

**Lesson:** The Manner in which a Democratic Society Resolves Disputes

**Objective:** Provide students with background information on the role and structure of the courts, including the trial and appellate process. (*Colorado Model Content Standards: Civics, Standards 1.1, 2.1, and 2.3, grades 9-12*)

**Activities:** Teacher lecture (background information and lecture outline provided); class participation activity; and homework assignment.

**Outcomes:** Become familiar with the different levels of courts and how various cases might be heard and resolved.

**Grade Level:** Grades 9-12

**Anticipated classroom time:** 45-60 minutes

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**Message from former Colorado Court of Appeals Judge Sandra I. Rothenberg:**

U.S. citizens and non-citizen residents want and expect their government to resolve certain problems. However, it is important to remember that we are a nation of limited government. The founders of this country intended that our government be a system of checks and balances, and each of the three branches of government — executive, legislative, and judicial — is designed and permitted to respond in a different way.

Generally speaking, the court system is the forum designated to resolve disputes that cannot be resolved privately. The authority of the federal courts is contained in Article III of the U.S. Constitution. The authority of the state courts arises from each state's own constitution. Article 6, § 5 of the Colorado Constitution describes the powers and duties of our state courts.

Under British rule, courts often acted arbitrarily and without regard to individual rights or fair procedure. The founders therefore held a deep distrust of overly powerful government and courts that were allowed to act with impunity. To guard against such abuses, they provided for an independent judiciary to resolve disputes that arise among the people.

An independent judiciary is created by providing, among other things, lifetime appointments for federal judges, which frees them from political pressures. Also, the Bill of Rights amending the Constitution provides fundamental protections, such as the rights to due process, a trial by jury, speedy trial, freedom from unlawful searches and seizures, and equal protection. The Colorado Constitution includes many of the same protections.

In Colorado, we have a three-tiered court system. Trials to the court or a jury first occur in the district and county courts. There are about 340 state trial judges, and they received 600,686 new court filings in Fiscal Year 2020. The parties have the right to one appeal from the decision of the trial court.

The Colorado Court of Appeals is the intermediate reviewing court, which serves to correct legal errors that occur at the trial court level. There are 22 appellate judges who review cases in panels of three and determine whether the trial process was fair and whether proper legal principles were followed. In Fiscal Year 2020, 2,305 appeals were filed. Any further review is discretionary.

The court of last resort in Colorado is the Colorado Supreme Court, which consists of seven justices who sit together on each case. Occasionally, cases involving important constitutional issues may be further reviewed by the U.S. Supreme Court in Washington, D.C. These layers of review help to ensure that justice is done in each case.

Our court system, like all human institutions, is imperfect. But we can take pride in the fact that it has endured for more than 200 years and remains an effective means of resolving disputes, protecting individual rights, and providing a check on the other branches of government.

### **Teacher background information:**

*Compiled with information from the American Bar Association and the Office of the State Court Administrator. For more information, please access the American Bar Association website at [http://www.abanet.org/publiced/courts/court\\_role.html](http://www.abanet.org/publiced/courts/court_role.html).*

Courts are established to interpret and apply the law when parties dispute. Courts apply the law to specific controversies brought before them. They resolve disputes between people, companies and units of government. Often, courts are called upon to uphold limitations on the government. They protect against abuses by all branches of government. They protect minorities of all types from the majority, and the rights of people who can't protect themselves. They also embody notions of equal treatment and fair play. The courts and the protections of the law are open to everyone.

Application and enforcement of laws won't work without an independent judiciary — courts that are not governed by the political powers-that-be. An independent judge can assure that your case will be decided according to the law and the facts, not by shifting political currents.

In any state, there are not one but two distinct court systems: state courts and federal courts. The vast majority of cases — over 95 percent — are handled by the state courts. The great bulk of legal business — traffic offenses, divorce, wills and estates, buying and selling property — is handled by the state courts, because all of these areas are governed primarily by state laws. (Colorado also has municipal courts that handle cases such as local code enforcement and minor traffic offenses, and these courts are not part of the state court system).

Basically, the courts of this country are divided into three layers:

- trial courts, where cases start;
- intermediate (appellate) courts, where most appeals are first heard; and
- courts of last resort (usually called supreme courts), which hear further appeals and have final authority in the cases they hear.

This division is generally true of both state courts and federal courts.

Some domestic relations, civil, and criminal cases can be settled through alternative dispute resolution, which includes the use of such tools as mediation and/or arbitration rather than litigation in a court. Mediations and arbitrations can be court-ordered or voluntary. They can be a very effective way to settle a disagreement, often saving time, resources, and money. However, most cases go through the formal court system, which follows a strict trial and appellate process.

In Colorado, criminal cases are first filed in the trial court of a judicial district. A misdemeanor offense (which is punishable with up to two years in the county jail) is handled in the county court. A felony offense (which is defined as a crime for which a penitentiary, or prison, sentence may be imposed) is handled in a district court.

Any trial or evidentiary hearings on motions are done in the trial court. If a defendant is acquitted of a crime after a trial, the district attorney generally cannot appeal the verdict and re-prosecute the defendant in another trial because the defendant is protected from re-prosecution by constitutional protections against double jeopardy. If a defendant is convicted in the trial court, he or she may appeal the judge's decisions and rulings that occurred in his/her case. In a civil trial, either party may appeal if there is a basis for the appeal. Appeals from district courts go to the Colorado Court of Appeals. Appeals from county courts are done in the local district court, although these are relatively rare.

After the first round of appeals occur, either party may ask the Colorado Supreme Court to review the decision of the first appellate court. The Supreme Court usually does not take such requests (known as "Petitions for writ of certiorari") because many petitions are filed and few cases can be dealt with by the Supreme Court. After the Colorado Supreme Court either issues a ruling on the case or denies the request to hear the case, either party may ask the U.S. Supreme Court (or sometimes a federal district court) to review the case if there is some federal constitutional or statutory issue involved. The U.S. Supreme Court accepts very few cases for review.

It is important to understand that an appellate court does not re-try the facts of the case. Except in unusual circumstances, an appellate court must accept the facts that were ruled upon by the trial court. If a jury verdict is returned, an appellate court cannot simply change a jury's verdict, although it may rule that the trial court committed such errors (such as admitting evidence that should have been suppressed or admitting really prejudicial evidence) that the conviction must be reversed and the defendant given another, more fair trial.

Appeals are argued in briefs, which contain the relevant law and recitation of the facts in the case that were presented to the trial court. Oral arguments are held in some cases to allow parties to answer questions of the appellate judges or justices and to give the attorneys a chance to argue their cases directly to the judges or justices.

When there is a hearing on a motion in a trial court, the trial court issues findings of fact. For example, in a motion to suppress the search of a car, the defendant may argue that he did not give police his consent to search and an officer may testify that the defendant did give consent. The trial judge makes a factual ruling as to what he or she believes happened. These findings of fact are usually binding on an appellate court when the case is reviewed on appeal. What is argued on appeal is whether the trial court erred in applying the law in ruling on an issue. If the trial court made a mistake in law, the appellate court will usually send the case back down to the trial court with instructions to correct the legal ruling it made.

If a defendant received an unfair trial because of a trial court ruling that the appellate court disapproves of, the defendant's conviction will be reversed and the case re-set for trial again.

A ruling by the U.S. Supreme Court on a federal constitutional issue (such as the Fourth Amendment issue) is the law of the entire United States. A state court can provide more

protection under its own state constitution, but it cannot provide less constitutional protection than the minimum found by the U.S. Supreme Court.

In general, trial courts have to follow the constitution and the same statutes of the state. Of course, the constitution overrides any statutes passed by the legislature. If the legislature passes a law that violates a constitutional provision (such as only men can use a public swimming pool), a court may rule that the statute is unconstitutional and strike it down. The statute will, however, remain enforceable law until it is challenged and rejected through the court process.

Any rulings about law by appellate courts are followed by lower courts. Appellate courts must follow legal rulings of superior appellate courts (for example, the Colorado Court of Appeals must follow the law decided by the Colorado Supreme Court), and the whole body of appellate law grows consistently as opinions generally follow the reasoning and ruling of prior opinions (this is known as “stare decisis”).

**Class participation activity:** Discuss movies that feature court cases (not just arrests or “brushes with the law”), such as *To Kill a Mockingbird*, *12 Angry Men*, *A Time To Kill*, *Philadelphia*, *A Few Good Men*, and *A Civil Action*. Discuss the types of cases that are featured, how they are resolved, and whether or not the students agree with the outcome. Fill in the transparency grid entitled “Courts in the Movies.”

**Homework assignment:** Find a current newspaper article that deals with a court case. Fill in the worksheet entitled “Courts in the News.”

## **Lecture outline:**

### **Role of courts**

The Judicial Branch upholds the rule of law in the following ways:

- holding trials that determine the guilt or innocence of persons accused of breaking the law;
- resolving disputes involving civil or personal rights;
- interpreting Colorado's constitution, interpreting constitutional provisions of laws enacted by the legislature and deciding what is the law of the state when none exists for certain situations;
- determining whether a law violates the Constitution of the United States or the State of Colorado;
- providing supervision for offenders placed on probation in lieu of incarceration;
- supervising the licensing and ethical conduct of attorneys; and
- providing appellate court review for decisions of lower courts.

### **Independent courts**

- Courts not governed by political powers-that-be
- Independent judge can assure a case will be decided according to the law and the facts, not shifting political currents

### **Two distinct court systems**

- Federal courts
- State courts
  - Handle over 95 percent of cases
  - Areas of traffic offenses, divorce, wills and estates, buying and selling property are governed primarily by state laws, so are heard in state courts
- State and federal courts divided into three layers
  - Trial courts, where cases start
  - Intermediate (appellate) courts, where most appeals are first heard
  - Courts of last resort (usually called supreme courts), which hear further appeals and have final authority in the cases they hear

### **Trial courts**

- Some cases settled through alternative dispute resolution
  - Mediation and arbitration
  - Court-ordered or voluntary
  - Can save time, resources, money
- Most cases go through the formal court system
  - Criminal cases first filed in trial court of a judicial district
  - Misdemeanor offense handled in county court
  - Felony offense handled in district court
  - Trial or evidentiary hearings on motions done in trial court

### **Intermediate appellate courts**

- If defendant is acquitted of a crime at trial, district attorney cannot appeal because defendant is protected against double jeopardy.
- If defendant is convicted in trial court, may appeal the judge's decisions and rulings
- Either party can appeal a civil case if there is a legal basis

- Appeals from county courts are done in local district court
- Appeals from district courts go to the Court of Appeals

### **Supreme Courts**

- After first round of appeals occurs, either party may ask Supreme Court to review decision
- Few cases can be dealt with by Supreme Court
- After Supreme Court either issues a ruling on the case or denies the request to hear the case, either party may ask the U.S. Supreme Court (or sometimes a federal district court) to review the case if there is federal constitutional or statutory issue involved
- U.S. Supreme Court accepts very few cases for review

### **Appellate process**

- Appellate court does not re-try facts of the case
- Appellate court must accept facts that were ruled upon by the trial court
- If jury verdict is returned, an appellate court cannot change a jury's verdict
- May rule that the trial court committed such errors that the conviction must be reversed and the defendant given another trial
- Appeals argued in briefs
- Oral arguments may be granted to allow parties to answer questions of the appellate judges and to give the attorneys a chance to argue their cases directly to justices
- When there is hearing on a motion in trial court, trial court issues findings of fact
- Findings of fact binding on an appellate court when case is reviewed on appeal
- What is argued on appeal is whether trial court erred in applying the law in ruling on an issue
- If the trial court made a mistake in law, the appellate court sends the case back down to the trial court with instructions to correct the legal ruling it made
- If defendant received unfair trial because of trial court ruling that the appellate court disapproved of, conviction reversed and case re-set for trial

### **Constitutional issues and rulings**

- Ruling by the U.S. Supreme Court on federal constitutional issue is law of the entire U.S.
- State court can provide more protection under its own state constitution
- Cannot provide less constitutional protection
- Trial courts have to follow the constitution and the same statutes of the state
- Constitution overrides any statutes passed by legislature
- Rulings about law by appellate courts followed by lower courts
- Appellate courts must follow legal rulings of superior appellate courts
- Whole body of appellate law grows consistently as opinions follow the reasoning and ruling of prior opinions



# COURTS IN THE NEWS

What is the title of your newspaper article? \_\_\_\_\_

What newspaper is it from? \_\_\_\_\_

Who wrote the article (if an author is listed)? \_\_\_\_\_

What kind of case is mentioned (domestic relations, criminal, civil)? \_\_\_\_\_

Give a one-sentence summary of the facts of the case. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Which court is hearing or heard this case (county, district, appellate)? \_\_\_\_\_

Is the case in the state courts or federal courts (if the article mentions "U.S. District Court" or "federal judge," it is a federal case, not a state case)? \_\_\_\_\_

Is the article stating facts, an opinion, or both? \_\_\_\_\_

If it states an opinion, what is the opinion? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Do you agree with the opinion stated? Why or why not? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Was a sentence proposed or given? Do you agree with the sentence? Why or why not? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_