

CHV2O Unit 2: Rights and Responsibilities

Activity 5: Conflict Resolution: The Trial and Sentencing

Overview

Through this Activity, students examine the steps in a trial and the sentencing options available to a judge. Students are asked to create a flow diagram outlining the phases of a trial and to complete questions on sentencing offenders.

Lesson

Every trial, whether for a summary or an indictable offence, follows the same basic order:

Jury Selection: If this is an indictable offence, a jury may be selected before the actual trial begins.

Arraignment: This is the very first step, once the jury is selected (if that happens). The court clerk reads the charge to the accused and takes a plea of guilty or not guilty. If a not guilty plea is given, then the trial proceeds. If a guilty plea is entered, then there is no trial and the case goes immediately to sentencing

The Crown presents its case: The Crown is first to present its evidence and witnesses. The defence lawyer may cross-examine each of the witnesses. He or she will try to raise doubts about the testimony given by the witnesses.

The Defence presents its case: After the Crown has completed presenting evidence, it is the turn for the defence to call its witnesses. The accused does not have to testify. The Crown may also cross-examine all of the defence's witnesses.

Closing statements: When all of the witnesses have testified, each side has an opportunity to make a final statement about the case. Depending on the type of trial, the statement may be made to the judge or to the jury.

Judge's charge to the jury: In a jury trial, the judge informs the jury of what law is relevant for this case and summarizes the facts of the case.

Jury deliberation: The jury retires to a room and begins to talk about the case. They must all agree on the verdict. If the jury is unable to reach a decision, the judge will declare a hung jury and may order a new trial.

Verdict is announced: The jury gives its decision. If the accused is found not guilty, then he or she is immediately released. If the accused is found guilty, then the trial moves to sentencing.

Sentencing: The judge decides on what the punishment is for the accused. Read the section below to learn more about the sentencing options available to a judge.

At the end of any trial, if the accused is found guilty of the charges, a sentence must be given by the presiding judge. There are a number of reasons why **society sentences offenders**. For most people, the reason is that the person has committed an offence against society and must be **punished**. We have the right to feel safe and sometimes **dangerous offenders must be removed until they are no longer a threat**. A sentence, however, may also act as a **deterrent** - what this means is that a message is being sent to all of us not to commit the act in the future. Finally, we may sentence a person with the hope that we will be able to **rehabilitate** him or her. For example, if the offender has a drug addiction, we would try to get him or her help to break the addiction.

Judges have a variety of sentences that they may impose:

Suspended sentence: This is given for minor offences and if it is the offender's first offence. This means that there is no punishment if the person stays out of trouble for a set period of time. If the person does this, then his or her record is wiped out.

Probation: The judge may issue a probation order for a set period of time. The defendant will have to report to a probation officer and follow rules set out by the judge. For example, the person may have a curfew, be told not to associate with certain people, and be told to take some counseling.

Fine: The person has to pay a set amount of money.

Restitution or Community Service: Restitution means that the offender has to pay back the victim. For example, if you break a window, you may be ordered to pay for a new one. Community service means that the person is expected to work for a set number of hours in the community. If the person vandalized a public park, he or she may be ordered to work so many hours in a park.

Imprisonment: If the offender is given a sentence that is less than two years, he or she will be sent to a provincial jail. If the imprisonment is two years or more, then he or she will be sent to a federal penitentiary.

Assignment

1. Create a flow diagram that illustrates the different steps of a trial.
2. Explain 4 reasons why society sentences offenders.
3. For each of the scenarios listed below, indicate what an appropriate punishment would be and explain your choice:
 - a) a young offender, aged 14, who shoplifts a CD
 - b) a 45-year-old man who kidnaps his child
 - c) a 19-year-old who steals books from the university bookstore because she has no money to pay for them
 - d) a 16-year-old who steals a senior citizen's purse
 - e) a 15-year-old who steals a car and goes joyriding
 - f) a person who is driving while under the influence of alcohol