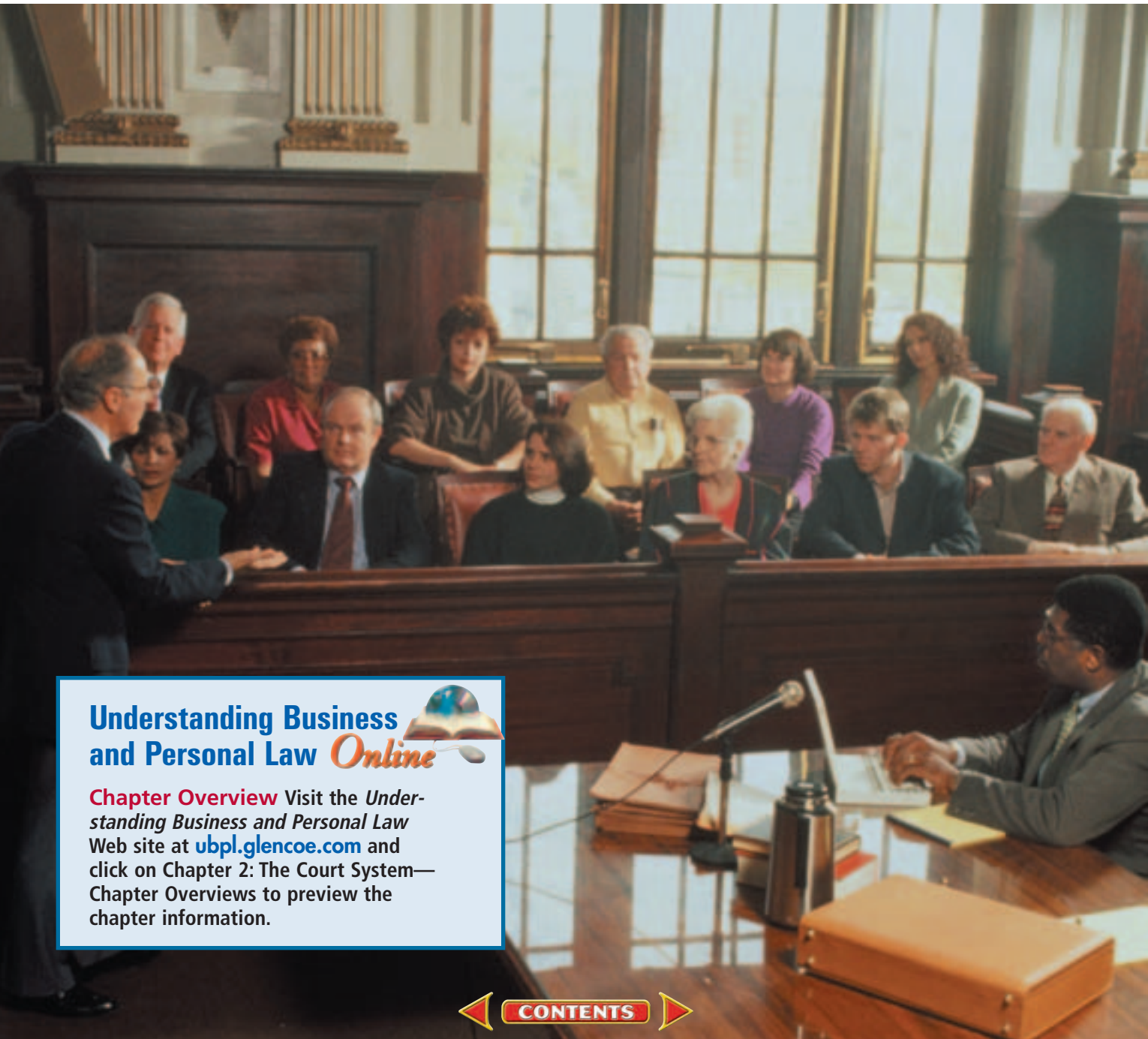
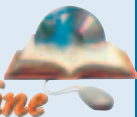


# The Court System



## Understanding Business and Personal Law *Online*



**Chapter Overview** Visit the *Understanding Business and Personal Law* Web site at [ubpl.glencoe.com](http://ubpl.glencoe.com) and click on Chapter 2: The Court System—Chapter Overviews to preview the chapter information.

## The Opening Scene

Mrs. Martinez's law class is on a field trip to the county courthouse. The students are gathered on the front steps.

### A Trip to the Courthouse

**MRS. MARTINEZ:** *(Taking attendance.)* Where's Trai? Jamila, I thought he was supposed to ride with you.

**JAMILA:** He was, but that was before.

**MRS. MARTINEZ:** Before what?

**JAMILA:** Before he made other plans. He'll be along soon.

**DANIEL:** Hey, Mrs. Martinez. Is this a federal or state court?

**MRS. MARTINEZ:** It's a state court.

**DANIEL:** Do we have a federal court in this state?

**MRS. MARTINEZ:** Sure. Every state has at least one federal court.

**JAMILA:** Are we going to see a trial like the ones you see on television?

**MRS. MARTINEZ:** Yes. But it will be a civil case, not a criminal trial.

**DANIEL:** What's the difference?

**MRS. MARTINEZ:** Good question. Can anyone explain?

**PEGGY:** In a criminal case they can put you in jail, but in a civil trial they just take your money. Right, Mrs. M?

**MRS. MARTINEZ:** Well, that simplifies it a bit, but you have the right idea.

*(Trai comes out of the courthouse door.)*

**MRS. MARTINEZ:** You're fifteen minutes late, Trai. We almost started without you. Where have you been?

**TRAI:** I actually got here early, so I figured I'd go inside the courthouse for a little while. I was looking for my friend, Fred.

**MRS. MARTINEZ:** Why is your friend in the courthouse? Is he in trouble?

**TRAI:** He just got in a little bit of trouble a couple of months ago. Today is his juvenile court hearing. It's nothing serious.



**JAMILA:** My parents thought it was a big deal. They said that this isn't the first time that Fred has gotten into trouble with the law.

**TRAI:** Mind your own business, Jamila. I'm telling you, it was no big deal. Fred's not a troublemaker. He just came home a little late.

**MRS. MARTINEZ:** You mean he violated curfew.

**TRAI:** Something like that, yeah.

**DANIEL:** That's not fair. Why do we have to be off the streets by midnight?

**MRS. MARTINEZ:** There are different rules for juveniles.

**PEGGY:** That's not fair either.

**MRS. MARTINEZ:** No, I don't suppose it seems fair, does it?

**JAMILA:** So what can we do about it?

**MRS. MARTINEZ:** Well, first you have to know something about how the courts work. That's why we're here today. We're ready to get started. Let's go inside.

### What Are the Legal Issues?

1. How is the federal court system structured?
2. How are most state court systems structured?
3. How do the courts treat juvenile offenders?
4. What is an alternate dispute resolution procedure?
5. What are the steps in a civil lawsuit?
6. What are the steps in a criminal prosecution?

# A Dual Court System

## What You'll Learn

- How to determine a court's jurisdiction
- How to explain the structure of the federal court system
- How to explain the role of the United States Supreme Court
- How to explain the structure of the state court system
- How to describe the difference between a juvenile who is unruly and one who is delinquent

## Why It's Important

Learning the structure of the court systems in the United States will help you understand how the legal system works.

## Legal Terms

- jurisdiction
- diversity of citizenship
- original jurisdiction
- appellate courts
- intermediate courts
- appellate jurisdiction
- limited jurisdiction
- general jurisdiction
- delinquent child
- unruly child
- neglected or abused child

## The Federal Court System

The United States system of justice has two major parts—the federal system and state court systems. Federal courts hear cases involving federal matters and matters involving diversity of citizenship. State courts have their own rules.

**Jurisdiction** is the power and authority given to a court to hear a case and to make a judgment. Federal courts have jurisdiction over several types of cases. These cases include the following:

- Actions in which the United States or one state is a party, except those actions between a state and its citizens
- Cases that raise a federal question, such as interpreting the Constitution
- **Diversity of citizenship** cases, which involve citizens of different states and in which the amount of money in dispute exceeds \$75,000
- Admiralty cases, or those pertaining to the sea
- Patent and copyright cases
- Bankruptcy cases

*Example 1.* Local police of a large city caught a woman breaking into a federal government building. The police arrested the woman, but because the crime was committed against federal property, she was turned over to federal authorities for trial in the federal district court.

Federal courts are arranged in three steps: U.S. district courts located throughout the United States, U.S. courts of appeals, and the Supreme Court of the United States.

### District Courts

District courts have **original jurisdiction** over most federal court cases, meaning they try a case the first time it is heard. Most federal cases begin in one of the U.S. district courts, and both civil and criminal cases are heard in these courts.

### Courts of Appeals

The U.S. courts of appeals, also called **appellate courts**, are **intermediate courts**, which are courts between lower courts and the

highest court. They hear appeals and review cases from lower courts. Intermediate courts have **appellate jurisdiction**, meaning that any party to a suit decided in a federal district court may appeal to the federal court of appeals in the circuit where the case was tried. The United States is divided into thirteen judicial circuits. Each circuit has several district courts and one court of appeals.

A panel of three judges is responsible for rendering decisions in most U.S. court of appeals cases. No witnesses are heard, no evidence is presented, and no jury is present. Only questions of law can be raised on appeal, not questions of fact. Appellate courts only determine whether the lower court correctly applied the law in the circumstances.

### Special U.S. Courts

Congress has established several special federal courts. These courts have jurisdiction in certain kinds of cases, including suits brought by citizens against the federal government, disagreements over taxes on imported goods, and disputes between taxpayers and the Internal Revenue Service.

## LAWS in Your Life

### Serving on a Jury

If you are registered to vote or have a driver's license, you may be called for jury duty. To serve on a jury, you must be a United States citizen and at least 18 years old. You also must understand English and not have been convicted of a felony. Should you receive a jury summons, be sure to follow its instructions. Failure to do so is a crime.

When you appear for jury duty, you become part of a pool from which jurors are chosen. During the selection process, you may be questioned by the judge and by attorneys for each side in a case. Respond honestly, even if the questions seem embarrassing or irrelevant. If you are not selected, do not be offended. Someone merely felt you were not right for that particular case.

It is possible to be excused from jury duty. However, remember that just as a jury trial is a citizen's right, jury service is a citizen's responsibility.

**Interview a Juror** Find people from your school or city who have served on a jury. Ask them to recall their impressions of the experience. Report your findings to the class.

## Supreme Court

The U.S. Supreme Court is the highest court in the land. It has original jurisdiction in all cases involving ambassadors, consuls, other public ministers, and cases in which a state is a party. Appellate jurisdiction is the Court's main function. The Court must hear all cases that involve the constitutionality of a federal law. The Court also decides, by a vote of at least four of its nine justices, which additional cases it will hear from the U.S. courts of appeals or the state supreme courts.

## State Court Systems

Each state has its own court system. However, the general pattern is the same in all states.

## Local Trial Courts

Local courts are courts of **limited jurisdiction**, meaning they handle minor matters, such as misdemeanors and civil actions involving small amounts of money. Justice of the peace courts, also called magistrate's courts, were the only local courts in the early days of our country. They tried small claims and punished petty crimes in local communities, a function that they still serve today. Minor cases are also heard by traffic courts, police courts, and municipal courts. Special local courts deal with juveniles, family disputes, and small claims.

### Virtual Law

#### "Cybercourt"

The state of Michigan has taken the novel step of creating a virtual state court in which lawyers can file briefs online and court appearances, including lawyers' arguments, can be made by streaming video. The court will not have a jury, but judges will be assigned cases by the state Supreme Court. Jurisdiction of the court is limited to business and commercial disputes that involve at least \$25,000. Cases can be transferred to the state circuit court system, and like other cases, they can be contested in appellate courts. Other states, including Maryland, are also experimenting with cybercourts. (Source: *Newsbytes*, January 14, 2002.)

**Connect** Visit the Web site of the Michigan state courts and search for more information on the state cybercourt. Report your findings in a one- to two-page paper.

## General Trial Courts

Each county in most states has at least one general trial court, or court of **general jurisdiction**. These courts, which can be called county court, superior court, court of common pleas, or circuit court, handle criminal and civil cases.

## Special Courts

Courts have been established in many states to handle specialized cases. For example, probate courts hear cases involving the property of deceased persons, even if no will exists. Some probate courts also handle adoptions. A number of states have mayor's courts, in which the mayor judges cases involving traffic violations. Many states also have two other special courts: domestic relations courts and juvenile courts.

**Domestic Relations Courts** In most states, each county has a family or domestic relations court to handle divorce, annulment, and dissolution proceedings. The domestic relations court is also responsible for matters concerning distribution of property at the end of a marriage, including alimony and child support.

**Juvenile Courts** Juvenile courts have special jurisdiction over delinquent, unruly, abused, or neglected children up to a certain age. Procedures in juvenile courts differ from those in other courts, and hearings are often held in a more informal setting than a courtroom. Young people who appear before a juvenile court have no right to a trial by jury or to be released on bail. However, the Supreme Court has held that there must be proof beyond a reasonable doubt to convict a child as an adult.

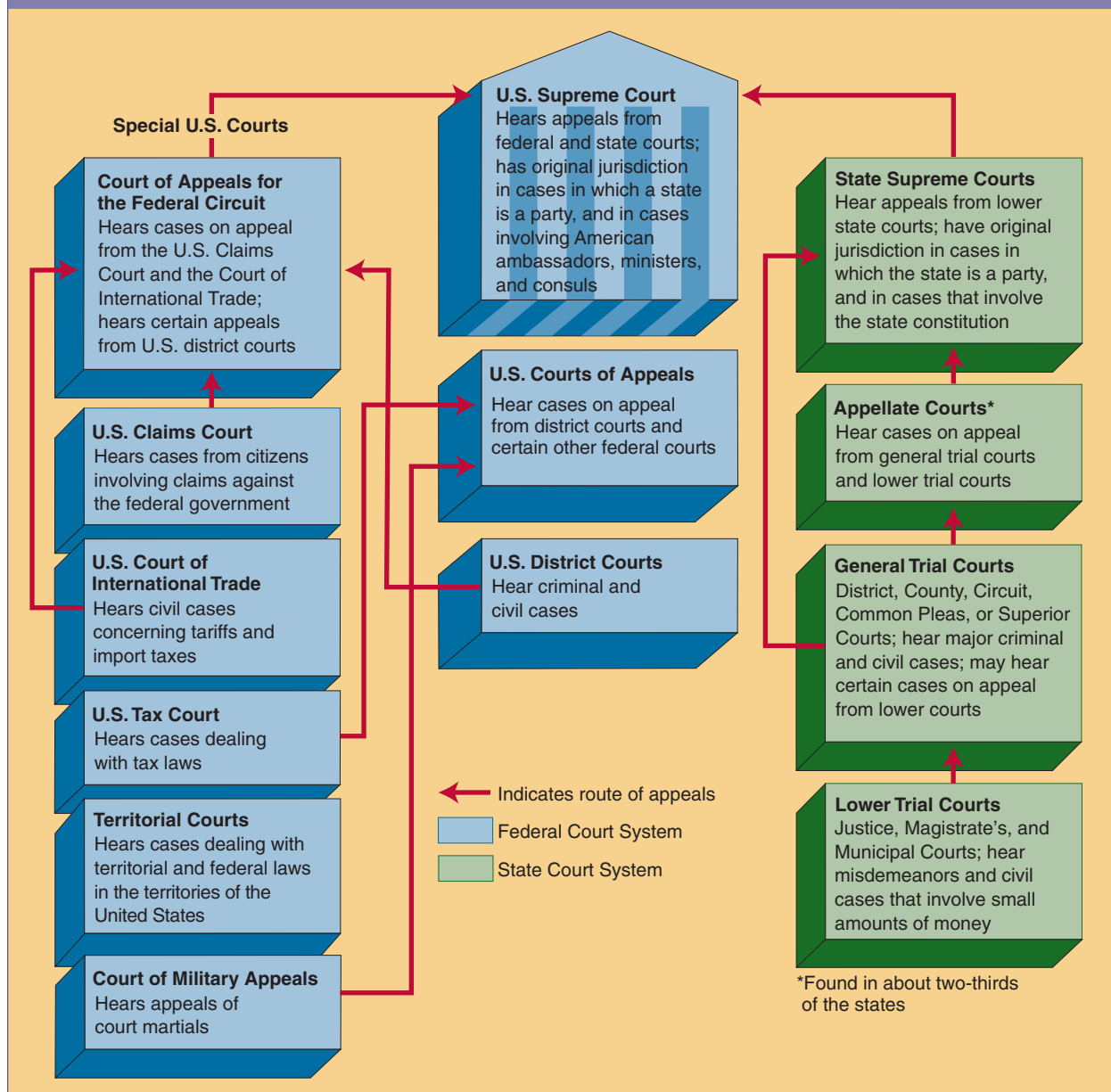
Every state has passed statutes that distinguish between delinquent and unruly children. A **delinquent child** is a minor under a certain age (generally 16–18) who has committed an adult crime. Recently, some states have expanded their definitions of delinquent to include juveniles who purchase or attempt to purchase a firearm. An **unruly child** is generally a minor who has done something inappropriate that is not considered an adult crime, such as violating curfew, skipping school, or using tobacco. Many states have created a third category of children. A **neglected or abused child** is one who is homeless, destitute, or without adequate parental care. The court may make such a child a ward of the state.

Many states have imposed stricter standards for the treatment of youthful offenders, especially when drugs or violence is involved. A state may try a minor beyond a certain age (usually 14) as an adult in criminal court, especially if the minor has been in serious trouble previously or has committed a very violent offense. In deciding

whether to transfer the case, the court may consider the seriousness of the offense; the minor’s family, school, and social history; the minor’s court record; protection of the public; the nature of past treatment; and the likelihood of rehabilitation.

**Figure 2.1**

## Court Systems in the United States



### COURT SYSTEMS IN THE UNITED STATES

The courts in the United States are divided into federal and state systems. *In which court system would a criminal trial be heard?*

## Intermediate Appellate Courts

In most instances, intermediate appellate courts hear appeals from courts of general jurisdiction (see Figure 2.1). Appeals may be made to a state intermediate court if the parties believe they did not have a fair trial in the lower court or that the judge did not properly interpret the law. State appellate courts hear appeals only on questions of law, not on questions of fact. Instead of hearing witnesses, appeals judges hear oral arguments from attorneys and study the documents and records in the case.

**Example 2.** Slocum sued Archbold for injuries suffered when their cars collided. The case was tried in a county court, and the court found for the defendant, Archbold. Slocum's lawyer must look for errors in the court's interpretation of the law or the conduct of the trial to file an appeal.

## Supreme Courts

The highest court in most states is known as the supreme court. A state's highest court typically decides matters of law appealed from lower courts. Supreme courts don't retry a case and reconsider the facts. Instead, they decide whether an error in interpreting or applying the law was made in the lower courts. Usually, this court chooses the cases it hears.

### Section 2.1 Assessment

#### Reviewing What You Learned

1. What are the differences among original jurisdiction, appellate jurisdiction, limited jurisdiction, and general jurisdiction?
2. How are the federal courts structured?
3. What is the role of the United States Supreme Court?
4. How are most state courts structured?
5. Explain the differences among unruly, delinquent, and abused or neglected juveniles.

#### Critical Thinking Activity

**Juvenile Law** Why is it important to be able to distinguish among unruly, delinquent, and abused or neglected juveniles?

#### Legal Skills in Action

**Structure of the Court System** Your 30-year-old brother says he has no faith in the legal system, and for that reason, will never sue anyone. With a partner, role-play a response to your brother's argument. Explain why understanding the structure of the federal court system might benefit him, even if he never intends to be a plaintiff in a lawsuit.



# Trial Procedures

## What You'll Learn

- How to seek alternatives to litigation
- How to differentiate between civil and criminal cases
- How to explain the steps in a civil lawsuit
- How to exercise your rights if you're arrested
- How to explain the steps in a criminal prosecution
- How to apply court procedures to juvenile cases

## Why It's Important

Learning the alternatives to litigation will help you handle disputes that arise.

## Legal Terms

- alternative dispute resolution (ADR)
- complaint
- answer
- verdict
- judgment
- specific performance
- injunction
- arrest
- bail
- indictment
- arraignment
- detention hearing

## Civil Trial Procedure

Criminal and civil trials begin differently. The government brings criminal cases for offenses committed against the public at large. In contrast, individuals who believe they have been injured initiate civil cases. The injured party begins the suit by filing a complaint with the court. When an individual brings a civil case to an attorney, the lawyer investigates the case, which can be expensive. As a result, people have begun to explore alternatives to lawsuits.

## Alternative Dispute Resolution

**Alternative dispute resolution (ADR)** is an increasingly popular process that occurs when parties try to resolve disagreements outside of the usual adversarial system by using creative settlement techniques. In ADR, the methods used are relatively quick and inexpensive. They can be classified in two ways: reactive methods and proactive methods (see Figure 2.2).



### ALTERNATIVE DISPUTE RESOLUTION

There are many reasons alternative dispute resolution has become increasingly popular. *Can you think of reasons why it might be preferred over litigation?*

**Figure 2.2****Alternative Dispute Resolution Techniques**

<b>Reactive Methods</b>	
Mediation	Mediation happens when the parties to a dispute invite a third party into the decision-making process to help them find a solution.
Arbitration	Arbitration happens when the parties actually transfer the power to settle their dispute to a third party.
Med-arb	Med-arb combines the best aspects of mediation and arbitration.
Early Neutral Evaluation (ENE)	During ENE, an evaluator examines the facts and the law, makes an impartial evaluation of the legal rights of each party, and determines the amount of the award.
Summary Jury Trial	A summary jury trial is a short trial that runs less than a day before a real jury, which then comes up with a verdict.
Private Civil Trial	In a private civil trial, the parties can hold the trial at a time and a place of their own choosing.
<b>Proactive Methods</b>	
Partnering	Partnering involves a process by which the parties to a long and involved contract agree to meet to get to know one another in advance.
Settlement Week	During settlement week, a court's docket is cleared of all business except for settlement hearings.
Negotiated Rule Making	During negotiated rule making, an agency that is about to create a new rule or revise existing rules meets with the parties who will be affected by the new rules. The parties then write the new rules together.
Science Court	The science court acts as a forum for disputes involving scientific and technological controversies. These disputes involve matters such as genetic engineering, nuclear energy research, and so on.

**ALTERNATIVE DISPUTE RESOLUTION**

This chart outlines the most popular new methods of alternative dispute resolution. *Which technique would you prefer? Explain your answer.*

**Reactive Methods** These types of ADR are used after a dispute has arisen. The oldest forms of reactive ADR are mediation and arbitration. Mediation occurs when parties to a dispute invite a third party, usually called a mediator, to help them find a solution. A mediator persuades the parties to reach a compromise without making their decision for them. On the other hand, when the parties give the power to settle their dispute to a third party, the process is called arbitration, and the person engaged is called an arbitrator. A new form of ADR known as med-arb combines the best aspects of mediation and arbitration. The disputing parties first go through mediation. If the problem is not solved, they move on to an arbitration hearing.



Another new form of ADR is known as early neutral evaluation (ENE). An evaluator examines the facts, determines the legal rights of each party, and decides the amount of award that should be rendered, if any.

A summary jury trial is a short trial that runs before a real jury, which renders a verdict. The verdict is advisory but helps the parties see how a real jury would react to the case. In some states the parties can hold a private civil trial, choosing a judge whose decision is binding.

**Proactive Methods** Proactive methods are discussed before a dispute even arises. These methods can be effective in preventing major disputes among parties involved in business dealings. Some businesses agree in advance to use one of the ADR tools if a disagreement between the parties arises later. An ADR contract clause says the people who are about to enter a business deal promise to use an alternative dispute resolution technique when disagreements arise. In other words, the parties promise not to sue one another. In partnering, parties to a long and involved contract agree to meet to get to know one another in advance. During this meeting, they create rules for resolving disagreements.

Some states provide a proactive ADR technique known as settlement week. During this period, a court's docket is cleared of all business except for settlement hearings, which are handled through mediation.

Another proactive ADR method is negotiated rule making. In this process, an agency that is about to create a new rule or revise existing rules works with people who will be affected.

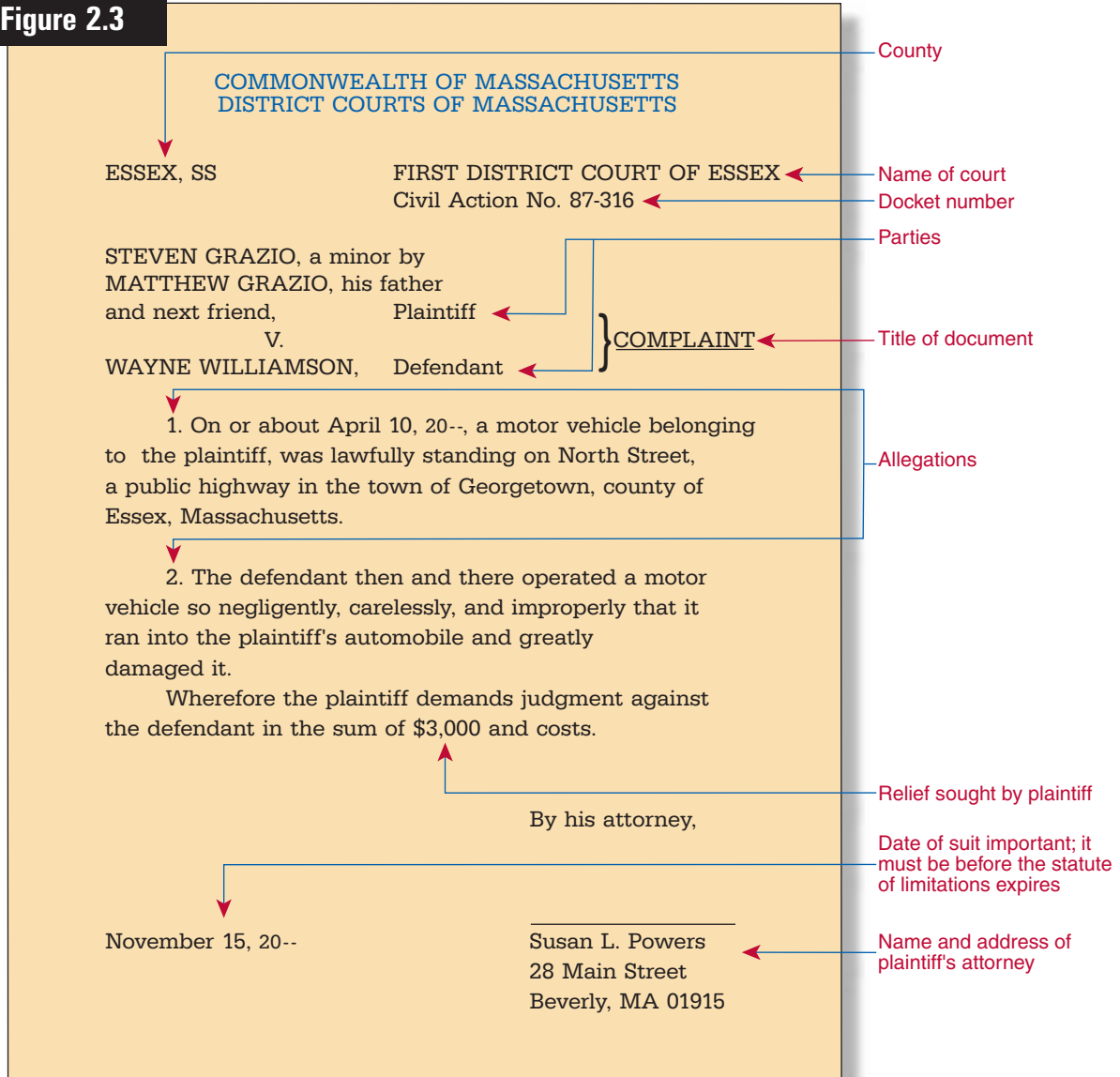
Finally, the government might get involved in ADR through a proposed science court, which acts as a forum for disputes involving scientific and technological controversies, such as genetic engineering.

## Pleadings

Civil trials begin with pleadings, the formal papers filed with the court by the plaintiff and defendant. These papers express the plaintiff's allegations, or claims, in the form of a **complaint** (see Figure 2.3). The defendant's response to those allegations is known as the **answer** (see Figure 2.4).

Methods of discovery are employed to bring facts out before trial. Methods of discovery include depositions, interrogatories, requests for documents and other evidence, physical and mental examinations, and requests for admission. If a case cannot be settled at this point, the court clerk places the case on the calendar, or court docket, for trial.

**Figure 2.3**



**A CIVIL COMPLAINT**

A complaint is the first pleading that is filed in a civil lawsuit. *Was this complaint filed in the federal system or in a state court?*

**Pretrial Hearing**

Before the actual trial takes place, a pretrial hearing usually occurs. This hearing is an informal meeting before a judge. It is intended to simplify the issues and discuss matters that might help dispose of the case.





Figure 2.5

# The Litigation Process

In a civil case, the steps in a lawsuit appear straightforward. However, there are many points at which the process can be delayed.

## 1 Avoiding Litigation



Litigation may be avoided by compromise, mediation, or arbitration.

## 2 Commencing an Action



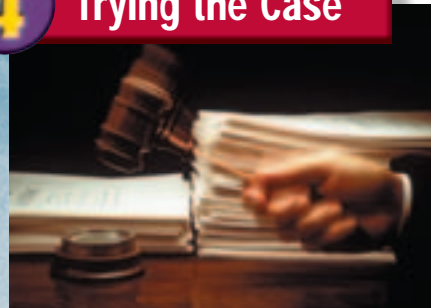
Commencement of the action occurs when a complaint is filed and a defendant is served. Answers, counterclaims, cross claims, and third-party complaints may also be involved.

## 3 Preparing for Trial



Pretrial procedures include discovery<sup>1</sup>, pretrial motions<sup>2</sup>, and pretrial conferences.

## 4 Trying the Case



Cases that are tried may involve jury selection and proceed to a trial, verdict, and judgment. Appeals must involve a legal error made at trial.

## 5 Executing a Judgment



The judgment is executed after it's delivered. A writ of execution may be needed.

(1) Discovery may involve depositions, interrogations, and request for real evidence.  
(2) Motions, if granted, may end the case; the losing party may appeal.

predict whether a juror will be fair or prejudiced. Attorneys consider the juror's background, education, experience, relationships, attitudes, and employment.

**Opening Statements** After jurors are selected, attorneys for each side make opening statements, explaining what they intend to prove. The plaintiff's attorney goes first. In some states, the defendant's attorney may decide to postpone an opening statement until after the plaintiff's evidence has been presented.

**Introduction of Evidence** The plaintiff's attorney presents all of the plaintiff's evidence. Types of evidence include the following: documentary items, such as written contracts, sales slips, letters, or affidavits (sworn statements); physical objects, such as weapons, photographs, and items from the crime scene; and witness testimony.



#### INTRODUCTION OF EVIDENCE

Physical objects are one type of admissible evidence. *Is DNA information from blood or hair samples admissible evidence?*

Witnesses respond to a subpoena, or order to appear, to testify. Some attorneys present expert witnesses who give authoritative opinions for the case.

The defense attorney has the chance to cross-examine the plaintiff's witnesses, asking questions to test the truth of statements and bring out evidence that was not developed on direct examination. When the plaintiff's attorney rests, the defendant's attorney presents evidence favorable to his or her client. Defense witnesses and any other evidence important to the defendant's case are put forward. The plaintiff's attorney may then cross-examine the defendant's witnesses. When the attorneys have introduced all of their evidence, they rest their cases.

**Closing Arguments** The plaintiff's attorney is the first to present closing arguments, followed by the defense attorney. Each attorney summarizes the evidence and suggests reasons why the judge or jury should find in favor of his or her client.

**Instructions to the Jury** The judge must explain the law to the jury in a process called jury instruction. Attorneys from both sides may suggest instructions.

**Verdict and Judgment** Members of the jury go to the jury room to deliberate upon their **verdict**, or decision. In a civil case, the jury, influenced by the evidence that carries the most weight, finds "in favor of" one of the parties. There are variations from state to state as to the number of jurors who must agree to reach a verdict. In Massachusetts, for example, five-sixths of the jury members must agree on verdicts in a civil case.

Following the jury's verdict, the court issues a **judgment**, the court's determination or decision in the case.

## Remedies

When a defendant is found liable in a civil trial, the plaintiff is entitled to a remedy. American courts generally provide two categories of remedies: the payment of damages or an equitable remedy (which asks the court to do what is fair and just). The plaintiff may want the defendant to do what he or she promised in a contract, which is known as **specific performance**. Sometimes the plaintiff wants to prevent the defendant from doing something that he or she is planning to do or has already begun doing. In this case, the plaintiff seeks an **injunction**, an order to stop the defendant from performing an action.



### History

In 1932, William Howard Taft persuaded Congress to authorize a new building for the United States Supreme Court. This courthouse was finished in 1935, and its architectural design represents the dignity and importance of the Court. Many other courthouses across the United States have interesting architecture as well.

### Research Activity

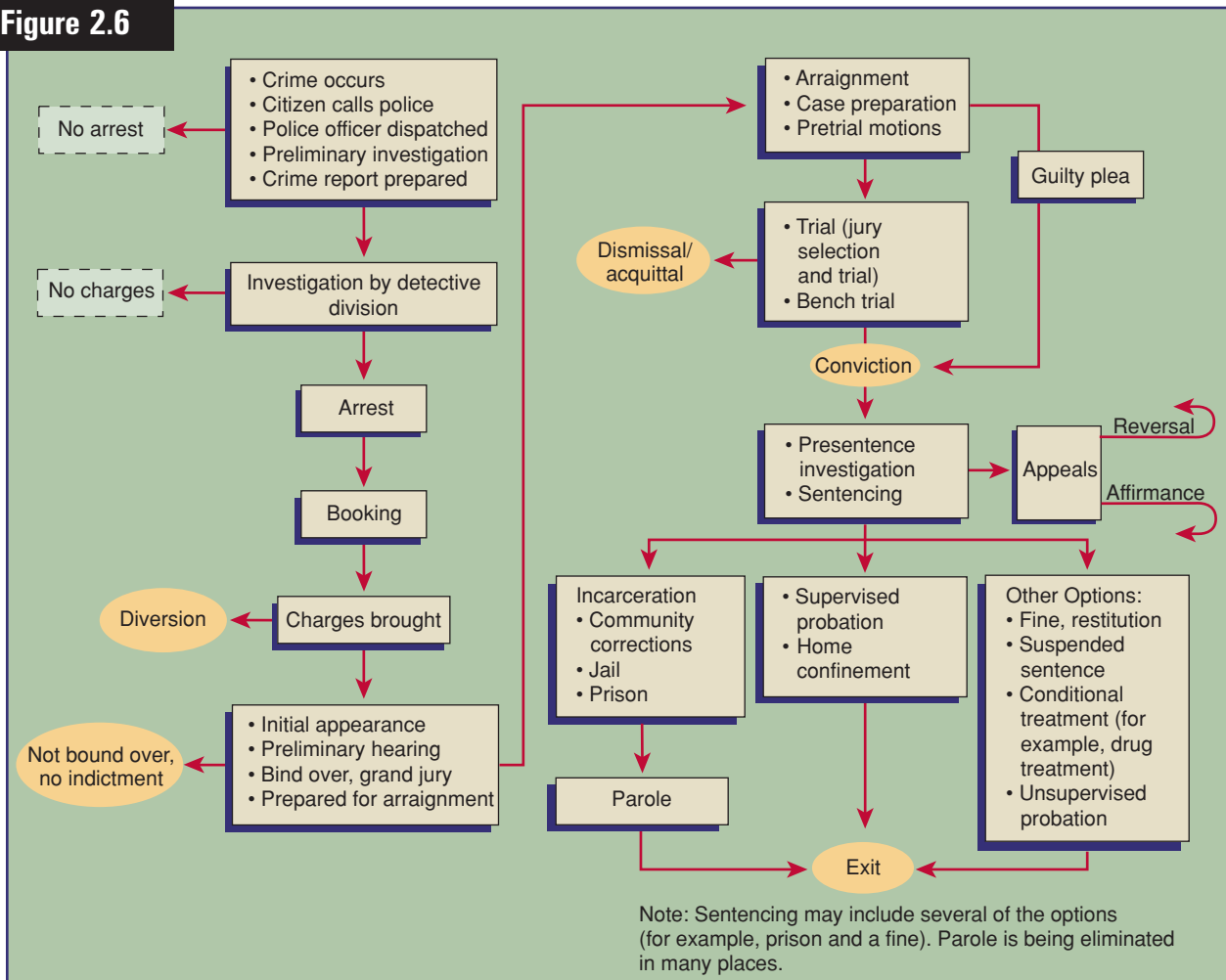
Research the architectural design of the courthouse of the United States Supreme Court. Find out who designed it, the style used, and why this style was chosen. Then research the Supreme Court building in your state. *How are the buildings similar? How are they different?*



## Execution of Judgment

After a trial determines a winning party and a losing party, the judgment of the court must be carried out. The defendant may have to pay the plaintiff in settlement or may retain property claimed by the plaintiff. Sometimes the winning party must return to court to seek enforcement of a judgment. A judgment is enforced by the issuance of an execution by the court. The judge, for example, might order the sheriff to take property belonging to the person who lost the case. The sheriff must sell the property at an auction and use the proceeds to pay the amount of the judgment to the person who won the case. The execution may also be an order to the sheriff to remove a person or property to another location.

**Figure 2.6**



### THE STEPS IN A CRIMINAL PROSECUTION

In a criminal prosecution, the defendant's rights must be guarded at every step. *What are some of the points at which the defendant's rights must be especially protected?*

## Criminal Trial Procedure

Criminal cases often start with the arrest of the defendant (see Figure 2.6). The law requires an immediate court hearing to protect the defendant's rights. The trial is scheduled later to give the prosecuting attorney and the defendant's attorney time to prepare their cases.

### Arrest of the Defendant

An **arrest** occurs when a person is deprived of his or her freedom. A police officer may arrest a person at any time if the officer has a warrant. An officer may arrest a person without a warrant if he or she believes the person has committed or is committing a felony, or if the person has committed a misdemeanor involving a breach of the peace in the officer's presence. Various state statutes also allow officers to arrest people for specific misdemeanors done in their presence, even if there is no breach of peace.

**Rights of the Defendant** Arrested people must be informed of their constitutional rights as set forth in the case of *Miranda v. Arizona*. The Miranda warnings require that people be told what crimes they are being arrested for and the names of the police officers making the arrest. Arrested people also have the right to make a telephone call. A person who has been arrested can sometimes be released on bail. **Bail** is money or other property that is left with the court to assure that a person who has been arrested, but released, will return to trial.

People who are arrested have the right to remain silent. If they answer questions, they have the right to talk to an attorney first and may have an attorney present during the questioning. If a defendant cannot afford an attorney, the court must appoint one at no cost. Under the Constitution, accused individuals also have a right to a fair trial and are presumed innocent until proven guilty.

**Search and Seizure** A police officer may search a person, car, house, or other building only if permission is given or if the officer has a search warrant. The search must be limited to the area mentioned in the warrant. An officer may conduct a limited search, called a frisk, if he or she believes that a person is carrying a weapon. When the search is over, the person must be released or arrested.

Persons who have been arrested may be searched without a warrant. When police arrest someone in a house or building, they may conduct a limited search of the area in which the arrest takes place without a search warrant. They need a warrant, however, to search the entire building. When an arrest takes place in a car, police may conduct a limited search of the vehicle without a warrant. A more complete search may be made if there is good reason to believe the car

### Legal Briefs

In 1995, 12 percent of students ages 12 through 18 reported that they were sometimes or most of the time fearful at school. This percentage dropped to 7 percent in 1999 and 6 percent in 2001.



### SEARCH WARRANT

The scope of a search warrant is determined by the object that is being searched for. *How might the search areas differ for a large television versus a small handgun?*

contains something illegal. In addition, the police may impound (take possession of) a car until a search warrant is obtained from the court.

**Example 3.** In 1976, police impounded a car in South Dakota for a number of parking violations. While making a list of the car's contents, police found a bag of marijuana and charged the owner with possession. The Supreme Court of the United States held that the search without a warrant was constitutional because standard procedure called for police to list the contents of every car they impounded.

Police may seize items (such as illegal drugs or weapons) that are in plain view without obtaining a warrant. This rule is known as the plain-view exception. In 1981, the Supreme Court said police may search the entire passenger area of a car without a search warrant once the occupants are placed under arrest. A year later the Court modified that position. Police officers who have legitimately stopped an automobile and have probable cause to believe that contraband (illegal goods or substances) is hidden inside may search the vehicle without a warrant, including compartments and containers within the vehicle whose contents are not in plain view.

In 1991, the U.S. Supreme Court held that once police have probable cause to believe a crime is being committed, they do not need a warrant to seize a vehicle and search it, as well as any closed container inside. In that same year, the Court said that once a motorist gives police permission to search a car, officers may open bags or containers within the car.

The Supreme Court has also held that school officials may search students without a warrant. However, the officials must have reasonable grounds to believe the search will turn up evidence that the student has violated school rules.

## The Arraignment

The suspect is brought before the court as soon as possible after an arrest, informed of the nature of the complaint, and made aware of his or her rights. At this time, the judge may find cause to dismiss the complaint or decide if there is probable cause that a crime was committed.

Depending upon the jurisdiction, the prosecuting attorney either prepares an information or presents the case to the grand jury. An information is a set of formal charges drawn up by the prosecuting attorney. A grand jury is a jury of inquiry made up of citizens who must decide whether there is enough evidence to justify accusing certain persons of certain crimes.

A grand jury conducts a preliminary hearing in secret to determine whether someone must stand trial. A petit jury decides on the guilt or innocence of the person tried. A trial jury is a petit jury because it has fewer members than a grand jury.

The grand jury hears evidence and testimony of witnesses. If jurors decide a crime has been committed, they issue an **indictment**, or written accusation charging the individual. This issuance does not mean that the named person is guilty but that the grand jury believes there is a possibility he or she is guilty.

Following the indictment or information, the accused is brought to court for **arraignment**. The suspect is read the indictment or



### Guns in School

According to a recent report on state implementation of the Gun-Free Schools Act, 55 percent of expulsions for bringing firearms to school involved high school students, 33 percent involved middle school students, and 10 percent involved elementary school students. *How can you make your school safer?*

### Get Involved

Locate local, state, and national children's advocacy groups to determine what programs in your area help educate teens about gun violence. Find out how you and your friends can form a group at school that promotes nonviolent solutions and encourages mediation.



## Careers in Law

### Forensic Scientist

If you're a fan of mysteries, you might wonder how homicide detectives really discover "whodunit." Chances are, they've received some help along the way from a forensic scientist.



"Forensics just means something relating to law," says Midori Albert, professor of anthropology and forensics consultant at the University of North Carolina, Wilmington. "People in many different fields—chemistry, engineering, botany, even bug scientists—can help to solve a crime."

Although most of Albert's time is spent teaching anthropology, she is also part of a team of crime sleuths who tackle about 30 cases per year in North Carolina. Simply by studying bones, she can reconstruct many characteristics of victims, including their age, gender, ethnic background, previous disease and bone injury, and sometimes the cause of death. This information is useful in reconstructing the scene and circumstances of a crime and ultimately help to solve cases.

"A lot of people think forensic scientists are into gore," Albert says. "That's not true. This is a science based on observation and logic. We're dealing with people's lives, and we care about the victims of these crimes. Our work often helps a victim's surviving family and friends to come to some resolution."

<b>Skills</b>	Photography and videography, computer, statistical analysis, organization, communication, archaeological field techniques
<b>Personality</b>	Patient, discreet, sociable, detail oriented
<b>Education</b>	Academic forensic scientists are usually required to have a Ph.D. People interested in the technical aspects of forensics will need a bachelor's degree in general forensic science.

For more information on forensic science, visit the American Academy of Forensic Sciences Web site at [www.aafs.org](http://www.aafs.org), [ubpl.glencoe.com](http://ubpl.glencoe.com), or your local library.

information and is asked to plead guilty or not guilty. The accused is informed of his or her rights. If the person pleads guilty, the judge may then impose the sentence. If the person pleads not guilty, the case proceeds to trial.

## The Trial

If the defendant requests a jury trial, selection of jurors proceeds and attorneys make opening statements and introduce evidence. Otherwise, the case is tried before the judge, who decides the verdict. The trial ends with the attorney's closing statements and the judge's instructions to the jury.

In a criminal case with a jury, the verdict must be unanimous—either guilty beyond a reasonable doubt, or not guilty. A mistrial is called if the jury cannot agree, and a new trial may be held at the option of the prosecution. If the defendant is not guilty, he or she is released. If the defendant is found guilty, the judge imposes a sentence in the form of a fine, imprisonment, or both.

## Sentencing

After a person has been convicted of a crime, he or she is sentenced by the court, which means the judge decides the punishment. The law provides certain sentencing guidelines and penalties, including fines, imprisonment, and even death.

**Fines** A fine is the payment of money as a penalty for committing a crime, generally a minor one. Fines are also attached to more serious crimes and may be levied by the judge along with imprisonment.

**Imprisonment** States deal with imprisonment in different ways. In some states, the judge may hand down an indefinite or indeterminate sentence, ordering a minimum and maximum amount of time the convicted criminal may spend in prison. A prisoner might be sentenced to five to ten years; however, good behavior might shorten his or her time behind bars.

Other states insist on compelling the judge to use a definite sentence. The judge must state the exact period of time a criminal will spend in prison. Some states have created mandatory sentences for certain crimes, which cannot be altered for any reason.

**The Death Penalty** Our Constitution says death penalty laws must include guidelines to ensure fair treatment. Death penalty laws require three phases:

- The jury determines whether the defendant is guilty.
- The judge or jury listens to attorneys' arguments and determines the punishment under state laws that clearly set forth factors to be considered in a presentencing hearing.
- An appeal is taken to the state's highest court.

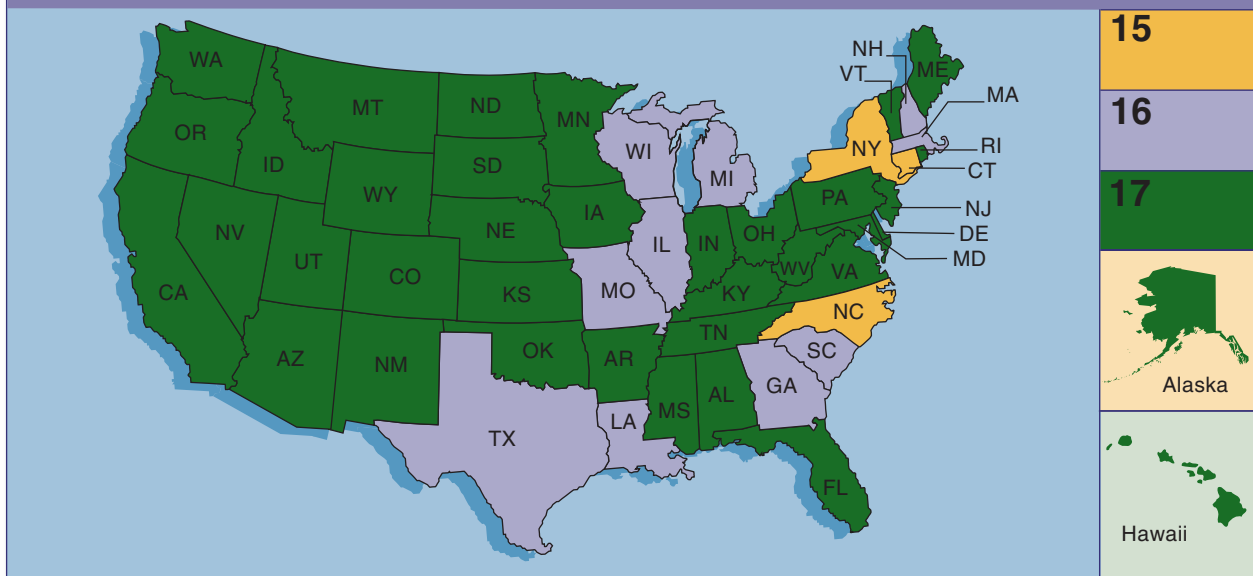
## It's a Question of Ethics

### Giving Evidence

Imagine that your friend's brother has been arrested for committing a crime that occurred last weekend. You saw your friend's brother at a party at the time the crime was committed and are certain that he is innocent. However, your parents told you not to attend the party, and you're sure that you will get in trouble if you come forward with your evidence. *Should you report what you know to the police? Why or why not?*

**Figure 2.7**

## Age Limits For Juvenile Court Jurisdiction



### THE AGE LIMITS FOR JUVENILE COURT JURISDICTION

Most states hold 17 as the oldest age for juvenile court jurisdiction. *What is the age limit in your state?*

### Disposition of Juvenile Cases

Cases involving juvenile offenders are handled by the juvenile court, which has limited jurisdiction (see Figure 2.7). The juvenile court system is designed so that each case and special circumstances are considered individually.

As a first step, the judge usually holds a **detention hearing** to learn whether there are good reasons to keep the accused in custody. The court's probation department or a child welfare agency begins an investigation into the minor's background and home life. The judge might dismiss the charges upon hearing the investigation findings. There may be special circumstances; the matter may be deemed not serious enough to pursue further; or the judge may feel the youth was wrongly accused.

If the charges are not dismissed, the judge conducts an adjudicatory hearing. This is the informal, actual hearing of the case by the court. The judge may question the youth and his or her parents, listen to witnesses, and seek advice from the probation officer. Some courts decide what action to take at this point. Other courts hold a third hearing, called a dispositional hearing. After one of these hearings, the

judge decides the outcome of the case. The matter is generally settled in one of three ways:

- The judge may allow the offender to return home on probation for a period of time, under the supervision of a probation officer. Failure to meet probation requirements may result in more severe punishment.
- The judge may place the offender in an agency or foster home. The natural parents will then be required to pay what they can toward the offender's support.
- The judge may commit the offender to a training or reform school. This option is usually a last resort, employed when both probation and foster care have already been tried and have failed, or when those options seem unlikely to work.

The judge can also order the juvenile offender to pay for the damages with money, work, or both. The parents of the offender may have to repay the victim in some cases. Sentences for youthful offenders are set with rehabilitation in mind. They are generally limited to probation under court supervision, confinement for not more than three years in a reformatory institution, or another course of action designed to help, rather than to punish.

## Section 2.2 Assessment

### Reviewing What You Learned

1. What are some alternatives to litigation?
2. What is the difference between a civil case and a criminal case?
3. Specify the steps in a civil lawsuit.
4. What rights do people have when they are arrested?
5. Specify the steps in a criminal lawsuit.
6. How do the courts treat juvenile cases?

### Critical Thinking Activity

**Resolution Proceeding** Using the newspaper, Internet, or your school library, research how consumers might use dispute resolution to resolve conflicts with businesses. Then make

an oral presentation on an actual resolution proceeding.

### Legal Skills in Action

**Dispute Resolution Centers** In this chapter, you learned about alternative dispute resolution, an increasingly popular approach to resolving disputes out of court and avoiding the time and cost of trial. Contact the office of the district court administrator to locate dispute resolution centers.



## Chapter Summary

**Section 2.1 Dual Court System**

- Jurisdiction is the power and authority given a court to hear a case and to make a judgment. A court with original jurisdiction hears a case tried for the first time in its court. A court with appellate jurisdiction reviews a case on appeal from a lower court. Courts with limited jurisdiction handle minor matters, such as misdemeanors. General jurisdiction means that a court has the power to hear most types of cases.
- Federal courts are arranged in three levels: U.S. district courts located throughout the United States, U.S. courts of appeals, and the Supreme Court of the United States.
- The U.S. Supreme Court has original jurisdiction on certain types of cases involving ambassadors, consuls, and cases in which a state is a party. The Supreme Court hears the majority of its cases in its appellate capacity. It considers cases that have been tried in lower courts and cases that have been selected for review by four of nine Supreme Court Justices.
- State court systems generally consist of local trial courts, courts of general jurisdiction, and appellate courts. At the highest level, each state has its own supreme court.
- A delinquent juvenile is a child who commits an adult crime. An unruly child is generally a minor who has done something that wouldn't be a crime if committed by an adult, such as violating curfew, skipping school, or using tobacco. A neglected or abused child is one who is without adequate parental care or one who is homeless. Such a child will become a ward of the state.

**Section 2.2: Trial Procedures**

- There are several different alternatives to traditional litigation. Mediation and arbitration, med-arb, early neutral evaluation (ENE), summary jury trial, and private civil trial are

some reactive examples of Alternate Dispute Resolution (ADR). Reactive methods of ADR are used after a dispute has arisen. Proactive ADR methods, such as partnering and settlement week, are used before a dispute arises.

- A criminal case often starts with an arrest. To protect the defendant's constitutional right to a speedy trial, the criminal trial is scheduled more quickly than a civil trial. A plaintiff in a civil case may wait years before having her day in court. In civil court, the plaintiff sues the defendant for a remedy. In a criminal proceeding, the district attorney prosecutes on behalf of the government against the defendant for a different type of crime—his or her freedom.
- The steps in a civil trial are: (1) jury selection, (2) presentation of opening statements, (3) introduction of the evidence, (4) presentation of closing arguments, (5) instructions to the jury, (6) the jury verdict, and (7) the court's judgment.
- People placed under arrest may exercise their rights in several ways: (1) they may remain silent; (2) they may call an attorney; and (3) if they choose to answer questions, they may have an attorney present.
- After a defendant is arrested, evidence of the crime is presented to a grand jury. If the grand jury decides there is enough evidence to go to trial, it issues an indictment. The defendant is arraigned. At the time of arraignment, the defendant pleads guilty or not guilty. Defendants pleading not guilty proceed to trial, and those pleading guilty are sentenced by the judge.
- In a juvenile case, the judge may: (1) place the offender on probation and allow him or her to return home, (2) place the offender in an agency or foster home, or (3) commit the offender to a training or reform school.

## Using Legal Language

Consider the key terms in the list below. Then use these terms to complete the following exercises.

jurisdiction	diversity of citizenship
original jurisdiction	intermediate court
appellate court	appellate jurisdiction
limited jurisdiction	general jurisdiction
delinquent child	unruly child
abused child	alternative resolution
mediation	arbitration
med-arb	summary jury trial
private civil trial	ADR contract clause
answer	verdict
judgment	arrest
bail	indictment
arraignment	

## Understanding Business and Personal Law

Online 

**Self-Check Quiz** Visit the *Understanding Business and Personal Law* Web site at [ubpl.glencoe.com](http://ubpl.glencoe.com) and click on Chapter 2: The Court System—Self-Check Quizzes to prepare for the chapter exam.

1. Your business law professor has asked you to create a reference manual for new students. Provide a definition for each key term.
2. The reference manual will be organized according to groups of related terms. Place each key term into one of three to five categories that you create.

## The Law Review

Answer the following questions. Refer to the chapter for additional reinforcement.

3. What are the two court systems in the United States?
4. What is the source of the federal court system's authority?
5. In what kind of case does a federal district court have original jurisdiction?
6. When are the police allowed to search a vehicle without a warrant?
7. How does a verdict differ from a judgment?
8. Describe the rights of an arrested person.
9. There are likely dispute resolution centers in your area. Contact the office of the district court administrator to define the scope of their jurisdiction.
10. What happens if a jury cannot agree on a verdict?
11. Under what circumstances might a judge commit a juvenile offender to a reform school?

## Linking School to Work

**Connect with Language Arts**

Jeremy is a 15-year-old student. One night, after his parents thought he was asleep, he and two friends went to the golf course. As a prank, they drove five golf carts into a nearby lake. All the carts were destroyed, and Jeremy and his friends were arrested. In juvenile court, Jeremy and his friends were fined and placed on probation for two years, and their parents were required to reimburse the owner of the golf course for the golf carts. Analyze the following issues:

12. Is this result fair to the juveniles' parents?
13. Is this result fair to the golf course?

Write a paragraph explaining your opinion. Next, write another paragraph defending the perspective of the golf course. Finally, write a paragraph as if you were representing Jeremy.

## Let's Debate

**Privacy and Drug Testing**

Your school has decided that it will require random drug testing for students who are involved in extracurricular activities. Many students in the school feel this is illegal. Others believe that all students, including those who do not participate in extracurricular activities, should face the same rules.

**Debate**

14. Do you think school districts should impose this type of policy?
15. Do you think random drug testing of high school students involved in extracurricular activities is legal?
16. If you were the principal, would you require random drug testing? Why or why not?

## Grasping Case Issues

For the following cases, give your decision and state a legal principle that applies.

17. Kepano brought a lawsuit in his home state involving a contract claim against another resident of that state. When Kepano lost, he decided to take the case directly to the United States Supreme Court. Is the Supreme Court required to hear the case? Why or why not?
18. Shahnaz and Vasu Harinath decide to get a divorce. Because they want to keep the matter as quiet as possible in their community, they elected to have their divorce heard by a federal district court. Do federal courts have jurisdiction over divorce cases? Why or why not?
19. When Ivan Gagarin was at the mall, he was served with a copy of a complaint and a summons in a lawsuit. Certain that he has done nothing wrong, Ivan decides to do nothing about the lawsuit. What will happen to him?
20. Speculate on which of the following cases the U.S. Supreme Court might decide to review: (1) a libel case involving a local high school football coach; (2) a case involving a student who has been denied admission to a college program because of her religion; (3) a case involving whether the American flag can be burned in protest over new taxes. Explain your answer.
21. Abel Agapois was given a speeding ticket for going 65 miles per hour in a zone that only permitted the speed of 25 miles per hour. His case was heard in mayor's court, and the mayor fined him \$275. Abel believes the fine constitutes cruel and unusual punishment, and he intends to appeal to the federal district court. Will he be permitted to do so? Why or why not?

In each case that follows, you be the judge.

### 22. Search and Seizure

The police received a tip that marijuana was being grown in Michael Riley's greenhouse. Police could not see inside the greenhouse from the road, but the investigating officer did see marijuana plants in the greenhouse from a helicopter circling the property. Riley argued the helicopter search was an unconstitutional violation of the Fourth Amendment. *Could this case be appealed to the United States Supreme Court? Why or why not?*

*Florida v. Riley*, 102 L.Ed. 2d 835 (U.S. Sup. Ct.).

### 23. Equal Protection

The city council of Richmond adopted a minority business utilization plan. Primary contractors of any city construction project were required to subcontract a minimum of 30 percent of their work to at least one minority business enterprise. However, any contractor that was owned by minority group members was not bound by this rule. The plan was challenged in federal district court. *What is the jurisdictional basis for bringing the case to federal court? Is this the type of case that could be brought to the United States Supreme Court? Why or why not?*

*Richmond v. Croson Co.*, 488 U.S. 469 (U.S. Sup. Ct.).

### Legal Link

#### Who's Who on the U.S. Supreme Court

After studying the justices of the Supreme Court in your American History class, you decide you want to know more.

#### Connect

Select one of the current U.S. Supreme Court justices. Using a variety of Internet search engines, conduct research to find out more about that justice. Answer the following questions:

24. Where and when was he/she born?
25. Where did he/she go to law school?
26. Which president nominated the justice to the U.S. Supreme Court?
27. Where is he/she seated on the bench?
28. What is the significance of the quill pen?
29. Describe the conference handshake.



30. **Predict** What do you think would happen if we didn't have the 51 court systems in the United States?
31. **Connect** Under what circumstances, if any, do you think a minor should be treated as an adult in a murder case?
32. **Question** What do you think would happen if there were juries in the appeals court?
33. **Respond** How do you think lawyers determine whether a juror will be biased or prejudiced?