

CHAPTER
16

CIVIL AND CRIMINAL LAW



NGSSS

SS.7.C.3.10 Identify sources and types (civil, criminal, constitutional, military) of law.

SS.7.C.3.11 Diagram the levels, functions, and powers of courts at the state and federal levels.

SS.7.C.3.12 Analyze the significance and outcomes of landmark Supreme Court cases including, but not limited to, Marbury v. Madison, Plessy v. Ferguson, Brown v. Board of Education, Gideon v. Wainwright, Miranda v. Arizona, in re Gault, Tinker v. Des Moines, Hazelwood v. Kuhlmiel, United States v. Nixon, and Bush v. Gore.

ESSENTIAL QUESTION *Why does conflict develop?*

In 1963 the U.S. Supreme Court ruled that the government must provide an attorney for anyone accused of a crime. In the past, only people who could afford attorneys had them. In the case, Supreme Court Justice Hugo Black delivered the unanimous decision:

“ [A]ny person hauled [forced] into court, who is too poor to hire a lawyer, cannot be **assured** a fair trial unless **counsel** is provided for him . . . lawyers in criminal courts are necessities, not luxuries. ”

GIDEON V. WAINWRIGHT (1963)

assured

What is a synonym for *assured*?

counsel

Who serves as *counsel*?

DBQ | BREAKING IT DOWN

What might “lawyers in criminal courts are necessities, not luxuries” mean?

Do you think taxpayers should have to pay for an attorney for a defendant who cannot afford to pay for one? Why or why not?

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CIVIL LAW



SS.7.C.3.10 Identify sources and types (civil, criminal, constitutional, military) of law.

SS.7.C.3.11 Diagram the levels, functions, and powers of courts at the state and federal levels.

Essential Question

Why does conflict develop?

Guiding Questions

1. What is civil law?
2. What legal procedures are followed in civil lawsuits?

Terms to Know

contract

an agreement between two or more parties to exchange something of value

tort

a wrongful act for which a person has the right to sue

negligence

a lack of proper care and attention

plaintiff

the party in a lawsuit who claims to have been harmed

defendant

the party in a lawsuit said to have done the harm

complaint

a formal notice that a lawsuit is being brought

damages

a sum of money ordered by a court to pay for injuries or losses suffered

summons

a notice directing a person to appear in court to answer a complaint

discovery

a process by which lawyers check facts and gather evidence before a trial

It Matters Because

Civil law makes it possible for people to settle disputes in an orderly way.

Think of a time when you have had an argument with a friend. How did you resolve the argument? Did one of you compromise? Write about what happened.

What Do You Know?

Directions: Use the table below to answer the questions based on what you know now in the "Now" column. After the lesson, complete the table by writing your answers in the "Later" column.



	Now	Later
Why might you sue someone?		
What happens when you file a lawsuit?		

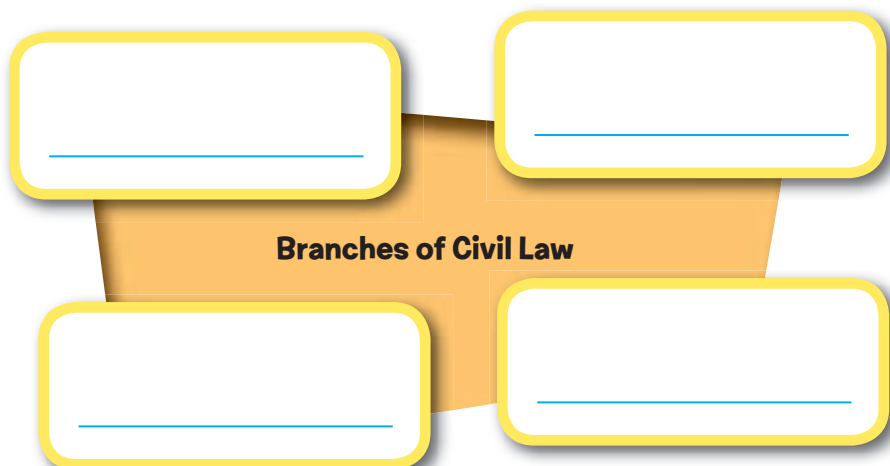
Types of Civil Law

Civil law is the branch of the law that has to do with disputes between people, companies, or the government. Such disputes come up when people think they have been harmed by someone else's actions.

In civil law, court cases are called lawsuits. Most lawsuits involve one of four types of civil law.

One type of civil law involves contracts. A **contract** is an agreement between two or more parties to exchange something of value. A written contract is written out and signed by both parties. A contract is broken when one party fails to keep his or her promise. If that happens, the second party can sue. In that lawsuit, the second party claims to have been injured in some way by the failure of the other party to follow the contract.

Not all contracts have to be written. Some everyday actions are contracts though no papers are signed. For example, when a restaurant takes your order for food, a contract is made. The restaurant has promised food. You have promised to pay for the food. That is an example of an oral, or spoken, contract.



Property law includes rules about the buying, selling, and use of land or a building. For example, suppose someone rents a house. The law says that the renter must take care of the house while living in it. The owner must keep the house in good shape for the renter's use. Arguments may arise over who should pay to repair, or fix, something that is broken. For example, if the roof leaks, it is the owner's duty to make the repair. But, what if the renter does not tell the owner the roof is leaking until there is major damage? Who should pay for the repairs? If the owner and renter cannot agree, one might take the other to court.

Mark the Text



1. Underline the meaning of a contract, and circle the text that describes why contracts are important.

Think Critically

2. **Categorize** Which branch of civil law would apply in a case in which one sister sues another over the possessions or property given to them after a family member dies?

Show Your Skill

3. **Interpret Diagrams** Fill in the diagram with the four main branches of civil law.

Think Critically

4. Analyze What types of issues are dealt with by family law?

5. Summarize If a court ordered you to pay damages, what would you have to do?

Take the Challenge

6. With a small group, role-play a civil lawsuit. Make sure that you show one of the four types of civil law.

Family law has to do with rules applied to family relationships. For example, suppose a married couple is getting a divorce. The way they split their property is a matter of civil law. So is the question of how to divide who will take care of any children they have. A court often decides disputes over such issues. Deaths in a family can also lead to property disputes. For example, people sometimes disagree on who should be given possessions or property when a family member dies.

Personal injury is another branch of civil law. These cases are also called **torts**. A tort is a wrongful act that causes injury to another person or damage to his or her property. For example, a person throws a ball and breaks a window. The flying glass cuts someone nearby. The injured person can sue the person who threw the ball to make them pay for the injury.

A tort may be intentional. This would be the case if the person threw the ball at the window on purpose. But suppose the thrower simply was not paying attention. Then the tort would be a result of **negligence** (NEH•glih•juhnts). Negligence is acting in a careless or reckless way. It happens when someone does something a reasonable person would not have done.



This is an example of a tort because someone has tried to break the window. It was not an accident.

PHOTO: Anthony Boccaccio/Photographer's Choice RF/Getty Images

The Legal Process in Civil Cases

Every lawsuit begins with a plaintiff. The **plaintiff** is the person who brings the lawsuit. The **defendant** is the person being sued.

First, the plaintiff's lawyer files a complaint with the court. The **complaint** describes the wrong and the harm that was done. It usually asks the court to order the defendant to pay the plaintiff a sum of money, called **damages**, to repay the plaintiff for the loss. It may ask the court to order the plaintiff to take a certain action, such as honoring a contract.

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In a courtroom, the jury (top) hears the case that is presented. Here, the plaintiff (seated on the stand) is being questioned by the defendant's lawyer.

Next, the court sends the defendant a **summons**. It tells the defendant that he or she is being sued. It tells the defendant when and where to appear in court.

The defendant's lawyer may respond to, or answer, the complaint by filing an answer to the charges. Then both lawyers gather evidence about the dispute. This step is called **discovery**.

At this point, if one side seems likely to win, the other side may offer to come to a settlement, or an agreement. If both sides can agree on the terms, then a settlement is reached. This can be done at any time, even during the trial. But because trials are so costly, people usually reach settlements before trials start. Many civil cases never even get to trial.

If the two sides do not settle, the suit goes to trial. First the plaintiff presents evidence. Then the defendant presents evidence. Each side sums up its case. Then the judge or a jury reaches a verdict, or decision, in favor of one party.

If the defendant wins, the plaintiff gets nothing. In fact, the plaintiff may even have to pay the defendant's court costs.

If the plaintiff wins and damages are involved, the judge or jury sets the amount of damages. Sometimes a judge or jury will also order the defendant to pay punitive damages. This type of damages is meant to punish. Sometimes the judge does not award damages. The judge may order the defendant to take a certain action. The defendant can appeal the verdict to a higher court. He or she may ask to have the verdict overturned or to have the damages reduced.



NGSSS Check Explain the difference between a complaint and a summons. **SS.7.C.3.10**

Show Your Skill

7. Predict Outcomes What might happen if the discovery step does not result in one side seeming more likely than the other to win?

Think Critically

8. Make Generalizations Suppose a judge or jury rules in favor of the plaintiff. What happens next?

CRIMINAL LAW



NGSSS

SS.7.C.2.6 Simulate the trial process and the role of juries in the administration of justice.

SS.7.C.3.11 Diagram the levels, functions, and powers of courts at the state and federal levels.

Essential Question

Why does conflict develop?

How can governments ensure citizens are treated fairly?

Guiding Questions

1. What does criminal law involve?

2. What are the legal procedures in a criminal law case?

Terms to Know**crime**

an act that breaks the law and harms people or society

penal code

the body of law that describes crimes and punishments

misdemeanor

minor crime for which a person can be fined a small sum of money or jailed for up to a year

felony

more serious crime such as murder, rape, kidnapping, or robbery

sentence

punishment for committing a crime

prosecution

the party who starts the legal process against a person for breaking the law

plea bargaining

a process in which a defendant agrees to plead guilty to a less serious crime in order to avoid a trial

cross-examination

the questioning of a witness at a trial to check or discredit the witness's testimony

It Matters Because

When you are an adult, you will probably be called at some time to serve on a jury. When that time comes, knowing about criminal law will make you a better juror.

Write about a time when you were asked to make a decision about an important matter. How did you make the decision? Did you look at the facts? Did you listen to what other people said about it?

What Do You Know?

Directions: Circle the crimes that you think are misdemeanors. Underline the crimes that you think are felonies. When you are finished with the lesson, review your answers and make any necessary changes.

bank robbery without weapon

kidnapping a person

breaking into a car

robbing a person with a weapon

stealing a loaf of bread

causing harm to a person

Crime and Punishment

A **crime** is any act that breaks the law and harms people or society. The type of law that deals with crime is called criminal law. Criminal laws are rules for behavior. They outlaw things like stealing, damaging property, or attacking someone. All these actions are crimes.

Each state has a list of laws called a **penal** (PEE•nuhl) **code**. It describes every crime and the punishment that goes with it. The federal government also has a penal code. Examples of federal crimes are robbing a bank or committing an act of terrorism. Most crimes break state laws. So, most cases are tried in state courts and most inmates are in state prisons. In general, more serious crimes receive harsher punishments.

Crimes are classified in different ways. There are two broad categories of crimes based on how serious they are. A crime can be a misdemeanor (MIHS•dih•MEE•nuhr) or a felony. A **misdemeanor** is a less serious crime. A person can be fined a small amount of money or spend up to one year in jail. For example, stealing a \$40 shirt from a store is a misdemeanor. A **felony** is a more serious crime. A person who commits a felony is punished by spending at least one year in prison. Robbing a store at gunpoint is a felony.

Crimes can be grouped as being against people or property. Crimes against people include things like assault and kidnapping. Crimes against people are considered more serious than crimes against property because they cause harm to a person. Almost all crimes against people are felonies.

Crimes against property include things like theft and vandalism. An illustration, or example, of vandalism is if someone were to purposely throw a bucket of paint onto a neighbor's new car. If the value of what is stolen or damaged is less than \$100, the crime is a misdemeanor. Otherwise it is a felony. It is also a felony if it involves the threat or use of force against a person.

PHOTO: Rob Casey/Corbis

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Crimes against property, such as this one, can be felonies or misdemeanors.

Show Your Skill

1. Compare and Contrast How are crime and penal code related?

Think Critically

2. Analyze Suppose someone uses a weapon to steal \$20 from a person. Is this crime a misdemeanor or a felony? Why?

Mark the Text

3. Photograph Circle the crime in the image. Then write on the line below whether you think it is a felony or a misdemeanor.

Think Critically

4. **Summarize** What purposes are served by a criminal sentence?

Show Your Skill

5. **Classify Information** What are the two ways of classifying crimes?

Mark the Text

6. Underline the steps in a criminal case before a hearing or trial takes place.

Most penal codes set minimum and maximum penalties for each crime. Within those limits, a judge decides what **sentence**, or punishment, a person will serve.

Some prisoners are able to get paroled, or released early, after serving part of their sentence. Prisoners who are granted parole must report to a parole officer for the remainder of their sentence.

A prison sentence has a number of purposes. One is simply to punish, while another is to protect society by keeping dangerous people locked up. A third is to serve as a warning to others not to commit crime. A sentence can also be used to change a person's behavior. Many prisons have programs to educate and train prisoners for jobs. Learning new skills prepares criminals to become responsible citizens when they are released.

Criminal Case Procedure

In a criminal case, the government is always the plaintiff. That is, the government is the party that brings charges against a defendant. It is called the **prosecution**. This means that it starts the legal process against the defendant for breaking the law. During this process, the defendant's rights are protected by the Bill of Rights. The government must follow the rules of due process to treat a suspect fairly.

A criminal case begins when the police believe a crime has been committed. An arrest is made based on evidence. Police have to collect evidence to convince a judge to arrest someone for the crime. When they do, a judge issues an arrest warrant; the warrant lists the suspect's name and the crime. When the police arrest someone, they have to advise the

suspect of the right to remain silent and the right to an attorney.

The suspect is then taken to a police station. The police make a record of the arrest. This is called a booking. The police will usually take a picture of the suspect and take fingerprints.



Fingerprinting helps to identify not only the suspect but also is a way that the police can check to see if the suspect has a record or prior arrests.

Next, the suspect appears before a judge for a preliminary hearing. The judge explains the charges. The prosecution has to prove to the judge that there is probable cause—a good reason—for believing the accused is guilty of the crime. If the suspect does not have the money for a lawyer, the judge appoints one. If the crime is a misdemeanor, the suspect pleads either guilty or not guilty. If the plea is guilty, the judge sentences the suspect. If the plea is not guilty, the judge sets a date for a trial.

If the crime is a felony, no plea is made. Instead, the judge sets a date for a hearing to learn more about the case. The judge also decides whether to hold or release the suspect. A judge may have a suspect post bail, an amount of money left with the court until the trial. Suspects can also be released on their own recognizance, or control. When that happens, the suspect promises in writing to return to appear in court.

The next step is to indict, or charge, the accused with the crime. Many states have a grand jury do this; others allow the judge to decide. If there is not enough evidence against the suspect, the case is dismissed.

If the case is not dismissed, the next step is the arraignment. For a felony, the suspect is formally charged and enters a plea of guilty or not guilty. The prosecution and defense lawyers begin **plea bargaining**. This is a form of compromise. The prosecution agrees to a less serious charge. The defendant agrees to plead guilty. Plea bargains save the government the time and cost of a trial. Many criminal cases end with a plea bargain and never go to trial.

Defendants in a felony case can choose to be tried by a jury or a judge. In a jury trial, the lawyers choose a jury from a large group of citizens who have been called to serve.

Think Critically

- 7. Summarize** What happens at a preliminary hearing? A cross-examination?

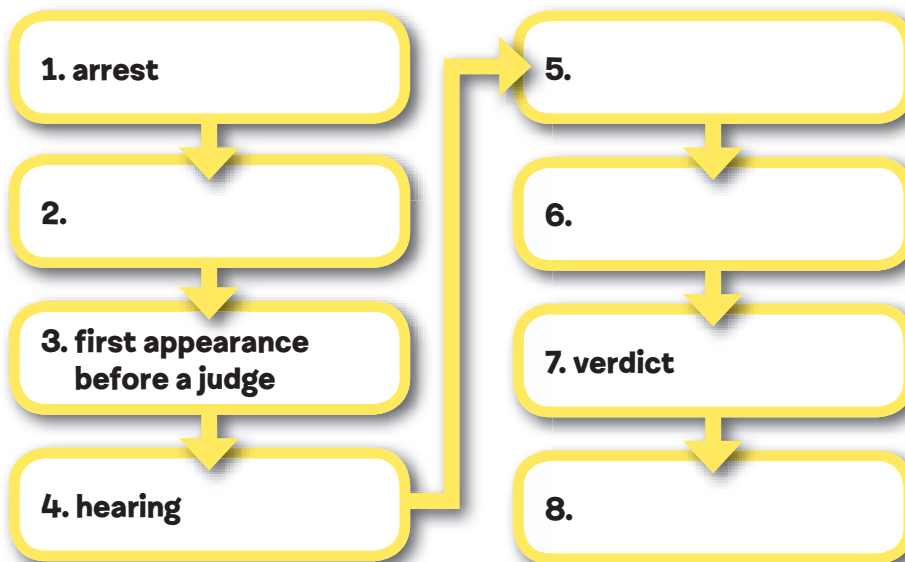
Mark the Text

- 8. Diagram** The diagram shows how a criminal case proceeds. Fill in the empty boxes with the missing steps.

Take the Challenge

- 9.** Write down an example of a misdemeanor and a felony on two separate blank index cards. In small groups, shuffle the cards that each team member made and have other team members guess what they illustrate.

Steps in Criminal Procedure



As a juror, you review a case with other jurors and try to come to a unanimous decision.



Think Critically

10. Infer Why do you think judges consider a defendant's history and statements from the victim when sentencing?

11. Explain Why are most criminal cases settled without going to trial?

The trial begins with an opening statement from each side. Then each side presents its case. The prosecution goes first. Each side offers evidence and presents witnesses. Witnesses swear to tell the truth. Each side can question the other side's witnesses. This is called **cross-examination**. After both sides have presented their case, each makes a closing statement.

If a jury is present, the judge explains to the jury how the law applies in the case. Then the jurors go into a room to review the case. Their discussions are secret. To find a defendant guilty, the jurors must be convinced beyond a reasonable doubt. In other words, they must decide that there is no other reasonable explanation except that the accused committed the crime. In almost all states, the verdict, or vote, must be unanimous. This means all the jurors must agree. If a jury cannot agree on a verdict, the judge will declare a mistrial. The prosecution may or may not retry the case.

A defendant who is found not guilty is set free. A guilty defendant is sentenced in court at a later date. Judges take many things into account when sentencing. These include the defendant's family history, criminal record, and statements made by the victim's family. A person found guilty of a felony will often appeal the verdict to a higher court.



NGSSS Check What two conditions must be met for a jury to reach a guilty verdict? **SS.7.C.2.6**

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THE JUVENILE JUSTICE SYSTEM



SS.7.C.3.10 Identify sources and types (civil, criminal, constitutional, military) of law.

SS.7.C.3.11 Diagram the levels, functions, and powers of courts at the state and federal levels.

Essential Question

How can governments ensure citizens are treated fairly?

Guiding Questions

1. How has treatment of young criminal offenders changed?
2. What procedures are followed when a young person breaks the law?

Terms to Know

rehabilitate

to correct a person's behavior

juvenile delinquent

a child or teenager who commits a crime or repeatedly breaks the law

delinquent offender

a youth charged with breaking a criminal law

status offender

a youth charged with being out of the control of his or her parents or guardian

custody

taking charge, or control, of someone in an official way

detention hearing

the procedure by which a judge decides whether to charge a juvenile with an offense; like a preliminary hearing in an adult trial

adjudication hearing

the procedure used to determine the facts in a juvenile case; like a trial in criminal law

disposition hearing

the sentencing in a juvenile case

It Matters Because

The juvenile justice system is structured differently from the adult system.

This system handles cases of crimes committed by juveniles and also neglect of juveniles.

Why do you think the justice system is structured differently for young people and adults?

What Do You Know?

Directions: In the "Now" column, circle "True" if you think the statement is true or "False" if the statement is false based on what you know before you read the lesson. After you have read the lesson, complete the "Later" column.



Now		Later
True F alse	It is less serious when a youth breaks a law than when an adult breaks one.	True F alse
True F alse	When a youth breaks the law, he or she could be charged as an adult.	True F alse
True F alse	Most juvenile delinquents serve from one to three years.	True F alse
True F alse	Every state has a juvenile court system.	True F alse

Think Critically

- 1. Summarize** How did the treatment of children who committed crimes begin to change in the 1800s?

Mark the Text

- 2.** Circle the juvenile system's two main approaches for dealing with children who break the law.

Show Your Skill

- 3. Compare and Contrast**

What is the difference between a delinquent offender and a status offender?

Reformer Jane Addams, who founded Hull House in Chicago, worked to establish the first juvenile court in 1899.

networks™ Read Chapter 16 Lesson 3 in your textbook or online.

Juvenile Justice

At one time, children in this country who committed crimes were tried and punished like adults. They were sent to adult jails. They often served long prison terms.

This began to change in the 1800s. People began to believe that juveniles committed crimes because their families did not teach them proper values. Reformers wanted a special court that would do the parent's jobs. Instead of punishing these children as adults, the court would **rehabilitate** (REE•uh•BIH•luh•TAYT), or correct, their behavior and teach them right from wrong.

The first juvenile court was set up in Chicago, Illinois, in 1899. Today, every state has a juvenile court system. The Supreme Court has ruled that children charged with crimes have the same legal rights as adults. They have the right to be told the charges against them; to an attorney; to cross-examine, or question, witnesses against them; and to remain silent when questioned.

People continue to argue whether the goal of the juvenile system should be punishment or rehabilitation. In the 1990s, public opinion began to change. The emphasis, or weight, shifted back to punishment. Juvenile crime rates had quickly risen. The public wanted law and order. The legislatures took action by changing the laws. Now, in many states, it is easier to try young offenders in adult courts. Also, in most states, a juvenile charged with a felony can be tried as an adult. Most states consider anyone under age 18 to be a juvenile. In some states the age is 16.

A **juvenile delinquent** (JOO•vuh•NEYE•uhl dee•LIHN•kwuhnt) is a young person who commits a crime. There are two types of juvenile delinquents. **Delinquent offenders** are youths who have committed acts that would be crimes if done by an adult, like stealing a car. **Status offenders** have committed minor, or comparatively less



PHOTO: Fotossearch/Getty Images

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Social services are available to help juveniles. Here, a counselor talks to a young person at a correctional youth facility.

important, acts that would *not* be crimes if done by an adult. Examples include skipping school or running away from home. Status offenders do not listen to their parents or other adults; they cannot be controlled by them. For this reason, the court supervises, or takes control of, status offenders.

The Juvenile Court System

Juvenile courts handle two kinds of cases: neglect cases and delinquency cases. Neglect cases concern young people who are abused or not taken care of by their parents or guardians. A juvenile court can remove these children from their homes. The court places them with other families.

Delinquency cases concern young people who break the law. The legal process begins when the police take a young person into custody. **Custody** is to take charge, or control, of someone in an official way. If the offense is not serious, the police may give the youth a warning and release them to a caregiver. They may also pass the case on to a social service agency.

If the offense is serious or the youth has a prior, or past, record, the police may turn him or her over to the juvenile court. A social worker reviews the case and decides how it should be handled. This review is called intake. Some cases are dismissed during intake. Others are sent to adult court. Some young people receive services such as counseling or drug treatment and do not have to go to court. This is called diversion.

Youths who are still in the system after intake face up to three hearings. The first is a **detention hearing**. This is like a preliminary, or first, hearing in an adult trial. The state must show that there is good reason to charge the youth with the crime.

Think Critically

4. Explain What adult rights has the Supreme Court extended to juvenile offenders?

Mark the Text

5. Underline the meaning of custody.

Take the Challenge

6. With a partner, make a list of solutions that a counselor working with a juvenile delinquent could share to help that young person.

Mark the Text



7. Chart Fill in the chart to show what happens in a juvenile court case.

Think Critically

8. Compare What steps in the juvenile court system are similar to a trial and a sentencing hearing in the adult court system?

Show Your Skill

9. Interpret Information Why do you think a social worker reviews the case?

If the youth is charged, the next step is an **adjudication** (uh•joo•dih•KAY•shuhn) **hearing**. This is like a trial in an adult case. Each side has an attorney. Evidence is presented and witnesses are questioned and cross-examined. A judge's finding that the juvenile is delinquent is like a guilty verdict.

A **disposition hearing** is next. This is like a sentencing hearing for an adult. Some youths receive probation. They are allowed to stay free as long as they meet the conditions of the court for a set period of time. Examples of those conditions are doing community service or completing a drug treatment program. For youths who finish the conditions of probation without getting into more trouble, the charges are dropped and taken off their record.

For serious crimes, a youth may be sent to an institution for young offenders. Most delinquents serve from one to three years. In some states they can be held until age 18 or 21.

Juvenile Case Procedure	
Step	What Happens
1.	Police bring a young offender into confinement.
2.	A social worker reviews the case.
3. detention hearing	
4.	Evidence is presented; witnesses are questioned; the judge reaches a finding.
5. disposition hearing	



NGSSS Check What two kinds of cases does the juvenile court system see? **SS.7.C.3.11**

ESSENTIAL QUESTION *Why does conflict develop?*

Reflect on What It Means . . .

The civil and criminal justice systems are in place to help resolve conflict, to protect individuals and communities, and to hand out consequences for crimes. Read the news on the Internet or in a newspaper. Find three stories that describe either a civil or criminal law being broken. Then complete the graphic organizer below.

News Story:

**Type of Crime
(civil or criminal):**

Location:

Details:

News Story:

**Type of Crime
(civil or criminal):**

Location:

Details:

News Story:

**Type of Crime
(civil or criminal):**

Location:

Details:

Choose one of the three examples from the graphic organizer on the previous page. Draw another graphic organizer below to show the effects of a particular type of crime that you read about in this chapter.

TAKE THE CHALLENGE

Read a news story about a crime in your community. Try to determine how many people were directly or indirectly affected by the criminal's actions.