

**OUR COURTS ARIZONA
ARIZONA COURTS AND
HOW DECISIONS ARE MADE**

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Topics addressed:

- An overview of the court system
- Judges make decisions by applying the Rule of Law equally to all parties in a fair and impartial manner

Time needed: 30 minutes minimum.

Overview: Participants will review the court system and how judges make decisions by applying the Rule of Law equally to all parties in a fair and impartial manner.

Format: This is a fast-paced, multi-dimensional activity that relies on audience participation.

Group Size: Ideal for any group.

Optional Handouts:

- ✓ Hypothetical scenario

Preparation: Select your hypothetical (Slide 6).

Presentation materials: Print out a copy of the PowerPoint to reference during presentation.

Equipment: Computer and LCD projector. Contact your event coordinator. Bring Web-based materials on a flash drive or have access to the Internet on-site. Materials available on the Our Courts website:

<http://www.azcourts.gov/educationservices/OCA.aspx>

Powerpoint Presentation: Using the PowerPoint, engage in a question and answer discussion regarding the branches of government and our court system. Introduce and read a hypothetical (you may pass out a written copy of the hypothetical). Divide the group into three sections and assign their roles.



Ideally 30 to 40 minutes needed.

This activity can be used by small and large groups.

Ask if you need to bring laptop and/or projector.

Select a Hypothetical:

Hypothetical A:

Group 1 is Walker, Group 2 is Castle; and Group 3 is the public.

It is three days after a major monsoon storm in Arizona. There is a city ordinance that requires residents within 24 hours after a monsoon to clear the sidewalk from debris and vegetation that has fallen. Walker is going home after getting groceries. He trips over a fallen tree, landing in a cactus on Castle's property. Walker experiences severe pain and suffers a broken hip. Walker has surgery to repair the injury and is out of work for several weeks. Walker knows about the city ordinance and believes that Castle's failure to clear the sidewalk caused his injury. About eight months after the accident, Walker sues Castle alleging negligence. Castle has difficulty remembering what exactly happened so long ago, but his sidewalk was always free from debris, and Castle suspects that Walker tripped on debris in front of his neighbor's yard and just ended up landing on Castle's cactus after the fall.

Hypothetical B:

Group 1 are the parents of Student B; Group 2 represents the State and school; and Group 3 is the public.

Great School advises all students that they may be subjected to warrantless searches of their person if a teacher, the principal, or a school official finds reasonable grounds for suspecting that the student has violated or is violating the law or rules of the school. Student A reports that she saw pictures of Student B on Student B's Instagram and Facebook pages of Student B purportedly selling drugs outside the school cafeteria.

Hypothetical C:

Group 1 is Mom or her lawyer; Group 2 is Dad or his lawyer; and Group 3 is the public.

Mother and Father separated five years ago. They have two children who are eight and nine years old. The children stay with Mom Monday through Friday after school every week and spend every weekend with Dad. Both Mom and Dad have remarried. When spending time with Dad, the children live in a three bedroom house with their four stepsiblings. The kids all have a positive relationship, but space is limited. Mom's new husband is being transferred for work to New York and she wants to take the kids with her, giving Dad parenting time only on school breaks and summers.



Approximately
10-15 minutes
to cover the
hypothetical
and cover
sample
questions.

Pose questions to the group regarding the following concepts fairness, impartiality, and equal treatment:

Sample Comments & Questions:

Hypothetical A:

Group 1 (Walker), what if you learn that the judge went to high school with Castle and they played on the same football team? Are you comfortable with that?

Group 2 (Castle), what if the Governor could call the judge and tell the judge that Walker is a good friend of the Governor and has always been very honest and that the Governor thinks the judge should dismiss this case. Should political officials be able to control or influence the decisions of our judges?

Public: You are neighbors of Castle and know that Castle's neighbor always has trash all over the yard and sidewalk. You don't want Castle to get in trouble, and you want to go to the courthouse with signs to show your support for Castle as potential jurors walk into the courthouse? Should you be able to exercise your First Amendment right to free speech and hold signs when potential jurors pass by you to enter the courthouse? What if you were jurors, would you be influenced by passing those picketers before trial? Should that matter?

Apart from winning or losing, how do you want to be treated by the judge?

Would it be fair for the jury to make a decision based on gender or race? Income of the parties? What if Castle owns a million dollar home and Walker is a renter who lost his job and due to medical bills can't buy birthday gifts for his children – Castle would never even miss \$5,000.00 to cover Walker's medical bills – does income matter?

Would it be fair for the court to make its decision based on who is more likable? Who irritates the judge?

Or based on what the judge thinks what social policy should be – what if there are news articles that say lawsuits like this increase rates for homeowners insurance and cases like this should be dismissed – ordering Castle to pay Walker will only result in your own rates increasing. Should that matter to the members of the jury?

Sample Comments & Questions:

Hypothetical B:

Group 1 (Parents of Student B), what if you learn that the judge went to high school with the parents of Student A and they continue to socialize together? Are you comfortable with that?

Group 2 (State and School), what if drugs were found during the search and the Defendant moved to suppress or exclude the evidence. Before the suppression hearing, what if the Governor could call the judge and tell the judge that Student B is an intern in the Governor's office and the Governor would prefer this matter just goes away. Should political officials be able to control or influence the decisions of our judges?

Public: Your kids go to school with Student B and you have always felt uncomfortable with the policy allowing random searches at school. Parents feel that certain teachers target certain

students and conduct searches of those students all the time. You want to go picket in front of the courthouse. Should you be able to exercise your First Amendment right to free speech and hold signs when potential jurors pass by you to enter the courthouse? What if you were jurors, would you be influenced by passing those picketers before trial? Should the judge let the picketers be outside the courthouse or require the picketers to move somewhere else?

Apart from winning or losing, how do you want to be treated by the judge?

Would it be fair for the judge to make a decision based on gender or race?

Would it be fair for the court to make its decision based on who is more likable? Who irritates the judge?

Or based on what the judge thinks what social policy should be – what if there are news articles that say drug use has dramatically increased in the city which has led to an increase in criminal behavior. Should that matter to the members of the jury?

Sample Comments & Questions:

Hypothetical C:

Group 1 (Mom or her lawyer), what if you learn that the judge went to high school with the Dad and they continue to socialize together? Are you comfortable with that?

Group 2 (Dad or his lawyer) what if the Governor believes that children belong with their mother and the Governor has made clear that judges should make decisions to give the majority of parenting time to mothers. Should political officials be able to control or influence the decisions of our judges?

Public: Should a mother or father be entitled to more parenting time just because the person is a male or female?

Apart from winning or losing, how do you want to be treated by the judge?

Would it be fair for the judge to make a decision based on gender or race? What about income?

Would it be fair for the court to make its decision based on who is more likable? Who irritates the judge?

Or based on what the judge thinks what social policy should be?

Possible points to cover during your discussion:

- Before the government can use its power to deprive anyone of life, liberty, or property, courts and government agencies must employ a fair and impartial process that ensures that the parties:
 1. Receive adequate notice of the legal action;
 2. Allows the parties to be heard (present witnesses and evidence);
 3. Confront opposing witnesses and evidence;
 4. Be represented by a lawyer if they so choose; and
 5. Have an impartial fact-finder
- In this country we are ruled by laws, we have a government of laws, and no one is

above the law, not even people we elect to serve in our government. The Constitution does not give any political official the power to intervene or to order the court to decide the case in a particular way.

- The 14th Amendment to the U.S. Constitution says that our courts must ensure that every person within its jurisdiction receives equal protection of the law.
- Each case shall be determined by an impartial finder of fact who fairly and impartially applies the law to the facts.
- Judges and juries are not permitted to consider information that is not in evidence in the courtroom. Judges and juries must decide cases based only on the evidence and not on public sentiments, political influence or popular opinion.
- The Constitution gives the judicial branch of government the power to resolve cases that people and entities ask them to resolve. That is the duty and the obligation of our courts: to accept cases properly brought to them, conduct fair and impartial proceedings, and apply the law to the facts in accordance with the evidence.
- Judges must not participate in a matter when they have a personal relationship with either party, and they must not participate in any case in which they have a personal interest in the outcome of the case.

Where does the law come from?

- Trial courts must follow the U.S. Constitution, Arizona Constitution, applicable federal laws, state laws, and state rules of procedure and evidence. If a party feels that the trial court erred in its decision, the party may seek review of the trial court's decision.

Summary

The entrance of the United States Supreme Court reads "Equal Justice Under Law." The entrance of the Arizona Courts Building reads, "Where Law Ends, Tyranny Begins." Our courts have applied equal justice under the law for more than 230 years and they must continue to do so.

To have freedom, we must have fair and impartial courts. A judge is called upon to interpret the law; listen to the facts and apply the law in a manner that is fair and impartial; to make procedural rulings; and often to mediate among parties to settle disputes.

We must not forget that our American justice system resolves over 100 million cases each year, and the principles we have discussed today apply to each and every case, for people like you and me across this land who seek to have their day in court.



Approximately
5 - 10 minutes
to cover
summary and
answer
questions.