

CHV2O Unit 2: Rights and Responsibilities

Activity 3: Law and Order

Overview

This activity examines the need for laws in our society. Students will become familiar with the divisions of public and private law. They will examine the different types of laws such as criminal and civil and some fundamental concepts of our judicial system - the rule of law and the standards of proof.

Lesson

The Need for Law

We often complain that there are far too many laws. For example, there are laws that regulate how much Canadian content we hear on the radio and laws that tell us when we may water our lawns. But what would happen to our society if we had no laws? Would our society still be able to function?

The Divisions of Law

Without laws, we would find that the law of the jungle dominated - only the strong would survive. As civilizations grew, there developed a need to ensure that individual and community needs were met and that there was a peaceful way to resolve conflicts. Our legal system provides us with this.

In Canada, to meet these needs, there have developed over time two broad areas of law:

Public law is an area that deals with activities between a state and its citizens. The best-known example of this type of law is criminal.

Private law deals with disagreements between individuals or groups. It is sometimes called civil law.

Criminal Law

This is one area of law that many of us believe we are very familiar with. We read about it in the newspaper or watch movies or television shows. It is important to realize that much of what we read about or view is based on American law, which does have significant differences from Canadian law. For example, in the United States, each of the 50 states has its own criminal justice system, while in Canada we have just one for the entire country.

For something to be considered a crime, there are three criteria that must be present:

1. The act must be prohibited by the *Criminal Code of Canada*.
2. The accused must have intended to commit the act.
3. The accused must have been able to understand that what they have done is wrong. For example, anyone under the age of 12 is not considered old enough to understand that they have acted wrongly.

In Canada, all criminal laws are divided into two broad areas. The chart below will help you in understanding what they are.

	Type of Offence	Examples of Crimes	Trial Procedures	Punishments
Summary Offences	Minor or less serious	Trespassing at night	Receive a summons to appear in court before a judge	Maximum penalty is a \$2000 fine and/or 6 months in prison
		Causing a disturbance		
Indictable Offences	More serious crimes	Murder	For most crimes, accused has a choice of a trial with a Superior Court judge or by judge and jury; For the most serious offences (murder), accused has no choice - must be trial by judge and jury	Maximum sentence is life imprisonment (a minimum of 25 years must be served)
		Aggravated assault		
		Armed robbery		

Civil Law

Civil law deals with disagreements that occur between two individuals or groups.

There are some significant differences between civil and criminal cases. Some of the important differences are the fact that damages in the form of money may be given to the plaintiff (person making the complaint) and the fact that the defendant cannot be sent to jail.

There are many different types of civil law. Three of the most important are:

- **Family Law** - which deals with issues such as marriage, divorce, and child custody.
- **Contract Law** - which looks at whether a contract is legal and enforceable. A contract might involve the purchase of a car or the hiring of someone to fix your television.
- **Tort Law** - deals with wrongs caused by one person on another. For example, if you slipped and fell on someone's icy stairs, you may take this person to court to compensate you for the injuries you suffered as a result of their negligence.

Alternate Dispute Resolution

In recent years, we have seen a movement to try and resolve disputes through some kind of mediation. Many schools offer peer mediation courses and have student mediators help resolve problems that happen during the school day. Legal courts have also begun to use **Alternate Dispute Resolution** in civil matters. There are three kinds of approaches:

- **Negotiation** - this involves the two parties sitting down together to resolve their problems.
- **Mediation** - this involves the use of a third party who is neutral. This person helps the two parties come to a decision.
- **Arbitration** - this is used when the two parties are unable to come to a decision. A third person listens to the arguments from both sides and makes a decision that is final.

Assignment

1. Why is there a need for laws?
2. What is the difference between public and private law?
3. For a crime to have been committed, what 3 things must be present?
4. What are summary offences? Provide an example.
5. What are indictable offences? Provide an example.
6. Identify and explain the 3 most important types of civil law.
7. What is alternate dispute resolution and its three kinds of approaches?

8. Decide for each of the following whether or not an offence has taken place. Provide a reason for your decision. Remember, a crime has taken place only if all three criteria are present.
 - a) Jill, a ten year old, was playing with her father's rifle and killed her friend Tom.
 - b) Mark, who was continuously insulted by Adam, could tolerate it no longer and shot him.
 - c) Jason, who escaped from a mental hospital, shot and killed his wife.
 - d) Mrs. Austin, an 85-year-old, could not bear to see her ill and aged husband suffering any longer, so she gave him an overdose of sleeping pills.
 - e) Danny, while aiming his slingshot at Noah's leg, hit him on the temple and killed him.

9. Examine each of the situations below and decide whether or not alternate dispute resolution could be used in this situation. Explain why you have made this choice.
 - a) A person is charged with kidnapping.
 - b) A woman wants her fiancé to sign a pre-nuptial agreement.
 - c) A couple that is divorcing cannot decide which one should have custody of the family dog.
 - d) A student has to move out of his apartment but he has signed a one-year lease.
 - e) A teen is caught shoplifting a DVD.
 - f) A woman believes that she has been discriminated against by her employer.
 - g) A person's dog has bitten a neighbor's child, who required 80 stitches.