in standards of proof in legal cases.

Materials:

Government textbooks

Teacher Resource: ***Court Proceedings: Civil Cases***

Teacher Resource: ***Court Proceedings: Criminal Cases***

Overhead Transparency: ***Standards of Proof***

Useful website:

www.findlaw.com

Procedures:

1. Ask students: “What do O.J. Simpson and Ray Lewis have in common?”
Record student responses on the board. Some responses may include:
 - Both are African-American males
 - Both are/were NFL players
 - Both were charged with murder
 - Both were found not guilty of murder
 - Both are/were involved in civil “wrongful death” suits

2. Define civil and criminal law. Make sure that students are familiar with the following terms:
 - plaintiff, defendant, jury, counsel, verdict, prosecutor, indictment, States Attorney, burden of proof, cross-examination*

3. Instruct students to use their textbook or another source to outline the steps of a criminal trial and of a civil trial. Using the two Teacher Resources ***Court Proceedings***, conduct a discussion to assess student accuracy and understanding.

4. Show a transparency of ***Standards of Proof***. Ask:
 - Why is preponderance of evidence used in civil cases?
 - Why is guilt beyond a reasonable doubt used in criminal cases?Ask students for examples of recent trial verdicts that illustrate the two standards.

Assessment of Indicator:

Have students answer this Brief Constructed Response item:

- ? What is the difference between preponderance of evidence in a civil suit and guilt beyond a reasonable doubt in a criminal case?
- ? Why is there a difference?
- ? Include examples and details to support your answer.

Use the Social Studies Rubric to score student responses.

COURT PROCEEDINGS
Civil Cases

Civil Case – concerns personal and/or property rights of individuals
A plaintiff states his/her claim in a paper called a declaration.
The defendant states his reply in a paper called a plea.
Sometimes a counterclaim (lawsuit) is filed against the plaintiff.

STEPS OF A TRIAL

1. The jury is selected and challenged.
2. The jury is sworn in.
3. Opening statements are made by the plaintiff's and defendant's counselors.
4. The plaintiff's lawyer calls witnesses to prove his case.
5. The defendant's lawyer may call witnesses.
6. The judge charges the jury as to the point of law.
7. The case is argued by counsel. This is not evidence.
8. The jury retires to consider the verdict.
9. The jury deliberates.
10. The jury returns to the courtroom and renders the verdict.
11. The judge can modify the amount of money awarded.

COURT PROCEEDINGS
Criminal Cases

Criminal Cases – concerns the enforcement of society’s laws

The State prosecutes a criminal case on behalf of the people.

The defendant is brought to court either by an indictment, information or warrant.

STEPS OF A TRIAL

1. The jury is selected and challenged.
2. The jury is sworn in.
3. An opening statement is made by the States Attorney.
4. The counsel for the defendant may make a statement.
5. The State calls witnesses on its behalf to prove its case.
6. The burden of proof rests with the State.
7. The defendant may call witnesses on his/her behalf.
8. Cross-examination is allowed by both parties.
9. The case is argued by the counselors. The arguments are not evidence.
10. The judge may make advisory statements to the jury regarding the points of law.
11. The jury retires to consider the verdict.
12. The jury deliberates.
13. The jury returns to the courtroom with the verdict.
14. The judge imposes the sentence, usually after a sentencing review report.

STANDARDS OF PROOF REQUIRED IN LEGAL CASES

There are two major standards of proof in legal cases:
Proof by a preponderance of the evidence
Proof beyond a reasonable doubt

Proof by a Preponderance of the Evidence – In civil cases the standard of proof is by a preponderance of the evidence. In order to win a civil case, the plaintiff must prove his/her claims are **most likely** true.

Beyond a Reasonable Doubt – In criminal cases the prosecution has a burden of proof of beyond a reasonable doubt. This means that the prosecutor must convince a jury of a person's guilt to a "moral certainty". A mere possible doubt does not constitute a reasonable doubt. The doubt must not be speculation or opinion, but a doubt established by the evidence.