



The Justice Rules Program: A K-Through-12  
Curriculum to Educate Students About the Judicial  
System

# Sample Lesson Plans

## Rules Make Sense!

### Lesson Overview:

This lesson focuses on rules and laws in everyday life. The lesson invites the students to view rules in a more positive way, even to appreciate/value them, and to see how pervasive rules and laws are in our everyday lives.

Students will interview various adults to collect information about the frequency of rules and laws in our society. The information will be recorded, classified, and interpreted to help explain the value of rules/laws. Students will learn interviewing skills, data interpretation, predicting and generalizing. They will look at their attitudes about rules and move toward more positive responses about the importance of rules in a civil society.

### Objectives:

The students will explain three sound reasons for rules in one's everyday life, e.g., "to protect me," "to keep order in a group," "so we know what to expect from each other when we are together."

The students will explain what might happen if there were no rules, e.g., “someone could get hurt,” “a bigger person might control us,” “the same person might take every turn,” “we would never know when to do things we need to do.”

The students will point out how a “good citizen” follows rules/laws. The students will explain how rules are like the laws we live by.

The students will identify at least three advantages of having and following rules in the classroom and the school.

The students will explain why they would prefer to live with rules, when compared to living without rules.

### **Teaching Procedures**

The students will be given plain construction paper and told they are going to play a new game. The teacher will simply say, “Okay, let’s play.” An inquiry-centered discussion will follow, about how one plays a game or is involved in any activity without directions (rules). The discussion will allow for focusing on the need for rules/parameters/directives/leadership, etc.

Next, the class will speculate about walking to school, if there were no rules to follow or depend on. They will further talk about going to the local shopping center/mall and being there when there were no rules – traveling to get there, making purchases, using the facilities, other examples.

The inquiry would lead to wanting to know more about how others view the need for rules/laws. The class could conclude that they can learn more about how others interpret this by conducting interviews with adults (parents, neighbors, community folk). We will derive at least three common questions for each interviewer to ask, to assure some common data: “How do rules affect you in your job?” “What

rules do you follow every day?” “Why do you think rules are important to people in our neighborhood?”

We will compile the data collected as the children report back from their interviews, interpret these, and generalize conclusions.

## **People Who Make Courts Work**

### **Lesson Overview**

Beginning with a situation centering on a person accused of committing a crime, students identify the various types of persons (roles) which must be present for due process (fair procedures) to occur in determining the person's guilt or innocence.

The teaching time is approximately 30 minutes and you'll need signs for students to wear: Judge, Defense Attorney, Prosecuting Attorney, Court Reporter, Jury (enough for the rest of the class).

### **Teaching Procedures**

Begin by telling students that a hypothetical person, (don't use the name of someone in the class), has been accused of throwing a rock through a school window (or some other "crime"). Remember, a person is believed innocent until he or she has been proven guilty.

Courts try to find the truth by using processes that assure that the accused person has a fair chance to defend him/herself.

Many people have important roles to play in a court. They make certain that we all do things that are fair when the court tries to decide if someone broke the law or not. Who do we need to be in charge of making sure that everyone does things that fair way? (Answer – Judge).

## **For Class Discussion**

What do judges do? Volunteer attorneys guide the discussion and add any important information which students may not know. At the end of the discussion ask for volunteers to be the “judge.” Select one student, have him/her wear a sign saying “judge,” and take a seat up front.

Next, ask who do we need to help the defendant tell her side of the story? This person needs to know all about the law and the rules of the court. (Answer – lawyer of defense attorney).

What do lawyers do? Again the volunteer attorney leads the discussion, sharing additional information. At the end of the discussion a child puts on a sign “defense attorney,” and sits facing the judge.

Who do we need to represent the school and tell the school’s side of the story? They also need to know the laws and rules of the court. (Answer – prosecuting attorney).

What does a prosecuting attorney do? Again discuss and select a child to play the prosecuting attorney. Have the child put the sign on and face the judge across from the defense attorney.

Who do we need to keep a record of what happens to check for mistakes and make sure that everything that happens is fair? (Answer – court reporter).

What do court reporters do? The volunteer attorney explains the importance of a written record, and then appoints a child to be the court reporter.

The law says that people accused of crimes can choose people like them to decide if they are innocent or guilty. These people are called the jury. (The rest of children can be the jury.)

What does a jury do? How does it find defendants guilty or not guilty?

Conclude by describing all the roles and explaining how important they are so that the defendant is treated fairly. Point out that both sides have a chance to tell their story; that the judge does not take sides; that the jury decides based on what it hears in court.

Is this a fair way to decide? Why or why not?

# **Patriotic Games & Coloring Activities**

## **Lesson Overview**

A lesson can be taught from section(s) of these books to discuss patriotic themes, symbols, and characters as a basis for the foundation of our modern system of justice.

# Our Government

## Twelfth Street

### Lesson Overview

This lesson is designed to introduce a procedure useful in evaluating rules. A hypothetical situation serves as the basis for an exercise and discussion. The students complete an evaluation exercise designed to assess student achievement of these objectives.

### Teaching Procedures

Read the following story to the class.

#### *Twelfth Street*

One day on Twelfth Street, Juan Villagomez, who was seven, was riding his bicycle. He almost got hit by a car. The car was going very fast and did not have a chance to stop. Juan was riding his bike in the middle of the street where cars

drive by. Juan got out of the way just in time. He was lucky. The people who lived on Twelfth Street knew that there was a problem. They didn't want any children on bikes to be hit by cars. Here are three rules the people thought of making to make things safer:

1. All bike riders must wear party hats
2. Only children named Della or Sam may ride bikes on Twelfth Street
3. No cars may drive on Twelfth Street

Well, which of the rules do you think we should use?" somebody asked Ann Bowles.

"I don't think any of them are good rules," said Ann. "I'll tell you why I don't think we should use any of them."

"Think about the first rule," said Ann. "It says, 'All bike riders must wear party hats.' I don't think this is a good rule because it wouldn't take care of the problem. Wearing party hats has nothing to do with getting hit by cars. Having party hats on probably wouldn't keep children on bikes from getting hit by cars."

"I don't think the second rule is good either," said Ann. "It says, 'Only children named Della or Sam may ride bikes on Twelfth Street.' This isn't a good rule because it is unfair. It would mean fewer bike riders, which usually means fewer accidents, but it is unfair to people who aren't named Della or Sam."

"The third rule, 'No cars may drive on Twelfth Street.' Would stop accidents," said Ann. "But I still don't think this is a good rule because it goes too far. We don't have to keep all cars off of Twelfth Street; We just have to figure out a way that both bikes and cars can safely be used on Twelfth Street. There must be some good rules we can make. We need rules which take care of the problem, are fair to everyone, and don't go too far." Have students look at the three pictures on pages 18-19 of the student book. Explain to students that each of these three pictures is about one of the rules talked about in the story they just heard. Then lead a brief discussion using the following questions:

- What rules does each picture show?
- What is the rule supposed to do for the people in the story?

Students should restate the rule as set forth in each caption and should recognize that, in each case, the rule was supposed to prevent accidents on Twelfth Street.

### **Discussion: Identifying Weaknesses in Rules**

Review student's answers and begin a class discussion on the following questions. Students should be asked to recall information or opinions given to them in the story. The answers noted are, of course, not exclusively correct. Other logical responses may be inferred by students.

- Explain what you think is wrong with the rule in picture A.
- Explain what you think is wrong with the rule in picture B.
- Explain what you think is wrong with the rule in picture C.

Ask students to create what they think would be good rules to solve the problem. You might ask students to draw pictures of what their rules would do. Students could be asked to share their pictures with the rest of the class, explain the purpose of their rules, and identify their strengths and weaknesses.

## **Evaluation**

This evaluation exercise is in three parts and uses a three-part story, “Lunchtime.” Part A deals with problems that arise because of a lack of effective authority, Part B with characteristics a person should have to be selected for a position of authority, and Part C with the evaluation of some proposed rules. *Read Part A of Lunchtime to class.*

### Lunchtime Part A

The Nilly family moved to a new town. The three children, Willie, Millie, and Danny, had to go to a new school. It was much the same as their old school, but one thing was different. At lunchtime, all the children could do whatever they wanted. There were no rules and no people in charge.

At dinner, Willie, Millie, and Danny told their mother and father about school. When the children were asked what they thought about having lunchtime with no rules or people in charge, they had different answers.

Millie Nilly said, “It’s not so good when there is no one to make sure people don’t shove. I saw two kids pushing each other in the lunch line. Nobody stopped them. They just kept pushing each other. Somebody could have been hurt.”

Danny said, “Most of the kids behave themselves. But a few were throwing garbage all over the cafeteria floor. It only takes a few to make a real mess.”

Have students turn to the answer sheet (a separate answer sheet may be used). Explain that you will read the four numbered sentences and that, as you read each sentence, students should circle “yes” on the answer sheet next to the number of that sentence if what is described in the sentence happened because there were no rules or people in charge during lunchtime or circle “no” if it did not. Then read the question and four sentences below, allowing students time between the reading of sentences to mark their answers.

- In the story did this happen because there were no rules or people in charge during lunchtime?
  1. There was garbage all over the cafeteria floor.
  2. The Nilly family move to a new town.
  3. There was no one to stop children from pushing in the lunch line.



4. Children didn't have to go to school if they didn't want to.

Scoring Criteria

Number 1 and 3 should be circled yes and the 2 and for should be circled no.

Have students check their answers. Then lead a brief discussion on any items that caused difficulty.

## **Trouble with Barky the Dog**

## **Lesson Overview**

In this activity, a simulation of a civil court case, primary grade children learn that courts provide one way of settling disputes within communities.

## **Teaching Procedure**

1. The teacher or volunteer attorney may want to introduce the activity by asking students if they remember the story of Molly and Frances. Review the main points of that story: the question of intention to hurt another, blame, and responsibility for payment.
2. Tell the children that they are going to read or listen to a story about a different kind of problem which was finally taken to court. As the class listens to “It’s a Dog’s Life,” illustrate the story by taping pictures of the main characters to the chalkboard.
3. After finishing the story, discuss with the children the following points:
  - Pet owners have a responsibility to keep their pets from hurting other people.
  - Pets should not trespass on the property of others.
  - Pets should not disturb the peace.
  - Animals must not be mistreated.
4. Explain to the class that they are going to enact a play about the case of Barky the dog. Some of them are going to be in a group that will pretend to be the judge. Discuss things the judge should do to be fair to both Mr. Pinto and the Bornsteins. (The judge should listen carefully to what everyone has to say and should not make up his or her mind before the end of the trial.)
5. Divide the class up into three groups. Group 1 will represent Mr. Pinto. The Children should think of all the things they want to tell the judge about why they think of all things they want to tell the judge about why they think the Bornsteins should pay the doctor’s bill. They should select one spokesperson to talk to the judge, although the rest can be advisors to the court. Group 2 will represent the Bornsteins. The children should think of all the reasons they want to tell the judge about why they don’t want to pay Mr. Pinto. They also should have one spokesperson. Group 3 will be the judge. While the other groups are working, the judge group should think of questions to ask Mr. Pinto, or should try to get all the information from Mr. Pinto and the Bornsteins and listen to the information impartially. After the group testimony has been given, the group will discuss it and vote on what to decide to do.

6. After the role plays are completed, ask the class if it agrees with the judge's decision. Does anyone disagree? Why?
7. Ask the class if it thinks the judge made a fair decision. Why? Do the children think the judge was impartial? Do they listen to what everyone had to say?

**It's a Dog's Life**

Barky is a very friendly dog. He also is a very big dog. He belongs to Carla (tape Carla to one side of Barky). Carla loves Barky very much. They play every day after school. This is Carla's mother, Ms. Bornstein (tape Ms. Bornstein next to Carla). She likes Barky, too. Every day when she goes to work, she ties Barky to the front porch. That way, he can play in the yard, but still get on the porch if it rains.

There is only one problem with Barky. Can you guess what it is? He loves to bark. He especially loves to bark when Carla is at school and Ms. Bornstein is at work. He gets lonely and likes to make noise, lots of it!

This is Mr. Pinto (tape Mr. Pinto to other side of Barky). He lives next door to the Bornsteins. Mr. Pinto works at night so he needs to sleep during the day. Can you guess how he feels about Barky? If you guessed that Mr. Pinto does not like Barky, you are right. Barky's noise keeps Mr. Pinto awake.

One day Mr. Pinto got so angry that he couldn't stay in bed anymore. He jumped out of bed, grabbed an old shoe, and ran into the Bornstein's yard.

"Stop it! Stop your barking, you dumb dog!" Do you think Barky stopped? No, Barky barked all the louder! "Stop! Stop!" screamed Mr. Pinto, waving the shoe at Barky. Still Barky barked! Mr. Pinto lost his temper. He threw his shoe as hard as he could and hit Barky on the head.

Barky was so surprised that he jumped at Mr. Pinto. He jumped so hard that he broke his rope. He ran to Mr. Pinto and knocked him down. Then Barky ran up on the porch. Mr. Pinto quickly ran into the house. After he closed the door behind him, he noticed a very sharp pain in his wrist. He got dressed and went to the doctor. He had sprained his wrist when Barky knocked him down.

Mr. Pinto was very mad at the Bornsteins. He said they should pay his doctor's bill because Barky made him sprain his wrist. Barky should have been on a stronger rope or chain.

The Bornsteins were very mad at Mr. Pinto. A neighbor told them how Mr. Pinto had screamed at Barky and hit him on the head with a shoe. They said that any animal would have tried to protect itself. If Barky wasn't such a nice dog, he might have even bitten Mr. Pinto. No, they certainly wouldn't pay Mr. Pinto's bill. He brought on his own problem.

This made Mr. Pinto even more angry. He decided to take the Bornsteins to court and ask the judge to make them pay his bill.

# Play the Game of Chalk

In Chalk there are two or more teams of about seven students each. It is played like a relay race. Tell the students that the purpose of the game is to pass the chalk from the head of the line to the end of the line and back again. The team that passes the chalk the entire route first wins.

## Rules of the Game:

1. The students at the head of each line are given a piece of chalk and on the word “go” the chalk is passed. Before the “race” is completed, the teacher says “stop”.
2. The teacher explains that he/she forgot to tell the students the chalk must be passed by the left hand only.
3. The game begins again, and is halted almost immediately. The time the teacher announces that the game is conducted with their eyes closed.
4. The teacher continues this routine, changing the rules before any game can be completed. Rules like pass only while whistling, shake left foot while passing, etc. can be added.
5. The real point of the game is to make the students object to all the arbitrary rule changes. When students object and are feeling frustrated, the teacher should ask: What’s the matter? Why don’t you like this game?
6. Then, the teacher can give students all the rules written on the board and play the game accordingly (sometimes students will be satisfied with nothing less).

## After the game discuss:

1. What was the matter with the game?
2. How did you feel when the rules kept changing?
3. Was the game improved when the rules were written down and known to everyone?
4. What do you think would happen if the laws changed quickly or if one person could change a rule just because he or she wanted to?
5. What comparisons can you make between playing this game without having all the rules and living in the U.S. without written laws?

# The Importance of Rules

## Lesson Overview:

Upon successful completion of this lesson, students will be able to:

- Defend why we have rules
- Create rules for a group following the model for rule making discussed in class
- Identify rules in groups they are part of
- Move quickly and quietly to group
- Encourage participation by all

## Teaching Procedures:

“Pop Quiz” on following rules: a hokey test on their ability to follow rules. (MI: verbal and bodily)

## Lecture

1. Places where there are rules
  - School
  - Home
  - Church
  - Any other?
2. What rules are
  - ask class what rules are
3. Why we have rules
  - to keep order
  - to work well with others
  - Any others?

Discuss family rules, school rules, city laws and their differences and similarities.

List ideas on blackboard. Hand out Venn diagram for students to compare and contrast family, school, and city ‘rules.’

Lecture about how groups make rules: Voting

1. Someone sees a need for a rule
2. Someone proposes a rule (motion)
3. Other people agree that the rule is needed and agree to vote on it (second)
4. Everyone votes on rule and it either passes or doesn’t

- Not all groups make rules by voting on them. Some groups are able to discuss the proposed, or suggested, rules and can agree on some rules that way.

In small groups, students will make up rules for a specified imaginary group, then share with class how they made those rules and discuss on how they all agreed on those rules (i.e. via discussion or voting)

1. Begin by discussing what rules we have in our classroom. Make sure rules are visible either posted or write them on the blackboard for all students to see.

- What are the rules?
- What do those rules mean? Explain what we would be doing if we were following the rules, and what we would be doing if we weren't following the rules.
- Why do we have them?
- Who made the rules? How?

2. Teacher will break students up into three groups and assign them to pretend they are a group: family, school class, or sports team. Assign students in each group to a role.

- Before students move into groups, pre-teach objectives for cooperation learning groups: move quickly and quietly to groups and encouraging participation by all. Practice moving quietly to groups once or twice.

3. Groups will be asked to make up three or four rules keeping in mind fairness for all people involved. Come up with fair consequences for breaking those rules.

4. After groups have made rules, class will come back together for discussions.

- Have groups share one rule at a time: how they came up with the rule, what is a consequence for breaking the rule, does the class think it is fair or not. IF time allows, close class with a game of Simon Says.

#### Assessment:

Observation, discussion, Venn diagram worksheet, rule making simulation, and the quiz will help the teacher assess whether the lesson was successful.

## **Worksheet for Simulation Rules of Groups**

Directions: Each group member has an assigned role. (See titles and description below.) Make a list of three or four rules. All group members must contribute. Place the first letter of the first name of the person who contributed a suggestion for rule or consequence.

### *Family*

\_\_\_\_\_ Father: You are the head of the home and you think that what you say should be the law in your house. You expect your children and wife to obey everything without questioning.

\_\_\_\_\_ Mother: You expect all of your children to be honest when they misbehave and expect them to obey your rules. You believe that you treat all of your children equally and fairly.

\_\_\_\_\_ Child #1: You are the oldest child in the family. Your mother spoils you by bringing you lots of gifts, but your mother is very strict in punishing you, even when it's not your fault.

\_\_\_\_\_ Child #2: You are the middle child. You often feel ignored because your mother spoils your older sibling and your father spoils your younger sibling. You often get blamed for things your other siblings do wrong when it's not your fault. You just want someone to pay attention to you.

\_\_\_\_\_ Child #3: You are the youngest in your family. Your father spoils you all the time, but you often feel ignored by your father. You often feel like you are treated like a baby just because you are the youngest in the family.

Directions: Each group member has an assigned role. (See titles and description below.) Make a list of three or four rules. All group members must contribute. Place the first letter of the first name of the person who contributed a suggestion for rule or consequence.

### *School Class*

\_\_\_\_\_ Teacher: you believe that you are a fair and reasonable person. You think that you should make all the rules and that the students should follow them without question. You think your consequences should be fair.

\_\_\_\_\_ Student #1: You are a very well behaved student and you don't break rules. You think rule breakers should be severely punished for being bad.

\_\_\_\_\_ Student #2: You are always being blamed for someone else's misbehavior even though you didn't have anything to do with it. You don't know how, but you always get in trouble and don't think it's fair.



\_\_\_\_\_ Student #3: You are always getting into trouble and are always being punished. You think there are already too many rules to remember and that the punishments aren't fair. You want to be able to have fun at school without always getting into trouble for it.

Directions: Each group member has an assigned role. (See titles and description below.) Make a list of three or four rules. All group members must contribute. Place the first letter of the first name of the person who contributed a suggestion for rule or consequence.

*Sports team*

\_\_\_\_\_ Head Coach: You are a very strict person. You want your team to do what you say without question. You often make rules that are unfair with unfair consequences. If a player makes a mistake they are off the team. You don't give second chances because they should already know the rules.

\_\_\_\_\_ Assistant Coach: You are a very kind, friendly person. You believe in giving the players a second chance; everyone makes mistakes once and a while. You think that punishment should be fair for the rule broken.

\_\_\_\_\_ Player #1: You are often late for practice because your teacher always wants to talk to you after class. You've tried to explain this to the coach, but the coach still wants to have you off the team.

\_\_\_\_\_ Player #2: You've never broken any team's rules. You think that rules are rules and they shouldn't be broken and everyone knows them, but you don't think that the coach's consequences are too harsh.

Have one person in your group be the recorder and write down your groups' rules here. Include everyone in the discussion of rules, put down the first letter of the person's first name by any suggestion they make.

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# Fairness & Equal Treatment

## Lesson Overview

You can reach even the youngest students with important principles that undergird our legal system. Here's a strategy that builds on the concepts of fairness. Try to keep your presentation brief --30 minutes or so -- in keeping with program schedules in elementary schools.

## Objectives

During your session, students will:

- Explore whether it's fair to treat everybody exactly alike or whether it's sometimes fair to treat certain people differently because of special circumstances.
- Get a quick overview of how the law tries to ensure fairness.

## Procedures

1. Begin by introducing yourself. Explain that you're a lawyer, that you help people to understand laws and use them effectively. Explain that rules and laws are supposed to be fair, and to help people be treated fairly.
2. Begin by asking the children to share examples of when something was unfair. Try to reach agreement on how to define "fair" and "unfair." To start the discussion going, you might give a few examples ("If we're playing a game, is it fair for me to have the ball and for you to never have it?"; "Is it fair to change the rules in the middle of a game?").
3. Share the handout with students. Review each item with them. Ask how many students thought in the first situation it was fair to keep girls out of the boys' club or boys out of the Brownies. How many thought it was unfair? Encourage them to think of reasons to back up their opinion. Tally the results on the board. Do the same for each item.
4. For a number of examples, students may think it's fair to treat people differently because of different circumstances (a ten year old may do more around the house to earn an allowance; maybe the best players should play the most.) That can lead you in to a discussion of how the law permits differences such as these, as long as there is a good reason for them, grounded in different situations and circumstances of the people involved – the "rational relationship" test.

5. Then give them an example of unfair action. How would you feel if everyone in the class whose first name begins with a letter from A to M got extra time at recess, and everyone whose name began with a letter from N to Z got no time – and had to stay after school to boot? Why would that be unfair (not rational – arbitrary and capricious).
6. Talk to students about examples of unfair treatment from our history, or give them some (segregation, women excluded from some professions just because they're female).
7. Discuss with them what people can do if they think they've been treated unfairly. (They can go to court, and ask judge or jury to hear the evidence, and decide whether they've been treated fairly. This can get into a discussion of procedural fairness, and what that entails:
  - Both sides have a chance to tell their story before an impartial judge
  - Respond to what each other says
  - Question witnesses, etc.
8. So we have a fair process to help us find out what is fair.

# FAIRNESS & EQUAL TREATMENT

Fair or Unfair?

Here are some examples of people being treated differently. Please go through them one by one. Do you think each one is fair or unfair? Why? If you think some are unfair, who is harmed and what should be done about it?

1. Girls are not allowed to join the Boy's Club. Boys can't join the Brownies
2. Children under 6 get into the swimming pool for free.
3. Parents give their 10-year-old son a larger allowance that they give to their 5-year-old son.
4. The positions in the class never rotate; the kids in the front are always in the front.
5. There are twice as many kids on the soccer team as there are positions. The coach plays the best players most; some kids hardly play at all.

## Quiz

Directions: Read all questions carefully. Begin with number one.

1. Identify a leader at school.

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2. List two things that this leader does:

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3. What color is the sky?

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4. Skip to question number 8.

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5. Who are followers at home?

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6. Circle the number two on this page.

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7. Put a smiley face at the top of your paper and turn in your test.

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# The Assault of Humpty Dumpty

## Lesson Overview:

Using the resources of the police department and a lawyer, this lesson outlines the entire process from the crime scene, the arresting procedures, the trial and sentencing if the defendant is found guilty. Through simulations, role playing, mock trial and jury the students learn the rights of the accused, the levels of court trials, and the difference between types of crime.

## Objective:

The goals of this lesson are the following:

1. Outline the process of what happens from the actual crime, the investigation process, the arrest, the trial and jury, to the sentencing if found guilty.
2. Review the rights of the accused as outlined in your state and United States Constitutions.
3. Provide possible role playing situations as:
  - a. The crime itself
  - b. The investigation
  - c. The arresting officer
  - d. The jury simulation
  - e. The sentencing process
  - f. The sentencing process
4. Use the resources of a police officer, lawyer, and judge.
5. Review the laws on simple assault and technical vocabulary involved with this particular crime.
6. Review the differences between the types of crime: violation, misdemeanor and felony.

7. Review the different levels of court trials: District, Superior, and Supreme Court.

### **Teaching Procedure**

Using the story, *Humpty Dumpty's Assault*, students can choose characters and write their own sworn statements. Have a general discussion first, as to the date, time, and place that the crime took place. This establishes some common ground for the creation of the students' statements.

Using a police officer, review the arrest procedure and vocabulary involved in the law on simple assault. Review the differences between types of crime. The following outline can be used as a guide for both the student and the resource person:

#### *The Arrest*

What happens? What is included in an investigation? What has to be done at the scene of the crime? When does the arrest occur? What is included in an arrest?

##### A. The Call

- i. At the scene of the crime
- ii. The investigation

##### B. Complaint and the Warrant

- i. What is each of those?
- ii. When are these used?
- iii. What is the difference?

##### C. The arrest

- i. What is the law on simple assault?
- ii. What procedures have to be followed?
- iii. When does the reading of rights have to happen?
- iv. Who reads the rights?
- v. When does questioning occur?
- vi. What happens during questioning?

##### D. Booking

- i. What is booking?
- ii. What is bail?
- iii. Who sets bail?
- iv. When is bail set?

##### E. Arraignment

- i. What is an arraignment?

- ii. What happens during an arraignment?
  1. Reading of the complaint
  2. Assigned a lawyer
  3. Make a trial date

This is a constitutional process, referred to in our Bill of Rights. Again, this is an excellent time to use a police officer and a lawyer.

### *The Trial and Jury Simulation*

At this time, you can prepare for a mock trial.

### *If the Jury's Verdict is Guilty!!! What Then? The Sentencing*

- A. The judge gives a sentencing date.
- B. At the sentencing, what happens?
  - a. A recommendation from the state is given.
    - i. Based on the nature and seriousness of the crime.
    - ii. Based on prior history of the defendant.
  - b. A recommendation from the Defense
    - i. Based on circumstance surrounding the crime.
    - ii. Based on prior history of the defendant.
  - c. Defendant's Statement: Occasionally, a judge will ask the defendant to say something. The judge may want to get an idea of the attitude of the defendant.
  - d. Victim's Statement: The victim has a right to be heard by statute.
- C. The judge will give the sentence – the punishment for the crime.

The appeal process can be brought out with the different levels of courts and what are the differences. Again, the Bill of Rights can be continuously incorporated in this lesson.

Insights: This lesson outlines the entire process from the crime to the sentencing. The sentencing many times is left out of the classroom materials used in mock trials. Perhaps that is due to the jury simulations usually coming up with a not guilty verdict or it is a hung jury.

What components of this lesson are simulated or role played depends on the teacher. The success of any part of this lesson is dependent on the use of a lawyer,



teacher, and police officer partnership. These resources have the technical information and skills in the court room that give the students that extra confidence. The continuous referring back to our constitutional rights is also vitally important.

## *Humpty Dumpty's Assault*

One beautiful, bright, sunny day, an egg named Humpty Dumpty was laying on top of a crooked brick wall, sunbathing to make his shell brown, the color he wanted.

Nearby, Little Bo Peep was sitting in a field, crying because she had lost her sheep. And above, a cow was trying to jump over the moon twenty times.

Little Miss Tuffet, a friend of Bo Peep's was trying to comfort her and eat her curds and whey (which her mom, the Old Woman Who Lived in a Shoe, made her eat) at the same time.

Just as Humpty Dumpty dozed off, a spider came over to Miss Tuffet and scared her so much, she ran wildly into the crooked wall, knowing it down, with Humpty on the bottom.

His shell was cracked! Miss Tuffet ran away quietly, not wanting to get the blame, but Bo Peep and the cow saw and they called Old King Cole and Simple Simon.

Simple Simon arrived on the spot and arrested Miss Tuffet, who was hiding, and read her rights. The Old King Cole came and said to Humpty, "Listen, son, I meant it when I said all of my men would try to put you back together again," and Humpty was driven off in an ambulance.

At the hospital, Tweedle Dee and Tweedle Dum were his doctors, but they just couldn't put him back together. (No wonder, as they were fighting all of the time.)

Humpty went through much pain and was in the hospital for several days. His bill at the end of his stay was one thousand dollars.

During his stay, several people were questioned by the police. One was Miss Tuffet, who said it wasn't her fault, as the spider chased her. The witnesses who saw it, Bo Peep, and the cow, said Miss Tuffet hit the wall and made it fall.

Also, they questioned The Fork and Spoon, who were Miss Tuffet's friends, and they said she wouldn't do such a thing.

The same thing happened with her mother, the Old Woman Who Lived in a Shoe, and also Old Mother Hubbard, who was a friend of Miss Tuffet's mother, and said that the way the Old Woman raised her, that would never happen. (She didn't exactly know Miss Tuffet.)

The crooked cat and mole said that the wall was crooked and not sturdy. (They should know!! The y built it!) And if Humpty just leaned the wrong way it could have fallen.

Tweedle Dum and Dee said Humpty couldn't have possibly done it himself because if he purposely pushed the wall down, there would be blisters on his hands.

**(This is where the “Who’s Who in the Trial” and “Word Search” activities are located.)**

# A Famous Kansas Child

## Lesson Overview

Students will read about a Kansas child involved in a famous United States Supreme Court case. They will think critically to form opinions about equality, segregations, and integration. Students will distinguish between fact and opinion. Also includes: reading, research, vocabulary, reporting, drawing, map skills, role-playing, writing; authority, property, freedom, diversity.

## Teaching Procedures

A story has been written on the elementary level about Linda Brown and the Supreme Court case of Brown v. Board of Education. The story is divided into four short “chapters,” with questions or activities provided at the end of each.

A volunteer attorney can use this lesson by reading the story to the children, interrupting the text with the discussion questions at the end of each chapter. The teacher can use the other suggestions as follow-up activities. If time does not allow covering the whole story in one day, the teacher could do the first chapter (or two chapters) and activities in advance, then the resource person can finish the story with the children and explain the Supreme Court process and its decision.

In either case, it should be pointed out to the children that the Supreme Court’s decision affected not just the students in Topeka, Kansas, but in all of the United States.

## *A Famous Child*

This is the true story about a little girl in Topeka, Kansas, who didn't really know that anything special was happening in her life. And yet her name became known by people all over the United States. Her name, and facts about her life, introduced one of the most important cases ever to be decided by the Supreme Court.

Linda Carol Brown was seven years old. She lived with her father, Oliver, and her mother, Leola, and two younger sisters in a poor neighborhood in Topeka, Kansas. It was a very noisy neighborhood, because it was right next to a switching yard for trains. Linda and her sisters didn't mind the noise. They like making up games about the trains, and they made friends with many of the trainmen who ran the switches. Some of these friends gave them candy. One man played a teasing game with them. Every time he saw the three girls, he would wave and yell, "Hi boys!" The girls would laugh and call back, "Hi Mary!" The man was so jolly, he reminded Linda of Santa Claus.

The girls also liked being near the railroad yard because when the big fair came to town, the show cars were brought up on the siding, and the children who lived nearby would be the first to see them and the first to know the fair was in town. There were upright silver flatcars and troupers' quarters, and the red and yellow cars that held the animals.

When Linda was inside her home, life was much quieter. Her father worked at a different kind of railroad job, about a half mile away. He was a welder who repaired boxcars. He was very tired when he returned home at night and often took a little nap as soon as he arrived. When he woke, everyone would come quietly to the dinner table and remain solemn until grace was said. Then Mr. Brown would joke with his family during dinner and everyone would laugh and feel happy. Friday nights were special times, and Linda's favorite. The family would pop popcorn and then Mr. and Mrs. Brown would tell wonderful stories about when they were children.

Each night Mr. Brown would listen to the girls' bedtime prayers. On Sundays, the family went to Sunday school and church. Mr. Brown gave much of his Sunday time, and any other time he could, to work at the church as an assistant pastor. The church was an important part of life for everyone in the Brown family.

1. In what ways was Linda's life the same as yours?
2. In what ways was it different?
3. Draw a picture to illustrate one part of this story.

Linda went to Monroe School, which was a mile away from where she lived. Getting to school was not easy. She had to leave home by 7:40 each morning to walk to a bus stop that was six blocks away. She started off by walking between the train tracks that went through the switching yard. Even though this was dangerous, it was easier than trying to walk outside the tracks, because the street was crowded with warehouses and there were no sidewalks. The bus was supposed to arrive by 8:00. Sometimes it did. Sometimes it was late. When it was late, Linda would have to stand and wait – often in freezing cold weather, or rain, or snow. When the bus was on time, she could get right on, but then she would arrive at school a half-hour before it opened, so she still would have to stand outside and wait. That was the only bus that could take her to school so there was no way that Linda could make the trip without having to stand out in the weather at one place or the other.

When Linda was ready to start third grade, her father surprised her by saying he was going to walk her to her first day of school. Then he surprised her even more by taking a different route. They went the opposite direction from the trains for about three blocks, and then turned onto a pleasant tree-lined street with small, neat houses. After walking three more blocks, they came to a school. It was lighter and prettier than Monroe School, with a little tower on one end that was topped by a fancy weathervane. On the other end was a big wall sculpture of a cheerful sun beaming down on children who were running, jumping rope, rolling a hoop, and flying a kite.

Linda wasn't sure why they had come to this school, and she could tell her father was uneasy as he took her hand and walked up the front steps. Once inside, they were directed to the principal's office. Linda was told to wait outside the door while her father went in to talk to the principal. He was only there a few minutes, and then he came out and took her hand again. As they walked home, Linda could tell that her father was very upset. Even though Sumner School was so much closer to their home than Monroe School, the principal said Linda could not go to school there. Sumner School was for white children only. Linda Brown was black.

1. How do you think Linda felt? Why?
2. How do you think Mr. Brown felt? Why?
3. What would you do if you were Linda?
4. Draw a map to represent Linda's house, the route to Monroe School, and the route to Sumner School.

Linda went back to the Monroe School. One night, not long after school had started for the year, her father took her to a meeting that was held at a church – a different church than the one they usually attended. There were lots of grown-ups at the meeting, and Linda didn't understand what they were talking about. But after awhile, she was called to the front of the room and asked to stand up on the podium. As she stood there a voice asked loudly, "Why should this child be forced to travel so far to school each day?"

Linda didn't hear very much about the school situation after that, but the rest of the country did. There was an organization called the N-Double-A-C-P, which stood for: The National Association for the Advancement of Colored People. With the help of the NAACP, Oliver Brown sued the Topeka Board of Education. According to the law, it was okay for the black and white children to be sent to separate schools, as long as those schools were considered to be equal. The school authorities said the schools were equal. Although Sumner School was a little newer and prettier, Monroe School had a larger playground and fewer cracks in the walls. Both schools had good teachers (all white teachers at Sumner; all black teachers at Monroe). The teachers all had about the same size classes, and were paid the same amount of money. Although most of the black children lived farther away from their schools than the white children did, buses were provided for them. There were no buses for any of the white children. The school authorities said the people were used to things being this way, and not everyone wanted change. They said the children should continue to be segregated, or separated.

The people who testified in court on behalf of Linda (and others like her) said that these facts did not make the schools equal. The very fact that children were separated made the schools unequal. The people said that the separation could make the children think they were different from one another, instead of teaching them that they could learn from each other. It meant that as adults, they would not work as well together or get along in our world because they had not been taught to be together as children. They said the children should not be separated and should go to the school closest to them.

1. You be the judge. If you had to decide whether to keep the children in separate schools or let them attend the school closest to their homes, which would you decide? Why?
2. Role-play the situation. Ask two students to pretend to be parents who still want segregation (white students and black students separated). Ask two other students to pretend to be parents who want integration (both races attending the same schools). What would these parents say? How could each try to convince the others to change their minds?

The court decided that the schools should continue to be segregated. Three judges had listened to the presentations. Although not all of them felt that this was the right thing to do, they felt they had no choice. Other cases that had been decided by the Supreme Court all supported the idea that separate-but-equal was okay, and this case seemed to fit the separate-but-equal guidelines.

The lawyers for the NAACP, Mr. Brown, and people in the other states with similar cases all decided to take this case to the Supreme Court. They said this case was different. The other cases were about transportation or students in college – not elementary school students. They said that the Fourteenth Amendment to the Constitution guaranteed everyone equal protection under the law, and that these elementary school students were not being protected equally. The case was called *Brown v. Board of Education* (“v” stands for versus, which means against) and was argued before the Supreme Court in 1953. It was almost a year later – May 17, 1954 – when the justices made a decision.

It was one of the most important decisions made in the history of the United State, because it said that the previous cases – which may have been decided correctly in their time – were no longer correct in the 1950s. It said that separate was not equal, and that children of all races should be allowed to go to school together, in the schools in their neighborhoods.

Linda Brown never testified in court. But her father did, and so did many other people who had not even met her. Even though they were criticized by others, they worked hard for what they believed. *Brown v. Board of Education* is still one of the most famous cases in American history.

1. Below are the names of some of the other famous people who participated in this case. Choose one name and read about that person. Share what you learn with your classmates.

Thurgood Marshall

John W. Davis

Earl Warren

2. Write a paragraph about something you have learned from another student in your class. Write a second paragraph about something you have helped another student learn.
3. Read a book and write a report about another famous American who has helped our country live up to the words, “All men are created equal.”



## Additional Follow-Up Activity

### Fact or Opinion: Which Is It?

This is an optional follow-up activity that not only helps students learn to distinguish between fact and opinion but can also stimulate further discussion about the *Brown* case. Ask students to define the words *fact* and *opinion*. Give the following examples for students to distinguish as fact or opinion.

1. We study more than one subject each day. (fact)
2. Math is a more difficult subject than English. (opinion)
3. Reading is the most important subject we study. (opinion)

When satisfied that students understand the difference between the two terms, have them distinguish fact from opinion in the statements below. The statements can be duplicated, or the teacher can read them aloud.

Write an F in the blank if the statement is a *fact*. Write O in the blank if the statement is an *opinion*.

- \_\_\_\_\_ 1. Linda Brown lived near the railroad switchyard.
- \_\_\_\_\_ 2. Living near a switchyard is fun.
- \_\_\_\_\_ 3. The Browns were happier than most families.
- \_\_\_\_\_ 4. Even if the bus had always been on time, Linda's trip to school would still have been difficult.
- \_\_\_\_\_ 5. Sumner School was closer to Linda's house than Monroe School.
- \_\_\_\_\_ 6. The principal at Sumner School was a very mean person.
- \_\_\_\_\_ 7. Sumner School was a better school than Monroe School.
- \_\_\_\_\_ 8. Children can learn more if they go to an integrated school.
- \_\_\_\_\_ 9. The Fourteenth Amendment to the Constitution guarantees equal protection to all citizens.
- \_\_\_\_\_ 10. *Brown v. Board of Education* was an important Supreme Court case because it ended segregation in our schools.

Answers for Which Is It? are:

1. F
2. O
3. O
4. F
5. F
6. O
7. O
8. O
9. F
- 10.F

# **“He Said-She Said”**

## **A Search for the Truth**

### **Lesson Overview:**

Middle school students often find themselves in situations where peer pressure and group identity influences their decisions more than the truth. Circumstantial evidence, personal prejudices, and hearsay become the basis for judgment rather than the actual analysis of the facts. These situations can be related to the process of factoring and presenting evidence in the legal system, and the impact of bias and prejudice in distinguishing between the facts (i.e., truth) of an issue and opinions regarding the issue.

### **Objective:**

- Students will learn to differentiate between facts and opinions.
- Students will learn to analyze information.
- Students will practice note taking.
- Students will practice debriefing.
- Students will examine issues of personal prejudice and bias.
- Students will apply their knowledge of rules and their enforcement to the legal system.
- Students will learn how to brief a case.

### *Part 1: Strategy*

1. Debriefing: Students are asked, “How many of you have become involved in a dispute with your friends as a result of something you have been told, not something you saw or heard?” (Allow five minutes for discussion and responses.)
2. Next say: “In a court of law, before a judge or jury rules on a case, evidence (factual information used to determine the truth of an allegation) is presented in relation to the alleged violation of a specific law. The jury must weigh the evidence in a similar manner. Personal feelings must not enter into a decision; rather, the jury is instructed by the judge to weigh the evidence in light of a specific law.”
3. Ask, “How many of you are objective and carefully weigh all of the facts, leaving out your personal feelings before taking a side in a dispute among your friends? Today, we are going to simulate a situation to show the difficulty in determining the truth.”
4. Ask/select two student volunteers to leave the room. Tell them that in turn, they will be given information and told what to do.
5. Once the students have left the classroom, distribute Student Handout 1, Fact Sheet and say, “We are going to conduct an experiment that involves carefully listening to and recording facts. As I read the following scenario to you, record all facts you hear in Column I, Facts.
6. Select one student (Student 1) and say the following, “I am going to ask you not to record the information, but to listen carefully and to mentally record the facts. When I finish reading the scenario, I am going to ask you to repeat the facts as you heard them. I want the remainder of the class to record your responses in the second column, marked ‘Hearsay 1.’ I will then ask you to go into the hall and relay the information to one of the students in the hall. (NOTE: this becomes Student 2.)” Tell Student 1 not to let the other student overhear what is said. Tell that person that they will be given information when Student 2 comes back into the hall. When Student 1 has relayed the information to Student 2, Student 1 and Student 2 should return to the class.
7. Answer any questions about instructions.
8. Read the Scenario.
9. Allow Student 1 to tell all pertinent facts, then leave the room to relay information as described in step 5 above.
10. While Student 1 is in the hall, say to the rest of the class. “When Student 2 comes into the room, I will ask him/her to tell me what he/she was told by Student 1. You should record what he/she says in the “Hearsay 2”

- column. You will repeat this process when Student 3 returns to the room, recording the information in “Hearsay 3” column.
11. Call for Student 2. Ask Student 2 to repeat what he/she was told, then instruct Student 2 to go into the hall and relay the information to Student 3. After relaying the information both students should return to the class.
  12. Ask Student 3 to repeat the information given by Student 2.
  13. Once Student 3 has completed his/her “version” of the facts, ask the class to compare what they heard with what was said by each of the “witnesses.” Record all responses on the board/overhead.
  14. Debrief by asking, “What has happened to the facts? How much information was lost or confused among Student “witnesses” 1, 2, and 3?”
  15. Allow for student responses and summarize.
  16. Homework assignment: Analyze a personal situation in which the reporting of facts of a situation, either by you or someone else, varied and speculate why the reporting of the “facts” differed.

## *Part 2: Strategy*

1. Ask students to take out their homework assignments and conduct a short discussion on how personal bias impacted their personal “he said/she said” situation. Collect homework.
2. Distribute copies of the Scenario (STUDENT HANDOUT 2) and ask students to take out their notes from Day 1. Allow ten minutes for students to read and annotate the scenario.
3. Ask students to compare their original facts with the facts in the scenario, adding missed information and correcting any misinformation on their FACTS/HEARSAY handout.
4. Divide the class into groups of 4 or 5 students and distribute copies of Student Handout 3, POINT OF VIEW. Project a copy of the sheet on an overhead.
5. Conduct a full class discussion on how different perspectives of the situation might lead different individuals to interpret the facts in a variety of ways.
6. Select any one of the individuals named in the scenario and through discussion, model on the overhead/board the development of a fact sheet from that person’s point of view.
7. Homework assignment: Students will develop fact sheets from the scenario for these individuals:
  - a. Someone waiting for the bus who overheard Mary and Yolanda’s conversation on Thursday, as described in the scenario.
  - b. Someone who was in the locker area who overheard Mary and Yolanda’s morning conversation as described in the scenario.
  - c. Someone who was present and overheard Mary and Yolanda’s conversation on Friday before getting on the bus.
  - d. Someone who was present in the cafeteria and overheard Mary and Yolanda talking as described in the scenario.
  - e. Someone who was present at the bus on Thursday and Friday, in the locker area, and the cafeteria.
  - f. A friend of Yolanda’s who was not in any of the above mentioned places, but was given information by Yolanda.
  - g. Mary’s friend who was not in any of the places described in (a-e), but was given information by Mary.
  - h. Someone present at all of the places described in (a-e) above.
8. Remind students that only information stated in the scenario may be used.

### *Part 3: Strategy*

1. The Case Study: Ask students to take out homework assignments, DEBRIEF by conducting a short discussion on how point of view varies, based on:
  - What you actually saw or heard
  - Your personal relationship/involvement with the situation/individual
2. Divide the class into three groups: Yolanda and witnesses, Mary and witnesses, the Principal.
3. Next, say, “Suppose the Principal has heard all the facts and has suspended both girls. What guided the Principal’s decision?” Allow student responses. If no one mentions the school’s policy regarding fighting, ask, “Is there any written policy regarding fighting? What does it say?” (The policy is listed on STUDENT HANDOUT 2, SCENARIO.)
4. Next, say, “Yolanda and her parents do not agree with the Principal’s ruling. They think that Mary was at fault, and if the paper had been returned the ‘disagreement’ would never have gotten out of hand. They want a hearing by the Suspension Appeal Committee to review the Principal’s decision.”
5. Distribute Student Handout 3, CASE STUDY SHEET and say to the class, “You have gathered the facts relating to the dispute between Yolanda and Mary and ruled out personal opinions and bias. Today you are going to put your information on a case study form. This is called briefing a case. Write all the facts relating to the Mary/Yolanda dispute under the “Facts” heading on your “Case Study” handout.
6. Next, say, “In our legal system, the consequences for violating a law are spelled out. It is the duty of the judge or jury to rule on whether or not, based on the facts presented, the law has been violated. If the suspect is found guilty, then he/she must face the consequences for violating the law<sup>2</sup> this is called sentencing. In Mary and Yolanda’s case, a school rule against fighting was violated. What are the possible consequences of fighting? If you are not sure, check your scenario sheet. Look at the Issues section of your case study form. What happens if someone disagrees with the decision of guilt or innocence? Can that person appeal the original decision? Yolanda and her parents wish to appeal the decision to the Suspension Appeals Committee. In our legal system, a case can be appealed to a higher court. That body can uphold (agree) with the lower court ruling or it can overrule and strike down the decision.”

7. Note that the issue has been stated in the form of a question indicating Yolanda's rights and the rule in question. Use the remainder of the class time to write your opinion, (in the space marked YOUR OPINION) and the reasons (ARGUMENTS) based on the facts of the case and the law. Remember, your job is to clearly and concisely state the facts of the case and to present arguments supporting your decisions, much like a lawyer would for a "client." If you do not finish in class, complete the assignment tonight.
8. Next, say, "Tomorrow, we will have Mary and Yolanda and their witnesses present their case before the Principal and see what his/her decision is."
9. Homework assignment: "Tonight, you are to complete your arguments. Tomorrow, we will conduct a hearing and get the Principal's decision."



#### *Part 4: Strategy*

1. Mary and Yolanda and their witnesses use facts from their Case Study Sheet to present their “case” to the Principal.
2. Say to the class, “Today, the Principal will listen to Mary and Yolanda and determine the consequences for engaging in a fight.” Write/project the following rules for the hearing on the board/overhead:
  - Each student may speak for two minutes to present his/her case.
  - Each student may call 2 witnesses to speak on his/her behalf.
  - Each witness’s testimony may last one minute.
  - The Principal may question the disputants and the witnesses.
3. The Principal’s choices of actions are as follows:
  - a) Mary, 3 days out of school suspension for starting a fight, Yolanda, one day out of school suspension for fighting.
  - b) Yolanda, 3 days out of school suspension for starting a fight, Mary, one day out of school suspension for fighting.
  - c) Both girls, 3 days out of school suspension for fighting.
  - d) Both girls, 1 day out of school suspension.
  - e) Both girls, 1 day in school suspension, and referred to mediation to resolve the issue of the paper.
4. Conduct the Role Play (15-20 min.) Allow the Principal 5 minutes to deliberate and write his/her decision, then read the decision to the class.
5. VOTE WITH YOUR FEET. Put Thumbs Up, Thumbs Down, and Question Mark signs in three places in the room and ask students to take a stand on the Principal’s decision by moving to one of the areas. Ask students why they took that particular position.
6. Ten minutes before the end of class, summarize elements that influenced the Principal’s decision. Use these questions to summarize:
  - a) What must guide the Principal’s ruling on the situation? How can the principal remain objective?
  - b) How are the roles of the Principal and a judge in a court of law similar/different?
  - c) Why is it important to separate fact from opinions when serving as a witness?
  - d) Why is a person who saw an event a more reliable witness than someone who hears about the situation second hand?
  - e) Who do you think was at fault and why?
  - f) Why is it important to have all the facts before taking sides?
  - g) How is the Principal’s decision like a judge’s ruling?

- h) What is the purpose of a case study?
- 7. Homework assignment: Make a comparison chart (similarities/differences) between school rules and laws and the role of a Principal and a judge.

### *Part 5: Strategy*

1. Ask students to take out homework assignments. Debrief by allowing students to share their work and writing their comparisons on the board/overhead.
2. Pose this question to the class: What could have prevented Yolanda and Mary from fighting? Allow students to respond.
3. Next, say, “Today, I would like you to work in groups and, using any of the information from our previous discussions, rewrite the scenario from the point of view of a friend who intervenes and resolves the conflict on Monday morning, prior to the fight. Remember focus on the facts and peaceful alternatives to the problem.”
4. Allow students to assemble in groups and use approximately 30 minutes to rewrite the scenario.

### Enrichment/Extension:

An examination of your school handbook to determine rules governing fighting are a logical extension of this lesson. Students could develop a series of hypothetical “cases” based on actual infractions and role play disciplinary hearings on other school rules. Students might want to conduct a Suspension Committee Hearing.

### Evaluation:

The following are suggested evaluation methods to be used for this unit of study.

- The Case Study form
- Comparison between the Disciplinary Hearing and Judge’s Ruling in a court case.
- Fact sheet

### Cross Disciplinary Applications:

This lesson can be used in the affective domain to increase cultural awareness and sensitivity, in drama (role play), and to introduce alternative conflict resolution such as mediation.

## Student Handout 1

**Facts and Hearsay:** Record the facts as you hear them in Column 1, Facts. Use the remaining three columns to record the hearsay as reported by Students 1, 2, and 3.

FACTS

HEARSAY 1

HEARSAY 2

HEARSAY 3

## Student Handout 2

**Scenario – “He Said/She Said”:** Read and annotate the following scenario.

Mary and Yolanda, seventh graders, have never been close friends although they have gone to school together for the past five years. On Thursday, as they were waiting for their buses after school, Mary asked to see Yolanda’s history report. Yolanda’s bus arrived before Mary finished reading the paper. When Yolanda asked Mary to give back the paper, Mary asked if she could keep it until the next day. Before a discussion could take place, the bus was ready to leave, so Yolanda begrudgingly said yes as the bus pulled away.

Friday morning, Yolanda waited by Mary’s locker to retrieve her paper. Mary’s bus was late and there were only five minutes left before the first period bell. When Mary came running to her locker, Yolanda asked, “Where’s my paper?” Hurriedly, Mary responded, “I don’t have time to talk to you right now. I am running late for first period and we have a test! I’ll see you later.” Sam, Ray, Curtis, and Dana were standing close to the lockers when the conversation between Yolanda and Mary occurred. Mary hastily took books from her locker, placed them in her back pack, and turning, threw the pack over her shoulder. The back pack hit Yolanda, throwing her off balance and into Ray, who yelled, “Hey, why don’t you watch where you’re going?” Yolanda responded, “Don’t get off on me! It’s that girl (pointing to Mary’s retreating figure) you need to talk to.” As Mary turned to see what was going on, Yolanda shouted, “I am going to come looking for you later today, you hear?”

Yolanda then turned and walked down the hall, mumbling to herself, “That white girl gets on my nerves, this time she has gone too far. When I see her we’re going to have it out!”

Later, at lunch, Yolanda and Mary were overheard arguing. Mary said in a loud voice, “Back off, girl, I told you I would give it (the history report) back. I already said I’m sorry I forgot it this morning, I’ll bring it to you on Monday.” To which Yolanda replied, “Now you really are getting on my nerves.” Putting her hands on her hips, she said, “Don’t mess with me. Just give me my paper; you’d better have it on Monday, or else!”

“I’ll have it on Monday, just like I said,” Mary responded as she headed off to class.

As the two girls waited for the bus after school, Yolanda approached Mary who said, “Now don’t you start bugging me again; I told you I would give you the paper on Monday,” to which Yolanda replied, “Now you really are getting on my nerves.” Putting her hands on her hips, she said, “Don’t mess with me. Just give me my paper; you’d better have it on Monday, or else!”

“I’ll have it on Monday, just like I said,” Mary responded as she headed off to class.

As the two girls waited for the bus after school, Yolanda approached Mary who said, “Now don’t you start bugging me again; I told you I would give you the paper on Monday,” to which Yolanda replied, pointing a finger at Mary, “You’d better, girl, or else you and me are going to have more than words!”

On Monday, Yolanda and Mary were sent to the Principal’s office for fighting in the locker area before school. Neither girl was talking, but Yolanda was clutching a badly crumpled and stained paper that appeared to be a history report.

The student handbook specifically states that “...anyone caught fighting will be suspended for up to 5 days, may be referred for mediation, and, depending on the nature of previous offenses, may face expulsion.

### Student Handout 3

**Case Study Sheet:** Use this sheet to record the facts and the decision of the principal's hearing.

*Your Name*

*Case Name*

Mary/Yolanda Dispute

*Facts*

*Issue(s)*

(stated as a question) Were Yolanda's rights violated when she was found guilty of violating the school rule (policy) regarding fighting, and suspended?

*Arguments*

*Your Decision*



*Principal's Decision*

# Evidence and the Witchcraft Trials

## **Purpose:**

To evaluate the significance of evidence in a trial and how it was different during the witchcraft trials.

## **Background for the Teacher:**

The phenomenon of witchcraft trials in this country is a fascinating one for study. Although far fewer witches were actually persecuted in this country compared to the numbers in Europe, this is still a very black page of our history. The trials are especially useful to study because the rules of procedure and evidence were so different. Evidence was permitted that would never be allowed in today's court.

## **The Touch Test**

If a victim of witchcraft was touched by an alleged witch and became calm after the touch, this proved the accused was guilty as charged. Supposedly the touch drew the "devil" from the victim and only a true witch had this power.

## **Spectral Evidence**

The devil could take various forms and harm people. Only one witness was necessary to prove this.

## **No Right to Counsel or Appeal**

An accused person did not have the right to an attorney, nor the right to an appeal. Decisions of the court were final.

## **The Devil's Mark**

A wart or other unusual mark was considered a sign of the devil and was used as evidence to prove a person was a witch. Today, evidence is a very important part of a trial and there are very strict rules regarding what evidence will be admitted in court.

The following kinds of evidence are inadmissible:

Biased Views

Witnesses cannot say things like, "George is a no-good bum."

### Hearsay

Witnesses cannot say things like, “Fred said that Danny was at the gas station just before the robbery.”

### Illegally Obtained Evidence

If the police search your home without a search warrant, the evidence they find cannot be used in court. There are some exceptions to this but generally your home is considered to be your castle.

### Irrelevant Statements

Statements that have nothing to do with the trial are not permitted. If the defendant is on trial for theft, the witness cannot make statements about her as an unfit mother.

### Public Opinion and Rumors

“Everyone knows that Jim shot his brother.”

**Follow Up:**

- Have students write statements that might be considered as evidence. Then decide whether or not these would be admissible.
- Discuss the differences between the evidence admitted in the witchcraft trials and evidence admitted today.
- Visit a court and ask the judge to discuss rules of evidence with the class.

**(This is where the Order in the Court Crossword Puzzle is located.)**

# **Matrix Problems**

**There is a relationship between the values of a society  
and the laws of a society.**

To the student:

Detectives solve crimes by gathering facts and information. They don't always have all of the information they want so they have to figure out who did what by making inferences. The problems can be solved with the limited information given but the problems get harder as you go along.

Instructions:

The following problems may seem "tricky" at first, but you can do them if you follow the directions carefully and do them in order. The first one is the easiest but even if you can figure out the answer without doing all the steps, do all of the steps. This will help you do the harder ones.

### FRAN, DON, AND SAM COOK DINNER

Fran, Don, and Sam decide to cook dinner together. One makes a salad, one makes spaghetti, and the third makes the dessert. You have to figure out who made which part of the dinner. You can do this with only two clues if you follow the directions carefully. Use the matrix to fill in the names and the kinds of food.

| <u>Food</u>  |  |  |  |
|--------------|--|--|--|
| <u>Names</u> |  |  |  |
|              |  |  |  |
|              |  |  |  |
|              |  |  |  |

Use the clues to solve the problem.

1. Fran doesn't know how to make spaghetti. Put "NO" in the box under spaghetti for Fran.
2. Don prepares the part that they eat last. Since dessert is usually eaten last, put "YES" under dessert for Don. You can now put "NO" under salad and spaghetti for Don because you know he didn't make them. You can put "NO" under dessert for Fran and Sam because you know they didn't make it.

Now Fran has two "NOs" so she must be the one who made the salad. Put "YES" under salad for Fran. If Fran made the salad, then you know that Sam didn't. Put "NO" under salad for Sam. Since the only box empty now is the one under spaghetti for Sam, you can put "YES" because he must have made it.

### HILL STREET COLORS

This problem is a little harder than the dinner one. Be sure to mark the matrix as you go along. A detective, a sergeant, and a chief all work together in a police station. Each of them has a favorite color. One likes green, one likes blue and one likes red. Your problem is to figure out who likes which color.

| <u>Colors</u> |       |      |     |
|---------------|-------|------|-----|
| <u>Names</u>  | Green | Blue | Red |
| Sergeant      |       |      |     |
| Detective     |       |      |     |
| Chief         |       |      |     |

Clues:

1. The sergeant loves green. Put YES under green for sergeant and no under green for the others. Put NO under blue and red for the sergeant.
2. The chief likes the color that begins with “B.” Put yes under blue for the chief. Put NO under red for the chief and NO under blue for the detective. The only color without a YES is red, so the detective must like red. Put YES under red for the detective.

### HILL STREET FLAVORS

Fill in the same names as the previous matrix and then read the problem. Each of these people has a favorite flavor of ice cream. No one likes the same kind. One likes chocolate chip, one likes strawberry and one likes vanilla. Fill in the flavors of ice cream.

| <u>Flavors</u> |  |  |  |
|----------------|--|--|--|
| <u>Names</u>   |  |  |  |
|                |  |  |  |
|                |  |  |  |
|                |  |  |  |

Clues:

1. The Chief is allergic to chocolate and strawberries.
2. The detective won't eat any ice cream that has a pink color.



# Laws

## Background

As the resource person, you can help them to see that laws are an important part of their lives.

## Pre-visit

The pre-visit activities are taken from Problems in Green Valley, a first grade curriculum written as a joint project of the national street law institute, constitutional rights foundation, and law-related education program for schools in Maryland.

Tell the children you are going to read them a story about some people who had an “argument.” The story appears below. Ask if anyone knows what an “argument” is and let them suggest definitions. All story pictures follow.

Ask the children what Georgia and Tommy were arguing about. Suggest that the class help them explain to each other their different feelings about the tree. Have half the class help Georgia by making a mural (or individual pictures put together) showing what she likes to do in her yard. Have the other children help Tommy by making a mural showing what he likes to do in his yard.

Share the murals and help each group explain the pictures. Ask the children if Georgia and Tommy like to do the same things in their yards.

Ask the children if they have any ideas about how Georgia and Tommy might settle their argument (e.g. cut the branches on Tommy’s side, Georgia help Tommy rake leaves, etc.) Record these ideas on the chalkboard.

Reread the story. Ask the children to pick the idea (by voting) they think Georgia and Tommy will choose. Elicit sentences from the children to write an ending to the story on chart paper.

## Story

A big fence stood between Georgia's yard and Tommy's yard. (tape picture of fence)

Georgia loved to work in her yard. (tape picture of Georgia) She liked to plant flowers. (Tape picture of flowers) She had to rake leaves. She loved to way her yard looked. She especially loved the one big tree in her backyard. (Tape picture of tree) She loved to swing from it. She loved to climb it. She loved to sit under it and read stories.

The tree stood right next to the fence which separated her yard from Tommy's. (tape picture of Tommy) He loved sunshine and so he liked to keep his yard nice and open. (Tape picture of sun) Trees would just get in his way when he played ball. He did not like to spend time raking leaves.

One day Georgia and Tommy had a big argument. Georgia's favorite tree had some branches which hung over Tommy's side of the fence. Tommy hated the tree. It shaded part of his nice sunny yard. In the fall, it dropped leaves on his side of the fence. He hated to have to rake them.

Finally, Tommy couldn't stand it anymore. He took a saw and ladder out in his backyard. Can you guess what he was going to do?

Georgia saw him just as he was about to saw down the tree.

"Stop! Stop!" she cried. "You can't do that to my lovely tree!"

"Your old tree is blocking my sun and dropping leaves in my yard! You shouldn't be allowed to have that tree!"

They argued and argued about the tree.

## Resource person visit

Introduce yourself and print your name in large letters on the board. You should tell them about your family and what you like to do. Then, describe your job. Explain to the students that you know the class has been studying law and you are a lawyer who deals with laws. Then ask students what they think the problem was between Tommy and Georgia in the story they studied. Discuss how Tommy and Georgia could handle their problem. Students will bring up such answers as move the fence, just be friends, etc. Ask the students “Who owns the tree?” This will allow you to discuss with the student’s ownership and property rights in very simple terms. Ask one student to describe what it means to “own” something. Explain that the law helps decide what people own if there is a disagreement and people can’t decide by themselves.

Finally, you could accompany students on a law walk around the block of the school. They could point out examples of ownership such as names on mail boxes, house numbers, and auto licenses. Discuss briefly how each is law-related.

## Follow up

Have students illustrate their walk with a mural.

# LEGAL ISSUES IN THE NEWS

## Lesson Overview

To demonstrate that the law is reported regularly in the newspapers and is an every-day part of our lives. To give students the opportunity to practice what they have learned regarding legal terms and the sources of law in our society. To test whether or not students are capable of understanding legal issues reported in the newspapers and to improve their ability to do so through practice.

## Objective

As a result of this activity, students will be able to:

- Select from a daily newspaper news articles that deal with legal issues locally, statewide, and nationally;
- Classify the coverage according to its applicability, local, state, national, international;
- Classify the coverage as being either civil (case) or criminal law;
- Develop a list of legal terms for each
- News article and define those terms;
- Summarize the content of the news articles in one or two summary paragraphs.

## Modeling the Lesson

The teacher may model the lesson by devoting one class period to the process. In order to do this, the following is recommended. (Also see instructions to students that correspond to this model lesson and be sure you fully understand them.)

1. Select a law-related news article from a recent edition of the local, daily newspaper. Reproduce it for the entire class.
2. Distribute the news article to the class and have them summarize it on a separate sheet of paper in one or two paragraphs. (Check for understanding at this point and explain what a summary is, if necessary. See student instructions, number 6.)

Have several students read their summaries. Check to insure students are aware of the essential information that should be contained in a summary. If time allows, you may wish to summarize the article, reproduce it, and then distribute it as a model.

3. Have students circle or underline all terms that are legal in nature. For example, “indicted,” “bail,” “arrest.”

Have students list all of the legal terms on another piece of paper, leaving room for a definition.

Assist the students in defining the legal terms. Have a glossary of legal terms available for all students (usually contained in most law-related education units) or adequate dictionaries (which are really quite good for this).

4. Check students' understanding of the legal terms. More than likely, many of them have already been introduced in class.

For example, ask the students to define the term "arrest." Establish that "arrest" is not a simple matter, and that having a full awareness of the concept of "arrest" is necessary. Define the concept if necessary.

5. Have the students classify the source of the laws used in the article. Is it Federal law, state law, or county/city law? Is it dealing with civil action or criminal action?

Above the news article (on the reproduced sheet you gave them) have the students write in capital letters how they would classify the news article. Example:  
STATE LAW, CRIMINAL CASE.

# WHICH COURT?

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Directions: Indicate before the cases described below, the court that would most likely handle them. Use the following symbols:

D for District Court

F for Family Court

T for Superior Court

S for Supreme Court

- \_\_\_ 1. Elaine, a 35-year old teacher, got a ticket for driving 75 miles per hour in a 35 mile per hour zone.
- \_\_\_ 2. Frank and Linda are getting a divorce. They have two young children.
- \_\_\_ 3. Jane, 25 years old, was caught stealing \$150 worth of candies from a nearby department store. She had been apprehended by the police twice before.
- \_\_\_ 4. Miss Evelyn, your fairy godmother, appears and gives you a deed for three acres of beachfront property. Where would you go to register title to the property?
- \_\_\_ 5. Jan was invited to dinner at Richard's apartment. Richard had just completed mopping the apartment and the floor was still very wet. Jan took two steps into the apartment, fell on her side and broke a finger. She is suing Richard for \$4,900.
- \_\_\_ 6. Dennis is going on trial tomorrow for robbing Bank of Hawaii of \$10,000.
- \_\_\_ 7. After months of police investigation, Darlene and Paula were arrested for kidnapping Lois.
- \_\_\_ 8. Betsy and Jenny work together in a record store. One afternoon they got into an argument which soon led to physical confrontation. Jenny gave Betsy several solid punches in the face and body. Betsy is suing Jenny for \$15,000 in damages.
- \_\_\_ 9. Calvin was arrested for disorderly conduct at 3:30 a.m. in May Ann's Bar. He insists the police arrested the wrong man.
- \_\_\_ 10. Dennis was found guilty of robbing a bank. However, Dennis' lawyer believes that the judge did not give him a fair trial and will appeal the decision.
- \_\_\_ 11. Cynthia, a seventh grader, hijacked another student of his lunch money. This is the third time since school began two months ago that she has hijacked students.
- \_\_\_ 12. Mrs. Kuwada, mother of two teenagers, forgot to put money into the parking meter and subsequently got a parking ticket.

- \_\_\_ 13. Karen, a thin six-year-old girl, was found by police wandering around the neighborhood at 11:30 p.m. Her body was covered with red welts and fresh burns.
- \_\_\_ 14. Ms. Mow is charged with embezzling \$2,000,000.
- \_\_\_ 15. Charlotte has over 100 outstanding parking violations. She has been summoned to court.
- \_\_\_ 16. Carol, a senior in high school, had just gotten her driver's license. On her way home from the police station, she got a speeding ticket.
- \_\_\_ 17. Judy, a student monitor in the school office, is accused of stealing \$250 worth of pens and pencils.
- \_\_\_ 18. Your father left all of his estate to your eldest brother. You decide to contest the will.
- \_\_\_ 19. A former friend is suing you for \$3,000 for injuries and damages. You decide to have a jury trial.
- \_\_\_ 20. A private property owner thinks that he is paying too much tax for the value of his land.





## **COURTROOM PUZZLE ANSWERS**

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### Across

1. CIVIL
5. CIRCUIT
6. VERDICT
8. GRAND
9. SHERIFF
11. JURY
12. COMPLAINT
14. SUSTAIN
16. DEFENDANT
18. PROSECUTOR
20. DISTRICT
22. DISCOVERY
23. ADVERSARY
24. PLAINTIFF
25. REASONABLE

### Down

2. VOIR DIRE
3. ATTORNEY
4. JURISDICTION
7. FAMILY
9. SUPREME
10. MOTION
11. JUDGE
13. PREPONDERANCE
15. WITNESS
17. FELONY
19. APPEAL
21. TORTS

# WHEN PEOPLE BREAK THE LAW

Depending on the crime a person has committed, he or she may have broken a federal law, a state law, or both. However, the great majority of crimes committed are state crimes. Criminal laws and procedures vary from state to state, but in general the following actions take place when kids and adults break the law.

## What Happens to Kids

When minors, people under age 18, break the law, they usually appear in juvenile court. Since a minor will rarely have a jury trial, the judge hears the evidence and decides whether or not there is enough evidence to prove that the child has broken the law. In most cases, the child admits to the crime and depending on the situation, the judge may put the child on probation, place the child in a foster home, or in serious cases, the child may be sent to a juvenile institution. If the child denies the crime, however, an adjudicatory hearing, much like a criminal trial, is held. At this hearing, the child is represented by a lawyer. If the judge determines that there is enough evidence, a second hearing is arranged to decide a sentence.

## What Happens to Adults

When an adult commits a serious crime and is arrested by police, sometimes there will be a trial. In the federal system and in some states, a grand jury decides whether or not there is enough evidence for a trial. If there is enough evidence, the person is indicted. If there is not enough evidence the charges are dropped. In states that don't use grand juries, an information will be issued by the prosecutor. An information is a formal accusation by the prosecutor. Once the indictment or information has been filed, the defendant is arraigned. This is when the defendant pleads guilty or not guilty. If he pleads not guilty, the case goes to trial.

Sometimes plea bargaining occurs. The defense attorney and the prosecutor try to settle a case with the court's approval. In a plea bargain, the defendant pleads guilty to a lesser offense or the prosecutor drops some of the charges, or agrees to ask for a lighter sentence from the judge.

If there is a trial, the Constitution guarantees every defendant certain rights. With serious crimes, there is the right to be tried before a jury; the defendant can also waive this right and have a judge decide the verdict. The following also applies to all jury trials: 1) the defendant is presumed innocent, 2) the prosecutor must prove guilt beyond a reasonable doubt, 3) the defendant has the right not to take the stand, 4) evidence obtained through unconstitutional police procedures is excluded, and 5) incriminating statements of defendants are allowed.

If the defendant is found not guilty, he is acquitted. If he is found guilty, he is convicted and then sentenced. Usually the trial judge hands out the sentence, but sometimes the jury does. The sentence may be a fine, incarceration, probation.

## LESSON 1: JUVENILE JUSTICE - INTRODUCTION

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Taken from Judges in the Classroom by the Judiciary History Center

Lesson 1 introduces the topic of juvenile crime. The lesson, intended for grades 7-12, assumes that teachers have already introduced criminal law, its purposes, and general nature. The activity takes approximately 50 minutes.

### Objectives

- Students will be able to define the legal meaning of minor.
- Students will develop opinions on how to treat minors who break the law.

### Materials

Handout 1, Teacher Lesson

Handout 2, How Should Minors Be Treated?

Post Test

### Procedure

1. Handout 1 must be sent to the school and completed by the students before your visit.
2. Begin the class by introducing yourself. Briefly explain your job and the purpose of the Family Court. Ask students to define the term minor and under what circumstances a minor can be tried in the adult court. The italicized terms and phrases might require clarification through example.

A “minor” is defined as someone less than eighteen years of age. In some cases the Family Court can *retain jurisdiction* of a minor after s(he) has turned eighteen; for example, if a minor turns eighteen after committing an offense, but before completing the *full term of any order entered*, or if a minor turns eighteen during the course of proceedings against him or her.

The Family Court can also *relinquish jurisdiction* over minors. If a minor is fourteen and has committed either a *class A felony*, a felony resulting in serious bodily injury to the victim, or has a *prior adjudication*, the Family Court can waive the minor to the adult court. If a minor of any age is alleged to have committed murder or attempted murder, s(he) can be waived to the adult court.

3. Tell the students that the next part of the class involves their opinions. Pass out Handout 2, How Should Minors Be Treated? Give students ten minutes to read the statements and indicate whether they (A) agree, (D) disagree, or are (U) undecided. Use the information for Handout 2 provided below to help guide the discussion. Tell students there are no right or wrong opinions, but they should have reasons for their opinions. Complete the first statement as a group, either by providing your own opinion, or soliciting that of a student volunteer. Ask students if they understand the task.
  4. Review student opinions by asking several students to state the reasons for their opinions. Spend a few minutes on each statement. After students express their opinions, the judge should inform students of the law and current sentencing practices in the state of Rhode Island.
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## Information on Handout 2

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Inform students that these are not the only answers. Students' opinions are valid and worthy of affirmation, provided they are supported by reason.

- a. **Statement:** All minors who commit the same offense should get the same penalty.

**Response:** False. Avoiding undue disparity, judges consider the individual circumstances of each case. Factors such as past criminal history, how long ago the prior offenses occurred, age at the time of present offense, and severity of present offense are commonly taken into consideration by the judges.

- b. **Statement:** The Family Court should be used to put minors in programs like alcohol and drug counseling in which they otherwise would not participate.

**Response:** False. While alcohol and drug counseling are disposition options, these are treatment services to be used after fairly determined penalties have been developed.

- c. **Statement:** Minors who break the law should be treated the same as adults who break the law.

**Response:** False. There are differences between minors and adults. Convictions of minors are not deemed criminal convictions, and the minor should not be considered a criminal as a result of any proceeding. All dispositions should provide an incentive for reform or deterrence from future misconduct.

- d. **Statement:** The goal of the Family Court should be to punish minors who break the law.

**Response:** False. The Family Court seeks to achieve a number of goals including protection of victims' rights, promotion of public safety, ensuring uniformity and easy accessibility to the judiciary, and the protection of minors themselves. How the judge decides to treat a particular case will depend on his or her evaluation of how to best achieve these diverse goals.

- e. **Statement:** Minors who break the law should get the death penalty for certain crimes.

**Response:** False. The state of Rhode Island does not allow the death penalty for adults or minors. The United States Supreme Court has recently ruled that states have the authority to set their own age limits regarding when to impose the death penalty.

- f. **Statement:** If judges think a minor will commit another crime, then they can give the minor a worse penalty.

**Response:** True. In order to protect public safety, judges can use the number of prior offenses to predict who will offend again and adjust the penalty accordingly.

5. Conclude by reviewing the objectives.
6. Teacher to conduct post test.

### **Handout 1 – Teacher Lesson**

Please use the following information and handout to prepare your students for the judge’s visit. If you have any questions concerning this information, please call the Education Specialist at 255-3396 or 222-8810.

#### **Procedure**

1. Inform students that a judge or attorney will be visiting to teach them about Family Court.

The Family Court hears all legal matters confronting children such as delinquency, waiver, status offenses, abuse and neglect, termination of parental rights, adoption, guardianship, and detention. The Family Court also hears traditional domestic relations cases including divorce, nonsupport, paternity, uniform child custody jurisdiction cases, and miscellaneous custody matters. Children under the jurisdiction of the Family Court are referred to as “minors.”

2. Brainstorm with students the definition of minor. The italicized terms and phrases might require clarification through example.

A “minor” is defined as someone less than eighteen years of age. In some cases the Family Court can *retain jurisdiction* of a minor after s(he) has turned eighteen; for example, if a minor turns eighteen after committing an offense, but before completing the *full term of any order entered*, or if a minor turns eighteen during the course of proceedings against him or her.

The Family Court can also *relinquish jurisdiction* over minors. If a minor is fourteen and has committed either a class A felony (i.e.: sexual assault in the first degree, kidnapping, carrying or use of a firearm in the commission of a separate felony), a felony resulting in serious bodily injury to the victim, or has a prior adjudication (court appearance in which s(he) has been found guilty), the Family Court can waive the minor to the adult court. If a minor of any age is alleged to have committed murder or attempted murder, s(he) can be waived to the adult court.

3. Check for student understanding of the definition of minor by using Who is a Minor? Give students 10 minutes to work in pairs and to decide whether or not these persons are minors. Use the following information to help you facilitate discussion.

## Information for Who is a Minor?

**Hypothetical 1:** Claire is 15 years old. She and her 18 year old brother, Daryl, go to the shopping mall together. Daryl convinces Claire to shoplift a part he needs to repair his car. She puts it in her vest and walks out of the store. They are both caught.

- a. Can Claire be tried in the Family Court? Why or why not?  
**Yes. Claire can be tried in the Family Court because she is under 18.**
- b. Can Daryl be tried in the Family Court? Why or why not?  
**No. Daryl was 18 at the time he committed the crime so he will be tried in an adult court.**

**Hypothetical 2:** Henry is 13 years old. He is charged with attempted murder. Last year he committed criminal assault and burglary, which are both felonies. Family Court waives his case and it is heard in the adult court.

- a. Can Family Court waive Henry's case to the adult court?  
**Yes. Minors of any age who are charged with murder or attempted murder may be tried in the adult court.**
- b. If Henry had been arrested for criminal assault instead of attempted murder, could he still be waived to the adult court?  
**No. In cases other than murder or attempted murder, minors must be at least 14 years old before their case can be waived to the adult court.**

**Hypothetical 3:** Natasha, who is 17, is charged with auto theft. Natasha turns 18 one week before her trial. The judge knows that Natasha has four prior arrests for shoplifting. She has been placed on probation for theft, and has also served time at the detention home. The Family Court judge finds her guilty and orders her confined to the detention home until her 19<sup>th</sup> birthday.

- a. Should Natasha have been tried in the adult court instead of the Family Court?  
**No. She was seventeen when the crime was committed so she falls within the jurisdictions of the Family Court. However, if the judge thinks it is a serious enough offense, a hearing can be held to determine if her case should be waived.**
- b. Should the Family Court use Natasha's past history in determining her sentence?  
**The judge has the discretion to take a number of factors into account, including past history, the possibility of threat to the public, whether the offense was aggressive, premeditated, or violent, and the minor's sophistication.**

## Handout 1 – Who is a Minor?

**Directions:** Decide whether or not each of the following persons is a minor and answer the questions following the case descriptions.

1. Claire is 15 years old. She and her 18 year old brother, Daryl, go to the shopping mall together Daryl convinces Claire to shoplift a part he needs to repair his car. She puts it in her vest. They are both caught.
  - a. Can Claire be tried in the Family Court? Why or why not?
  
  
  
  
  
  
  
  
  
  
  - b. Can Daryl be tried in the Family Court? Why or why not?
  
2. Henry is 13 years old. He is charged with attempted murder. Last year he committed criminal assault and burglary, which are both felonies. Family Court waives his case and it is heard in the adult court.
  - a. Can Family Court waive Henry's case to the adult court?
  
  
  
  
  
  
  
  
  
  
  - b. If Henry had been arrested for criminal assault instead of attempted murder, could he still be waived to the adult court?
  
3. Natasha, who is 17, is charged with auto theft. Natasha turns 18 one week before her trial. The judge knows that Natasha has four prior arrests for shoplifting. She has been placed on probation for theft, and has also served time at the detention home. The Family Court judge finds her guilty and orders her confined to the detention home until her 19<sup>th</sup> birthday.
  - a. Should Natasha have been tried in the adult court instead of the Family Court?
  
  
  
  
  
  
  
  
  
  
  - b. Should the Family Court use Natasha's past history in determining her sentence?

## Handout 2 – How Should Minors Be Treated?

### Opinion Poll

**Directions:** Read the statements below and decide whether you (A) agree, (D) disagree, or are (U) undecided. Be prepared to give reason for your opinions. There are no right or wrong answers. Every opinion is good when you can provide reasons for that opinion.

- \_\_\_\_\_ a. All minors who commit the same offense should get the same penalty.
  
- \_\_\_\_\_ b. The Family Court should be used to put minors in programs like alcohol and drug counseling in which they otherwise would not participate.
  
- \_\_\_\_\_ c. Minors who break the law should be treated the same as adults who break the law.
  
- \_\_\_\_\_ d. The goal of the Family Court should be to punish minors who break the law.
  
- \_\_\_\_\_ e. Minors who break the law should get the death penalty for certain crimes.
  
- \_\_\_\_\_ f. If judges think a minor will commit another crime, then they can give the minor a worse penalty.





## **LESSON 2: JUVENILE JUSTICE – DIPOSITION**

Lesson 2 continues the topic of juvenile crime by introducing the disposition and Family Court sentencing options. The lesson, approximately 50 minutes long, should follow Lesson 1. Judges may choose to share recent examples of dispositions that they have imposed on minors, substituting them for the case studies.

### **Objectives**

- Students will be able to give examples of types of sentences judges may impose on minors.
- Students will be able to apply dispositions rules to a case study.

### **Materials**

Handout 3, Probation Officer's Recommendation

Handout 4, Juvenile Disposition Case Study

Post Test

### **Procedure**

1. Begin the class by introducing yourself. Tell students that today's activity will make them all judges and give them a chance to decide what sentence to impose on a minor.
2. Write the word "disposition" on the board and ask for a definition. Disposition in the Family Court is similar to sentencing in the adult criminal system. Disposition is the process of deciding what penalties will be given to a minor for committing an offense.
3. Brainstorm with students the possible penalties a judge may impose on a minor. Spend about 5 minutes on this activity. Record student responses on the board.
4. Distribute Handout 3, Probation Officer's Recommendation, and tell students that these are possible penalties a judge may impose on a minor. Explain the options that are either particularly punitive, or hard for the students to understand. If possible, provide students examples of dispositions that you have ordered.
5. Distribute Handout 4, Juvenile Disposition Case Study, and tell students to take a few minutes to read it. After 5 minutes, review it with the class to make sure they all understand the case.
6. Break the class into groups of two to three students. Tell students they have 5 minutes to write the penalties they would impose on Lance and Joseph on the back of Handout 4. Ask students if they understand their assignment.

Students are not being asked to apply state law, but to determine what seems like a fair penalty.

7. Have student groups report their dispositions to their other classmates. Record the penalties on the board. Students should justify the penalties they have imposed with reasoned arguments.

8. Tell the students what type of disposition you might have imposed. Conclude by having students restate the meaning of “disposition,” and the types of penalties family court judges may impose on minors.
9. Teacher to conduct post test.

Next week’s lesson requires students to role play. Give teachers Handout 5, Mock Dispositions Hearing Packet and Handout 6, Mock Disposition Hearing Evidence/Statements. Selected students should practice their parts before the simulated hearing.

**(HANDOUT 3 – PROBATION OFFICER’S RECOMMENDATION is here)**

## **Handout 4 – Juvenile Disposition Case Study**

Lance and Joseph were charged with second degree murder in the death of William. Lance is 15. Joseph is 16. Police say this is what happened.

William used to date Lance's sister. He was arrested in January for punching Lance's sister. The Judge sentenced William to six months in prison and one year probation. After serving his sentence, William was released from jail. He got a job at the same restaurant where Joseph worked.

One night, after work, Joseph heard William say bad things about Lance's sister. Joseph told Lance. The next night, Lance came to the restaurant and waited for William to finish work. When William finished work, Lance and Joseph attacked him. They stabbed William several times. William fell to the ground and Lance and Joseph ran away. Paramedics took William to the hospital where he was pronounced dead. Lance and Joseph were arrested an hour later at Lance's sister's house. The two boys were placed in custody at the Alder Street detention home pending Family Court action.

Lance has one prior arrest for a felony. Joseph has never been arrested, but last year he dropped out of high school.

For Lance:

For Joseph:

**Post Test – Lesson 2 – Judges in the Classroom**

You live on an isolated island, part of the independent state of Canine. Dogs are the most sacred life forms in your community. Mistreatment of dogs is absolutely forbidden and the worst kind of crime. Citizens who mistreat dogs are punished.

Your assignment is to compile a list of sentencing options for citizens who are charged with abusing dogs on Canine. Make sure your list of sentencing options covers very serious crimes against dogs (i.e., resulting in death), as well as less serious crimes (i.e., harassment). You can use the **Probation Officer’s Recommendation** handout to get you started.

RECOMMENDATIONS:

**Complete the following sentence with as much information as possible.**

After listening to the judge and completing today’s lesson, I learned

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## LESSON 3: FAMILY COURT ADJUDICATORY HEARING

In Lesson 3, students participate in a Family Court hearing. The lesson, approximately 50 minutes long, is the culmination of Lessons 1 and 2.

### Objectives

- Students will be able to define the role of prosecutor and the role of defender.
- Students will be able to identify the steps in a Family Court hearing.
- Students will demonstrate listening, speaking, and critical thinking skills.

### Materials

Handout 5, Mock Disposition Hearing Packet

Handout 6, Mock Disposition Hearing Evidence/Statements

### Procedure

1. Begin the class by introducing yourself. Tell students that the purpose of this mock hearing is to familiarize them with the Family Court process and to help them understand more about juvenile law.
2. Start the hearing by following this agenda:

(1) Bailiff calls the court to order  
Judge enters

(2) Judge summarizes proceedings  
Announce the case of State v. Nathan Ortiz and read aloud the following:

This is a criminal case brought by the State of Rhode Island charging the defendant, Nathan Ortiz, with robbery in the second degree. In support, the State claims that on March 15, Nathan Ortiz, a 15 year old minor, robbed an Aloha Gas Station of \$227 by threatening the attendant with injury. The State denies that the defendant acted out of duress.

Nathan Ortiz admits that he was present during the robbery on March 15, but claims that he participated in the robbery under force from Raymond Carr who threatened to inflict immediate death or bodily harm upon his mother if he refused to participate.

The burden of proof in this case is on the prosecution and is proof beyond a reasonable doubt. The defendant is presumed innocent until proven guilty.

The case will now follow in this order. The prosecutor will begin with an opening statement, outlining the evidence to be presented to support the prosecution's case. The defense lawyer will then make an opening statement, outlining the case for the defense. The prosecutor will then introduce evidence. At the conclusion of the prosecutor's presentation, the defense may introduce evidence. After all

the evidence has been presented, the lawyers will make closing arguments. Then I will decide the case.

(3) Judge's statement

Ask counsel to introduce themselves and their clients.

(4) Prosecution's opening statement

(3 minutes)

Time for each activity is tracked by clerk who notifies the judge and lawyer of remaining time by holding up cards indicating "2 minutes," "1 minute," "0" remaining.

(5) Defense's opening statement

(3 minutes)

(6) Prosecution's case

Consists of three witnesses with direct examination of 4 minutes each and cross-examination of 3 minutes each:

Officer Tina Chun

Dana Valerno, Gas Station Attendant

Raymond Carr, participant in robbery

(Note: Have the bailiff swear in the witnesses.)

(7) Defense's case

Consists of three witnesses with direct examination of 4 minutes each and cross-examination of 3 minutes each:

Nathan Ortiz, defendant

Mrs. Ortiz, defendant's mother

Kimberly Koto, participant in robbery

(8) Judge's comments

After all of the testimony, read aloud the following so that the students will understand the Family Court process:

For me to find that Nathan Ortiz committed the offense of robbery in the second degree, the prosecutor must have proven either of the following elements beyond a reasonable doubt:

- (a) While committing theft or while fleeing immediately after committing theft, the defendant attempted to kill another, or intentionally inflicted, or tried to inflict serious bodily injury;



Or

- (b) While committing theft or while fleeing immediately after committing theft, the defendant used force against a person to overcome their resistance, or threatened the use of violence against another person who was not present in order to compel acquiescence.

Duress is a valid defense to a charge of robbery in the second degree. To establish the defense of duress, Nathan Ortiz must show that:

- (a) He broke the law because he was coerced to do so by the use of force, or threatened use of force, against him or another person;

And

- (b) A reasonable person in the same situation also would have acted in the same manner.

However, the defense of duress cannot be used if:

- (a) Nathan recklessly placed himself in a situation where he would probably be subjected to duress;

Or

- (b) Nathan was negligent in placing himself in the situation.

(9) Prosecution's closing argument  
(2 minutes)

(10) Defense's closing argument  
(2 minutes)

(11) Prosecution's rebuttal  
(1 minutes)

(12) Verdict  
The judge should then announce the verdict for the state or for the defendant.

(13) Debriefing  
After the hearing, the judge should convene the students for debriefing. During the debriefing, the judge should acknowledge the contributions of the bailiff and clerk. The judge should then offer constructive comments to the students, explaining the reasons for the rulings on objections, discussing the effectiveness of their strategies, and commenting on the performance of the witnesses. The judge may describe how this mock hearing differs from actual cases. The judge

may also describe how juvenile dispositions differ from adult trials, particularly with the absence of juries.

(14)      Adjournment

3. Conclude by reviewing the objectives and answering any questions the students might have.

## **Handout 6 – Mock Disposition Hearing Evidence/Statements**

### **Evidence**

The prosecutor has the money bag with \$227.

### **Witnesses for the prosecution**

Officer Tina Chun

Dana Valerno, Aloha Gas Station attendant

Raymond Carr, participant in the robbery

### **Witnesses for the defendant**

Nathan Ortiz, defendant

Mrs. Ortiz, defendant's mother

Kimberly Koto, participant in the robbery

### **Witness statements**

#### *Officer Tina Chun*

“On March 15, at about 10:27 p.m., as I was cruising the Aloha Gas Station on Kapahulu Avenue, I saw three darkly-clad individuals run out in the direction of the alley behind the station. A call then came through over the radio that the alarm at the station had just gone off.

With some assistance, we apprehended the three individuals, identified as Nathan Ortiz, Raymond Carr, and Kimberly Koto. During the search, we found a bag containing \$227 in Nathan Ortiz's pocket. All three wore a spent shell casing around their neck, a symbol of a new gang in the area; the Shooters. Raymond Carr and Kimberly Koto each wore several gold chains, an expensive watch, and a beeper. Nathan Ortiz did not.

Nathan Ortiz asked to talk to me privately. I took him to the car and Raymond Carr yelled, ‘You had better remember what I told you, Nathan.’ In the police car, Nathan stated that he had only become involved with the Shooters because they threatened to kill his mother.”

#### *Dana Valerno, Aloha Gas Station attendant*

“This is the fourth time our gas station has been robbed in three months – something has to be done. I was working the night of March 15, when three young people came in. Each had an empty shell casing around the neck. That one, the defendant, did all the talking. He was real macho, keeping his hand in his pocket and saying he'd mess me up if I didn't turn over the money. So I gave him the money I had, \$227, and pushed the silent alarm at the same time. They left with the money and then the police came back about 45 minutes later with all three. I was glad to see them caught.”

#### *Raymond Carr*

“I am 17 years old and I plead guilty to robbery in the second degree for the robbery of the Aloha Gas Station on March 15. I belong to the Shooters, but I'm determined to change.

I met Nathan in August when my ex-girlfriend moved into Nathan's mother's house. Nathan followed me and my friends around, trying to join our group, the Shooters. We weren't really interested; he just seemed like a loser. He asked how he could get some nice clothes and gold like we all work. I told him we didn't need him, but he pushed us and finally we agreed to give him a chance to prove himself.

In early October, Nathan showed us a newspaper article about a gas station that had been robbed a bunch of times and said it must be an easy target. My ex-girlfriend, Kimberly, and I decided this might be a good test for Nathan to join the Shooters. We did the job, with Nathan acting like a big hero, talking mean to the gas station attendant.

Then we got caught, and he acts like a little kid, trying to make like we forced him to do something he didn't want to do. I don't remember saying anything to Nathan when we got caught. The truth is he wanted to be a Shooter and now he can't take his medicine.

My ex-girlfriend and I split up around that time because I was seeing another lady. She's angry at me now and lying to get even with me."

*Nathan Ortiz*

"I'm 15 years old and a junior at Radford High School. My mother runs a rooming house; that's all the money we have for me, my mother, and my two sisters.

Kimberly Koto moved into the rooming house in August. She was a member of the Shooters and used to have noisy parties all the time. The people who came to her parties all wore bullets around their neck and dressed in fancy clothes and jewelry. She paid her rent on time, and soon a lot of the Shooters moved in.

I never wanted to have anything to do with the Shooters, but it was hard to ignore them since I was living in the same building. Raymond Carr, Kim's boyfriend, started to hassle me to join the Shooters, telling me I'd get money, nice clothes, and jewelry. When I kept telling him no, he said that he had a way to get me to join. He told me if I didn't join up, he'd kill my mother. I was afraid. I'd known other people who'd gotten mobbed because they didn't join.

On March 15, in the afternoon, Raymond came by and said this was the day. He said his patience had run out and I was either going to help out with a robbery at the gas station or I could say goodbye forever to my mother. I only went with Raymond and Kim that night because I was afraid they would kill my mother if I didn't come."

*Mrs. Ortiz*

"My son is a good boy. I warned him to stay away from that gang. I had to keep those people in my rooming house because the neighborhood has gotten so bad and they are the only paying customers. The police have been to the house several times for fights at their parties. They're a mean bunch, and I'm sure my son is innocent. I know they forced him to do what he did."

*Kimberly Koto*

“I am 20 years old and I’ve lived at the Ortiz’s rooming house for about a year. I used to be Raymond Carr’s girlfriend, but we broke up just after the Aloha Gas Station robbery. Raymond used to be so cool, but when he started threatening Nathan’s mother, I said forget it.

I met Nathan in August when I moved into the rooming house. He was a nice kid, but kind of lonely and insecure. I think he looked up to us older kids who seemed to have it all – you know, like cars, money, jewelry, clothes. Raymond decided to play a game with Nathan – just to see how far he would go. He knew that Nathan and his mother were real close, so he played that to get Nathan to rob the gas station. I wasn’t there when Raymond talked to Nathan, but I’m sure he told him he’d hurt Nathan’s mother if Nathan didn’t join up with us.”

# MEDIATION

## **Lesson Overview**

Students at this level will learn about alternative dispute resolution (mediation and arbitration) and their places in the legal system. Through role play situations, students will practice these alternative methods of resolving disputes and conflict. If their school does not already have one, students will be encouraged to set up a peer mediation program. Students will be introduced to the fundamental principals of dispute resolution, serve as mediators in various hypothetical situations and learn about dispute resolution in other cultures.

## HANDOUT #1

**What is Mediation?** Mediation is a way to resolve problems between people. The people who are in conflict are called disputants and they have agreed to ask a third person or mediator to help them solve their problem. Most mediation is voluntary. In other words, the parties agree to mediate, they agree to the rules that will be followed during the mediation, and to the solution that is reached as a result of the mediation.

The mediator's role is to allow each party an opportunity to tell his/her side of the story; to identify the facts and issues that are in conflict; and to suggest alternatives that would help solve the problem. As a facilitator, the mediator tries to surface underlying concerns and help the parties arrive at a solution to which both sides can agree. Sometimes a mediator may discuss the problem alone with a disputant in order to find out where they can agree. In that case, the mediator brings the parties together to find common ground. Other times a mediator may ask the parties to reverse roles so they can better understand the other person's position.

It may take one meeting or several before a solution is reached that is acceptable to both parties. A mediator cannot force a decision over the parties. If the parties wish they may write up their agreement in a contract that will be enforceable by law.

### **Steps of Mediation:**

#### ***Step 1: Introduction***

The mediator sets the parties at ease and explains the ground rules. The mediator's role is not to make a decision but to help the parties reach a mutual agreement. The mediator explains that he or she will not take sides.

#### ***Step 2: Telling the Story***

Each party tells what happened. The person bringing the complaint tells his or her side of the story first. No interruptions are allowed. Then the other party explains his or her version of the facts.

#### ***Step 3: Identifying Facts and Issues***

The mediator attempts to identify agreed upon facts and issues. This is done by listening to each side, summarizing each party's views, and asking if these are the facts and issues as each party understands them.

#### ***Step 4: Identifying Alternative Solutions***

Everyone thinks of possible solutions to the problem. The mediator makes a list and asks each party to explain his or her feelings about each possible solution. The advantages and disadvantages to each solution are discussed by the parties.

#### ***Step 5: Modifying and Discussing Solutions***

Based on the expressed feelings of the parties, the mediator revises possible solutions and attempts to identify a solution on which both parties can agree. The mediator may ask to talk with each party individually in order to find out where middle ground can be met. Another

technique a mediator may use is called role reversal where the mediator asks each disputant to repeat what they hear the other party saying.

***Step 6: Agreeing on a Solution***

The mediator helps the parties reach an agreement that both can live with. The agreement should be written down. The parties should also discuss what will happen if either of them breaks the agreement.



### **Mediation Role Play Activity**

Directions: Read only the role you have been assigned. Act out how you think that person would handle a mediation session. Be prepared to share your group's solution with the class.

## **Mediator's Information**

You are a volunteer mediator at the Neighborhood Justice Center. The city attorney diverts to your program minor complaints of vandalism, theft, etc. She has referred this matter to you for an out-of-court resolution. Mr. /Mrs. Wilson has complained that Dennis/Denise through a brick through the windshield of his car. The city attorney, rather than treating this as a criminal matter prefers that the parties solve their own problem through mediation.

You should explain that the parties should make a good faith effort to solve their problem here and now as any criminal case will involve much more time and effort on the part of both parties.

Try to get at the parties' underlying concerns and urge them to come up with their own solution.

## **HANDOUT #4**

### **Mr. /Mrs. Wilson's Confidential Instructions**

You have filed a complaint against Dennis/Denise the Menace with the City Attorney. The lawyer in the City Attorney's office referred you to the local Neighborhood Justice Center which scheduled a mediation hearing. You are not sure what mediation is about, but you are angry with Dennis/Denise and you think that he/she should be punished for this act of vandalism.

Dennis/Denise broke the windshield on your car by throwing a brick through it. You did not see Dennis/Denise throw the brick, but just before the windshield was broken you and Dennis/Denise had exchanged angry words. You had gone into the house and a short time later came out to find the windshield broken.

You want Dennis/Denise to pay for the damage. You have one estimate for \$700 from a local Oldsmobile dealer. You have insurance that could cover the damage, but you would have to pay a \$200 deductible. You want Dennis/Denise to pay the full amount because you fear your insurance rates would rise if you submit a claim.

You have lived next to Dennis/Denise ever since he/she was born, 18 years ago. You have watched him/her grow up and until lately you have always shared a special relationship with Dennis/Denise. Ever since he/she graduated from high school, he/she has not had time to visit with you and you miss the special times you had together. Shortly before the brick incident you had asked Dennis/Denise why he/she hadn't mowed your lawn that week as you hired him/her to do. You don't understand kids these days and think Dennis/Denise has turned into a selfish member of the "me" generation.

## **HANDOUT #5**

### **Dennis/Denise's Confidential Information**

Mr. /Mrs. Wilson has filed a complaint against you with the City Attorney and the local Neighborhood Justice Center. Mr. Wilson claims that you broke the windshield in his car by throwing a brick through it. The Neighborhood Justice Center has scheduled a mediation hearing. You don't know exactly what this means, but you are worried because you have just turned eighteen and don't want this to become a criminal matter in adult court. You did break the window in a fit of anger. However, the incident happened last Saturday in the early evening just as it was getting dark, and you are pretty sure that no one saw you.

You are eighteen years old and have known Mr. /Mrs. Wilson all your life. When you were a kid, you used to spend a lot of time visiting the Wilson's and Mr. /Mrs. Wilson often took you to sporting events as a special treat. Since junior high you have been hired by the Wilson's to mow their lawn every week during the summer. But since graduating from high school you have been too busy working two jobs (to save money for college) and sometimes forget to mow Mr. /Mrs. Wilson's lawn. You have never explained to Mr. /Mrs. Wilson why his/her lawn hasn't been done.

Last Saturday, you had just turned in the driveway when Mr. /Mrs. Wilson ran out of his house to talk to you. In a screaming voice he yelled how irresponsible and untrustworthy you were. You were embarrassed and responded by yelling back. Mr. /Mrs. Wilson slammed the door as he/she went inside. You went in your house, but just thinking about the incident made you angry and later in a fit of rage you picked up the brick and threw it not intending to hit the windshield. You are embarrassed about acting childishly and you would rather Mr. /Mrs. Wilson didn't know that you broke the windshield but you do value Mr. /Mrs. Wilson's friendship.

You are unwilling to pay for the windshield because you assume Mr. /Mrs. Wilson has insurance that will replace the windshield.

# DEBATE

## Lesson Overview

1. Students will understand and apply basic concepts in debate and argument theory.
2. Students will practice organizational techniques and procedures.
3. Students will think critically about how arguments are evaluated and criticized.
4. Students will communicate ideas and arguments through debate and public speaking exercises.

## Teaching Procedures

### **Week One:**

1. Students will learn and use a variety of vocabulary terms in basic debate and argument theory. These key terms include: resolution, topic, case, affirmative, negative, claim warrant, data, evidence, stock issues, harm, plan, solvency, advocacy, persuasion, analysis, flowing, and burden of proof.
2. Students will learn the order of the speeches in a formal, four-person debate.
3. Students will discuss and critique various kinds of evidence used in everyday argumentation as well as in formal debate.
4. Students will think critically about the sources of evidence commonly used in debate and argument.
5. Students will understand basic models of persuasion and argument.
6. Students will apply the concepts of affirmative and negative in basic, abbreviated one-on-one debates on topics of their choosing.
7. Students will develop the ability to take notes in the formal fashion required by team debating.
8. Students will critique and evaluate their own and their classmates' performance in their debates through a series of brief, written critiques.

## Day One: Introduction to Debate

Ask students if they have ever seen a debate – live, on television or radio, etc. If they have no examples, walk them through some of your own. Use examples of political debates or debates on talk shows. Ask students what makes a debate different from normal communication. Items include:

- Established topic
- Difference of opinion
- Making points, answering points
- The presence of an audience or judge who is the object of persuasion
- The need to develop the position presented
- The need to respond to arguments made by the other side

Debates are largely composed of arguments, most of which relate to each other in varying ways. Ask the students what an argument is. Tell them that a major purpose of this unit is to learn what an argument is. The point is to show the difference between an argument and a *claim*. A claim just says something is so, but an argument attempts to prove *why* something is so.

Ask students to provide examples from everyday life where people use arguments against each other.

- In business
- In school discipline matters
- In parent-child relations (allowance, hours, car, etc.)

Ask students about issues that they would like to see debated – issues that matter to them. Examples might include locker searches at school, the teen dance ordinance, Napster, the death penalty, year-round school, or surveillance cameras in their neighborhoods. They might also want to talk about issues from everyday life: who is the best band, whether sports teams should trade certain players, whether certain TV series should be cancelled, etc.

Have the students pick topics and write them on a piece of paper. Tell the students that their topic must be directional; that is, it must be a persuasive topic (“Alex Rodriguez makes too much money,” “The death penalty should be banned,” “School lunches are better than fast food,” “Napster should be allowed to continue operating.”) Tell the students that the next day they will be required to give a short speech in support of the topic they have chosen.

Suggest that the optimal form for this speech is modeled on the form for a five-paragraph paper. They should have an introduction (where they state their name and their topic); there should then be a body of the speech, in which they give at least three points in support of their topic, complete with *reasons why* their points are valid; finally, they should conclude by restating their topic and summarizing their arguments. Tell the students they will be expected to speak for two minutes.

## Day Two: Short argumentative speeches

Have students give short speeches on their pre-selected topics. Have them come to the front of the room to speak, and be sure to make them stand. Tell students they will cast ballots at the end for who did the best job. This ensures that the whole class will pay attention to each speech. The idea here is to get the students speaking. It doesn't matter how long they talk or what they say, really, as long as they speak.

Don't be afraid to join in and give a speech yourself if they falter. If you do speak, try to give a speech that you think many students might disagree with. This might encourage them to speak and disagree with you. Allow some students to speak twice if they want to. Encourage students to respond to what others have said in their speeches, but make sure the discussion remains polite and orderly.

At the end of the class, have students write on a piece of paper who did the best job and why. Collect these responses, and the next day announce the top three finishers.

### **Day Three: Evidence and Reasoning**

Introduce students to the debate unit. Explain the importance and relevance of debate education. Explain the importance of critical thinking and argument analysis using examples such as media literacy and consumer awareness as well as informed political decision-making. Explain that argument literacy is key to success in high school and beyond; use the example of the well-written research paper and the effective corporate memo as places where argument education can be instrumental.

Ask students what an argument is. Encourage them to distinguish between simple claims and arguments. Explain that arguments attempt to prove a point, whereas claims just state the point without offering proof. Show the basic structure of an argument, either on the board or via overhead projector: claim, warrant (reason why), data (evidence). Ask the students what kinds of things constitute proof in everyday life. Make a list of their ideas on the board. [Key terms: warrant, data, claim]

Introduce the students to the notion of *persuasion*, understood as rhetorical proof, or proof through communication. Using the example of commonly known advertisements, walk the students through the process of persuasion used by advertisers attempting to persuade consumers to purchase their product. Point out that proof in communication is different from proof in formal logic, because proof in communication relies on persuading a listener to adopt a particular conclusion.

Give the students the attached handout (1) dealing with types of reasoning. Go over the handout, asking students to provide additional examples for each type of reasoning. [Key terms: examples, hypothetical, analogy, sign, cause, testimony, narrative]

Discuss why it is important *where* evidence comes from. Talk to the students about issues of qualification and authority.

#### **Day Four: Affirmative and Negative**



Explain that formal debate is different from informal discussion. Formal debate uses a series of structures and conventions, while informal discussion is exactly that: informal. One of the key concepts that structures debates is the *resolution*. The resolution is the topic for debate, and is called a resolution because it always begins with the phrase “Resolved: That...” Explain to the students that there are three basic kinds of resolutions: *resolutions of fact*, *resolutions of value*, and *policy resolutions*. Explain the basic differences. A resolution of fact sets the stage for a debate about the facts (“Resolved: That Eli Whitney’s invention of the cotton gin started the Civil War.”); likewise resolutions of value (“Resolved: That studying math is more important than studying English”) and policy (“Resolved: That school uniforms should be required”). Give them the attached handout (2) and encourage them to work with a partner to identify what kind of resolutions are in the list. Go over their responses in class.

Resolutions structure discussion in debate by *dividing ground* for discussion into two sides: *affirmative* and *negative*. Explain to the students that the affirmative always argues for the resolution, agreeing with its basic claim, while the negative argues against the resolution. In debate, the affirmative has the *burden of proof*; that is, it is the job of the affirmative to prove the claim made by the resolution. It is the job of the negative to dispute the affirmative’s claim so that the judge(s) are not convinced, at the end of the debate, of the veracity of the resolution. In this way debate is based on a legal model: the affirmative might be seen as analogous to the prosecution because it shoulders the burden of proof. The negative is like the defense insofar as they have a lighter burden of proof, and must only negate the claims of the affirmative. There is no one way to argue either side, however, which is one of the things that make academic debates so interesting. Go over a few examples with the students to make this point clear.

- (1) Debating resolutions of fact. Given the example from above: “Resolved: That Eli Whitney’s invention of the cotton gin started the Civil War,” ask the students how they would affirm the resolution. What other kinds of facts need to be established to prove the factual claim asserted by the resolution? Ask the students how they might negate the resolution.

When we try to adjudicate questions of fact, we must look at many hypotheses. This is especially true when we consider a question of causality like the Eli Whitney question. In this hypothetical debate, the affirmative would most likely argue that the economic effects of the cotton gin created the critical mass necessary to start the Civil War. To negate the resolution, a team might argue that slavery was the real cause of the civil war. At the end of a debate, when the judge decides about a resolution of fact, they decide whether or not the factual claim defended by the affirmative is true.

- (2) Debating resolutions of value. Given the example from above: “Resolved: That studying math is more important than studying English,” ask the students how they would affirm the resolution. How do we “prove” values? We can’t do it in the same way we prove facts, can we? Ask how we decide whether something is important. Point out that different things are important to different people in different situations. This necessitates the use of something called *criteria*, which are simply yardsticks we decide upon to figure out what kinds of values we’re going to embrace.

In the math/English example, students might affirm and negate the resolution just by arguing the benefits of math and the benefits of English. Which would be fine. But what such a debate would miss is a *comparative instrument* to facilitate a final or provisional decision. At the end of the debate, when the judge decides about a question of value, they decide whether or not the value defended by the affirmative should be upheld.

- (3) Debating resolutions of policy. Given the example from above: “Resolved: That school uniforms should be required,” ask the students how they would affirm the resolution. Resolutions of policy are more complicated than either of the previous two examples because they include questions of value and questions of fact in their formulations and resolution.

In policy debate, all resolutions are written in the same basic format: “Resolved: That \_\_\_\_ (agent) \_\_\_\_ should \_\_\_\_ (verb) \_\_\_\_ towards \_\_\_\_ (object) \_\_\_\_.” That is, in policy debate, we debate about whether someone should do something about something. Tell the students that when they have their debates next week, they will be required to debate on a policy topic of their choosing which should be written in this form and turned in to you in advance.

### **Day Five: Assigning the Debates**

Tell the students that their primary grade for this unit will be based on the effort they put into their debates, to occur on days 9 and 10 (presumably, but not necessarily Thursday and Friday). You may wish to have either one-on-one debates or two-on-two debates, depending on class size. Two-on-two debates are recommended because they teach partnering skills and allow

for more in-depth exploration of the topic. Explain the format for the debates to the students, teaching them some basic vocabulary for the debates.

Tell the students that formal debate has three kinds of speaking opportunities:

- *Constructive Speeches*. In two-on-two debates, every debater gives one constructive speech. These are speeches in which the major arguments of each side are developed.
- *Rebuttal Speeches*. In two-on-two debates, every debater also gives one rebuttal speech. These are speeches in which the major arguments of each side are extended and summarized.
- *Cross-examination*. Between every constructive speech, there is a cross-examination period where the speaker is questioned by a member of the other team.

Tell the students to choose partners. Write down the list of partners, and then form them into groups of four. In these groups of four, one team will be affirmative and one will be negative. Leave them in suspense as to which team will be which side until later. This will encourage the groups to work together. Tell each group of four to come up with a topic they will debate and to write it as a resolution using the form they have learned. This should be turned in by the end of the class period.

Explain how they will be graded for their debates. The exact criteria you will use are, of course, up to you, but I suggest emphasizing preparation and performance. The idea here is to encourage the students to have content-heavy speeches that engage in basic reasoning and refutation skills. Tell them they will be required to turn in their research after they debate.

Consider taking the students to the library if you have time at the end of class today to get them started researching their topics.

## **Day Six: Research**

Take the students to the library today. Assist them in gathering articles and evidence for both sides of their proposition. Have the groups work together by dividing up sources and articles. At the end of class, have the groups meet and redistribute articles so that everyone has something to read overnight. Tell the groups they should be prepared to present their findings so far in class the next day.

## **Day Seven: Argument Construction**

Begin class by having the groups present their findings so far on their topics. Tell them they will have to continue researching and exploring their topics on their own. Assign sides to the groups so that they know who will be affirmative and who will be negative.

Talk to the students about what to expect in their debates. Explain that both sides will have to *make a case* for their side of the topic as well as *refute* the case of their opposition. For this they will require organized evidence and contentions. Distribute handouts (3) and (4), dealing with making cases and refutation. Go over the basics of four-step refutation with the students. Have them play a game called “I Disagree,” which works as follows:

- Have the students form two single-file lines in the middle of the class. The team on the left will be the “affirmative,” while the team on the right will be the “negative.”
- The first person on the affirmative will make a claim. Any claim. The person opposite them on the negative line must then refute the claim using four-step refutation (“They say.... But I disagree.... Because.... Therefore....”).
- Those two then go to the back of the line and the process repeats. When everyone has been through their line, the teams should switch so that the team on the right is now affirmative. Switch as necessary.

### **Day Eight: Preparation**

Have the groups work together in class today in preparation for their debates. Encourage the groups of four to work as a whole, since their grades will be interdependent. Circulate among the students, helping them to build their cases and prepare their speeches. Expect a lot of anxiety about the format and the content of the debates. Keep the students calm, and make sure you choose the most together students to go first and set a good example for the rest of the class.

### **Day Nine and Ten: Debates**

Have the debates on these days. Consider having panels of student judges who will have to evaluate the debates afterwards and turn in written critiques saying who won and why. Collect the research materials and preparation done by the students after they debate. Have one non-debating student who is responsible for keeping time.

## Handout 1

### Types of Reasoning

#### 1. Reasoning from examples

Examples are specific instances that are used to illustrate a more general claim, and the inference is that the specific is typical of the general. There are several different kinds of examples speakers can use to make their points.

- Individual vs. Aggregate. Sometimes, a speaker will describe individual occurrences to show that a general case is true – you might talk about three people having trouble paying for college to support the proposition that paying for college is a serious problem. Other times, the aggregate may be more important. You might cite a study saying that most people have cheated on an exam to show that cheating is a serious problem.
- Factual vs. Hypothetical. Factual examples actually occurred, while hypothetical examples are a kind of poetic license by the speaker. Speakers use hypothetical examples to make concrete what might otherwise seem remote to the listener.
- Brief vs. Extended. Sometimes it is useful to list examples quickly because what matters is the existence of the cases rather than their details. Other times the details of the case will help you persuade your audience.

#### 2. Reasoning from analogy

An analogy is a comparison of people, places, things, events, or more abstract relationships. Inferences from analogy work by linking what is known to what is unknown.

#### 3. Reasoning from signs

A sign is something that stands for something else. Usually, what it stands for is an abstraction or something we cannot observe directly, so we infer its existence from the occurrence of a sign. For example, if many students are absent from class then it might be a sign of a flu epidemic.

#### 4. Reasoning from cause

One of the most difficult types of reasoning is reasoning from cause. A causal inference unlike a sign inference, *explains* the relationship between things by pointing to the influence of one thing on the other. Causal inferences relate things by identifying one as the cause and the other as the effect. Though causal reasoning is complex, a few basic types may be singled out:

- Prediction: Causal inferences sometimes explain changes by predicting what lead to what.
- Assignment of Responsibility. A second common type of causal inference may seem just the opposite: assigning responsibility for an action after it has occurred. In this kind of reasoning, we try to divine motivations or causes which resulted in observed phenomena.
- Explanation. Sometimes causal inferences are used to explain situations that otherwise would not make sense. You might be asked to speak on the questions: “Why, in the richest nation on earth, are there shortages of funds for virtually every social program?” Investigating this question, you might find that one cause is that Americans prefer private investment to public investment.

#### 5. Reasoning from testimony

Reasoning from testimony occurs when you use the opinions of others to make a point. You may use expert testimony or testimony from average people to make your points, though experts are generally more credible and *qualified*.



## **Handout 2**

### **Examples of Resolutions**

Resolved: That the federal government should increase regulation of the mass media.

Resolved: That the United States should lift its sanctions against the nation of Cuba.

Resolved: That sunbathing causes cancer.

Resolved: That drug testing violates individual privacy.

Resolved: That rock music undermines family values.

Resolved: That abortion should be made illegal.

Resolved: That dropping the atomic bomb was necessary.

Resolved: That the federal government should act to restrict the consumption of fossil fuels.

Resolved: That advertising is detrimental to the American way of life.

Resolved: That affirmative action is necessary to promote social justice.

Resolved: That the America educational system should be reformed.

Resolved: That the federal government should restrict immigration into the United States.

Resolved: That the city of Seattle should increase social services for the homeless.

Resolved: That Washington should adopt a policy of rent control.

### **Handout 3**

#### **Debate Structure and Style – Introduction**

Formal policy debate involves two teams, with two individuals on each team. One team argues for the affirmative side of the resolution, while the other team argues for the negative. Each debater speaks twice during the course of a debate. They will give one *constructive* speech and one *rebuttal* speech.

On the affirmative side, one team member is the *first affirmative speaker*, while the other is the *second affirmative speaker*. On the negative side, the speakers are known as the *first negative speaker* and the *second negative speaker*.

The order of the speeches is as follows:

1. First affirmative constructive
2. Cross-examination (2N questions 1A)
3. First negative constructive
4. Cross-examination (1A questions 1N)
5. Second affirmative constructive
6. Cross-examination (1N questions 2A)
7. Second negative construction
8. Cross-examination (2A questions 2N)
9. First negative rebuttal
10. First affirmative rebuttal
11. Second negative rebuttal
12. Second affirmative rebuttal

Although this may seem confusing, it will get easy to remember with practice.

Constructive speeches are always longer than rebuttal speeches, since they are for the presentation and development of arguments. Rebuttals are for summary and comparison. In your debates your time limits will be 4 minutes for constructives and 2 minutes for rebuttals.

Decide with your partner who will be the first speaker on your team and who will be the second.

## Handout 4

### What goes in these speeches?

You will learn more about this during the course of the semester. Very basically, the purpose of each speech is as follows:

1<sup>st</sup> Affirmative Constructive: Presents affirmative case (harms, plan, solvency)

1<sup>st</sup> Negative Constructive: Presents initial attacks against affirmative case

2<sup>nd</sup> Affirmative Constructive: Answers negative attacks, reiterates the value of the affirmative case

2<sup>nd</sup> Negative Constructive: Refutes affirmative answers to 1NC arguments, develops the original negative arguments.

1<sup>st</sup> Negative Rebuttal: Refutes affirmative answers to 1NC arguments, develops the original negative arguments.

1<sup>st</sup> Affirmative Rebuttal: Refutes 2NC/1NR arguments, reiterates affirmative position.

2<sup>nd</sup> Negative Rebuttal: Summarizes negative position, explains why the negative is winning the debate.

2<sup>nd</sup> Affirmative Rebuttal: Summarize affirmative position, explains why the affirmative is winning the debate.

# Synopsis of the Constitution

The following synopsis of the constitution can be used to have students create their own memory devices.

### Complete text of the Preamble:

*We the people of the United States, in order to form a more perfect Union, establish Justice, insure domestic tranquility, provide common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.*

Article I: This part states that the government has a legislative branch that makes laws. There are two groups of representatives: the House of Representatives and the Senate. Together they are called Congress.

Article II: This part states that the government has a President as leader of the Executive Branch and that this person has powers, restraints, and duties.

Article III: This part describes the Supreme Court and its powers and restraints. Treason is also defined in this part.

Article IV: This part describes the powers of the states and the relation of states and territories to the federal government.

Article V: This part explains how the Constitution can be amended or changed.

Article VI: This part states that the Constitution is more important than state laws. States may make their own laws but these must not be opposed by the constitution.

Article VII: This part explains the process by which the Constitution must be ratified, or approved.

### **Bill of Rights & Amendments**

First Amendment: Congress cannot pass laws that take away Freedom of Religion, Freedom of speech, Freedom of press, Freedom to assemble, and Freedom to petition (to ask government to correct wrongs)

Second Amendment: Because a fighting force of citizens might be needed in an emergency, states have a right to allow people to keep weapons in their homes.

Third Amendment: People don't have to let soldier stay in their homes during peacetime.

Fourth Amendment: Unless the government has good reason, people, their homes or their things cannot be searched or taken away from them. Police usually have to get permission from a judge to arrest someone or to make a search.

Fifth Amendment: People don't have to give evidence against themselves in court. If they have been found innocent of a crime, they can't be tried again for the same crime. People have to be treated fairly by the law, and cannot have their lives, liberty, or property taken from them unless it is fair.

Sixth Amendment: People accused of a crime can have a lawyer and a trial by jury. They have to be told what they are accused of, and then can ask questions about it.

Seventh Amendment: If a disagreement between people is about something more than \$20, they can have a jury trial.

Eighth Amendment: People arrested can be free while they wait for their trial if they pay money in the court as a way of promising they will return to the court for their trial. If they show up, they get this money, called "bail", back. Fines have to be fair. And people found guilty cannot be punished in cruel or unusual ways.

Ninth Amendment: The rights listed above aren't the only ones people have. Any not mentioned in the Bill of Rights automatically belong to people.

Tenth Amendment: Any powers that do not belong to the national government belong to the states. The U.S. government has only those powers listed in the Constitution.

XI. Regarding lawsuits against states (1798).

XII. Procedure for electing President and Vice President. (1804)

XIII. Abolished Slavery (1865)

XIV. Describes the rights of citizens, how representatives in Congress will be appointed, and guarantee of due process of law and equal protection of the laws. (1868)

XV. The right to vote for former slaves guaranteed (1870).

- XVI. Income Taxes (1919).
- XVII. Direct election of Senators (1913).
- XVIII. Prohibition of intoxicating liquors (1919).
- XIX. Women's right to vote (1920).
- XX. Presidential and congressional terms of office (1933).
- XXI. Repeal of Prohibition, the Eighteenth amendment (1933).
- XXII. President's term limited to two terms (1951).
- XXIII. Provision of electors for the District of Columbia (1961).
- XXIV. Abolition of the poll tax as a voting requirement (1954).
- XXV. Presidential disability and succession of office (1967).
- XXVI. Eighteen-year-olds receive the right to vote (1971).

## **The Law in your life**

### To the Teacher:

Everyday the Constitution and the law influences our lives. Too often we think of how the legal system prevents us from doing things, but it also protects us and enables us to do things without fear of harm. When you wake up in the morning the protection begins. The alarm clock you own may have a warranty, the ingredients are listed on your cereal box by law, and the milk you drink must be sold by the date stamped on the carton. Have your students create legal timelines for their lives to show how the law interfaces with everyone's life.

### Purpose:

To have students identify significant events in their lives and to see how those events in their lives and to see how those events relate to the legal system. To practice putting events in chronological order.

### Procedure:

Tell your class that they are going to be historians. Historians do not record everything that happens, they must be selective. Tell students to make a random list of events in their lives that they believe are significant. There is no right or wrong to this exercise because each of us is an expert on ourselves. Whatever they decide to include in the list is valid. Next, have them put a checkmark beside any event that is law-related. Some discussion examples will help.

- Birth ... a birth certificate is a legal document.
- Birth of a brother or sister
- Pets ... license and leash laws
- Toys ... regulatory agencies are concerned with safe toys
- Games ... rules and procedures
- School ... compulsory school attendance

If the teacher does a timeline along with the students, it will help them to see how the law continues to influence our lives as we get older.

### Extending the Activity:

Students create timelines for their parents and grandparents which will further broaden their perspective. It is interesting to also include major legal events in adults' timelines. For example, significant Supreme Court cases could be placed on the timeline. For a good

background of the history of the Supreme Court see *The Supreme Court* by Ann Weiss. Enslow, 1987.

This book tells the story of the Supreme Court from its creation at the constitutional convention to the present time. A variety of cases give the reader a picture of the United States Supreme Court and its justices. Landmark cases such as *Marbury v. Madison*, *Brown v. Board of Education*, *McCullough v. Maryland*, and *New Jersey v. T.L.O.* Background for the case and discussion for the case and discussion of the impact of the decision is included.

## **Law Related Scavenger Hunts**

### Purpose:

To become aware of how our environment is regulated by law and to practice classifying skills.

An interesting homework assignment is to have students make a list of every item at home that is regulated in some way by the law. The kitchen is an especially good place to find law-related items. Encourage students to find and record and written information on items such as “Patent Pending”, or where an item is manufactured. Anything that is imported to the United States is subject to a special set of regulations. Medicine cabinets are a rich source of law-related items. Clothing and linens will have tags with information and we all remember reading the tags on pillows and mattresses that are not to be removed.

When students bring in their lists, determine some ways to categorize the information. It could be done by items found in the kitchen, living room, bedroom, bathroom, etc. Or the items could be classified by things we wear, things we use, large and small.

# **Cruisin’ and Boozin’ Rights, Privileges, and the Designated Driver**

## Lesson Overview

This lesson was created with the purpose of better reaching students with academic and behavior problems and to promote a more positive relationship between the students and those in a position of authority. These students have an enormous interest in the privilege of driving a motor vehicle but often disregard or are unaware of the responsibility that goes along with holding a drivers license. This lesson will also consider the role of the designated driver.

## Objective

As a result of this lesson, students will:

1. differentiate between a right and a privilege;
2. understand that laws are made to protect society;
3. gain knowledge of the First and Fourth Amendments;
4. examine and distinguish the proper role of a designated driver;

5. develop a more positive attitude toward law enforcement personnel.

### **Teaching Procedures**

1. Distribute copies of the amendments and related provisions from the state to the class. The students should follow along as the teacher reads. Discuss. Have the students look up the word “privilege” and “right” in the dictionary. Teachers should put the words on the board as column headers. The students should brainstorm possible examples of each. The teacher needs to facilitate so that the examples are listed under the proper column. Teacher should make sure that “driving” is listed if the students fail to suggest it themselves. (I think you will find that most students feel they have the right to drive, when driving is actually a privilege.)
2. Students should use their dictionaries to look up the word “society.” Ask students if young people would be included in this definition.
3. Have the students look through their state driver’s manual to support the fact that driving is a privilege.
4. Brainstorm reasons that an individual might lose the privilege of driving. Write those reasons on the board and discuss. Most likely, drinking and drug use will be suggested. Teacher should add these topics to the list if not suggested. Have students look through the driver’s manual to clear up any misconceptions.
5. Briefly discuss vocabulary terms: search, seizure, probable cause, legal, illegal, warrant, consent, reasonable, and unreasonable.
6. Handout scenario one and read it to the class. Allow students to work in teams to formulate questions, keeping the amendment and provisions in mind.
7. Discuss student questions and the discussion questions listed, or any that are pertinent to particular needs of the classroom.
8. Repeat steps 6, 7, and 8 using scenario two. Compare and contrast the two scenarios.

### **Evaluation:**

1. Informal evaluation could be done through observation of the students during the classroom discussion and small group work. The teacher could grade the questions prepared by the students and check the accuracy of the answers they would record on the paper.
2. Role playing could be utilized by dividing the students into three groups.
  - a) The first group would create their own scenario involving a designated driver and a group of underage friends drinking alcoholic beverages.
  - b) The second group would take the role of the designated driver and passengers in the contrived scenario
  - c) The third group would take the role of the law enforcement officer stopping the car.
3. Have the students research their assigned roles with the help of the teacher. A neutral party could be brought into the classroom to judge and decide which group did the best job with their role. The students could also switch roles if time allowed.

### **Debriefing:**

A brief overview of the listed discussion questions with student input would serve as a good debriefing exercise. Chances are good that the students will bring their own experiences into this review. Ask the students to define a right and a privilege. The teacher should briefly summarize the blackboard or flip chart activities. All new vocabulary terms should be included in this review.

Questions should be included to see how the students felt about playing the different roles from the scenarios. Do they feel differently after seeing the law through the perspective of others?

#### Optional Activities:

Our students enjoy writing their newly-learned vocabulary words on one set of large index cards with the law related term on one side and a concise definition on the other.

A comparison of each state's legal driving ages could be made by utilizing the Internet. Students could journal their feelings from their role play.

#### Scenario One:

Another Friday night has come around and Jeff is bummed. His friends take turns driving each other around for the evening while they party. Tonight is his night. Jeff borrows his step-brother's 1988 Cutlass and heads out to pick up his friends.

He picks up Lisa first, and she climbs in the front seat with him. Lisa is fifteen and can't wait until she is sixteen, like the rest of the group, so that she can get her own driver's license.

Together they head to Amy's house where Tony and Scott are also waiting for a ride. Amy's stepmother is out of town, so the group decides to kickback and has a few beers there to loosen up before the party. Jeff has nothing to drink, after all, it is his turn to be the designated driver. At 9:00 P.M. they load a case of beer into the trunk and climb into the car. Amy, Scott, and Tony ride in the back seat. They are off to the party. Officer Jones sees a family-type car drive by his patrol car. He observes boys and girls riding in the car. The time is 9:10 P.M. He notices that a taillight is not working on the rear of the car. Patrolman Jones pulls the driver over and informs Jeff about his taillight. The officer smells beer but cannot see any beer cans. The kids all look like they are under the legal drinking age. Jeff, the driver, does not appear to have been drinking, but the officer feels it is his duty to search the car. Jeff offers no information to help clear the situation. Patrolman Jones decides to check the trunk of the car, where he finds a case of beer.

#### Scenario Two:

Lisa, Amy, Scott, and Tony are at a beer party on a Friday night. The party started off at 9:00P.M. and they have been drinking since that time. Amy makes a phone call to Jeff after midnight asking for a ride home because she feels that the group has had too much to drink. Jeff says he will be there in about a half an hour.

Officer Jones sees a family type car drive past his patrol car about 12:45 A.M. He notices that the rear taillight is not working. He pulls the car over to inform the driver of the



malfunction. Patrolman Jones notices that the kids in the car appear to be under legal drinking age, but he smells beer. He does not see any beer cans, however.

Officer Jones does not smell any alcohol on Jeff's breath. Jeff tells the officer that he is the designated driver and is assuming responsibility for his friends by getting them home safely, because they have had too much to drink.

#### Discussion Questions:

1. Can a law enforcement officer stop a moving vehicle on mere suspicion?
2. Does a driver have to pull over when a law officer flashes his/her lights?
3. Are laws designed to help protect citizens or punish them? How does the Fourth Amendment especially help to protect the rights of young people?
4. What are the duties of a law enforcement officer?
5. What is the proper role of a designated driver?
6. Is the role of a designated driver to facilitate underage drinking or to prevent violation of laws?
7. What decisions are left up to the discretion of the law enforcement officer in a search and seizure?
8. What factors does the officer consider in making these decisions?
9. Is there any risk involved in being a designated driver? What are these risks?
10. What local procedures are followed when teens are arrested for underage drinking and driving?
11. Teachers and students can write questions pertinent to their classroom situation

# Living Amendments to Our Constitution

## Lesson Overview

Through discussion and the students matching present day situations with the correct amendment that applies to a particular situation, the teacher should guide the students to recognize the U.S. constitution as a living document that is as applicable today as it was over 200 years ago with relatively few changes or amendments.

## Objective

Students will:

- Review the articles of the Constitution
- Identify the amendments of the Constitution
- Recognize how the Constitution applies to present day situations. Use the skills of analysis and synthesis in matching the present day situation with the correct Amendment that applies.

## Teaching Procedures

Teacher will:

- Guide the students in a discussion of the articles of the Constitution and the amendments using a simplified version of the Constitution.

- Assign the students a partner or have them work independently, depending upon the class, to complete the worksheets.
- Give each student a copy of a simplified and/or original version of the Constitution for use during the discussion and in answering the questions on the worksheets.

Students will:

- Read aloud and discuss briefly the articles and the amendments to the Constitution.
- Match present day situations with the correct amendment that applies.

#### Debriefing:

Students will check worksheets together as a class. Various students will read the situation and give the amendment that they think applies. When there is a difference of opinion, the teacher will allow the students to explain why they choose a particular answer or amendment. However, the teacher should guide the discussion so that the students recognize the correct answer and why. Through discussion, the teacher should guide students to recognize the Constitution as a living document that is as applicable today as it was 201 years ago with relatively few amendments.

Evaluation: Teach observation of class discussion and the worksheets answered by the students.

### Key to Worksheets

1. 10
2. 22
3. 13
4. 3
5. 8
6. 26
7. 25
8. 18
9. 21
10. 11
11. 1
12. 16
13. 2
14. 20
15. 5
16. 4
17. 6
18. 14
19. 15
20. 17
21. 19
22. 24
23. 23
24. 7
25. 12
26. 9

### Our Living Amendments

The following situations are examples of the 26 amendments at work. Our constitution is the basis for the laws in our society. Therefore, it is important for everyone to recognize how the constitution applies to our everyday lives.

Decide which amendment governs the situation given and put the number of the amendment in the blank.

1. In which constitutional amendment is the paragraph ensuring that all powers not delegated to the federal government are indeed “reserved for either the states or the people?”
2. Former President Reagan was elected twice by the people. He could NOT be elected to serve a third term. Which amendment states a President cannot serve more than two terms of office?
3. It became illegal for one person to hold another person as a slave as a result of which amendment?
4. We do not have to let soldiers live in our homes if we do not want them there. This privilege from being forced quarter soldiers in our homes is a part of which constitutional amendment?
5. Clifford Claypool is arrested for knocking down old Mrs. Kimball (age 72) and then stealing her purse which contained \$6.60. At the police station Clifford is treated rather harshly by officers in charge and is bodily “thrown” into a cell. He overhears the arresting officer say that they are going throw the book at him for doing such a lowly thing to such a nice old lady. Clifford knows that he is a rascal, but he also chuckles at the comment because he knows that his penalty cannot be too harsh for committing such a minor offense as purse snatching. Which amendment makes Clifford so certain?
6. Which amendment gives eighteen year-olds the right to vote? This right was formally reserved for those twenty-one or older.
7. An historical incident occurred not too long ago wherein Nelson Rockefeller was nominated by former President Ford and then confirmed as Vice President by Congress. This action became necessary when Former President Nixon resigned, thus leaving the

Vice President Ford to succeed him as President. Vice President Ford became Vice President when he was appointed by President Nixon to fill the vacancy that had been created by the resignation of Spiro Agnew. There has since been provisions made so that in the future there will always be a Vice President. Which amendment made this provision a reality?

8. The right of Americans to consume alcoholic beverages was taken away from them in 1919 by a Constitutional amendment. However, because of public interest and because it was difficult to enforce, the amendment was later repealed. Which amendment tried to stop Americans from drinking?
9. We all know that it is now legal to consume alcoholic beverages so long as that person doing the drinking has satisfied the minimum age requirements. This right came to us only after the ratification of this amendment. It had the effect of undoing what an earlier amendment had done by banning the sale or consumption of liquor.
10. Abram Grant, formerly of Atlanta, Georgia, is now living in Abilene, Texas. He lodges a protest against the state of Georgia because he feels his business was unfairly taxed when he lived in Georgia. He even attempts to file a formal lawsuit against the state of Georgia. We all know that if the state of Georgia refuse to be sued by Mr. Grant, then poor Abram is just out of luck because there is no place for the case to be heard. The federal courts will not hear cases involving citizens of one state against another state. This is clearly pointed out in which amendment?
11. "I can say what I want, write what I want, worship as I please, call together a group of my friends to criticize the government and I am also allowed to petition the proper authorities if I so desire." These rights that belong to us all are provided for in which of the Constitutional amendments?
12. The power of congress to levy a tax against the income of those who work in order to pay for the services of the federal government is a result of which amendment?
13. Rocky Rhode keeps a gun in his closet. Rocky tells all of his friends that he keeps it there...not because he likes to hunt...but rather to "defend himself against anyone who would try to rob him." We all know that Rocky could get himself into a great deal of trouble if he uses that gun without caution. However, we recognize Rocky's right to keep a weapon to defend himself and that which is rightfully his. This right is shared by all as a result of which amendment?
14. Ronald Reagan became the nation's 40<sup>th</sup> President on Tuesday, January 20, 1981 at 12 noon EST. He was sworn into office by Chief Justice Warren Burger. Under the original Constitution, he would have had to wait until March 4 to take over as President. This "lame duck" amendment came to us through the ratification of which of our amendments?
15. Morton was suspected and finally arrested for the murder of Silas McCree. There were no eyewitnesses to the shooting, but Morton did have a motive. He also has a fairly legitimate alibi that will explain his whereabouts at the time of the shooting. Morton tells his friend, Dudley Dunn, that he isn't worried because, "There isn't enough evidence to bring me to trial." He is right. The Grand Jury fails to find enough evidence against Morton to bring him to trial and he is released under a "no true bill" statement. This same right given to Morton is ensured to all of us because of which amendment?
16. Rasmuson is a qualified law officer. He goes to the home of Johnson and demands entry into his house. Rasmuson has no reason to think Johnson has something to hide.

Johnson tells Rasmuson to, “Buzz off! You don’t even have a search warrant.” Which constitutional amendment gives Johnson this protection?

17. Marry Mannix tells officer Notgrass that he saw bill Knox rob the Save-More Bank. Later, Mannix refuses to testify to this statement in open court, so that the statement of Mr. Mannix cannot be admitted as evidence against Mr. Knox. The reason for this is that a defendant has the right to be confronted by those who accuse him. Where in the constitution is this stated?
18. Gerald Golightly has the right to plan his family vacation to any place he wants to go. He might not have this right in certain other countries of the world. Which amendment gives him this right?
19. Any black or member of any other minority who qualifies properly can vote in the USA because of which constitutional amendment?
20. If either of the two U.S. Senators from the state of Texas should become incapable of performing his or her duties, then it would be up to the Governor of Texas to either find someone to take the place of the Senator who vacated his office, or he could call for a special election. In which amendment is this provision found?
21. Although it was not always true, young women are now allowed to vote just as men. It took a Constitutional amendment to win women the right to vote. Which amendment allowed this right?
22. Nathan Adams is a poor black man living in the state of Louisiana. A few years back Nathan was not allowed to vote in state and local elections because he could not pay his poll tax. He could not afford to buy his right to vote because he considered food and shelter more important. He could, however, vote in national elections because of an amendment that forbids the use of a poll tax in national elections. Which amendment forbids the poll tax?
23. The citizens of Washington, D.C. are now allowed to vote for their President, too. This right had been denied them before because only states were given electors; and the city of Washington, D.C. does not lie within the boundaries of any state. Which amendment changed all this to allow the citizens of our nation’s capital the right to vote in Presidential elections?
24. On his way home from work, Jackson’s car collides with Miller’s car. Jackson says Miller’s car ran a red-light. Miller, who is a police officer, says Jackson’s car ran a red-light. Jackson was not hurt, but sued Miller for damages for his car. Jackson figures the judge will believe Miller because he is “on the side of the law.” However, he does believe the judgment of 12 good people will decide in his favor; therefore he demands a jury trial. Where in the constitution is Jackson guaranteed this right?
25. Which amendment provides that the elector should state on their ballot the person they want for President and the person for Vice President?
26. Which amendment tells citizens they have still other rights that are not mentioned in the Constitution?

# Your Map of Rights

## Lesson Overview

This is a one week unit for groups of four. On days one and two, students begin with what they know by drawing and labeling their “rights” as they perceive them. They do this on a map: their rights “at home, at school, and away from adults with a group of peers. Day three place these “rights” as the fit into an outline using the framework of the first ten amendments to the U.S. Constitution. Day four they are introduced to the notion of Faction through the concept of conflicting rights. Day five they role-play in a situation of conflicting rights. Complete lesson plans, task cards, a simplified version of the Bill of Rights, and evaluation procedures are included.



### Lesson One:

Objectives: Students will, by participating in groups of four, identify, draw and label on butcher paper their self-perceived “rights in the setting of school, home, and with a group of peers outside the school or home.”

Time: Two periods at 50 minutes each

Materials: Marking pens, Butcher paper strips in 2-meter lengths, one for each group of four task cards for groups

#### Instructions:

1. Before class, read the first task card. Make a transparency of the page and refer to an overhead projection of it as general instructions are given to the class.
2. Divide class into groups of four
3. Distribute materials to groups (Marker, paper strip, and task card)
4. Answer a question only when all members of a group have agreed on the question and all four raise their hands.
5. Stop ten minutes before the end of the period to allow time for processing. Have students respond to the following questions

#### Processing:

1. What was the biggest area on your paper? Why? Did any group choose something other than “away from school and home?”
2. Were there some “rights” that you drew in more than one space? What were they? What important rights fit in only one area?
3. What was your group’s most unusual right? What was another one that you know every other group thought of? What was your group’s most important right? Least important?
4. How did your group divide the work? When you continue this tomorrow, what can you do to make it better and easier?

## Lesson Two:

**Objective:** Given a copy of the Bill of Rights rewritten in language they can understand, groups will draft on a piece of notebook paper an outline classifying the “rights” they drew on their butcher paper murals. Amendment numbers and subheadings make an easy framework for outlining as in this example:

### *I. First Amendment*

#### *A. Freedom of Religion*

*1. at home we can pray before dinner*

*?*

*?*

#### *B. Freedom of Speech*

*1. when we're with our friends we can talk loudly*

*2. when we're away from our parents we can use bad words*

*?*

*?*

They will add pictures to their murals that the Bill of Rights reminds them they need to include

**Time:** One fifty-minute period

**Materials:** One copy per group of the rewritten Bill of Rights in this packet Transparency of task card two, notebook paper and pencils, and butcher paper murals from previous lesson and marking pens.

### Instructions:

1. Photocopy the rewritten Bill of Rights contained in this packet.
2. Make a transparency of the second task card and refer to an overhead projection of it as general instructions are given to the class. Remind students about consensus rule for asking questions.
3. Distribute materials and begin the activity.
4. Allow ten minutes at the end of the period or processing
- 5.

### Processing:

1. Under which amendment did you list the most from your mural? What were some of the things you listed?
2. Were there amendments where you listed nothing from your mural? Why? Why are these amendments included in a Bill of Rights?
3. What things worked better about your group today? Did you divide the work differently? How and why?

### Lesson Three:

Objective: Students in groups of four will indicate the rights, which have limits placed on them by adding stop signs in red to their murals. They may continue to work on the outlines if unfinished during the previous day.

Time: One period of fifty minutes

Materials: Red marking pens, mural from previous days, one copy of task card three for each group, transparency of task card three

### Instructions:

1. Introduce the concept of FACTION through a class discussion of the way a person's rights conflict with another person's. Questions to start a discussion might include:
  - Is there any place on your mural where you can do anything you want?
  - What can/can't you do?
  - Do your parents have any rights?
  - Are they the same as yours?
  - When do they conflict with your rights?
  - Do responsibilities ever put limits on rights? Name some examples.
2. Refer to the transparency task card three as general directions are given. Students are to draw stop signs beside the illustrations on their murals to indicate which of their rights are limited by others.
3. Distribute materials and begin activity.
4. Stop the activity with ten minutes remaining for processing.
5. Display murals (with outlines attached) on walls.

### Processing:

1. What rights did your group decide had no limits? Does everyone else agree? Why or why not?
2. How are rights protected? What happens if people decide not to limit their rights on their own? Who limits their rights for them? Is that unfair? Why or why not?
3. Did your group agree on everything you put on your mural? If not, how did you come to your decision? Were any rights involved in the process of coming to a decision? Which ones?

Lesson Four:

Objectives: Students in groups of four will role-play to come to decisions in a situation set up by the teacher. They will write their decisions and the rights involved. Group papers will be read to the class at the end of the activity. Students will evaluate their performance as a group and individually.

Students will write as a group as many of the rights contained in the first ten amendments of the Constitution as they can recall from the week's activities. Eight rights or Freedoms in their own words will be considered passing, then or more excellent.

Time: One period of fifty minutes

Materials: Paper and pencils, copy of task card four for each group, pair of scissors for each group, copy of the evaluation page for each group.

Instructions:

1. Before class become familiar with the task described on card four.
2. Tell students they are to read the task card aloud, then cut it apart and give sections to members they have chosen in each role. They are to reach a consensus decision, write it down, and justify it in writing by explaining a) what rights were involved and b) how those rights had to be limited in order to reach a solution to the problem.
3. Allow time for the groups to complete the activity. Then have a member of each group read aloud the group's decisions.
4. Distribute the evaluation page, one copy for each group, and allow time for students to complete it. The evaluation page stands in place of processing in this closing exercise.

**Task Card One:**

\*Rule: you may ask your teacher a question only when all four persons in your group agree that you understand the question and you all have the same question. Indicate that you have reached a consensus on your question by all four of you raising your hands.

1. Discuss the meaning of “rights” with your group before you begin anything else. On a piece of paper list some rights.
2. Decide whether you have the largest area of rights at home, school, or with a group of friends your own age when you are neither at home nor at school.
3. On your butcher paper, using BLACK marker, draw three areas. The biggest area should be for the place you feel you have the most rights. And the second largest should be for where you have the second most rights. The smallest area is for where you believe you have the fewest rights. Label each area, ‘home’, ‘school’, or ‘away from school or home.’
4. As a group, draw illustrations of yourselves exercising your rights in each place: home, school, and someplace neither home nor school.
5. Using a Green Marker label the rights you have illustrated. For example, listening to music as loud as you want might be a right at home and away from home and school, but not in the school area of your paper. Label the picture of yourself, “Listening to music as loud as I want to.”
6. When your teacher says stop, roll up your paper, put your markers away, and return to your seat. Its okay if you don’t finish. You’ll have more time to work on your pictures tomorrow.
7. Participate in the processing discussion by responding to the questions your teacher asks you.

Task Card Two:

1. As a group read the easy version of the Bill of Rights your teacher gave to you.
2. On a piece of notebook paper make an outline. Use the first ten amendments as a framework and fill in rights from your mural to add details to your outline. To get started, here is how to begin your outline.

*II. First Amendment*

*A. Freedom of Religion*

1. *at home we can pray before dinner*
- ?
- ?

*B. Freedom of Speech*

1. *when we're with our friends we can talk loudly*
2. *when we're away from our parents we can use bad words*
- ?
- ?

3. While outlining, add pictures and labels to your mural if you remember some you forgot earlier.
4. When your teacher says stop, roll up your mural, return the marking pens, and turn in your outline and the copy of the easy bill or rights.
5. Be ready for processing by being in your seat and quiet. Respond to the questions your teacher asks your group.

Task Card Three:

1. In your group, discuss each of the rights you have illustrated to decide if it has limits upon it.
2. If you all agree that a certain right has a limit to it, show that by coloring a stop sign near it with a red marking pen.
3. This is your last day to work on your mural. Make any changes or additions to it during this period.
4. When your teacher says stop, turn in your mural and your marking pens. Be ready for processing by sitting and listening.

Task Card Four:

1. As a group read the roles described below for a Student, Parent, Teacher, and Policeman.
  2. Reach a decision about what is to be done to solve a problem.
  3. Write down your decision. Also write down what rights are involved in this decision, and describe how they have to be limited in order to reach a solution to the problem.
  4. When your teacher says stop be prepared to read aloud to the class from your paper.
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#### Student

You have been caught writing insults about a teacher, using bad language, in one of your books. The teacher wants you to pay \$25 to replace the book, although you have been encouraged by this teacher to underline and take notes in the margins of the text. The teacher wants you to be suspended from school for a week, and want an apology. What are your rights?

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#### Parent

You feel that the teacher wants too much. Since the teacher has previously encouraged students to write in the text, you don't feel you should have to pay for it now. Also you feel that a suspension limits your child's right to an education. An apology is sufficient.

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#### Teacher

You feel that the student over-reached the right to free speech insulting you. Punishment is in order. Since the book containing the insult would be used again by students for the next several years, you feel the student should replace it.

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#### Policeman

Your responsibility is to see that everyone's rights are protected no matter what your personal thoughts may be. Make sure everyone has a chance to present arguments. Get them to reach a decision. The best decision would be one where everyone can agree to it.

### **Easy version of the Bill of Rights**

**First Amendment:** Congress cannot pass laws that take away Freedom of Religion, Freedom of Speech, Freedom of Press, Freedom to Assemble, and Freedom to Petition (to ask government to correct wrongs)



Second Amendment: Because a fighting force of citizens might be needed in an emergency, states have a right to allow people to keep weapons in their homes.

Third Amendment: People don't have to let soldier stay in their homes during peacetime.

Fourth Amendment: Unless the government has good reason, people, their homes or their things cannot be searched or taken away from them. Police usually have to get permission from a judge to arrest someone or to make a search.

Fifth Amendment: People don't have to give evidence against themselves in court. If they have been found innocent of a crime, they can't be tried again for the same crime. People have to be treated fairly by the law, and cannot have their lives, liberty, or property taken from them unless it is fair.

Sixth Amendment: People accused of a crime can have a lawyer and a trial by jury. They have to be told what they are accused of, and then can ask questions about it.

Seventh Amendment: If a disagreement between people is about something more than \$20, they can have a jury trial.

Eighth Amendment: People arrested can be free while they wait for their trial if they pay money in the court as a way of promising they will return to the court for their trial. If they show up, they get this money, called "bail", back. Fines have to be fair. And people found guilty cannot be punished in cruel or unusual ways.

Ninth Amendment: The rights listed above aren't the only ones people have. Any not mentioned in the Bill of Rights automatically belong to people.

Tenth Amendment: Any powers that do not belong to the national government belong to the states. The U.S. government has only those powers listed in the Constitution.

### Evaluation Page

This person in our group took the assigned role seriously: Name \_\_\_\_\_

This member kept the others on task:

Name \_\_\_\_\_

This member made the others explain their ideas:

Name \_\_\_\_\_

This member was the best listener in our group:

Name \_\_\_\_\_

This member learned the most about the Bill of Rights:

Name \_\_\_\_\_

Below list as a group as many as you can remember of the rights protected in the first ten amendments to the Constitution.

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# CIVIL LAW V. CRIMINAL LAW

## Lesson Overview

Students will understand the difference between criminal and civil law. Students will understand basic civil law concepts including liability and malpractice. Students will learn to differentiate for “true life” applications of civil law, and that portrayed in popular entertainment such as movies or television. Students will understand the travel of a civil case from start to finish.

## **CRIMINAL COURT VS. CIVIL COURT**

**CRIMINAL COURT** decides whether a person accused of breaking a law is guilty or not guilty. In a criminal court, the government is the prosecution and the accused person is the defendant.

It is important to remember that under our system of justice every person accused of a crime must be considered innocent until proven beyond a reasonable doubt that the offender is guilty as charged.

Penalties in criminal courts require that offenders go to a correctional institution, be placed on probation under a suspended sentence, pay a fine, or any combination of these. In general, the purpose of the sentence is to protect the public, to punish the individual found guilty, to act as a warning to stop others from breaking the law, or a combination of these.

**CIVIL COURT** decides a case in which a person has a grievance against another person. In a civil lawsuit, the person taking legal action against another person is the **PLAINTIFF** and the person(s) defending against the complaint or suit of the Plaintiff is the **DEFENDANT**.

Disputes between private parties are settled in Civil Court. Some examples are domestic relations (family) disputes, disputes about business relations, or accidents. In these cases, the decision is made on the preponderance of the evidence. A jury of six may decide the facts in a civil case or a judge may render the decision.

Penalties may require the offender to pay money for damages or injuries, or the court may require the offender to do or not to do a specific act for, or to, the person bringing the suit. Some civil remedies are **RESTITUTION** (repayment), **COMPENSATION** (paying to make up for something), and **INJUNCTION** (a court order forbidding a certain action or ordering that a particular action be done).

## **CIVIL COURT TERMS**

**Answer:** A paper filed in court by a defendant which states his or her defense or denies the plaintiff's complaint. The answer may also admit undisputed facts.

**Appeal:** To ask a higher court to correct what is believed to be an error by the trial judge, such as a misapplication of the law in the case, or a judge's failure to assure a fair trial.

**Case dismissed without prejudice:** The case is dismissed but the plaintiff has the right to bring suit again on the same claim.

**Case dismissed with prejudice:** The case is dismissed on its merits. The plaintiff then has no right to bring suit or maintain action on the same claim.

**Complaint:** Papers filed in court by the plaintiff claiming a civil wrong was done by the defendant to the plaintiff (for example, a contract was broken or injury was done to the plaintiff's person or property).

**Counterclaim:** After a plaintiff has presented a complaint to the court, the defendant may present an opposing claim against the plaintiff. This is a claim for damages that the original defendant brings against the original plaintiff who must then present a defense against the counterclaim.

**Decision:** A finding by a judge, or a verdict by a jury.

**Deposition:** One method of pretrial discovery (attorney getting information prior to the trial) is by oral or written questions given under oath. A deposition is usually given in the presence of a lawyer and a stenographer. The written record then becomes part of the trial records.

## **INTRODUCTION TO THE CRIMINAL JUSTICE SYSTEM**

In the criminal justice system, a crime committed against a person or a person's property is a crime committed against all people. The state, rather than the crime victim, brings criminal charges against the alleged criminal. If the case is prosecuted, the victim may become a witness.

The person employed by the state to bring criminal charges against people who are accused of committing crimes is called the prosecutor or state's attorney. The state's attorney has an equal responsibility to see that innocent persons are acquitted and that guilty persons are convicted.

A person accused of a crime is presumed by the law to be innocent until proven guilty. Because determination of guilt may lead to loss of liberty or even life, the state must make sure that the person accused of the crime in fact committed the crime. Therefore, the state must prove "beyond a reasonable doubt" that the person committed the crime.

## THE CASE OF MARY JONES

### Opening the Segment

Begin the segment by explaining to the students that they will be studying the role and responsibilities of the courts by analyzing The Case of Mary Jones. Students will be asked to form a consensus in small groups and render a decision in the case. The basic question to be determined by the case is: should the landholder, Mary Jones, be held responsible for the costs associated with the clean-up of environmental contamination that occurred before she inherited the land?

### Procedure

#### *Day One:*

- I. Conduct a class discussion on the following questions:
  - a. What are the responsibilities of the courts?
  - b. What is the difference between civil and criminal law?
  - c. What are the three branches of government and what do they do?
  - d. Are the Executive and Legislative Branches of government influenced by what people in the community think and want (i.e. by public opinion)?
  - e. Should the courts be influenced by what people in the community think and want?

#### Suggested Answers for use by teachers

- a. What are the responsibilities of the courts?

*The courts serve a vital role in our society. They are charged with upholding the law, interpreting constitutional questions, and establishing the law when none exists. Men and women who are appointed judges carry out these functions. Every day, judges are called upon to make difficult decisions. These decisions often affect one's liberty, property, children, spousal relationships, and business relationships. In all, judges across this state make thousands of decisions each year affecting the citizens of Rhode Island.*
- b. What is the difference between civil and criminal law?

Civil Cases  
*Cases involving the private rights of individuals, groups or businesses, including contracts, personal injury cases or dissolution of marriages, are civil cases. In a civil case, the plaintiff (the party bringing the action) sues the defendant seeking monetary damage and/or an injunction (a court order prohibiting someone from doing some specified act or commanding someone to undo some wrong or injury) for violation of a duty or obligation. If the plaintiff can establish by the preponderance of the evidence*

*(more than 50% certainty) that the defendant has breached his or her duty, the plaintiff will prevail.*

### Criminal Cases

*Criminal cases deal with crimes and their punishment. Criminal cases are cases brought by the state against an individual for an alleged violation of its criminal code. Therefore, even though there is often a victim of the crime, the legal action is not between the victim and the accused (or defendant) but is between the state and the accused. Criminal cases are readily identifiable by their case names which include the state and the accused, such as "State of Connecticut v. Smith" or "The People of California v. Jones."*

### Crimes

*Crimes are defined in laws enacted by the legislature. The state, through a prosecuting attorney, seeks to punish the accused for committing a crime. In order to prove his or her case, the prosecuting attorney must show that a crime has been committed, and that the defendant committed the crime. If the prosecution can prove the case beyond a reasonable doubt, the defendant is found guilty. If guilty, the defendant will receive a sentence for the crime committed. Sentencing is a formal pronouncement of judgment by the court or judge on the defendant after conviction in a criminal proceeding, imposing the punishment to be imposed. This punishment is also established by the law enacted by the legislature. It can include probation, incarceration or, in extreme cases, death.*

- c. What are the three branches of government and what do they do?

### Three Branches within Federal Government

*The framers of the United States Constitution created three distinct branches of government: the legislative branch, the executive branch, and the judicial branch. Each branch was given a distinct and specific role in the new government.*

*The Legislative Branch was created in Article I of the Constitution. Section I of this article created the Congress of the United States, which consists of the Senate and the House of Representatives. The citizens of each state elect members to Congress. Two senators are elected from each state, while the number of representatives varies depending upon the population of the state.*

*Congress' power is specifically enumerated in the Constitution. Examples of the powers given to Congress include the ability to create laws. New laws are created when a bill passes both the Senate and the House and is subsequently signed by the President. Other powers of Congress include the right to law and collect taxes, the right to regulate commerce with foreign nations and the right to declare war.*

*The Executive Branch was created in Article II of the Constitution. Section I of Article II established the office of the President. The entire citizenry of the nation elects the President for a term of four years. The President's power is vast; while checks exist to ensure that the President does not assume the powers assigned to Congress or the Courts, it is his or her responsibility to sign legislation into law, serve as the Commander*

*in Chief of the Army and Navy, make treaties, and nominate federal judges and ambassadors.*

*The Judicial Branch was created in Article III of the Constitution. Section I of Article III defined one Supreme Court and other lower courts as the Congress may from time to time establish. The role of the court is to interpret laws passed by the Congress and the President and to ensure that they are constitutionally sound.*

### Three Branches within State Government

*Each state also has three branches of government.*

*In Rhode Island, the Legislative Branch consists of the General Assembly. The General Assembly is a bicameral legislature (two houses) consisting of the House of Representatives and the Senate. The role of the General Assembly is similar to that of the Congress of the United States. It is their responsibility to make laws applicable to the citizens of the state.*

*The Governor heads the Executive Branch of Rhode Island. He or she is responsible for approving and signing newly enacted legislation into law. A bill will become law if (1) the Governor signs the bill, (2) during the legislative session, the Governor does not sign it within five days after it is received, or (3) after adjournment of the session, the Governor does not sign it within 15 days after receipt.*

*The Governor may veto a bill, (a) during the legislative session, by returning it to the house in which it originated with a statement of objections or (b) after adjournment, by returning it to the Secretary of the State. The General Assembly then will reconvene to consider whether to override his veto by passing it by a two-thirds vote in each house.*

*The Governor is also responsible for the operation of various state agencies designed to serve the citizenry. Examples include the Department of Consumer Protection, the Department of Children and Families and the Department of Motor Vehicles.*

- d. Are the Executive and Legislative branches of government influenced by what people in the community think and want (i.e. by public opinion)?

*What people in the community think and want increasingly influence actions taken by the Executive and Legislative Branches of government. The formation of public policy is often dictated by public opinion. Indeed, a new phrase has been coined to mark this transformation: "governing by poll." "Governing by poll" refers to the practice of elected officials consulting the daily opinion poll before forming an opinion on a particular issue. This practice has come under fire from those who believe that leaders should lead, not follow. On the other hand, "governing by poll" is hailed by others who believe it is appropriate for our leaders to gauge the opinion of the American people before acting.*

*An example of "governing by poll" can be seen when a political leader contemplating a new idea, a tax cut, for instance, sends out a "trial balloon" to see if the public will be*



*receptive. Polling is then conducted on behalf of the politician. Following the polling, the politician will analyze the numbers and decide whether or not to go forward with his or her new plan.*

*Regardless of whether or not one believes that this practice is beneficial, the underlying fact remains that the wishes of the American people are generally taken into account when important decisions are to be made.*

- e. Should the courts be influenced by what people in the community think and want? *Judges in the Judicial Branch, as opposed to members of the Legislative Branch and the leader of the Executive Branch, are not elected. The framers of the Constitution believed that representatives of the court should be isolated from the general populace so that their decisions would be rendered solely on the law and not on the emotions of the day. Our state court system is designed similarly. Judges are appointed to the bench and may not be removed solely because of an unpopular decision. Such a mechanism allows for consistency in the judiciary and gives the judges the protection they need to render at times unpopular – but legally correct – decisions.*

## **Day Two**

- I. Distribute *The Case of Mary Jones* and the Judge’s Think Sheet handouts. (The reading of the case may be completed for homework prior to the class.)
- II. Discuss briefly whether this is a civil or criminal case. (*This is a civil case because it concerns the branch of law dealing with private rights of individuals.* See list of definitions.)
- III. Divide the class into groups of no more than four students each for the purpose of reaching a consensus ruling on the case. Suggested time for consensus segment: approximately **40 minutes**.
  - a. Have each team determine the facts of the case by answering the following questions from the Judge’s Think Sheet:
    1. When was the land contaminated? *Before Mary acquired the land.*
    2. Does Mary own the land according to Connecticut law? *Yes, by virtue of the laws of inheritance.*
    3. What is the law in this case? *The state statute.*
    4. Review the definition of “rule of law.” How does the rule of law apply in this case? *The rule of law requires that the court adhere to the particular law (state statute) that is applied in this case. The statute seems to*

*indicate that Mary would be responsible for the cost of cleaning, as she is the legal owner of the land.*

5. As a group, if you were deciding the case, is Mary responsible for paying the clean-up costs? Explain. *Remind students who say that Mary is not responsible that ultimately Mary legally owns the property, and the law makes owners responsible.*
6. Take into consideration the following: Would your answer be different, if instead of Mary, the landowner were Micro Tec Company, a multi-billion dollar corporation? Why or why not? *No, the rule of law applies equally to all.*
7. To what extent, if any, should you as the judge(s) be influenced in your decision by the obviously strong public opinion support of Mary? *To no extent; judges cannot be influenced by public opinion but must adhere to the law. That is what we mean when we say that our society is governed by the rule of law and not by public opinion or public sympathy for one side or another.*

### **Day Three**

- I. Have each group present its decision. (Suggested time for presentations: approximately **15 minutes**)
- II. Hand out copies of the synopsis of the actual decisions reached by the Connecticut Superior Court and the Connecticut Supreme Court for students to read. (Teachers of some classes may have to provide help with vocabulary and concepts.)
- III. Discuss the following questions with the class as a whole: (Suggested time: approximately **15 minutes**).
  - a. Is the law fair in this case?

***Answer One:** The law **is fair** in this case, as it was designed to protect the health and welfare of the citizens of the state. It is not the obligation of taxpayers to pay for cleanup costs associated with private property. It is the responsibility of the individual landowner to pay these costs. In addition, the statute provides that the property owner may sue and recover the costs associated with cleaning up the property from any person or company that is proved to have caused the pollution.*

***Answer Two:** The law in this case **is unfair**, as it makes Mary responsible for the costs of cleaning the polluted property, although she had no knowledge and no involvement in the pollution. In addition, in this particular case, the cleanup costs far exceed the value of the land which means that Mary is obligated to use*

*her own funds to clean up the property. Unfortunately, she is unable to sue the company that caused the pollution, as the company no longer exists.*

- b. Can you think of a way that society, acting through one or more of the different branches of government, might resolve the conflict between what the statute provides and what the majority of people now seem to want? That is, can the conflict be resolved by (a) the Judicial Branch (you, the judge); (b) the Executive Branch (Department of Environmental Protection); or (c) the Legislative Branch (the state legislature)?

*Citizens could contact their local legislators to express their opposition to this statute and how it adversely affected Mary.*

*Legislators (Legislative Branch) could amend (modify) the existing law to limit the amount of money that innocent landowners would need to pay to fund the cleanup costs of the polluted property, to the value of the property.*

*The Governor (Executive Branch) could sign the bill and, if so, it would become the law. Judges (Judicial Branch), then, would be required to apply the new statute in similar cases and the innocent landowners would not be excessively burdened with the costs of cleaning up polluted property.*

- IV. Hand out summaries of the legislation that followed the court case and discuss how in this case the role of the Legislative Branch of government interrelates with the Judicial Branch of government. Suggested time for this activity: approximately 10 minutes.

#### **Talking Points**

- The case of Mary Jones illustrates the inter-relation between the Legislative Branch of government and the Judicial Branch of government.
- The Judicial Branch was required to apply the law in the case of Mary Jones. This law required Mary to pay the clean up costs for the property, even though the costs far exceeded the value of the land and even though Mary had no knowledge of or participation in the contamination.
- The Legislature, believing that the application of the law to the facts in this case, produced an injustice, altered the law to provide that innocent landowners would not be required to pay the full clean-up costs, if, among other things, the owner had no knowledge of the contamination.
- The Judicial Branch was then required to apply the new statute to the facts of the Mary Jones case and to similar cases in the future.

## Justice and the Rule of the Law – The Case of Mary Jones

A Connecticut statute provides as follows:

“In order to protect the health and welfare of the people of this state, all persons owning land in this state are required to maintain their land free of pollution that might endanger the public water supply.”

“If the Department of Environmental Protection, after investigation, determines that any land is polluted so that it poses a danger to the public water supply, the Department shall order the landowner to remove the cause of the pollution, and the landowner shall promptly do so at his or her own expense.”

“Any landowner who incurs expenses in removing pollution may sue and recover the amount of such expenses from any other person or company that is proved to have caused such pollution.”

Another Connecticut statute provides that any landowner who receives a clean-up order from the Department may appeal to the Superior Court, and the Court must reverse the order if the Court finds that the order is “not in accordance with the statute.”

Mary Jones is a single mother of two small children. She works as a computer programmer for an insurance company. Until her father died last year, Mary had been struggling to support her family, but then she inherited the sum of \$50,000, and this greatly relieved her financial problems. Her father also bequeathed her a parcel of undeveloped land, about 20 acres in another part of the state, which he had purchased as an investment shortly before he died. Mary is now the owner of this land, although she has never seen it.

After Mary had become the owner of the land, she received a letter from the Department of Environmental Protection informing her that its investigation revealed that the land was polluted and that the pollution was endangering the public water supply in the area. Specifically the Department said it found that the soil is contaminated by some dangerous chemicals, which are seeping into a stream on the property. This stream flows directly into the local public water reservoir. Pursuant to the state statute, the Department ordered Mary, as the landowner, to remove the cause of the pollution.

Upon receiving the Department’s order, Mary did a little investigating of her own. First, she consulted some experts in pollution removal, and they verified that her land is seriously polluted and endangers the reservoir. Mary also learned, to her dismay, that cleaning up chemical pollution is extremely expensive. It would cost at least \$175,000 and possibly even more, depending upon the results of some scientific tests that would have to be performed. As to the cause of the problem, a little good detective work revealed that the pollution occurred sometime around 1965 (before Mary was born), when a private rubbish removal company, “TrashAway, Inc.,” illegally dumped the chemicals on the property without the knowledge of the person who then owned the property. Official records showed, however, that TrashAway, Inc. has been out of business since 1972, when its owner died leaving only a few hundred dollars in his estate. Finally, real estate experts advised her that the property, even unpolluted, would be

worth only about \$25,000. Mary decided that her only choice was to appeal the Department's order to the Court.

In court, Mary argued that neither she nor her father was in any way responsible for the pollution, nor did either of them have any knowledge of it before acquiring the property. She pointed out that it would be futile to try to collect anything from TrashAway, Inc., which is defunct and without funds. But if she, the innocent landowner, was compelled to pay for the clean-up, she would be wiped out financially and be in debt for many years into the future. She argued that the legislature could not have intended that the statute it enacted would have such an "unjust" result. Under these circumstances, she argued, the only just decision would be to require the Department to pay for the clean-up.

The Department argued that Mary is required to follow the provisions of the state statute, which was duly enacted by the legislature to protect all the people of the state. It pointed out that if the Department was ordered to pay, the Court would essentially be shifting the responsibility from the landowner to the taxpayers, in violation of the statute, and that would be unjust. The Department argued that all citizens are subject to the "rule of law," and the Court may not make exceptions in individual cases unless authorized by the law to do so.

Before the judge makes a decision, the judge becomes aware that people in the community as well as the media overwhelmingly support Mary in the case. As an editorial in the most influential newspaper put it, "This is about a good, hardworking, innocent citizen caught up in a situation not of her own making, but in danger of being financially destroyed by it. As applied here, this is a cruel and destructive law that nobody wants. The outcome is in the judge's hands. The citizens of the state, voters, are watching. Do the right thing, judge!"

**(The Judge's Think Sheet goes here)**

## **Terms and Abbreviations**

AKA – “Also known as.” Used to list aliases or another name, or another spelling of a name used by a person.

Accelerated Rehabilitation – Also called AR. A program that gives persons charged with a crime or motor vehicle violation for the first time a second chance. The person is placed on probation for up to two years. If probation is completed satisfactorily, the charges are dismissed.

Action – Also called a case or lawsuit. A civil judicial proceeding where one party sues another for a wrong done, or to protect a right or to prevent a wrong.

Adjournment – Postponement of a court session until another time or place.

Adjudication – A decision or sentence imposed by a judge.

Adjudicatory Hearing – Juvenile court proceeding to determine whether the allegations made in a petition are true and whether the child/youth should be subject to orders of the court.

Adult Court Transfer – The transfer of juveniles who are at least fourteen years old to regular criminal dockets in Geographical Area or Judicial District courts. Also involves the transfer from a Juvenile Detention Center to the State Department of Correction.

Adult Probation – A legal status, applied to people 16 years of age and older, who have been convicted of a crime and placed under the supervision of a probation officer for a period of time set by the court.

Adversarial System – The system upon which American justice is based. In such a system, each party in a case presents his or her point of view as persuasively as possible to a neutral party – usually a judge.

Affidavit – A written statement made under oath.

Alcohol Education Program – A pre-trial program for first time offenders charged with driving a motor vehicle under the influence of alcohol.

Alford Doctrine – A plea in a criminal case in which the defendant does not admit guilt, but agrees that the State has enough evidence against him or her to get a conviction. Allows the defendant to enter into a plea bargain with the state. If the judge accepts the Alford Plea, a guilty finding is made on the record.

Alternative Detention Program – A program operated by service providers under the Court Support Services Division used to detain juveniles instead of in a Juvenile Detention Center.

Alternative Incarceration Center – Also called AIC. A community-based program that provides monitoring, supervision, and services to people who would otherwise be incarcerated.

Alternative Sanctions – Criminal punishment that is less restrictive than incarceration.

Appeal – Asking a higher court to review the decision or sentence of a trial court because the lower court made an error.

Appeal Bond – Money paid to the court while taking an appeal to cover costs and damages to the other party, if the appeal is not successful.

Arraignment – The first court appearance of a person accused of a crime. The person is advised of his or her rights by a judge and may respond to the criminal charges by entering a plea. Usually happens the morning after a person is arrested.

Bail Commissioner – The public official in the courtroom who recommends to the judge the amount of the bail to be set for each defendant.

Clerk – The officer of the court whose primary duty is to maintain court records. He or she also administers oaths. Court clerks are appointed by the judges.

Court Interpreter – Translates each word that is said during a court proceeding into the native language of a non-English speaking defendant.

Court Monitor – The court may have either a monitor or a reporter. The monitor is the official who makes a trial record or transcript by using a tape recorder.

Court Reporter – The court reporter is the court official who sits directly in front of the judge's bench. Using a special typewriter, the reporter takes down every word said during a trial. This becomes the official record or transcript.

Defendant – The individual accused of committing a crime. He or she may present a defense either with the assistance of an attorney or by self. The defendant may or may not testify on his or her own behalf and may waive rights as outlined by the judge. The defendant is always considered innocent until proven guilty beyond a reasonable doubt. A defendant may not be forced to testify against him/herself (Amendment V to the U.S. Constitution)

Defense Counsel – As the lawyer representing the defendant, his or her responsibility is to present evidence and arguments on behalf of the defendant so that the State does not convince the judge or jury beyond a reasonable doubt that the defendant committed the acts as charged. The lawyer may be either a private attorney hired by the defendant to help in the trial or may be a public defender.

Civil Disobedience – “Refusal to obey government demands or commands especially as a nonviolent and usually collective means of forcing concessions from the government.” Webster Dictionary.

Civil Law – Cases involving the *private* rights of individual, groups, or businesses including contracts, personal injury cases, or dissolution of marriages, etc.



**Criminal Law** – Cases brought by the *state* against an individual for an alleged violation of its criminal code. Cases that deal with crimes and their punishment.

**Courts** – Institutions that (a) determine whether a person accused of breaking the law is guilty or not guilty; (b) resolve disputes involving civil or personal rights; (c) interpret provisions of laws enacted by the legislature and decide what is to be the law when none exists for certain situations, and (d) determine whether a law violates the Constitution of the United States.

**Judge** – An elected or appointed official with the authority to hear and decide cases in a court of law. Judges preside over preliminary hearings and trials. Judges in Connecticut are appointed for eight-year terms; they are nominated by the governor and are confirmed by both the House of Representatives and the Senate.

**Marshal** – Maintains order in the courtroom and is responsible for all prisoners while in the courthouse.

**Pre-Trial** – In a civil case, a conference with a judge or trial referee to discuss discovery and settlement. In a criminal case, a conference with the prosecutor, defense attorney and judge to discuss the case status and what will happen next.

**Pre-Trial Diversionary Program** – A system by which certain defendants in criminal cases are referred to community agencies prior to trial while their criminal complaints or indictments are held in abeyance. The defendant may be given job training, counseling, and education. If he/she responds successfully within a specified period (e.g. 90 days, more or less), the charges against him/her are commonly dismissed.

**Probation Officer** – Provides information to the judge about a defendant and supervises and offender in the community to ensure compliance with court orders.

**Public Defender** – The public defender is an attorney appointed by the judge and paid by the state to assist a defendant who does not have enough money to hire a private attorney. Every person charged with a crime that the constitutional right to the advice of an attorney (Amendment VI to the United States Constitution).

**Sentence** – A formal pronouncement of judgment by the court or judge on the defendant after conviction in a criminal proceeding, imposing the punishment to be inflicted. This can include probation, incarceration or in extreme cases, death.

**State's Attorney** – Tries to prove beyond a reasonable doubt that the defendant committed the crime as charged.

## **Parajudicial Officers**

Not all legal controversies are heard by judges. They may also be heard by the following:

***Small Claims Commissioners:***

Attorneys designated by the Chief Court Administrator to hear and decide small claims cases.

***Attorney State Trial Referees:***

Attorneys appointed by the Chief Justice to pressed over civil non-jury matters. They may not render judgments, rather make findings of fact and file proposed decisions with the court. The court thereafter may render judgment in accordance with these findings.

***Magistrates:***

Attorneys appointed by the Chief Court Administrator to hear small claims matters, infractions, and certain non-jury motor vehicle cases.

***Factfinders:***

Attorneys appointed by the Chief Court Administrator to hear certain contract cases.

***Arbitrators:***

Attorneys appointed by the Chief Court Administrator to hear any civil jury action in which the amount, legal interest or property in demand, is less than \$50,000.

## **Funding for the Courts**

The Judicial Branch receives its funding as part of the legislatively enacted state budge. This funding is provided to pay the salaries of judges and other judicial personnel, for computers and other equipment, for contractual services, to maintain courthouses and other judicial facilities, and for other necessary expenditures. All fines, fees and costs collected in the courts are deposited in the state's general fund and other funds established by the legislature.

## **Court Administration and Operations**

The Chief Justice of the Supreme Court is the head of the Judicial Branch. Its administrative director is the Chief Court Administrator.

## **Judicial Functions**

The judicial functions of the branch are concerned with the just disposition of cases at the trial and appellate levels. All judges have the independent, decision-making power to preside over matters in their courtrooms and to determine the outcome of each case before them.

## **Administrative Operations**

The Chief Court Administrator is responsible for the administrative operations of the Judicial Branch. In order to provide the diverse services necessary to effectively carry out the Judicial Branch's mission, the following administrative divisions have been created:

### ***Administrative Services Division:***

Provides a wide array of centrally conducted, statewide services for the benefit of all divisions within the Judicial Branch, such as data processing, financial services, personnel matters, affirmative action and facilities management.

### ***Court Support Services Division:***

Provides pre-trial services, family services and offender sentencing and supervision options. Consists of *Intake/Assessment/Referral (IAR) units*, which conduct comprehensive evaluations and referrals, and *Supervision units*, which focus on effective supervision of clients involved with the court system. Two separate, but parallel, service delivery systems operate – one for adults and one for juveniles. The state has been divided into five regions for the delivery of services.

### ***External Affairs Division:***

Facilitates positive relationships between the Judicial Branch and members of the public, the Legislature, policy makers, news professional and community organizations. Serves as the primary source of information about the Judicial Branch and coordinates informational activities designed to inform and educate the public about the role and function of the Judicial Branch.

### ***Information Technology Division:***

The Information Technology Division is dedicated to designing, developing, implementing, and maintaining the Judicial Branch's complex data and information processing, storage, retrieval, dissemination and printing systems for the Judicial Branch, for customers in the legal community and for the public.

### ***Superior Court Operations:***

The Superior Court Operations Division includes the following:

- *Administration* – provides support services and guidance to all segments of the division by directing the administrative, strategic planning, staff training and business activities, and provides for court transcript services, interpreter services, and the preservation and disposition of seized property;

- *Centralized Court Services* – performs a variety of functions including the Centralized Infractions Bureau, jury administration and the maintenance, retrieval and destruction of records;
- *Court Operations* – ensures that the Superior Court Clerk’s offices process all matters in accordance with Statutory, Practice Book and Judicial Branch policy provisions.

## **STEPS IN A JURY TRIAL**

### *Selection of a Jury*

1. Administration of voir dire oath
2. Voir dire – questioning of prospective jurors by counsel
3. Challenges by counsel
  - for cause
  - peremptory – without cause
4. Completion of jury selection
  - civil trials and most criminal trials – 6 jurors, 2 alternates
  - certain offenses – 12 jurors, 2 alternates
5. Impaneling of jury – administration of juror's oath to those chosen for a particular case

### *The Trial*

1. Opening statements – generally brief, made by counsel for each side
2. Presentation of evidence
  - testimony – direct and cross-examination
  - exhibits
3. Closing arguments

### *Judge's Charge to the Jury*

1. Explanation of the relevant points of law
2. Review of the procedures to be used in reaching the verdict

### *Jury Deliberation*

1. Presided over by jury foreman, who is elected by members of the jury
2. Free discussion by jurors, who listen with open minds

### *The Verdict*

1. Must be unanimous in civil and criminal cases
2. Written in civil cases; oral in criminal matters
3. Presented to the court by the jury foreman

## RECORD CONFIDENTIALITY WORKSHEET

1. Background

The 4<sup>th</sup> amendment to the U.S. Constitution states, in part:

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated...”

Discussion

What do you think “to be secure in their persons, houses, papers, and effects” means?

2. Background

Over years of interpretation by the Supreme Court, the intent of this amendment has come to be understood as protecting individual citizens’ rights to privacy. Often when referring to this amendment the courts will say that a person has a reasonable right to an expectation of privacy and that the government cannot violate that right or expectation without good cause.

Discussion

Give some examples of these kinds of things you think our government is prevented from doing because of this civil right.

3. Background

Since schools are run by local governments, they, too, cannot violate your privacy without good reason. However, one of the many functions of a school is to keep accurate records on your school performance and any other personal information which might aid the school in your education.

- a. Commonly, the schools ask you and your parents to provide the following kinds of information, and they keep it in your permanent file or record:

Name  
Address  
Telephone  
Date/Place of Birth  
Weight  
Dates of Attendance  
Awards Received  
Participation in Sports  
Allergies  
Name of Parents  
Emergency Contacts  
Doctor’s Name  
Physical Exam Results  
Immunization Records

- b. Schools also keep in your records information related to the following:

- special psychological or education testing or evaluation
- some kinds of special counseling or other services that may be provided
- your IEP (Individual Education Plan) if you are receiving special education instruction or services
- financial aid forms your family may have been required to complete
- your grades, suspensions, expulsions, and other disciplinary actions
- your performance on standardized tests and miscellaneous teacher notes regarding your performance or behavior

#### Discussion

Look at each of the items in (a) and explain what you think might be a good reason for asking for this information. For what purpose might it be needed? What might be the reasons for keeping in your record the information contained in (b)?

Compare the information in (a) and (b). Which contains a greater amount of information that is highly personal in nature?

Could some of this information be harmful to you if it were given to other schools to which you might transfer, a potential employer, or a college to which you are applying for admission?

Without necessarily telling why, which information from either list do you feel would be most harmful if it were released to any of these sources?

Do you think there might be anything in your record about you which you believe is wrong or with which you might disagree?

#### 4. Background

In 1974, the United States Congress responded to an investigation of the way in which schools kept records and shared information about students by passing the Privacy Rights of Parents and Students Act. This was renamed the Family Education Rights and Privacy Act (FERPA) in 1988. This act requires schools to allow students and their parents to see or have access to student records and prevents schools from releasing or disclosing certain kinds of information about the student without student or parental permission.

#### Discussion

Looking back at the discussion under #3, what kinds of information do you think schools are not allowed to disclose without permission? Why?

Why do you suppose this act includes parents? When or in what cases do you think only students would be allowed access to their records or to give permission for disclosure?

#### 5. Background

With the recent increase in problems related to student abuse of alcohol and drugs, more and more schools have provided special counseling and referral assistance to students through what is known as a student assistance program. Most of these programs receive

some funds from the federal government to help support them. In 1975, Congress enacted special regulations which were intended to encourage people to seek counseling and assistance for their drug or alcohol abuse problems. These regulations are described in the Code of Federal Regulations. They allow students to seek some kinds of special counseling without permission of their parents, and they prevent release of any information contained in these particular records to anyone, including parents and teachers, without student permission.

### Discussion

Why do you think students are allowed to get drug or alcohol counseling without their parent's permission?

Do you think parents should know if their children are receiving counseling for a problem with drug or alcohol abuse? Why?

Do you think parents should be involved in their children's drug or alcohol counseling?

Do you think teachers should be allowed to know how their students' drug or alcohol counseling is progressing? Why?

Is there a conflict between protections that the FERPA provides and the protections that these federal regulations provide? Describe.



# SCHOOL LIABILITY CASE STUDIES

## **Purpose:**

This lesson is designed to introduce or reinforce use of the case study method as a means of examining the legal application of liability in the school setting.

## **Objectives:**

Students will develop familiarity and comfort with using the case study method of examining court decisions.

Students will understand the key issues and arguments in several school liability cases.

## **Procedure:**

(Note: As an introduction to this or any other lessons on liability, teachers might want to spend some time reviewing vocabulary.)

1. Pass out the SCHOOL LIABILITY CASE STUDIES and ask one student to read aloud the case of Sheehan v. St. Peters Catholic School. Ask the students to identify the facts in the case and write them on the board. Have students copy what is written into the appropriate space on their worksheets. Then ask students to describe the issues in the case and write these on the board. Have students write these in the appropriate place on their worksheets as well. Ask the students how the court ruled (located at the end of worksheet) and instruct them to write this in the appropriate space on their worksheets. Ask the students if any of them disagree with the ruling and why. Allow other students to respond.
2. Have students read independently and complete the other cases on the worksheet.
3. Divide students into groups of five. Assign a recorder, a discussion leader, and a reporter for each group as they discuss each of the remaining cases. Give each group a clean copy of the worksheet to record their answers. Ask each group to use their individual notes as a basis for discussion in each of these cases and to see if they can come to agreement on the facts, issues, decisions, and their own opinions on each case.
4. Have group reporters share the results of their discussions.

## SCHOOL LIABILITY CASE STUDIES

### Sheehan v. St. Peters Catholic School

A boys' eighth grade gym class was on the school field playing baseball. The girls' gym teacher brought their class out to the field and told them to sit on logs along the side of the field and observe the boys' game. The teacher then left the field. While the teacher was gone, the boys who were waiting to bat began pelting the girls with pebbles. This went on for three or four minutes, and one of the girls was eventually struck in the eye by one of the stones. She lost the eye and her teacher and school were sued for failure to provide reasonable care in the supervision of the students.

FACTS:

ISSUES:

ARGUMENTS:

YOUR OPINION:

DECISION:

### Fagan v. Summers

Several children were on the playground being supervised by a teacher's aide. The aide walked past a group of boys and saw nothing unusual. About 30 seconds after she passed, one of them threw a rock. Though she did not notice the rock being thrown, she heard the cry of a boy injured by the rock. She was sued for failure to provide proper supervision.

FACTS:

ISSUES:

ARGUMENTS:

YOUR OPINION:

DECISION:

### Miller v. Griesel

During recess for a fifth grade class, a group of students remained in the classroom to work on a class project. Their teacher asked another teacher to look in on the students and left the room. One of the boys produced a box containing a battery and a device which looked like a light with wires on it. Another boy thought the device was a light and touched the wires to the battery. There was an explosion and the boy was seriously injured. He sued the teacher for failure to use responsible care in supervision.

FACTS:

ISSUES:

ARGUMENTS:

YOUR OPINION:

DECISION:

### Smith v. Archbishop of St. Louis

In a second grade classroom, the teacher kept a lit candle on her desk in the front of the room. The children were getting into costumes for a class play and several costumed children were milling around her desk while the teacher was in the back of the room. One girl's costume ignited and she was severely burned. The school system was sued for the teacher's failure to use reasonable care.

FACTS:

ISSUES:

ARGUMENTS:

YOUR OPINION:

DECISION:

Simms v. School District No. 1, Multnomah County

A student was being disruptive in class, and the teacher forcefully removed the student from the room. The student violently resisted the teacher's efforts and, in the process, shattered a door window with his arm. The injured student sued the teacher for assault and battery.

FACTS:

ISSUES:

ARGUMENTS:

YOUR OPINION:

DECISION:

Bush v. Oscoda Area Schools

The students of a physical science class met in a mathematics classroom rather than a laboratory. Wood alcohol was stored in this classroom in a damaged plastic jug, used for experiments in wick burners, and allowed to remain on the counter when spilled. An explosion of the wood alcohol caused burn injuries to a student, who sued the school system for negligence in maintaining dangerous conditions and practices.

FACTS:

ISSUES:

ARGUMENTS:

YOUR OPINIONS:

DECISION:

## LIABILITY CASE RULINGS

The Minnesota Courts found the eighth grade teacher liable for not having exercised reasonable care in the 1971 case of Sheehan v. St. Peters Catholic School. However, the 1972 Wyoming decision in Fagan v. Summers, held that reasonable care had been exercised by the teacher's aide and that "there is no requirement for a teacher to have under constant and unremitting scrutiny all precise spots where... play activities [are] being pursued." The Indiana court dismissed the case of Miller v. Griesel, finding that the plaintiff had failed to offer sufficient evidence that the teacher had not exercised reasonable care in her supervision of the students. The court noted that there was insufficient documentation of the length of time that the students had been left unattended, the hazardous nature of the class project, and any degree of mischievousness on the part of the students who stayed behind. In Smith v. Archbishop of St. Louis, the judge concluded that the lit candle posed a danger to the students, the teacher was admittedly aware of that danger, and she did not exercise reasonable care in light of that danger. The decision in favor of the defendants in the 1973 Oregon case of Simms v. School District No. 1, Multnomah County indicated that the court recognized the use of force as sometimes being necessary in a school setting. In this case the court found that the force used by the teacher was reasonable under the circumstances and that because of its reasonableness, no battery had been committed. Finally, the ruling in Bush v. Oscada Area Schools held that the laboratory conditions were unreasonably dangerous, and the teacher and principal were found to be liable.

## LIABILITY VOCABULARY

**ASSAULT**– an attempt to inflict injury on another person’s body through the use of unlawful force, along with the ability to injure that person if the attempt is not prevented. No touching need take place, nor physical injury be proven, in order to establish that an assault has taken place.

**ASSUMPTION OF RISK** – a defense to negligence suits which claims that the plaintiff knowingly and voluntarily exposed him or herself to the dangers or risks of the activity.

**BATTERY** – an unlawful touching of another person or use of force on another person, done willfully or in anger.

**BREACH OF DUTY** – failure to comply with the duty that is legally required or owed to another person, group of people, or society.

**BURDEN OF PROOF** – the obligation of one party in a civil or criminal case to substantiate an allegation or claim with sufficient evidence to avoid dismissal or to convince the court of the truth of the allegation or claim.

**CAUSAL CONNECTION** – the direct link between a negligent act or conduct and the harm or injury which resulted.

**COLOR OF STATE LAW** – the official capacity and authority under which one acts as an employee of the state or city government.

**COMPARATIVE NEGLIGENCE** – the injured party’s own level of responsibility and fault in the harmful action and the reduction of recovery in proportion to the level of the injured party’s own negligence.

**DUTY** – the legally sanctioned obligation of one person to another person or group.

**GOOD FAITH IMMUNITY** – exemption from penalty based on evidence of a) the intention to fulfill one’s obligations, b) the absence of intention to defraud or seek unfair advantage, or c) the observance of reasonable standards of fairness.

**INDEMNIFY** – to protect against financial loss as a result of a claim of negligence.

**MALFEASANCE** – the wrongful or injurious committal of an act which might otherwise be lawful.

**NONFEASANCE** – the failure, neglect, or refusal, without sufficient excuse, to perform a duty which is required by law or to which one has agreed.

**ORDINARY CARE** – the degree of carefulness that a reasonable person would exercise under similar circumstances.

PUNITIVE AWARD – compensation in excess of the actual damages that is intended to punish the wrongdoer and give reparation to the injured.

SAVE HARMLESS – to protect from financial loss or liability.

SOVEREIGN IMMUNITY – right of the government to be exempt from suit or penalty without the government's agreement.

TORT – a civil wrong leading to injury which results from failure to comply with legal duty.

# SCHOOL LIABILITY HYPOTHETICALS

## **Purpose:**

By giving students an opportunity to apply some of the school liability concepts they've learned to hypothetical situations, they will enhance their understanding of these concepts.

## **Objectives:**

Students will be able to successfully apply the negligence concepts of duty, break of duty, causal connection, and injury to three hypothetical situations.

Students will develop familiarity with arguments for the plaintiff and defense and judicial considerations in hypothetical school liability cases.

## **Materials:**

Copies of SCHOOL LIABILITY HYPOTHETICALS worksheet, board, and chalk.

## **Procedure:**

1. Review with students the four-point test (duty, breach of duty, causal connection, and injury) for deciding liability in negligence cases and the standard of reasonable care.
2. Hand out the SCHOOL LIABILITY HYPOTHETICALS worksheets and write Duty, Breach, Causal Connection, and Injury on the board.
3. Have students read their first hypothetical silently. Ask students to brainstorm with you what duty was owed in this case, whether or not there was a breach and what facts support that, whether or not there was an injury in this case, and if the cause of injury was connected to the breach of duty. Write the group's conclusions on the board under the proper headings.
4. Divide the students into groups of three and instruct each group to select a judge, plaintiff, and defendant for the first case.
5. Instruct the plaintiffs and defendants to briefly present their cases to the judge and for the judge to render an opinion.
6. Ask the judges to share their decisions with the whole class and discuss any difficulties they encountered. Encourage other comments if relevant.
7. Repeat this process twice more, giving each student an opportunity to switch and play each of the roles.



## SCHOOL LIABILITY HYPOTHETICALS

1. A group of second and third grad girls are climbing the jungle gym on the school playground during recess. There is a teacher on the playground; however she is 75 feet away and has her back to the jungle gym. The girls take turns daring each other to try various stunts on the bars, and one girl, who tries hanging upside down by one leg, loses her balance and falls to the ground. In the process, she bangs her head twice, suffers a minor concussion, and breaks her right arm. Her family sues the school and teacher for negligence in providing the proper supervision.
2. Joan and Sarah have been learning gymnastics in physical education. One of their favorite pieces of equipment is the trampoline. One day after school they find the gym door unlocked and sneak in to play on the trampoline. Even though they have learned that they should not use the trampoline without being spotted on all four sides, they both get on at once and start jumping. Joan starts edging too close to the edge, loses her footing, falls off, and suffers a paralyzing spinal injury. The school principal, physical education department chair, and girls' gym teacher are sued for failure to secure the gymnasium when class is not in session.
3. Johnny is prone to emotional outbursts and tantrums. One day his tantrum becomes so violent that Mrs. Marshall tries to remove him from class. In the process, he tries several times to bite and kick her. She pins him to the floor face down, with his hands twisted behind his back and sends one of the other students to the office for the principal. Johnny's violent reaction continues, and he bangs his head on the floor, bloodying his nose. By the time the principal arrives, Johnny has calmed down enough to be removed without any physical violence and he leaves with the principal. His parents sue Mrs. Marshall for assault and battery.
4. After the varsity football team loses its opening game by 21 points, the coach conducts a grueling three-hour practice in the 95 degree sun. When the thirsty team members request water, he chides them for being "sissies" and makes them run another three miles. Two juniors collapse from dehydration and exhaustion and sue him for subjecting them to dangerous conditions in their practice.
5. The automatic door closer on the school's front entrance has been broken for two months. The principal has submitted two requests for its repair and has been informed that the school system has no money to pay for the repair. One day, as the heavy door slams shut, a boy's fingers are crushed. He sues the school principal and district superintendent for negligence in maintaining faulty equipment and dangerous conditions in the school.
6. One late afternoon, as the principal exits the school and locks it, she spots Justin and three other boys running from the back field. Knowing that Justin has vandalized the school before, she decides to investigate. When she reaches the back field she sees large black and red letters across the school's back wall. The next morning she calls Justin into her office, accuses him of putting the graffiti on the school wall, and suspends him for a week. Justin protests and requests that she hear him out. The principal refuses and sends him home. He sues under the civil rights liability law, claiming that his right to due process has been violated.

## **LIABILITY MOCK TRIAL**

**Grade/Subject:** 9-12, social studies

**Time Frame:** Two to three 45-minute class periods

### **Purpose:**

This lesson is designed to familiarize students with certain aspects of courtroom procedure while reinforcing their understanding of the four points which must be proven in negligence claims and the defenses to negligence claims.

### **Objective:**

Students will demonstrate familiarity with the voir dire or jury selection process.

Students will be instructed in and practice courtroom procedure.

Students will demonstrate an understanding of negligence claims and what must be done to prove or defend against them.

### **Materials:**

Two desks with chairs, one 4' x 8' table with chair, 8 chairs, STATEMENT OF FACTS, file cards, large bin or basket.

### **Special Resources:**

This lesson calls for the assistance of an attorney experienced in trying liability cases. The attorney will coach the student lawyers on the jury selection process and will serve as the judge for the trial. If no lawyer partner is currently working with the teacher, call the Rhode Island Legal/Educational Partnership (277-6831) for assistance in locating such a partner.

### **Procedure:**

1. Introduce attorney to students and ask him or her to review with them the four aspects of negligence which must be proven in order for plaintiffs to prevail (duty, breach, causal connection, and injury).
2. Then ask the attorney to describe the voir dire process and the general concerns an attorney (plaintiff or defense) is looking for when he or she questions potential jurors.
3. Finally, have the attorney lead a general discussion of the components of a trial (opening statements, direct and cross examination of plaintiff's witnesses, direct and cross examination of defendants' witnesses, closing arguments).
4. Hand out STIPULATION OF FACTS, and ask students to read silently.
5. Ask the attorney to lead a discussion of the facts, issues, and possible arguments for this hypothetical case. (Note: This is a good place to break if the class period is near its end.)

6. Select two student volunteers to serve as the attorneys for each side. Select two student volunteers to play the roles of plaintiff and defendant and six student volunteers to play the roles of the witnesses. Have each of the remaining students write their names, addresses, and occupations (Students should select an occupation other than student for the purpose of this activity) on a file card and place the cards in a large bin or basket.
7. Arrange the 4' x 8' table and chair to represent the judge's bench. Then arrange each of the other two desks and chairs to face the judge's bench and represent the plaintiff's and defendant's benches. Finally, arrange the remaining eight chairs in two rows of four to the side of the judge's and lawyer's benches and facing the center of the mock "courtroom."
8. Select eight cards from the basket; call out each name and address as the cards are selected; and have the potential jurors say, "Here," walk one by one to the "jury box," and be seated.
9. While the furniture is being arranged and the jurors are being selected, ask the attorney to meet with the two student attorneys and briefly coach them on the factors they will need to consider as they each ask the potential jurors questions.
10. Seat the attorney at the judge's bench and have the plaintiff's attorney explain to the potential jurors what this case is about and who the witnesses will be. Then have him or her begin questioning or interviewing each of the potential jurors.
11. Have the defendant's attorney do the same.
12. After questioning is completed, allow plaintiff's attorney an opportunity to excuse a potential juror. After the juror is excused, select another card, call the name, and have the new potential juror sit in the excused juror's seat. Allow each attorney to question this juror. Continue this process until each attorney has had the opportunity to excuse three jurors. (Note: This is another good place to break if the class period is near its end.)
13. Begin the trial, with the attorney playing the role of judge. Have each student attorney give an opening statement, the plaintiff and the plaintiff's two witnesses each take the stand for direct and cross examination, the defendant and the defendant's two witnesses each take the stand for direct and cross examination, and each student attorney gives a closing argument.
14. Have the judge select a jury "foreman," give the jury its instructions, excuse the members for their deliberations, and call a recess.
15. Instruct the jury members to go into the hall and seek to come to a decision in five minutes.
16. When the jury is ready to return, the attorney-judge should call the "courtroom" back to order, the jury members should then file in, the "judge" should ask the jury "foreman" the jury's verdict, and the "foreman" should give the verdict.
17. The attorney should then bring the trial to a close and lead the students in a debriefing of their trial experience and observations.

## STATEMENT OF FACTS

### Robin Andrews v. Daryl Davis

Daryl Davis is a mathematics teacher at Jonesville High School. S/he teaches algebra, geometry, trigonometry and basic math. Her/his basic math class meets at 1:00 in the afternoon, is remedial in nature, and is made up on many students whose general school performance is average or below average, at best. One quarter of her/his students in this class are receiving special resource teacher assistance and one quarter of those enrolled in the class rarely attend.

On January 10, 1990, Ms. /Mr. Davis was not feeling well and had assigned ten pages to the students to do during the class period. S/he then left the room to use the bathroom. During the fifteen minutes that s/he was gone, Chris Murphy and Dana Jenkins exchanged angry words followed by a physical altercation. The altercation included each of them hurling a textbook at the other, and when Dana ducked, Robin Andrews was struck in the face. Robin suffered a bloody nose and two teeth were knocked out. Mr. /Ms. Jordan, a business instructor in the classroom next door, heard the commotion, rushed in, removed the two fighting students, and sent one of the other students to get the school nurse. Robin was rushed to the hospital with the two teeth, but they could not be saved, and s/he now has two false teeth in their place.

The plaintiff, Robin Andrews, claims that Daryl Davis' actions constituted a breach of her/his duty to properly supervise the math class and that this breach resulted in serious and permanent oral injury. S/he claims medical expenses of \$25,000 and general damages for the emotional distress caused by the injury in the amount of \$50,000.

The defendant, Daryl Davis, claims that there was no previous indication in the behavior of any individual student or group of students that such a disruption might take place, that s/he could not have foreseen the circumstances leading to such a disruption, and that the urgency of her/his ill condition created an emergency situation necessitating the s/he leave the class immediately. S/he further maintains that s/he acted responsibly by having gone directly from the classroom to the bathroom and from the bathroom to the main office to request coverage for her/his classroom.

### Witnesses for the Plaintiff

1. Robin Andrews, student and plaintiff
2. Fran Jeffries, student (enrolled in the same math class and observed the incidents in question)
3. Casey Berman, dentist (treated the plaintiff in this case)
4. Gerry Andrews, Robin's mother/father (will testify to the emotional trauma that has been suffered by Robin)

### Witnesses for the Defense

1. Daryl Davis, math teacher and defendant
2. J. Jordan, Business Teacher (agreed to keep an eye on defendant's class; broke up the fight, and sought assistance and medical attention)
3. Stacy Kopecki, school secretary (received defendant's oral request for immediate assistance with class coverage)

4. Taylor Mowry, dentist (dental expert who will testify that more up-to-date procedures would have been used to save the tooth and that the medical costs claimed are \$10,000 higher than the average costs in similar cases)

# LURID ROCK MUSIC – FREE SPEECH OR OBSCENITY

**Lesson Overview:** People are entitled to free speech, but are they entitled to hear what they want to hear? Teenagers are often not aware that a considerable group of people believe that what teenagers see or hear should be regulated. This lesson will allow them to confront this issue.

**Objective:**

1. To examine in a very careful manner some of the content of rock music.
2. To discuss whether there is a need for a rating system for rock music.

**Materials and Outside Resources:** This will depend on the extent to which this lesson is carried. Questionnaire may be used. Students may be required to make phone class or visits to the places mentioned within the lesson. Should the teacher decide to do so, tapes, CDs, or LPs may be used. The students may be required to find articles which deal with the general topic under study.

**Procedures/Activities:** (Please note that the term “rock music” is used here in a very general manner. It may be preferable to define this term for purposes of this lesson.)

Some persons believe that some rock music is not fit for human consumption. They will say it contains explicit sex, vulgar language, promotes violence against women, and is even racist in certain cases. In spite of this there are few limits placed on the sale and consumption of rock music in general.

Persons who are buying books or shopping for a movie to view know that there are age limitations based on some type of rating system. Legislators and or the courts, and even the distributors of these materials, have decided that it is legal to keep children who are underage away from things which are not appropriate for them. The basic issue is almost always sexual morality, violence, and/or vulgar speech.

Movies and printed material can be and are regulated. On the other hand, many people believe that the worst offender of the standards mentioned above is in fact the lyrics of rock music. In most communities few or even no limits are placed on the sale of recorded rock music to teenagers or even what is played on the public airwaves. Should there be rating standards set for (1) the sales of rock music and (2) the broadcast of rock music which contains questionable or objectionable material?

It is suggested that the teacher give very careful consideration to what types of things might be acceptable for a particular classroom, school, and community. Very precise guidelines ought to be established before announcing this assignment. It is suggested that these guidelines be printed and handed to the students so there can be no question as to what will be discussed.

Suggestions for this assignment might include:

1. Students may check with the local authorities to see whether there are any attempts to regulate the content of rock music which may be termed by some to be objectionable.
2. Students may call radio stations, indicating that they are studying the possibility of rating rock music, and ask whether the station is operating under any legal or self-imposed restrictions in the areas of sexual content, vulgar language, and/or violence.
3. Students may check with local stores to see whether or not they restrict the sale of certain music to teenagers because of content.
4. Students may be asked to find articles which discuss actions taken by Congress and the courts in this area. They may also locate articles which discuss any actions taken by the rock music industry to plead its case against censorship and/or to police itself.
5. A questionnaire might be designed by the students to take home and/or to share with schoolmates. The questionnaire might include some of the following questions:
  - a. Into which of the following age brackets do you fall: 10-14, 11-21, 22-35, 36 and over
  - b. Do you ever read or listen very carefully to the lyrics of rock music?
  - c. Do you listen to radio stations which broadcast rock music?
  - d. Do you believe there is a problem in our community caused by the sale of rock music which as what some believe to be sexually immoral, vulgar, or violent lyrics?
  - e. Should there be ratings placed on the lyrics of rock music which is broadcast?
  - f. Should ratings somewhat similar to those used by the movie industry be placed on rock music which is sold to young people below the age of 21? Ratings would be based on lyrics.

The results of the survey may be tallied and used for purposes of discussion.

6. Students may be asked to design what they would consider a fair and reasonable rating system. It might prove to be very interesting to have the students ask their parents to review the rating system to see whether they would agree with it or not.

**Reflections on the Lesson:** At the conclusion of this lesson the students ought to have an understanding that community standards, and possibly even national standards, may and ultimately do have an impact on what the students hear. One thing is almost certain, not all of the students will be satisfied with what they learn!

Students may be asked to write a paper indicated what they learned from this lesson as well as what changes they would like to see occur.