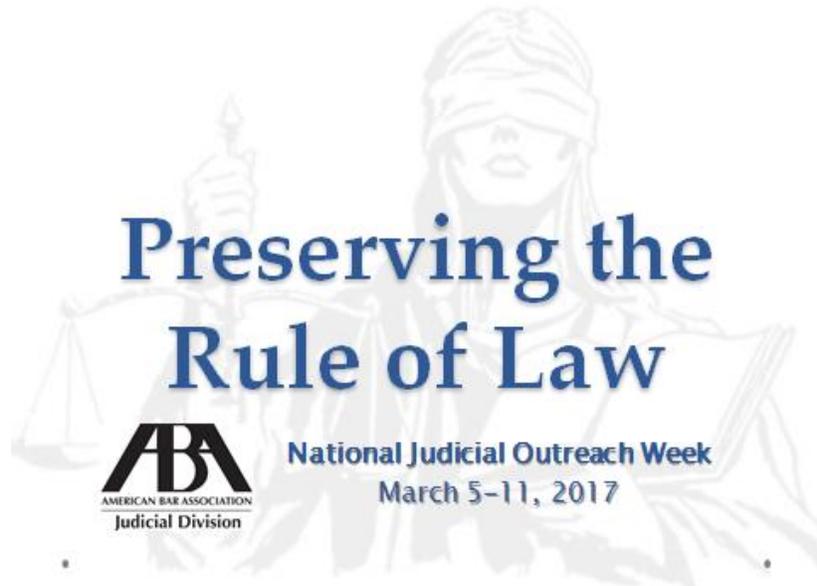




Judicial Division

**National
Judicial Outreach Week
March 5-11, 2017**



Speaker Notes

Guidance and Suggested Commentary. The accompanying Speaker Notes provide guidance and suggested commentary for each slide.

The guidance appears in plain text.

Suggested commentary appears in text boxes in italic type.



Lady Justice

When you show this slide:

Guidance. Begin by introducing yourself. Consider including the following:

- Your name
- Your current position
- How long you have served in that position
- Your duties as a judge at the level of court on which you serve is to preserve the rule of law by:
 - Treating everyone fairly and impartially;
 - Identifying & correctly applying applicable laws;
 - Ensuring that the case is conducted in accordance with due process of law;
- Why you became a judge
- What you find most rewarding about being a judge

Remain on the Lady Justice slide and introduce the presentation. You could say something like the following:

Today, we're going to talk about the Rule of Law and how our courts apply it and ensure that it is honored. I say "we" because I'm not going to give a speech. Instead, I hope we'll discuss the Rule of Law and what our courts do to make sure we preserve it for our country.

You can see the image that is on this slide, which serves as the background of all the slides I will use today. It is a drawing of Lady Justice.

- *Note that, in her left arm, Lady Justice is holding a book. The book represents the laws that rule our government and our society—the laws that our courts apply in thousands of courtrooms around the country every day.*

- *She has a blindfold on.*
 - *This represents the ideal that, our courts must apply our laws equally to everyone, without regard to their appearance – without regard to their sex, age, race, nationality, or anything else that might undermine their equal treatment under the law.*
 - *It also represents that our courts must apply our laws equally to everyone, without regard to their identity—without regard to whether they hold positions of power, are famous, are wealthy, or are popular.*

- *In her left hand, Lady Justice holds a scale, which represents fairness and objectivity. Our courts must not only apply the laws equally to everyone, but they must be fair and apply the law in accordance with the facts of each case.*

What is the Rule of Law?

In 1776, King George III ruled
England and the American colonies.

The laws that applied to the colonists
did not apply to King George.
As King, he was above the law.

What is the Rule of Law?

That was the Rule of a King,
the Rule of a man.

Slide Group 1

What is the Rule of Law?

Guidance. This slide is “animated.” When it first comes up, it contains the text that you see on the left. When you “click” to advance the slide, the text on the left disappears and the text on the right appears.

In your own “voice” and style, say something like the following:

So, what is the Rule of Law?

It has been defined in many ways – many of them are complicated – many of them include long lists of things.

Today, we’re going to discuss its basic and essential features.

The best place to start is right at the beginning our independence from Great Britain.

- *When we were a colony, King George III was King and the laws that applied to the colonies did not apply to him – he was “above the law.”*
- *This was the Rule of a King – the Rule of a Man.*

Our Government is . . .

"a government of laws,
not of men."

John Adams, 1774

**"[Our government] is a
government of laws, not of men."**

Guidance. As the slide indicates, these are the words of John Adams. They first appeared in 1774 in an essay in the Boston Gazette. In 1780, they were included in the Massachusetts Constitution.

This slide introduces Slide Group 1, and the three following slides explain the fundamental concept and frame of the rest of the presentation.

*When we talk about the Rule of Law, we often think of it as have and enforcing rules that have the power of law. In this context, we would be talking about "**Rules** of Law."*

*This approach is not wrong, but it makes it more difficult to understand the **Rule** of Law.*

If we say that the Rule of Law is about having and enforcing "rules," we fail to recognize that dictatorships have laws and that tyrants often enforce those laws to oppress disfavored groups and perceived enemies.

For example, Nazi Germany had and enforced laws, but it used those laws to oppress and deny freedom.

Nazi Germany did not have the Rule of Law, it had tyranny.

What is the Rule of Law?

No one is "above" the law.

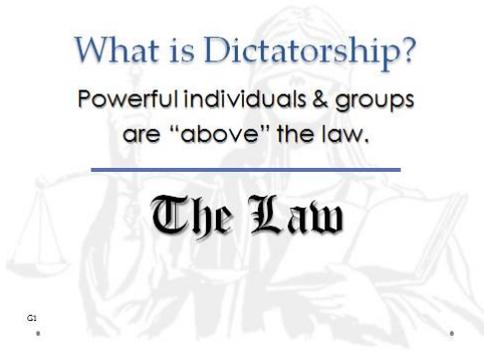


What is the Rule of Law?

Guidance. This presentation defines the Rule of Law as meaning that we are governed by laws, not individuals or groups that are above the law and have the ability to oppress others. The official we elect do not "rule" – they are not "rulers." In America, "the laws rule" and the official we elect are subject to the laws and must conduct themselves in accordance with the laws.

What is Dictatorship?

Powerful individuals & groups
are "above" the law.



What is Dictatorship?

When powerful individuals & groups are "above the law," they are free to ignore the laws because no one else has the power to enforce the laws against them or to require them to submit to the authority of the courts.

CAUTION: During the 2016 Presidential campaign, there was significant sentiment that Hillary Clinton and Bill Clinton had broken laws and should be prosecuted. Before that, there was significant sentiment that President Obama had taken actions that violated the Constitution.

If an audience member raises the issues about powerful people who were not prosecuted, acknowledge the person's statement and repeat it fairly and clearly. Then "bridge" back to the title: Our courts "preserve the rule of law."

Consider the technique described on the next page.

Consider the following approach:

1. focus on the person who spoke. Perhaps take one step in his/her direction.
2. Listen to understand, not to refute.
3. Ask questions to demonstrate interest, clarify, and give yourself time to think.
4. Say something like:

Thank you for your question.

Let me make sure I understand what you're saying. If I understand correctly, you are saying that you believe that _____ violated the law, but was not prosecuted or sued – and because they were not prosecuted, it looks like they were "above the law." Is that accurate?

5. Take a step back from the person, then take a step toward the entire audience.
6. Repeat the question in a frame that bridges back to the theme of the presentation: Our Courts preserve the Rule of Law.
7. Then say something like the following:

When we say "no one is above the law," we are saying that, the courts must apply the laws fairly and impartially in every case and for every person who come before the courts.

However, the courts don't pick the cases or the people who come before them. It is up to prosecutors to decide whom to prosecute, and it is up to individuals and corporations to decide whether, when, and whom to sue.

When they do that, in the courts of America, no one is above the law – everyone is equal before the law.

The next slide will help answer this question.

The Law



Everyone is subject to the law.

FYI: President Richard Nixon, Illinois Governor Rodney Blagojevich, General David Petraeus, Martha Stewart, Former Speaker Dennis Hastert, and O.J. Simpson.

All the people whose pictures are on this page had either high office, fame, or wealth.

Government authorities exercised their authority to bring legal actions against them and accused them of violating laws.

And in each case, the laws were applied to them.

In each case, our Constitution and laws entitled them to fair and impartial application of those laws.

Where do
our laws come from?

Constitutions



Slide Group 2

Where do our laws come from?

Guidance. Go through these slides quickly. Avoid getting into details because these slides only orient the audience, they do not explain the Rule of Law.

Our laws come from several sources.

The first and most important law is the United States Constitution.

It establishes the structure of our federal government.

It establishes three separate branches of government:

- *Legislative*
- *Executive*
- *Judicial*

It gives different powers to each branch.

And it gives each branch the ability to ensure that the other branches do not exceed their powers.

And, of course, we all learned that this is the Separation of Powers and the system of Checks & Balances.

In addition, there are the first ten Amendments to the Constitution, which we call the Bill of Rights.

The Bill of Rights guarantees individual rights and limits the government's power to interfere with those rights.

Where do
our laws come from?

Statutes



Legislatures

Statutes are laws that are written by the elected Senators and Representatives who serve in our federal and state legislative bodies.

Where do
our laws come from?

Administrative Regulations



Executive Agencies

Regulations are laws that are created by federal and state agencies that are part of the Executive Branch of government.

Where do our laws come from?

Court Rules & Decisions



Courts

Court proceedings must be conducted in accordance with the requirements of the U.S. Constitution and the Constitution of the State.

Courts must apply statutes passed by the Legislative Branch and Regulations established by the Executive Branch.

Court Rules. *In addition to these, the Judicial Branch creates Rules that establish court procedures.*

Precedent. *And, last, in addition to all of these:*

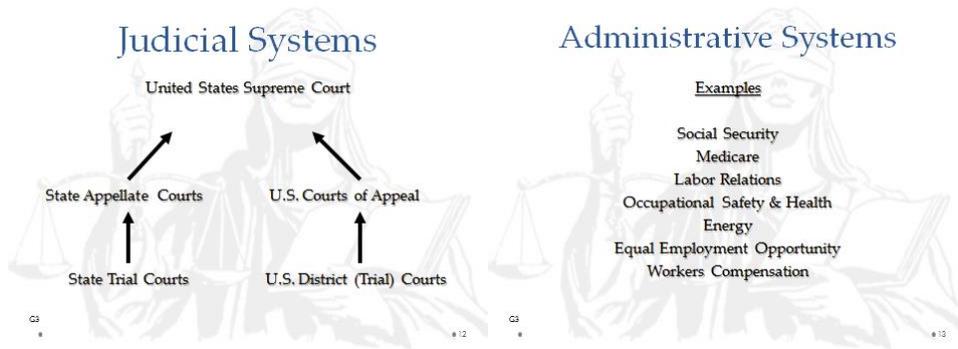
- *federal appellate court decisions establish “precedents” regarding the application of the U.S. Constitution, U.S. laws, and regulations,*
- *state appellate court decisions establish “precedents” regarding the application of that state’s constitution, laws, and regulations.*

What judges do.

As a judge, I have to have excellent knowledge of procedural rules and evidentiary rules so I can apply them in every case.

I must also have a working knowledge of statutes, regulations, and court precedents that I must apply day in and day out.

And I must know how to find and apply all laws that arise in the cases before me.



Slide Group 3

Federal, State & Administrative Courts

[These slides are for speakers who are ALJs, all other speakers should delete them.]

Guidance.

Use the slide on the left to describe the state and federal court systems.

Use the slide on the right to talk about state and federal administrative law systems.



The Law

Would it be OK if . . . ?

a judge often tells jokes that disparage people of a certain ethnic heritage?



The Law

Would it be OK if . . . ?

a judge always rules in favor of patients who sue doctors?



The Law

Would it be OK if . . . ?

a judge decides a case for a party because that party is a state legislator?



The Law

Would it be OK if . . . ?

a judge decides a case for a party because that party donated money to the judge's favorite charity?



The Law

Would it be OK if . . . ?

a man illegally trespassed on private property and put up a protest sign that criticized the owner of the property . . .

and the judge ruled in favor of the man because the judge agreed with him?

Would it be OK if . . . ?

Slide Group 5

Discussion of Equal Justice Under Law

Guidance.

Use these slides to stimulate discussion with the audience.

This discussion is an important part of an effective presentation.

Asking questions like those below will foster discussion and audience understanding.

So let's talk about this some more.

Would it be OK if . . . ?

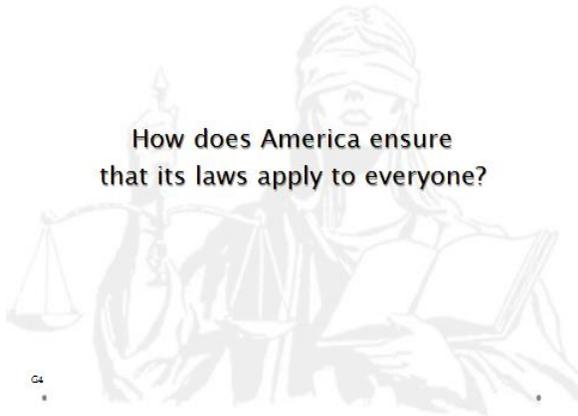
What do you think? Would that be OK?

Why not?

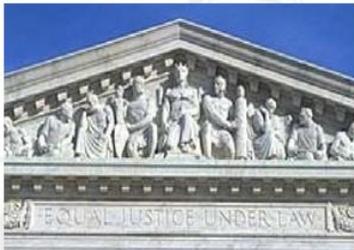
Would that undermine the Rule of Law?

Anybody else have any ideas about this?

How does America ensure that its laws apply to everyone?



C4



Equal Justice Under Law

C4

The Law

Everyone has the right to equal justice under the law.



C4

Slide Group 4

Equal Justice Under Law

[The middle slide is a picture of the parapet of the U.S. Supreme Court.]

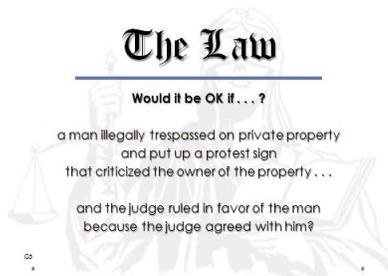
Guidance. Your comments could include:

- 14th Amendment Equal Protection
- Civil Rights Act

Our courts must apply the laws fairly and equally to everyone – NO EXCEPTIONS.

When people enter our courts, they expect the courts to take their concerns seriously and to treat them the same as every other person who enters the courthouse.

This fairness & impartiality is a cornerstone of the Rule of Law.



Would it be OK if . . . ?

Slide Group 5

Discussion of Equal Justice Under Law

Guidance.

Use these slides to stimulate discussion with the audience.

This discussion is an important part of an effective presentation.

Asking questions like those below will foster discussion and audience understanding.

So let's talk about this some more.

Would it be OK if . . . ?

What do you think? Would that be OK?

Why not?

Would that undermine the Rule of Law?

Anybody else have any ideas about this?



Would it be OK if . . . ?

Slide Group 5

Discussion of Equal Justice Under Law

Guidance.

Use these slides to stimulate discussion with the audience.

This discussion is an important part of an effective presentation.

Asking questions like those below will foster discussion and audience understanding.

So let's talk about this some more.

Would it be OK if . . . ?

What do you think? Would that be OK?

Why not?

Would that undermine the Rule of Law?

Anybody else have any ideas about this?

The Law

Everyone has the right to fair & impartial procedures.

Notice

Timely, orderly & public process

Right to counsel

Opportunity to be heard

Right to call witnesses

Right to confront witnesses

Right to appeal

G6

Slide Group 6

Due Process

Guidance. This slide is animated. To show each item on the list, you must “click” and the next item will appear. This gives you time to talk about each one.

It is not necessary to spend a long time on this slide or to give the audience the ability to recall these items. Just give brief examples of each item.

The Law

Would it be OK if . . . ?

a judge decides a case for a party
because a public poll says
public opinion favors that party's position?

The Law

Would it be OK if . . . ?

a judge decides a case against a party
because demonstrators outside the courthouse are
against that party's position in the case?

The Law

Would it be OK if . . . ?

a judge decides a case for a party
because a public poll says
public opinion favors that party's position?

The Law

Would it be OK if . . . ?

a governor makes a speech
about how a case should be decided,
the judge decides the case
to gain favor with the governor?

The Law

Would it be OK if . . . ?

a judge decides a case for one party
because it would help the judge
get retained in office or re-elected?

Slide Group 6 (cont'd)

Discussion about Due Process

Guidance. Use these slides to stimulate discussion with the audience.

This discussion is an important part of an effective presentation.

Asking questions like those below will foster discussion and audience understanding.

So let's talk about this some more.

Would it be OK if . . . ?

What do you think? Would that be OK?

Why not?

Would that undermine the Rule of Law?

Anybody else have any ideas about this?

What would it be like if . . . ?

Powerful individuals & groups were
"above the law?"

...

those individuals & groups created laws
that required courts to decide cases
based on a party's

Race
Ethnicity
Country of origin
Religion

Party affiliation
Home address
Health & fitness
Loyalty oath

66

Slide Group 7

Recap

Guidance. Present this series as a summary.

This slide pertains to **Equal Justice Under Law**. It is animated. Each item appears when you "click" the mouse.

Use the slide to encourage the audience to image what could happen if we were "ruled by powerful individuals & groups" and not by the Constitution and other laws. You could say:

Imagine you were a party in a law suit.

Now imagine if these things were true.

First click: *What would it be like if powerful individuals & groups were "above the law?"*

Second click: *those individuals & groups created laws that required courts to decide cases based on a party's*

Each successive click brings up another criteria that is contrary to Equal Justice Under Law.

The criteria on the left are ones that we often consider.

The criteria on the right are things that a tyrannical ruler could impose. It will hit the audience members closer to home.

So what is the Rule of Law?

No one is "above the law."

The Law

How do we ensure that
our government is ...

a government of laws,
not of men?

In our courts ...

1. Everyone is subject to the law.
2. Everyone has the right to equal justice under the law.
3. Everyone has the right to fair & impartial procedures.

Fair & impartial courts
ensure
that the laws apply to everyone
and that no one is above the law.

Guidance. These are the final slides. Use them to summarize the presentation and the audience discussion.