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History of American Legal System

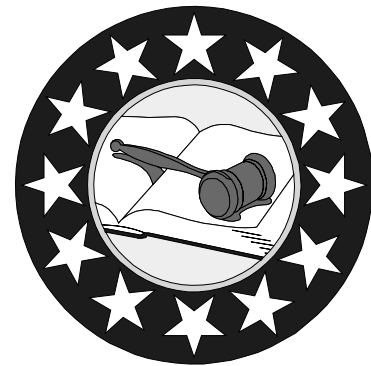
Everyone in your classroom is different. Each person comes from a different background with different ideals. What do you think would happen if each student in the classroom described a perfect school? Do you think everyone would agree? Probably not. In the next 10 minutes, write down your description of the perfect school. Now, your teacher will put you in a group of three or four. Answer the following questions as a group. Everyone in the group must agree before you write down your answers.

1. *What are the five most important classes offered in a school?*
2. *How many students should be in a school?*
3. *List the three most important extracurricular activities offered in a school.*
4. *How many students should be in a classroom?*
5. *What should be the hours of the school day?*

Did your group have trouble deciding on the answers?

If your group had trouble deciding on the description of the perfect school, they were very much like the first settlers who had difficulty deciding on a perfect legal system for their new country. Just like the people in your classroom, everyone came from different backgrounds. Many settlers came from Spain, England, France, and even Holland. Each country had its own set of rules and ways of enforcing them.

The English legal system became the most popular model, but even it did not fit the needs of the colonists. Consequently, the colonists took the English system and made changes. They simplified the court system and emphasized individual rights, religious freedom, and self-sufficiency. Each colony developed new ways of handling conflicts within its own territory. After the Revolutionary War, even more changes were made. For example, before the Revolutionary War, judges were the primary law makers. After the war, however, legislatures representing the voice of the people became the primary law makers.



Group Scenario

Imagine your group is the first to settle a new planet. This planet is named *Zota*. It has been discovered in a galaxy many light years away from Earth. This planet is very much like Earth in that it has plants, animals, oxygen, gravity, and water. Your group is being sent to *Zota* to live for 10 years. During that time, you are to explore the planet, gather data, and set up a system of laws and ways to enforce these laws.

Your group votes to begin with five important laws. Discuss what are the most important laws for your society and how you plan to enforce these laws. You may be asked to share your answers.

Before the Trial

The Case of Miranda vs. Arizona

In 1963 Ernesto Miranda was tried in an Arizona court. Before the trial, he was cross-examined for two hours with no attorney present. Miranda was coerced into signing a confession which was used in the trial. The United States Supreme Court ruled in 1966 that the procedures used violated Miranda's constitutional rights. Later, however, Miranda was retried and still found guilty.

The Arrest

Before the case of *Miranda vs. Arizona*, police officers did not have to inform suspects of their constitutional rights. Now a case may not be admissible in a court of law if a police officer forgets to read the suspect his or her rights. These rights include the following:

1. *The right to remain silent*

The suspect does not have to answer questions the police ask.

2. *The right to an attorney, either appointed or retained*

The suspect has a right to defense. Either the suspect may retain a lawyer or if he or she cannot afford it, a lawyer will be appointed. This lawyer is paid by the government to defend anyone who chooses that service.

3. *The right to know anything he or she says will be used against him or her in a court of law*

If the suspect chooses to talk to the police, anything he or she says may be used in the case against him or her.

Pretrial Procedures

After a suspect is arrested, many steps occur before that suspect is actually taken to court.

1. The suspect appears before the judge, bond is set, or in some cases bond is denied.
2. The suspect appears at a preliminary hearing. This hearing determines whether enough evidence exists to go to trial. The prosecuting attorney must have established *probable cause*. (Did the suspect have motive, means, and opportunity to commit the crime?) The suspect may waive his rights to a preliminary hearing.
3. If the judge thinks there is enough evidence, the defendant is bound over for trial.
4. Usually, the next step is that a grand jury decides whether the accused should be tried for a crime. The grand jury is a group of 12 to 23 people. If they believe that the suspect should be tried, they pass a true bill, declaring there is enough evidence to warrant a trial. Some states do not use a grand jury. Instead, they use prosecutors to issue an indictment by information.
5. The accused then appears before the judge for an *arraignment*, is formally accused of the charge, and is asked to enter a plea. Before the arraignment, the prosecuting attorney and the accused may work out an agreement in which the accused pleads guilty in exchange for a lesser penalty. If the accused pleads *nolo contendere*, it means he or she pleads no contest to the charges and the judge may go ahead and sentence him or her.
6. If by this point, the accused has not been released, made a plea bargain, or made a plea of *nolo contendere*, he or she is ready to go to trial.