

THE INDIANA TRIAL COURT SYSTEM

At a Courthouse Near You



STATE OF INDIANA

SUPREME COURT

RANDALL T. SHEPARD, CHIEF JUSTICE



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January 1, 2003

Dear Students,

I am very pleased to introduce this manual on the Indiana trial court system. As you explore this unit and learn more about Indiana's trial courts, you will come to find that the law and the courts touch nearly every facet of our daily lives. By learning and understanding how courts work, you will begin to understand how you can play an instrumental role in the impact the courts have on our society. Maybe one day you will serve on a jury or possibly become a lawyer or judge.

Since the first courts convened in the Indiana Territory during the years before statehood in 1816, Indiana courts have taken great pride in protecting our citizens' rights and in playing a role in ensuring justice. Courts have traditionally been known as places to resolve disputes, but the courts have also played a larger role as a focal point for community life in the communities they serve. Take a moment to notice the courthouses past and present displayed on the cover of this manual. Their impressive stature and ornate presentations reflect the importance the people of Indiana have always attached to the cause of justice.

I am proud that as our courts have evolved, they have remained connected to the communities they serve. It is important that you learn about our courts, because the future of Indiana courts will be in the hands of students like you. I speak for all members of the Indiana legal community when I invite you to explore the past, present, and future of our trial court system. I encourage you to ask questions and to invite your local judges to your classrooms to educate you more about Indiana courts. Most importantly, I urge you as students to ask yourself how you as a citizen can improve our court system in the future.

Sincerely,

Randall T. Shepard
Randall T. Shepard
Chief Justice of Indiana

Main cover photo: Wabash County Courthouse, Wabash, Indiana - (Steve Cain, Purdue Agricultural Communication)

Cover photos from left to right: Jefferson County Courthouse, Madison, Indiana (photo courtesy of Jefferson County Historical Society); interior of Allen County Courthouse, Fort Wayne, Indiana; LaPorte County Courthouse, LaPorte, Indiana (photo courtesy of LaPorte County Historical Society); Putnam County Courthouse, Greencastle, Indiana.

The Indiana Trial Court System

Acknowledgments

The Indiana Trial Court System: At a Courthouse Near You, was prepared by the Supreme Court of Indiana, Office of Chief Justice Randall T. Shepard. Special thanks are extended to Elizabeth Osborn, special assistant for court history and public education; David Remondini, counsel to the chief justice; Matthew Albaugh and Susan Kline, former law clerks to the chief justice; and Kameelah Shaheed, summer law intern with the court who wrote this manual. We would also like to thank Janet Gordon, Purdue 4-H Program Leader, who saw this project through to its completion, and Judge Linda Chezem, whose vision inspired the project.

The Indiana Bar Foundation provided a portion of the funding for the printing and distribution of these manuals.

Notes to Teachers

Objective: This unit will introduce students to the Indiana trial court system. Students will learn about the different courts that make up their state court system and how these different courts fit together. Students will also gain an understanding of how local trial courts work.

Indiana Social Studies Standards: This material was prepared to help teachers meet the Indiana Academic Standards for Social Studies. Skills emphasized in the standards for reading, writing, and analysis are also developed throughout this unit. This material primarily corresponds to Grades 4-8 Social Studies Standard 2: Civics and Government. Specific standards are itemized below. This list should be used only as a basic guideline; it is in no way exhaustive.

Grade 4: Foundations and Function of Government (4.2.1-4),
Roles of Citizens (4.2.6-8), Research (4.1.15)

Grade 5: Foundations and Function of Government (5.2.1-8),
Roles of Citizens (5.2.9-11), Research (5.1.22)

Grade 6: Roles of Citizens (6.2.6), Research (6.1.21)

Grade 7: Function of Government (7.2.3)

Grade 8: Foundations and Function of Government (8.2.3-8),
Roles of Citizens (8.2.10-13), Analysis (8.1.31)



Interior of Allen County Courthouse

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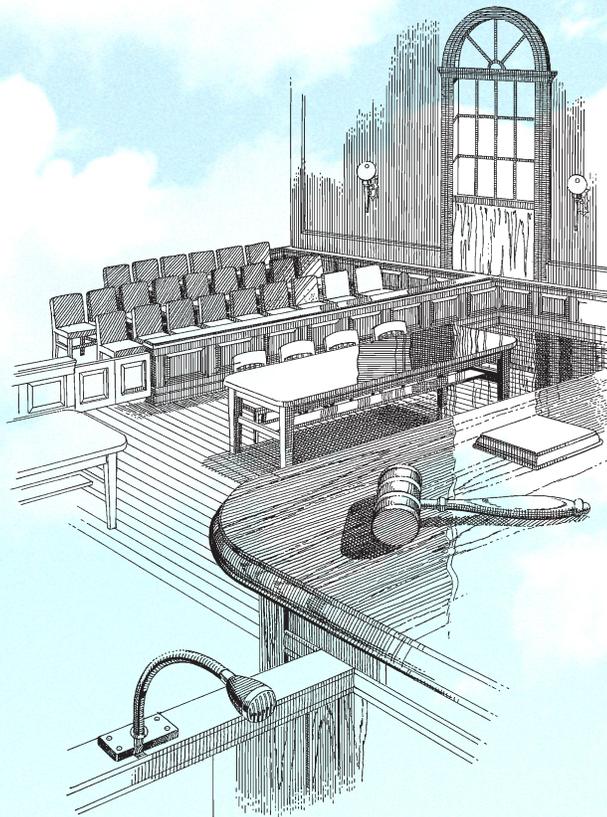
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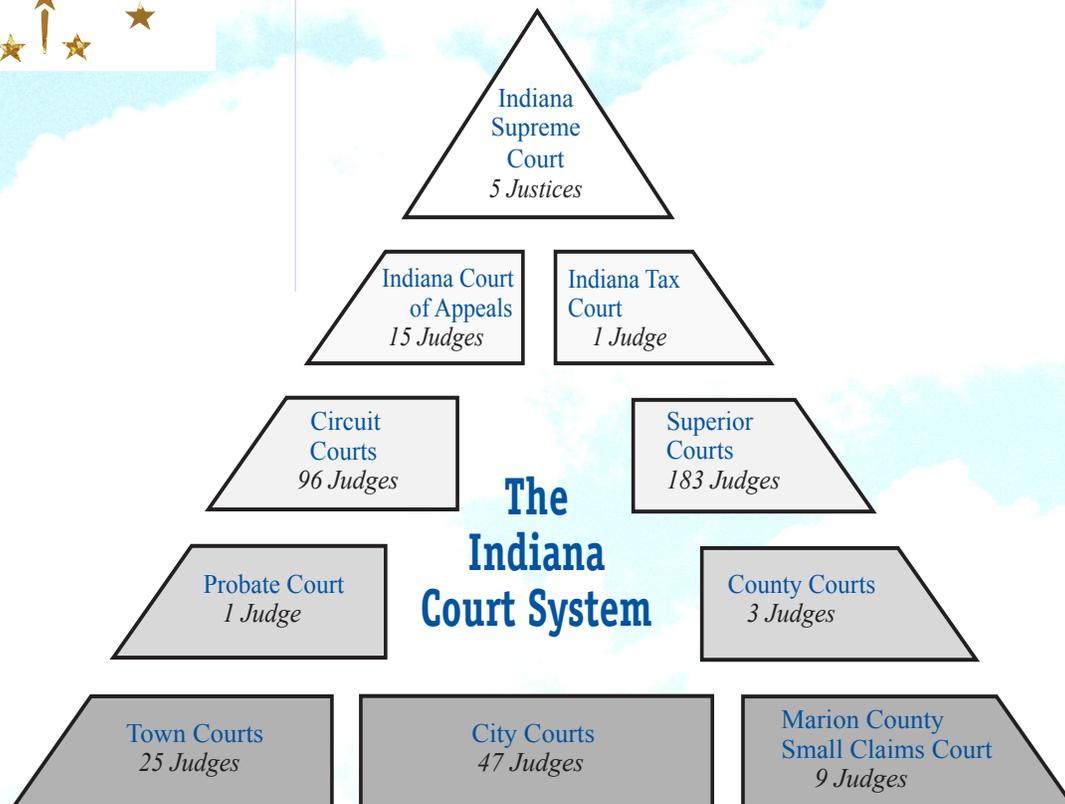
Introduction



H**ave you ever wondered how your local **court system works? Does a real court work like the one you see on television? How is it different? Do you wonder how your local court affects you? Every day people use the court system in many ways, from traffic violations to crimes. Today, the most common way is through domestic matters, such as divorces. You may be surprised how much your local court system affects you. In this unit, we will explore our local trial court system and learn more about how it works.*

This lesson will introduce you to the different courts that make up the Indiana trial court system. It will explain their purpose, their function, and how these courts fit together. You will also learn how the local trial court process works. By the end of this unit, you will better understand

** Note: Words in bold italic type and other legal terms are defined in the glossary at the end of this manual.*





Activity 1

What Do You Know About Your Court System?

By yourself or in a group, write down all of the things you know about your local court system and courts in general.

Have you ever been to court? If you have not been to court yourself, do you know anyone who has?

Who makes the decisions in a courtroom, and what happens after a decision is made?

How does someone become a judge? How long does a person remain a judge?

What are some things that you do not know about the court system that you would like to know?

Questions to Work on Throughout the Unit

1. How are the courts set up in Indiana?
2. How are the courts set up in my county?
3. Who are my local judges, and how did they become judges?
4. What is the difference between a civil and a criminal case?
5. How can disagreements be settled without going to court?
6. What is a jury?
7. How are cases moved through the court system?
8. How do my duties as a citizen fit in with my local court system?
9. How do the courts affect me?
10. How can I be involved in my local court system?

Want to learn more? If you have access to the Internet, log on to the Indiana Judicial System *Courts in the Classroom* page (<http://www.in.gov/judiciary/education>) and watch *Faces of Justice*, a video in which Indiana judges explain the legal system.

Let's Start with Indiana

- Who set up our court system?
- What kind of courts are there and what areas do they cover?
- What are the differences between circuit, superior, county, and local courts?

The Indiana Constitution divides state government into three branches: the legislative branch, the executive branch, and the judicial branch. The constitution gives the judicial power of the state to a Supreme Court, a Court of Appeals, circuit courts, and any other courts that the General Assembly sets up (Indiana Constitution, Article 7, §1). The first court in the Indiana Territory had three **judges** named by the governor in 1800. Today, the Indiana court system has many courts with many different jobs. It has more than 400 judicial officers who hear about 1.6 million cases each year!

There are two kinds of Indiana state courts: **trial courts** and **appellate courts**. The Supreme Court of Indiana, the Court of Appeals of Indiana, and the Indiana Tax Court are appellate-level courts. For the most part, appellate courts only handle cases that have already been decided in a trial court. A person who loses a trial, and wishes to challenge the decision, can ask the appellate-level court to review the case for possible mistakes. The next manual in our series will cover appellate courts. In this unit we will focus on the trial courts, where cases start.

In Indiana, there are four kinds of trial courts: circuit courts, superior courts, county courts, and city or town courts. These courts have different names, but the four kinds of trial courts are more alike than they are different. Trial courts have different names because of the ways that laws have named them, not always because of real differences in the courts.

Trial courts are courts of general **jurisdiction**, meaning they have the power to hear any civil or criminal case. Here are descriptions of each type of court found in the Indiana trial court system:

Circuit Courts

Circuit courts are the only trial courts named in the Indiana Constitution, but the constitution did not create them. The 1851 constitution granted the General Assembly the power to create circuit courts. The General Assembly divided Indiana into **circuits**, or areas based on county lines. Indiana has 92 counties, and 88 of these counties have their own circuit with their own circuit court. The remaining four small counties in southeastern Indiana (Dearborn, Jefferson, Ohio, and Switzerland counties) have been combined to form two circuits with two counties in each circuit.

When Indiana first became a state, a circuit court was the only court in each county. Therefore, circuit courts traditionally heard ALL civil and criminal cases. Today, circuit courts continue to hear all kinds of trials EXCEPT when **exclusive** or **concurrent** (shared) jurisdiction is given to other courts.



The Indiana Trial Court System

In counties without superior or county courts, the circuit courts also handle **small claims** cases, which are civil disagreements that involve less than \$3,000 (\$6,000 in Marion County) and minor offenses, such as **misdemeanors**, violations of local laws, and Class D **felonies**. Class D felonies are the lowest level (least serious) of felony charges. Circuit courts can also hear appeals from city and town courts.

Superior Courts

As local needs grew and more trial courts were needed, the Indiana General Assembly created additional courts called superior and county courts. Most Indiana trial courts are superior courts, and almost all Indiana counties have superior courts in addition to their circuit courts.

For the most part, superior courts have general jurisdiction, so they can hear ALL civil and criminal cases. Superior courts also handle small claims and minor offenses if no county court system exists.

Examples of Trial Court Cases

Civil suits involving less than \$3,000

Example: A neighbor sues another neighbor for breaking his \$500 lawnmower.

Misdemeanors

Examples: **Shoplifting**, trespassing, resisting arrest, and shoving someone.

Ordinance Violations

Examples: Noise control laws, or local laws requiring permits for certain activities.

Class D Felonies

Example: Theft (under \$100,000).

So How Does This Work?

Example:

In Monroe County, which includes the city of Bloomington, there are seven divisions within the circuit court and NO superior courts. If Susie Smith were **arrested** in Monroe County for shoplifting (which is a misdemeanor), the circuit court would hear that case.

However, in Vanderburgh County, which includes the city of Evansville, there is a circuit court and several superior courts. If Susie Smith were arrested in Vanderburgh County for shoplifting, the circuit court OR the superior court could hear the case.

County Courts

The Indiana county court system was established on January 1, 1976. Today, the majority of county courts have been changed into superior courts. Floyd, Madison, and Montgomery counties are the only Indiana counties that still have a county court system. County courts handle **contract** (disagreements over written and oral agreements), **tort** (such as personal injury cases, perhaps from a car accident), and landlord/tenant cases where the damages do not exceed \$10,000. They also hear Class D felonies, misdemeanor and **infraction** cases, and violations of local ordinances. (This will be discussed in detail on page 10.) County courts also have a small claims division.

City and Town Courts

City and town courts may be created by local **ordinances** (local law). Currently, there are 48 city courts and 27 town courts in Indiana. Avon, Carmel, Jamestown, and Plainfield are just a few examples of cities and towns that have these courts. City and town courts handle minor offenses, such as violations of city ordinances, misdemeanors, and infractions. These courts commonly handle traffic matters. City and town courts are not courts of record, which means that their proceedings are not recorded. That means when appeals from city and town courts go to the circuit or superior courts, they are decided as if they have never been to court before. Did you know that city and town court judges are not always attorneys?

Breakdown of Indiana Trial Courts

	Circuit Courts	Superior Courts	County Courts	City/Town Courts
Who Creates the Courts?	Indiana General Assembly	Indiana General Assembly	Indiana General Assembly	Local Ordinance
What Kinds of Cases Do They Hear?	All civil and criminal cases	All civil and criminal cases	Contract and tort disputes under \$10,000 Small claims <ul style="list-style-type: none"> • Civil disputes under \$3,000 • Marion County: civil disputes under \$6,000 Minor offenses <ul style="list-style-type: none"> • Class D felonies • Misdemeanors • Infractions • Local ordinance violations 	Misdemeanors Violations of town laws Civil cases under \$500 (Lake County, under \$3,000)



Activity 2

Exploring Your County's Court System

The Indiana court system is different from county to county. Identify which county YOU live in, and find out if your county has circuit, superior, and city and town courts. Compare your county with other Indiana counties.

1. Which Indiana county do you live in? _____
2. How many circuit courts does your county have? _____
3. Does your county have superior courts? If yes, how many? _____
4. Does your county have county courts? If yes, how many? _____
5. Does your county have any city or town courts? If yes, how many? _____
6. Can you name one judge of your county? _____
7. If an adult committed a misdemeanor in your county, would the circuit court or the superior court handle that case? Or could either handle the case? _____

Bonus Activity:

If you have access to the Internet, log on to the Indiana Judiciary Trial Court's web page (<http://www.state.in.us/judiciary/courts/trial.html>). Does your county court system have a web page? If so, find the address of one of the judges in your county. Write a letter to the judge asking him/her to visit your classroom and talk about the local court system.



Allen County Courthouse, Fort Wayne, Indiana (photo courtesy of the Allen County Historical Society)

Civil vs. Criminal Cases

Now that you know what kinds of courts are in the Indiana court system, we can explore what kinds of cases each of these courts handle. There are two major kinds of cases: *civil cases* and *criminal cases*.

Four out of every five conflicts that come to state courts are civil cases. Civil cases involve conflicts between people or institutions, such as businesses. A civil case usually begins when a person or organization decides that a problem cannot be solved without going to court. In civil cases, one (or more) of these persons brings “*suit*” by filing a *complaint* in court. After the case is filed, the lawsuit begins. Filing a lawsuit is the first step of *litigation*, which means to use the courts to settle a legal disagreement.

What Types of Cases Are Civil?

Divorce and related lawsuits (child support, custody, etc.) make up a very large number of civil cases. Cases about contracts (written or oral agreements) are also common. Personal injury cases are another typical kind of civil case. In personal injury cases, a person who is hurt brings a lawsuit to collect money from the person who caused the injury. A common type of personal injury case comes from car accidents. A car accident can become a civil case if one driver sues the other or if a passenger in one of the cars sues either driver. A car accident might also lead to a criminal case if it involves a possible crime, such as driving while drunk or leaving the scene of an accident. A person who sues in a civil case usually wants the court to order the person who caused the injury to pay money for the injury.

Civil lawsuits can also come from everyday interactions. For example, imagine two neighbors share a common driveway, and the driveway needs to be repaired. A disagreement starts because the two neighbors cannot agree who should have to pay for the repairs. Now let’s say one neighbor paid to have the driveway repaired, and now he wants the other neighbor to pay for half of the costs since they share the driveway. If they cannot work it out, the first neighbor may bring a lawsuit against the other neighbor and let the court decide what is fair.

Surprisingly, the most common kind of civil cases are traffic violations, or infractions. Because traffic violations are a way of breaking the law, some people might think that traffic violations would be considered criminal. But because people cannot be put in *jail* for traffic violations, the legal system calls these civil infractions. One reason there are so many civil cases is because traffic violations are counted as civil cases.

What Types of Cases Are Criminal?

Criminal cases involve enforcing laws. In criminal cases, the government (here the state of Indiana) brings charges against the person accused of committing a crime, such as robbery, murder, or drunk driving. An example of a criminal case would be if “Mr. Bad Guy” was suspected of killing someone. The state of Indiana would bring criminal charges against “Mr. Bad Guy” for murder. “Mr. Bad Guy” would then go to court to stand trial on the charges.



Generally, in a civil case the person who sues is asking for money. The person who files the lawsuit wants the court to order someone to pay him or her money. In a criminal case, the state of Indiana is seeking punishment. The state wants the court to punish the person who committed the crime. The punishment could either be going to prison or having to pay a fine for committing a crime.

So Which Courts Handle Which Cases? Specialized Criminal and Civil Courts

Once you decide if a case is civil or criminal, the next step is to decide which civil or criminal trial court will handle that case. There are different civil and criminal courts that specialize in certain kinds of cases. Major felony, misdemeanor, and juvenile courts are examples of specialized criminal courts. Major felony courts only handle serious crimes called felonies, such as robbery or murder. Misdemeanor courts only handle the least serious crimes called misdemeanors, such as shoplifting or trespassing. Juvenile courts only handle cases involving children. Juvenile courts often hear cases involving crimes committed by children under the age of 18.

There are also a number of specialized civil courts. Small claims court, probate court, and family court are examples of courts that handle specific civil matters. In Indiana, the small claims court handles only cases where the disagreement involves less than \$3,000. In Marion County, which includes the city of Indianapolis, small claims cases are disputes that involve less than \$6,000. Marion County is the only Indiana county that has separate courts in each of its nine townships that hear only small claims cases. In other counties, the circuit court hears small claims cases, or the superior or county courts can hear small claims cases.

Probate court handles cases about the estates (belongings) of people who have passed away. This court also hears cases about guardianships (taking care of someone, such as a child) and mental health hearings. St. Joseph County, which includes the city of South Bend, is the only Indiana county that has a separate court just for probate cases. The probate court in St. Joseph County also is the only court in that county that can handle juvenile cases. In the other counties, the superior or county courts can hear probate and juvenile cases.

Family court hears cases about some of the most difficult problems facing families. Family courts specialize in domestic matters, such as divorce, child support, and visitation. In Indiana, there are no separate family courts, so some superior courts have created separate divisions to handle family law cases.



Divisions of Criminal & Civil Courts

(Types of cases these courts handle)

CRIMINAL	
General (Criminal)	Meaning / Examples
Criminal Felony	Murder, kidnapping, arson, robbery, etc.
Class D Felony	Theft, computer tampering, fraud, etc.
Criminal Misdemeanor	Criminal trespass, simple battery
Juvenile	Meaning / Examples
Children in Need of Services (CHINS)	Cases to determine whether a child is in need of special services. Can mean the child needs to be removed from the home.
Juvenile Delinquency	Offenses committed by youth under 18
Juvenile Status	Offenses that are crimes due to the offender's age such as underage drinking, truancy, etc.
Juvenile Paternity Termination of Parental Rights	Case to establish who is the father of a child Case to decide if a parent's right to be a parent should be ended

CIVIL	
General (Civil)	Meaning / Examples
Civil Tort	Cases where someone is suing for a "wrong" that is not a crime, but has resulted in some injury or damage. Example: A car accident.
Civil Plenary	Contract cases, property cases, and cases seeking to start or stop someone from doing something
Small Claims	Disputes involving less than \$3,000 (less than \$6,000 in Marion County)
Domestic Relations	Divorce and related lawsuits
Mental Health	Cases that involve having someone committed (sent) to a mental health institution.
Protective Order	Where someone seeks an order from the court to make someone stay away from them. Example: An abused woman seeking protection from her abusive boyfriend.
Infractions	Usually traffic offenses
Ordinance Violations	Violations of local laws such as noise controls, etc.
Estates	Cases deciding how to divide or distribute a person's property and things when the person has died.



Activity 3

So You're Going to Court, But Which One?

For each of the following examples, decide whether the case is civil or criminal, then name the Indiana state court or division where the case would be heard. * (Answer key on page 30.)

Civil	Criminal
a. Small Claims Court	e. Major Felony Court
b. Probate Court	f. Juvenile Court
c. Family Court	g. Misdemeanor Court
d. Traffic Court	

- Susie, a 12-year old, has been caught shoplifting.
_____ / _____
- A local hardware store sues Dan for not paying his \$400 credit card bill.
_____ / _____
- Two high school seniors are arrested for throwing eggs at the local police department.
_____ / _____
- Mrs. Green is suing Mr. Green for a divorce.
_____ / _____
- Martin has been charged with murder.
_____ / _____
- A woman challenges her father's will, saying that she was supposed to get her father's house when he died, but the house went to her sister instead.
_____ / _____
- Catherine has been arrested for trespassing on private property.
_____ / _____
- Sam is suing his friend for destroying his \$500 baseball card collection.
_____ / _____
- A person wants to contest (challenge) a speeding ticket.
_____ / _____
- Two recently divorced parents are arguing about the custody of their children (where their children will live).
_____ / _____

* Note: The Supreme Court of Indiana wishes to acknowledge the Minnesota Center for Community Legal Education. This lesson was adapted from the center's lesson plan titled *Fairness & Freedom: Courts as a Forum for Justice*.

Alternatives to Court

If you watch any of the court shows on television, you might think that all cases are settled in a courtroom. But the truth is that 50 percent to 90 percent of cases filed never even go to trial! Most cases are settled outside of court. This means that the people involved in the lawsuit reached an agreement on their own without needing a judge or **jury** to decide the argument for them. A disagreement can be settled even before a lawsuit is filed. Once a lawsuit is filed, it can be settled before the trial begins, during the trial, while the jury is deciding, or even after a decision is given. A settlement usually does not say that anyone was right or wrong in the case, and it does not have to settle the whole case. Part of a case can be settled, with the rest of the questions decided by the judge or jury.

The main way to settle a case is through **alternative dispute resolution** (ADR). Two common kinds of ADR are **mediation** and **arbitration**. These usually involve one or more persons other than a judge or a court to help settle disagreements.

Mediation

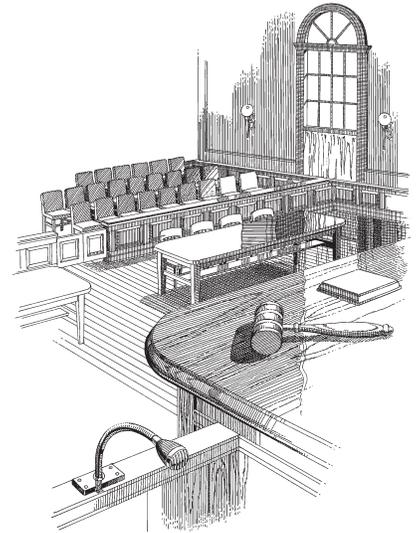
Mediation is where the people who disagree talk to each other with the help of a third person, who is called a mediator. The mediator helps them find a compromise, or a common ground on which they can agree to a solution. The mediator does not take sides or make decisions for the people. In general, mediation costs less and is faster than arbitration or litigation (going to court).

Arbitration

Arbitration is another choice for settling. In arbitration, a third person, called an arbitrator, hears both sides of the arguments. Then the arbitrator makes a decision that the people have agreed in advance to accept. The people have to follow the arbitrator's decision, just like they would have to follow a judge's decision.

Plea Bargaining

Settlements can happen in criminal cases as well. Criminal cases are often settled through a process called **plea bargaining**. A plea bargain is when a **defendant** (the person on trial) decides to plead **guilty** to a crime after making an agreement with the state. In exchange for the guilty plea, the state may offer to dismiss some of the charges against the defendant or ask the judge for a specific prison term or easier punishment. A judge must approve plea bargains. Plea bargains are a very important and efficient way to settle criminal cases. Today, approximately 85 percent to 90 percent of all Indiana criminal cases are settled through plea bargains.



For more information on Alternative Dispute Resolution, log onto the Indiana Judicial System web page at <http://www.in.gov/judiciary/education/library.html> and view a video on ADR from the video library.



Activity 4

How Good Are You at Resolving Disputes?

Most cases are settled, or resolved, before going to court. In groups of three students, read the following cases and try to resolve the disputes through mediation or arbitration. Two students will play the role of the people who disagree, and the third student will act as the mediator or arbitrator. After your group has discussed the case and come up with a resolution, appoint a group leader to explain your group's decision. If time permits, switch roles and try to resolve the dispute in all three cases. (Answer key on page 30.)

Case 1

Jonathan is babysitting Kayla and Brandon. Kayla and Brandon begin to fight over who owns the skateboard that they both want to play with. Kayla argues that the skateboard is hers and that Brandon cannot play with it. Brandon argues that the skateboard was purchased for both of them to share, and because Kayla has been playing with it all day, it is his turn to use it. Can Jonathan, the mediator, help Kayla and Brandon resolve the dispute, or will they have to go to court?

Case 2

Jeff collects comic books. Michael is one of Jeff's classmates. Jeff loaned 10 comic books to Michael for one week. The comic books were in very good condition, and Jeff warned Michael to be careful with them. Jeff paid \$2 each for the 10 comic books, for a total of \$20. Michael returned five comic books in good condition, but five were torn and ripped. Jeff demanded \$20 from Michael to cover the costs. Michael refused to pay. Jeff sues Michael for the \$20. Can a mediator or arbitrator help Jeff and Michael reach a resolution, or will they have to go to court?

Case 3

Mr. and Mrs. Brown, who have two children, are getting a divorce. Mrs. Brown is moving to Florida, and Mr. Brown is staying in Indiana. Mrs. Brown wants to take the children to Florida with her, but Mr. Brown wants the children to stay in Indiana with him. He does not want to take the children out of the schools where they are already enrolled. Mrs. Brown sues Mr. Brown for full custody of the children so they can move with her to Florida. Can a mediator or arbitrator help Mr. and Mrs. Brown reach a resolution, or will they have to go to court?



The Players in the Courtroom

When a case goes to *trial*, many people are involved, and each plays an important role in the court process. A trial is a court case about an argument involving two or more people. The people who bring their argument to the court are called the *parties* to the case. In a civil trial, one person is complaining about something another person did or didn't do. The person who does the complaining is called the *plaintiff*. The *defendant* is the person who the plaintiff is complaining about. In a criminal case, a person is accused of doing something that the law calls a crime, such as murder or robbery. Because this crime hurts not only the victim but also the public or state, the plaintiff in a criminal case is the government or state. The person accused of the crime is the defendant.

Lawyer/Attorney

Usually both parties will hire **lawyers**, also known as **attorneys**, to prepare the case and make arguments for them in court. A lawyer is both an advisor and an **advocate**. As an advisor, a lawyer informs the client about the legal choices.

As an **advocate**, a lawyer represents a client in court. A lawyer also advocates (argues) on behalf of clients in other settings, such as settling disagreements out of court. All lawyers are officers of the court. Lawyers must follow court rules as well as laws and professional ethics rules. If a lawyer is representing a client, the lawyer is bound by professional rules of confidentiality, which means the lawyer must protect the secrecy of conversations with the client. These rules protect clients who put a great deal of trust in lawyers to help them settle their cases.

In a criminal case, a lawyer called a **prosecutor** represents the state. The prosecutor speaks for the government, which represents the people of the state or nation. The defendant in a criminal case can hire a **defense attorney**, who is a lawyer representing the defendant. If the defendant cannot afford an attorney, the court will appoint a **public defender**, a lawyer who will represent the defendant for free.

Judge

Possibly the easiest person to identify in the court is the **judge**. The judge sits at the front of the courtroom, usually dressed in a black robe. Judges are like umpires in baseball or referees in football or basketball. The judge makes sure that both sides follow the rules of the court. Even though the judge works for the state, the judge doesn't try to find people guilty. The judge listens to both sides and makes decisions according to the facts and law.

In a **jury trial**, the judge rules on points of law and tells the jury about the law that governs the case. If the defendant chooses not to have a jury trial, the judge determines the facts, rules on the lawyers' requests, resolves disagreements, and makes the final decision about the case. Trials in which the judge decides the case are called **bench trials**.

How Can I Become a Lawyer?

Lawyer Requirements

To become a lawyer, you have to go to college and to law school. Then, in almost all states, you must pass a difficult test called the bar exam to get a license to practice law. A license to practice law in Indiana was not required until 1931!

Certain Lawyers Must Be Elected

Prosecutors are lawyers that represent the state in a criminal case. Prosecutors are lawyers for their counties or judicial circuits, and they must be elected by the voters.

What Does It Take to Become a Judge?

Judge Requirements

To become a judge you must have a law degree and be a licensed attorney. Most judges are lawyers first to gain more experience and knowledge about the law. But there are some exceptions. In most of the 72 city and town courts in Indiana, the judge does not have to be an attorney.

In Indiana, the voters elect the judges of most courts every six years, but there are some exceptions. Judges of city and town courts are elected every four years by local voters.



Trial judge at a special event with Fort Wayne schoolchildren. (Photo courtesy of the News-Sentinel)

Bailiff

The ***bailiff*** calls the court to order and announces the judge's entry into the courtroom. The bailiff also helps to keep order in the courtroom and is often responsible for security in the courtroom and courthouse. Bailiffs are sometimes law enforcement officers, like police officers.

Court Clerk

Each judge has a court ***clerk*** who gives the oaths, manages the court file, numbers the exhibits, maintains the exhibits during the trial, and is responsible for all court documents.

Court Reporter

The ***court reporter***'s job is to write down everything that is said during trial. The court reporter must also make a permanent, word-for-word typewritten report of the trial. This report, called a transcript, must be prepared according to special rules.

Jury

The defendant can choose a ***bench trial***, where the judge decides what is right, or a ***jury trial***, where people are chosen to hear and decide the case. The Sixth Amendment to the United States Constitution gives the defendant the right to a jury trial in all criminal cases. The Indiana Constitution's Bill of Rights, Article 1, §13 and §20, gives a defendant the right to a jury trial in both civil and criminal cases.

What Is a Jury?

A ***jury*** is a group of people called to court and sworn to decide the facts of the case. A juror is a person who is part of the jury. A master list of possible jurors is taken from places such as voter and driver's license lists. Citizens from the master list are randomly selected and called into court for jury duty. Then they are questioned through a process called *voir dire*, which means "to speak the truth." At this time, the lawyers for both sides and the judge can question the possible jurors to see if they might be unfair. The lawyers for either side can ask a juror to leave if they think the juror won't be fair. In Indiana, either twelve or six jurors are chosen for criminal trials, and six jurors are chosen for civil trials.

The jury listens to the evidence during a trial, then decides whether a defendant is ***guilty*** or not guilty in criminal cases. In civil cases, defendants are found to be ***liable*** (responsible) or ***not liable*** (not responsible). When a jury hears a case, the judge still has to decide which evidence the jury may use. The jury hears the facts, but only from the evidence that is legally allowed. The judge tells the jury about rules that must be followed in deciding the case. If the jury finds the defendant guilty, in a criminal case, it is up to the judge to sentence, or decide punishment for, the defendant.

In criminal cases, the jury's **verdict** (decision) must be unanimous, which means the jury members must all agree. If the members of the jury cannot agree after talking about it for a long time, this is called a **hung jury**. A new trial can be held, or the case may be dismissed. In civil cases, the parties can agree before the decision is given that the jury's verdict does not have to be unanimous. The decision must still represent the majority, or most, of the jurors' votes.

Today, juries are used in only about 5 percent of all criminal and civil cases, but juries are important to justice in the United States. Juries are also an important way for citizens to be involved in their government. Jury service gives ordinary citizens firsthand experience with the legal system.

Jury Duty: A Civic Responsibility

Jury service is one of the most important responsibilities we have as citizens. When you serve on a jury, you are helping to protect our liberties and to preserve our system of justice!

History

The idea of a jury trial was first established almost 800 years ago (in the year 1215) in England when King John signed the Magna Carta.

Right to Jury Trial

In Indiana, the right to a trial by jury is protected by the Bill of Rights of our state constitution.

- Article 1, §13 — “In all criminal prosecutions, the accused shall have the right to a public trial, by an impartial jury.”
- Article 1, §20 — “In all civil cases, the right of trial by jury shall remain inviolate [undisturbed].”

Eligibility for Jury Duty

To serve on a jury, you must be:

- 18 years of age
- A citizen of the United States
- A resident of the county where the court is located
- Able to communicate in English

FunFact

Only the judges of the following city and town courts must be attorneys:

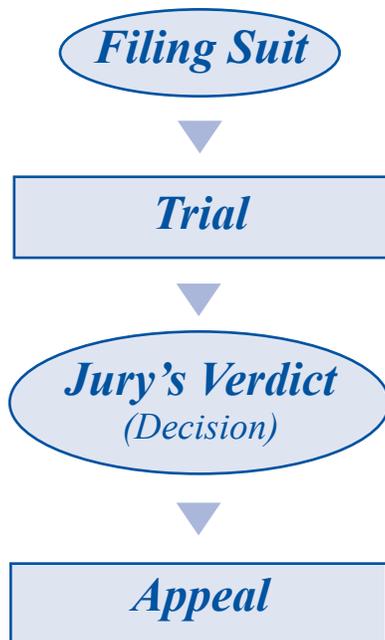
Anderson City Court, Avon Town Court, Brownsburg Town Court, Carmel City Court, East Chicago City Court, Gary City Court, Hammond City Court, Muncie City Court, Noblesville City Court, and Plainfield Town Court.

The Court Process

Now that you know a little more about how the courts work, the alternatives to going to court, and the key players in the courtroom, let's go through the actual steps of how a case goes through the court system. We will start with a civil case.

How a Civil Case Moves Through the Courts

Let's imagine that Mr. and Mrs. Smith were driving in their car and were hit from behind by Mr. Driver. Mr. and Mrs. Smith first meet with a lawyer to decide if they should sue Mr. Driver for **damages**, which are losses due to their injuries. Some examples of damages are medical bills, lost wages, and pain and suffering caused by the injuries.



Filing Suit

Mr. and Mrs. Smith sue Mr. Driver in the superior court in the county in which they live. It takes about a year to prepare the case. During this time, each side prepares their side of the story, usually using testimony from **witnesses**. They are also allowed to get information from the other side.

Trial

Mr. Driver asks for a jury trial. He says that the accident was not his fault. At the trial, six adults sit on the jury. Attorneys for both sides tell the jury their side of the story. In a civil case, the attorney for the plaintiff must make the jury believe that the defendant (Mr. Driver) caused the accident. They must find *by a preponderance of the evidence*, which means they are pretty sure Mr. Driver is responsible for Mr. and Mrs. Smith's injuries.

Jury's Verdict

The judge tells the jury to look at the laws and then decide what happened. The jury **deliberates** (meets and discusses) in private until most or all of them agree on the outcome. The jury awards \$250,000 in damages to the plaintiffs, Mr. and Mrs. Smith. The court then gives an order that tells the defendant, Mr. Driver, to pay Mr. and Mrs. Smith the \$250,000.

Appeal

If Mr. Driver and his lawyer think there was a mistake and that they should have won, they can **appeal** the verdict. In that case, Mr. Driver's lawyer would ask the Indiana Court of Appeals to review the case.

How a Criminal Case Moves Through the Courts

Arrest

Let's imagine that the police believe that Peter Piper has stolen things from someone's house. First, Mr. Piper would be arrested and charged with burglary. The police would tell the county's lawyer (the prosecutor) about the arrest. The prosecutor could then file charges in a court of the county. [Note: Which court depends on the county. Most likely, the charges would be filed in superior court because burglary is a felony, or a serious crime.]

First Court Date

Mr. Piper would then be brought before the judge in the county where he was arrested. If Mr. Piper had not yet hired a lawyer because he couldn't afford one, the court would tell a lawyer called a public defender to work for Mr. Piper for free. After talking to his lawyer, Mr. Piper would then enter a *plea*, which means he would tell the court that he was guilty or not guilty. Mr. Piper tells the judge he is not guilty, and the judge then has to decide if Mr. Piper can stay out of jail before the trial, or if Mr. Piper must stay in jail until his case goes to court. If the judge decides that Mr. Piper can stay out of jail, Mr. Piper probably will have to post *bail*.

Trial

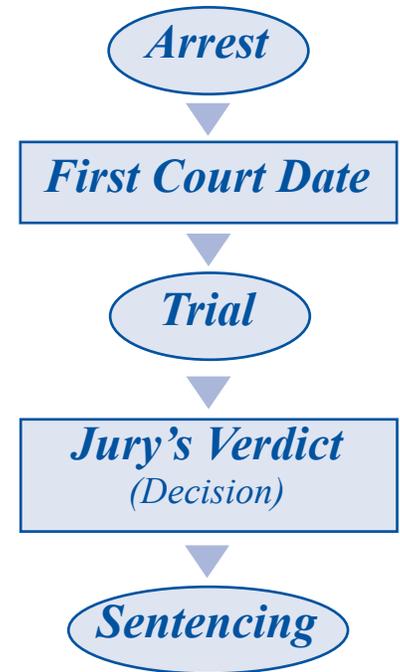
Mr. Piper is believed to be innocent until the state's lawyer can prove that he isn't. Mr. Piper asks for a jury trial, and the case goes to superior court. The jury listens to the facts and the *evidence* to decide whether Mr. Piper did or did not steal. In a criminal case, the prosecutor (state's lawyer) must make the jury believe that the defendant (Mr. Piper) did the crime. The jurors must be very sure before they can say he is guilty. This is called guilt beyond a reasonable doubt.

Jury's Verdict (Decision)

The judge tells the jury to look at the law and then decide what happened. If the jury thinks that Mr. Piper is not guilty, then the case ends and Mr. Piper is free to go. If the jury thinks that Mr. Piper is guilty, then the judge will sentence (punish) Mr. Piper. The jury deliberates (meets and discusses) in secret until they all agree what happened. The jury finds Mr. Piper guilty of burglary.

Sentencing

The judge sentences Mr. Piper to ten years in prison. If Mr. Piper and his lawyer think there was a mistake, Mr. Piper's lawyer can ask the Indiana Court of Appeals to review the case. Mr. Piper can take his case straight from the trial court to the Indiana Supreme Court, skipping the Court of Appeals, if his charge was murder and his punishment was life in prison or death.





Activity 5

Your Day in Court: Mini-Trials

In this activity, you will act out trials by reading the facts given for each case. This will allow you to practice making decisions. * (An answer key is on page 31.)

1. Work in groups of three, and decide who will play the roles of judge, plaintiff, and defendant. Depending on the size of the class, you may also include the roles of bailiff and court reporter.
2. Next, read the facts of the case.
3. The student playing the role of the plaintiff should give his/her argument.
4. Next, the student playing the role of the defendant should give his/her argument.
5. The judge may ask questions before making a decision.
6. The judge then gives his/her decision along with the reasons for that decision.

Case 1 – FACTS

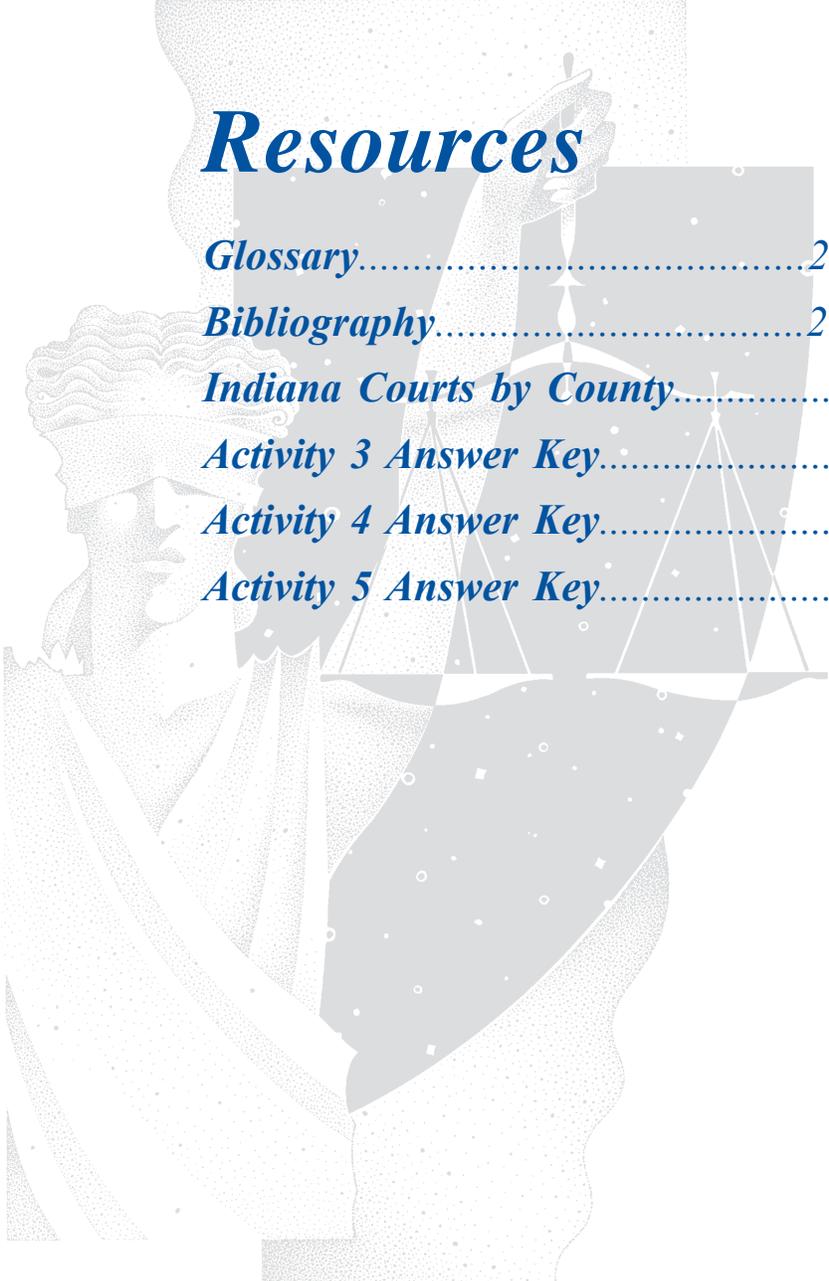
1. The plaintiff is the assistant to a newspaper delivery boy.
2. The defendant is the newspaper delivery boy.
3. The defendant became sick and asked his helper, the plaintiff, to deliver 50 papers.
4. The plaintiff agreed to deliver the papers for \$3. The plaintiff delivered papers but did not place them in mailboxes or inside halls. Twenty-five newspapers were ruined in the rain, and the defendant refused to pay the \$3 to the plaintiff. The plaintiff sues.
5. What is the issue?
6. How would you decide? Why?

Case 2 – FACTS

1. The plaintiff is a babysitter.
2. The defendant is a parent.
3. The plaintiff agreed to babysit for the defendant's two children for \$2 per hour. When the babysitter arrived, there was a third child, a cousin, there. The plaintiff said nothing about wanting more money. When the defendant returned home two hours later, the plaintiff said the rate was \$1 per hour per child and asked for \$3 per hour. The defendant refused to pay the additional \$1 per hour. The plaintiff sues.
4. What is the issue?
5. How would you decide? Why?

* NOTE: The Supreme Court of Indiana wishes to acknowledge the Utah Administrative Office of the Courts, Salt Lake City, Utah. This lesson was adapted from Utah's Law Related Education Project's *Your Day In Court*.

Resources



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Glossary

- ACTION, CASE, SUIT, LAWSUIT:** A legal disagreement brought into court for trial.
- ADVOCATE:** A person who speaks in court for another person. A lawyer is often called an advocate.
- ALTERNATIVE DISPUTE RESOLUTION:** Ways to settle disagreements without going to court. Common methods are mediation and arbitration.
- APPEAL:** A request by the losing party in a lawsuit for a higher court to review a case that another court has already heard.
- APPELLATE COURT:** A court that reviews cases that have already been heard by a lower court.
- ARBITRATION:** A way to settle a disagreement without going to trial. A third person, called an arbitrator, hears the arguments and makes a decision for the two people who are disagreeing.
- ARREST:** The holding of a person by a police officer in connection with a crime. The person who is placed under arrest is not free to leave.
- ATTORNEY:** A person who has been trained and licensed to represent others in legal matters. Also called a lawyer.
- BAIL:** Money given to the court by a criminal defendant who is out of jail before his/her trial. The defendant must show up for the trial in order to get the bail money back.
- BAILIFF:** A court official who keeps order in the courtroom and assists the jury.
- BENCH TRIAL:** Trial without a jury in which the judge makes the final decision about the case.
- CIRCUITS:** Specific areas in Indiana where the Indiana Constitution says certain courts are to be established.
- CIVIL CASE:** A lawsuit that allows one person to be paid for a wrong (other than a crime) caused by another person.
- CLERK:** Court official who keeps the court records and official files. The clerk also administers the oath to jurors and witnesses.
- COMPLAINT:** The first paper filed in a civil lawsuit. It claims that the defendant did something wrong and the plaintiff needs help from the court.
- CONCURRENT JURISDICTION:** When two or more courts share the right to hear a certain kind of case. Example: Circuit and superior courts have *concurrent jurisdiction* to hear small claims cases.
- CONTRACT:** An official agreement between two parties (people or businesses).
- CONVICTION:** A decision by a court that says someone is guilty of a crime.
- COURT:** Place where a legal disagreement is heard by a judge. Lawyers and witnesses tell their stories, then a jury or the judge makes a decision about the disagreement.
- COURT REPORTER:** A court official who makes a permanent record of everything that happens in court.
- CRIMINAL CASE:** A case brought by the government against a person accused of committing a crime.

- DAMAGES:** Money that a court orders paid to a person or party (usually the plaintiff) who has suffered a loss caused by another person (usually the defendant).
- DEFENDANT:** The person accused of a crime in a criminal case; the person from whom money or other award is asked for in a civil case.
- DEFENSE ATTORNEY:** The lawyer who represents the defendant or the accused person.
- DELIBERATION:** The process where the jury talks about the case in private to decide whether a defendant is guilty or not guilty, or liable or not liable. This takes place after the evidence has been given and everyone has been questioned.
- DETAIN:** To keep in custody or temporary confinement, such as in jail.
- EVIDENCE:** Information or things shared with the court to prove to the judge or jury what happened.
- EXCLUSIVE JURISDICTION:** When only one court has the right to hear a certain kind of case.
- FELONY:** A serious crime, usually punishable by a fine and/or a prison sentence. In Indiana, examples of felonies are assault with a deadly weapon, burglary, murder, and possession of a controlled substance with intent to sell.
- GUILTY:** The defendant can enter a plea of “guilty” by admitting in court that he/she committed the crime charged. The jury can give a verdict of “guilty” if it finds beyond a reasonable doubt, based on the evidence, that the defendant committed the crime charged.
- HUNG JURY:** A jury unable to reach a verdict because not all the jurors could agree.
- INCARCERATION:** Imprisonment; being locked up in a jail or prison.
- INFORMATION:** The first paper filed in a criminal case. It tells about the crime that the person is accused of doing.
- INFRACTION:** Violation of a statute, such as a traffic law, for which the only punishment allowed is a fine. In other words, a person who is found guilty of an infraction cannot be sentenced to any time in jail.
- JAIL:** A building used for holding people who have or may have broken the law.
- JUDGE:** A person chosen or elected to hear and decide questions of law in court cases. A judge also makes certain that the cases are handled in a fair way.
- JUDGMENT:** The official decision of the court.
- JURISDICTION:** The right of a court to hear a case or take care of legal business; or power over a person or type of legal business.
- JURY:** A group of citizens randomly chosen by law to decide the facts of the case.
- JURY TRIAL:** A trial where a group of citizens listens to the facts given in court and then makes the decision about the case.
- LAWYER:** A person who has been trained and licensed to represent others in legal matters. Also called an attorney.
- LIABLE/LIABILITY:** A legal responsibility or debt.
- LITIGATION:** To contest in a legal proceeding; a case that is tried in court.
- MEDIATION:** A way to settle a disagreement without going to trial. A third person, called a mediator, helps the people involved reach a compromise or common ground.

Glossary (cont'd)

MISDEMEANOR: In Indiana, a less serious crime that is punished by one year or less in jail and/or a fine of \$5,000 or less. Examples of misdemeanors are shoplifting, trespassing, assault, and battery.

NOT LIABLE: Where a defendant is not responsible.

ORDINANCES: Laws made for a city by its leaders.

PARTIES: People or businesses that are involved in a lawsuit.

PLAINTIFF: The person or party who files a complaint that starts a court case against another person or party.

PLEA: The defendant's answer to whether he/she committed a crime (guilty, not guilty).

PLEA BARGAINING: An agreement where the defendant will say he/she is guilty to get an easier punishment (for example, less time in jail).

PROSECUTOR: The lawyer in each county who is elected to represent the state's side against criminals.

PUBLIC DEFENDER: Lawyers chosen and paid by the government to represent people accused of crimes who cannot afford to hire their own lawyers.

SHOPLIFTING: Taking something from a store without paying for it.

SMALL CLAIMS: A civil disagreement where the amount of money involved is less than \$3,000 (\$6,000 in Marion County). Parties in small claims cases are usually not represented by lawyers.

SUIT: (See "Action")

TORT: A private or civil wrong or injuries where there is no contract; for example, trespass.

TRIAL: The actions taken in court to decide a legal disagreement. The trial includes the jury selection, the lawyers' arguments, the evidence shown, the witnesses' stories, and the final decision made by the judge or jury.

TRIAL COURT: The first level of courts in Indiana's judicial system.

VERDICT: A decision made by a jury.

WITNESS: A person who tells the court what he or she knows about the case. Witnesses have to swear to tell the truth before they are allowed to talk.

Bibliography

Resources Used

American Bar Association

<http://www.abanet.org/publiced>

S. Hugh Dillin, *The Origin and Development of the Indiana Bar Examination*, 30 Ind. L. Rev. 391 (1997).

Faces of Justice – Indiana Judiciary *Courts in the Classroom*

<http://www.in.gov/judiciary/education/>

Find Law

<http://www.findlaw.com>

Indiana Constitution

<http://www.in.gov/legislative/ic/code/const>

Indiana Judicial System

<http://www.in.gov/judiciary>

John G. Baker, *The History of the Indiana Trial Court System and Attempts at Renovation*, 30 Ind. L. Rev. 233 (1997).

Minnesota Center for Community Legal Education

<http://www.ccle.fourh.umn.edu>

New Hampshire Bar Association

<http://www.nhbar.org/?area/1.html>

Follow the links: “For the Public,” then “Law-related Education”

The Utah Law-Related Education Project

http://www.utahbar.org/ljc/html/law_related_education.html

Youth for Justice

<http://www.crf-usa.org/ojdp.ojdp.html>

Bibliography (cont'd)

Great Internet Links for Additional Information

Courts in the Classroom — Indiana Supreme Court

<http://www.in.gov/judiciary/education>

411 Web — Legal Info

<http://www.411legalinfo.com>

Indiana State Bar Association – Information on each county’s court structure

<http://www.inbar.org>

Judiciary History Center of Hawaii

<http://www.planet-hawaii.com/jhchawaii>

Jurist — The Legal Education Network

<http://www.jurist.law.pitt.edu/index.htm>

Law for Kids — Legal Information for Kids by the Arizona Bar Association

<http://www.lawforkids.org/index.cfm>

Law Society of New South Wales — Law for Young People

<http://www.lawsocnsw.asn.au>

“A Life in the Law” (PC # 235-0036), \$2.50. Call 1-800-285-2221 to order.

[from ABA web page]

Project Legal

<http://www.maxwell.syr.edu/plegal>

Project Peace (Peer Mediation) – Indiana Department of Education, Indiana State Bar Association, and Indiana Attorney General’s Office

<http://www.doe.state.in.us/sservices/peace/welcome.html>

Touro Law Center – Project P.A.T.C.H.

<http://www.tourolaw.edu/patch/>

U.S. Department of Justice for Kids and Youth

<http://www.usdoj.gov/kidspage>

Washington State Court Educational Resources — Judges in the Classroom

<http://www.courts.wa.gov/education>

www.IN.gov/judiciary/education

COURTS
in the **Classroom**

Curriculum Concepts and Other Resources on Indiana's Courts for the K-12 Educator

Appendix for Teachers

Indiana Courts by County

Adams 1 Circuit 1 Superior	Elkhart 1 Circuit 6 Superior 3 City	Jay 1 Circuit 1 Superior 2 City	Newton 1 Circuit 1 Superior	Steuben 1 Circuit 1 Superior 1 Town
Allen 1 Circuit 1 Superior	Fayette 1 Circuit 1 Superior	Jefferson 1 Circuit 1 Superior	Noble 1 Circuit 2 Superior	Sullivan 1 Circuit 1 Superior
Bartholomew 1 Circuit 2 Superior	Floyd 1 Circuit 1 Superior 1 County	Jennings 1 Circuit 1 Superior	Ohio 1 Circuit 1 Superior	Switzerland 1 Circuit 1 Superior
Benton 1 Circuit	Fountain 1 Circuit 1 City	Johnson 1 Circuit 3 Superior 2 City	Orange 1 Circuit 1 Superior	Tippecanoe 1 Circuit 6 Superior 1 City
Blackford 1 Circuit 1 Superior 1 City	Franklin 1 Circuit	Knox 1 Circuit 2 Superior 1 City	Owen 1 Circuit	Tipton 1 Circuit 2 City/Town
Boone 1 Circuit 2 Superior 5 City/Town	Fulton 1 Circuit 1 Superior	Kosciusko 1 Circuit 3 Superior	Parke 1 Circuit	Union 1 Circuit
Brown 1 Circuit	Gibson 1 Circuit 1 Superior	LaGrange 1 Circuit 1 Superior	Perry 1 Circuit	Vanderburgh 1 Circuit 1 Superior
Carroll 1 Circuit 1 Superior 2 City/Town	Grant 1 Circuit 3 Superior 2 City	Lake 1 Circuit 16 Superior 10 City/Town	Pike 1 Circuit	Vermillion 1 Circuit 1 City
Cass 1 Circuit 1 Superior	Greene 1 Circuit 1 Superior	LaPorte 1 Circuit 4 Superior	Porter 1 Circuit 5 Superior	Vigo 1 Circuit 5 Superior 1 City
Clark 1 Circuit 3 Superior 3 City/Town	Hamilton 1 Circuit 5 Superior 2 City	Lawrence 1 Circuit 2 Superior	Posey 1 Circuit 1 Superior	Wabash 1 Circuit 1 Superior 2 City/Town
Clay 1 Circuit 1 Superior	Hancock 1 Circuit 2 Superior	Madison 1 Circuit 3 Superior 2 County 4 City/Town	Putnam 1 Circuit 1 Superior	Warren 1 Circuit
Clinton 1 Circuit 1 Superior 1 City	Harrison 1 Circuit 1 Superior	Marion 1 Circuit 32 Superior 9 Small Claims	Randolph 1 Circuit 1 Superior 2 City	Warrick 1 Circuit 2 Superior
Crawford 1 Circuit	Hendricks 1 Circuit 3 Superior 3 Town	Marshall 1 Circuit 2 Superior	Ripley 1 Circuit 1 Superior 2 City/Town	Washington 1 Circuit 1 Superior
Daviess 1 Circuit 1 Superior	Henry 1 Circuit 2 Superior 1 Town	Martin 1 Circuit	Rush 1 Circuit 1 Superior	Wayne 1 Circuit 3 Superior 1 Town
Dearborn 1 Circuit 1 Superior 2 City	Howard 1 Circuit 3 Superior	Miami 1 Circuit 1 Superior 2 City/Town	St. Joseph 1 Circuit 1 Superior 1 Probate 1 Town	Wells 1 Circuit 1 Superior 1 City
Decatur 1 Circuit 1 Superior	Huntington 1 Circuit 1 Superior 1 Town	Monroe 7 Circuit	Scott 1 Circuit 1 Superior	White 1 Circuit 1 Superior 1 Town
DeKalb 1 Circuit 1 Superior 1 City	Jackson 1 Circuit 1 Superior	Montgomery 1 Circuit 1 Superior 1 County	Shelby 1 Circuit 2 Superior	Whitley 1 Circuit 1 Superior
Delaware 1 Circuit 2 City/Town	Jasper 1 Circuit 1 Superior 2 Town	Morgan 1 Circuit 3 Superior 2 Town	Spencer 1 Circuit 1 City	
Dubois 1 Circuit 1 Superior			Starke 1 Circuit 1 City	

So You're Going to Court, But Which One?

(Answer Key for Activity 3)

1. Criminal (F)
2. Civil (A)
3. Criminal (F) [Note: The answer is juvenile court only if the seniors are under 18.]
4. Civil (C)
5. Criminal (E) [Note: The answer is major felony only if Martin is over 18.]
6. Civil (B)
7. Criminal (G)
8. Civil (A)
9. Civil (D)
10. Civil (C)

How Good Are You at Resolving Disputes?

(Answer Key for Activity 4)

Case 1

Possible Answer – Jonathan, the mediator, could convince Kayla and Brandon to share the skateboard by using it in shifts of 15 minutes each. Or the mediator could suggest that Kayla and Brandon play a two-person game with the skateboard. Then they could use the skateboard together.

Case 2

Possible Answer – The arbitrator could decide that because Michael only ruined 5 of the books, there is only \$10 worth of damage. Jeff would receive \$10 instead of the \$20 he was seeking. BUT if the books are part of a set that can't be replaced and are worthless without all 10 books, Jeff may be entitled to the full \$20.

Case 3

Possible Answer – The mediator could help Mr. and Mrs. Brown decide to share joint custody of their children. That way Mr. Brown can have the children during the school year, so they could stay in their schools, and Mrs. Brown could have the children in Florida with her for the summers.

Your Day in Court: Mini Trials

(Answer Key for Activity 5)

Case 1

Issue: Did the assistant fail to live up to his agreement? If so, what would be the best solution?

Decision: It appears from the facts that the plaintiff did what he agreed to do. That is, he agreed to deliver the papers. The agreement did not say that he had to put papers in the mailboxes or inside halls. On the other hand, it is important to remember that the plaintiff was an assistant to the defendant. Since he was an assistant, he may have known from experience that delivering the papers meant putting them in mailboxes and in the halls. In that case, the plaintiff should have done what he knew from his experience was the right thing. Therefore, it might be decided that half of the papers were delivered successfully and half were not. Judgment would be for the plaintiff for \$1.50. Since the agreement was for 50 papers to be delivered for \$3, but only half (25) of the people got their papers in good condition, the plaintiff should only be paid half of what he expected.

Case 2

Issue: Is the plaintiff entitled to the additional \$1 per hour?

Decision: From the facts, it appears that the plaintiff had agreed to babysit for \$2 per hour. When the plaintiff arrived on the job and saw an additional child, she did not say she wanted more money. The plaintiff did not tell the defendant that she expected \$1 per child when they made the agreement. Therefore, it was unfair for the plaintiff to demand this amount after the fact. The defendant understood that the charge was \$2 per hour and not \$1 per hour per child. To give the \$1 additional fee per hour would be unfair to the defendant. Judgment for the defendant.



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