

CQ

How should the U.S. Judicial System guarantee a fair trial in the 21st Century?

Ghostbusters II

<https://www.youtube.com/watch?v=6hZKjkBatjk>

Ghostbusters Discussion Questions

1. Clearly the Ghostbusters are on trial for an alleged crime. Are they represented by counsel?
2. Must the accused have a lawyer? Why/Based on what?
3. Let's start with Louis Tully, the Ghostbusters' lawyer. What did he do, or try to do, in court? Be specific.
4. Now, think about the prosecuting attorney. What was her approach? How did she try to present her case or question witnesses?
5. If you were one of the Ghostbusters, which lawyer would you say was more effective in this scene? Why?
6. So, would we consider Louis "effective counsel"?
7. Based on the differences we saw, what are some qualities or actions that make a lawyer seem ineffective?
8. And conversely, what are some qualities or actions that would make a lawyer seem effective?
9. Why is having an effective lawyer so crucial for someone accused in a serious case? What's at stake for them?
10. How fair do you feel this trial was for the Ghostbusters?
 - a. Can a trial be fair without effective counsel?
 - b. Is it merely sufficient for a defendant to be afforded a lawyer in court or must that lawyer also be effective?
 - i. "Let's explore further what it means to have effective counsel."

**Understanding
the
Right to Effective
Counsel**

What is the 6th Amendment?

- **The 6th Amendment guarantees the right to a fair trial, including:**
 - A speedy and public trial
 - An impartial (fair) jury
 - The right to be informed of charges
 - The right to confront witnesses
 - **The right to have the assistance of counsel for defense**

What is Counsel?

- **Definition:** Counsel refers to a lawyer or attorney who provides legal advice and representation
- A counsel's purpose is to ensure a fair trial and protect the **defendant's** (the person accused of the crime) legal rights

Types of Counsel

1. Court-appointed:

- Provided for free if the defendant cannot afford a lawyer.
- Usually public defenders or assigned attorneys. (guaranteed by the 6th amendment)

2. Privately hired:

- Hired and paid by the defendant or their family.
- May offer more resources.

What Guarantees Effective Counsel?

- **Strickland v. Washington (1984):**
 - Set the standard for determining ineffective assistance of counsel
 - **Strickland Test (Two-Prong Test):**
 - **1. Deficient Performance**
 - **2. Prejudice**
 - A defendant must prove **both** to win an appeal of ineffective counsel

The Strickland Test

1. Deficient Performance:

- Did the lawyer mess up in a serious way?
- The lawyer's work was below the standard of what a reasonably good lawyer would do.
- **Examples:** Not investigating important evidence, falling asleep during trial, or not meeting with their client at all.

2. Prejudice:

- Did the lawyer's mistake affect the outcome?
- The mistake has to be serious enough that it likely changed the result of the case.
- Clients have to show that the trial probably would have turned out differently if the counsel had done a better job.

The General Appeal Process

The General Appeals Process

