Liberty Means Responsibility
Dear Law Day Participant:

The Pennsylvania Bar Association, in conjunction with the Pennsylvania Bar Foundation, is pleased to present the eighth annual K-12 Law Day Lesson Plan Guide. This unique resource provides judges, lawyers, educators and students with exciting and informational lesson plans, as well as links to other civic learning organizations and materials from around the country. The PBA hopes you will find this guide very valuable in your activities.

Teaching kids about their legal rights and responsibilities is what this year’s Law Day program is all about. The theme for Pennsylvania’s celebration is “Liberty Means Responsibility.” Several lessons in this guide were submitted by Pennsylvania educators. The PBA thanks them for sharing their knowledge and talent with others. I also would like to draw your attention to the section called “Quick Classroom Lessons.” This section provides lawyers and judges with quick, fun lessons when they only have a few minutes to stop by a classroom. Educators will enjoy them, too.

And while the annual Law Day celebration is designed to highlight the importance of teaching children about the law, the PBA hopes that civic learning becomes a yearlong activity as commonplace in Pennsylvania classrooms as pencils and chalkboards. That is why the PBA continues its partnership with the First Lady of Pennsylvania, Third Circuit Court of Appeals Judge Marjorie O. Rendell, the National Constitution Center and the Pennsylvania Department of Education in promoting civic learning across the commonwealth through PennCORD (Pennsylvania Coalition for Representative Democracy). You can learn more about the PBA and PennCORD by visiting our Web site at www.pabar.org.

I know we all recognize the significance of sharing with our children what being an American citizen is all about. I thank you for your participation in the program and for your willingness to make a difference in the lives of Pennsylvania’s young people.

Sincerely,

Kenneth J. Horoho Jr.
President
Pennsylvania Bar Association

Pennsylvania’s Law Day 2007 celebration is funded by the Pennsylvania Bar Foundation.
Table of Contents

Getting Started
- Importance of Civic Learning ......................................................... 5
- Judges & Lawyers ..................................................................... 7
- Educators ................................................................................. 9
Lesson Planning Ideas ................................................................. 10
Quick Classroom Lessons ......................................................... 12
K-College Classroom Lessons ..................................................... 15
Civic Learning Support Organizations ......................................... 38

** Please note that the PBA received a number of outstanding lesson plans from Pennsylvania teachers for this year's lesson plan guide. Due to limited space, some of the lessons are being featured on the PBA Web site at www.pabar.org/public/education/lawday/lawdayinformation.asp. Be sure to visit the Web site and review the lessons."
In the Civic Mission of Schools (CMS), the consensus goal of civic education was identified as helping students gain and apply citizenship skills, knowledge and attitudes. This is also the goal of public education in Pennsylvania as outlined in the Public School Act of 1949 and the goal of the PennCORD initiative, in which the PBA is proud to be a leading partner. CMS recognized the need to provide resources and encouragement to ensure that all students can become the kind of competent and responsible citizens who are:

- Informed and thoughtful;
- Involved in their communities;
- Active politically; and
- Concerned for the rights and welfare of others.

CMS offered six promising approaches for civic education. The approaches of the report, which are outlined below, provide a strong framework for law-related education and civic learning in Pennsylvania:

1. Provide instruction in government, history, law and democracy. Formal instruction in U.S. government, history and democracy increases civic knowledge. This is a valuable goal in itself and may also contribute to young people’s tendency to engage in civic and political activities over the long term. However, schools should avoid teaching only rote facts about dry procedures, which is unlikely to benefit students and may actually alienate them from politics. History is full of conflict and the many ways conflict is dealt with in history – from war to peace – provides ample opportunity to teach about handling conflict in such instruction. Creative teachers have for years excited their students and informed their teaching by freezing historic events at certain points in time and then exploring how historic figures might respond if certain dispute resolution techniques were employed. A mock trial of Columbus for crimes against Native Americans might provide special insight into the cultural clashes of the past and present. Similarly, a mock mediation between Ben Franklin and Charles Pickney at the Constitutional Convention might allow students to understand better the conflict over slavery that led to the major compromises in the Constitution.

2. Incorporate discussion of current local, national and international issues and events into the classroom, particularly those that young people view as important to their own lives. When young people have opportunity to discuss current issues in a classroom setting, they tend to have greater interest in politics, improved critical thinking and communications skills, more civic knowledge and more interest in discussing public affairs out of school. Conversations, however, should be carefully moderated so that students feel welcome to speak from a variety of perspectives. Both students and teachers need support in broaching controversial issues in classrooms since they may risk criticism or sanctions if they do so.

3. Design and implement programs that provide students with the opportunity to apply what they learn through performing community service that is linked to the formal curriculum and classroom instruction. Service programs are now common in K-12 schools. The ones that best develop engaged citizens are linked to the curriculum; consciously pursue civic outcomes, rather than seek only to improve academic performance or to promote higher self-esteem; allow students to engage in meaningful work on serious public issues; give students a role in choosing and designing their projects; provide students with opportunities to reflect on the service work; allow...
Getting Started: Importance of Civic Learning (continued)

students – especially older ones – to pursue political responses to problems consistent with laws that require public schools to be nonpartisan; and see service-learning as part of a broader philosophy toward education, not just a program that is adopted for a finite period in a particular course. Free curricular materials that help organize service projects are available through Project Citizen. See www.leap-kids.com/programs/pennwtppc.php.

4. Offer extracurricular activities that provide opportunities for young people to get involved in their schools or communities. Long-term studies of Americans show that those who participate in extracurricular activities in high school remain more civically engaged than their contemporaries even decades later. Thus, everyone should have opportunities to join school groups, and such participation should be valued. Group participation means interaction with peers and others as part of that participation, thus providing real-life experience in grassroots democratic practices.

5. Encourage student participation in school governance. A long tradition of research suggests that giving students more opportunities to participate in the management of their own classrooms and schools builds their civic skills and attitudes. Thus, giving students a voice in school governance is a promising way to encourage all young people to be engaged civically. The conflicts associated with school governance often mirror the conflicts found in political life in the larger society, and the need for skill development is vital if the experience is to be positive for students. Although a developmentally appropriate approach is needed, there is room at every level for students to participate in school governance – with the level of participation growing as the students mature.

6. Encourage students’ participation in simulations of democratic processes and procedures. Recent evidence indicates that simulations of voting, trials, legislative deliberation and diplomacy in schools can lead to heightened political knowledge and interest. The data is not conclusive, but these approaches show promise and should be considered when developing programs and curriculum. Mock trials, as shown in the lessons in this year’s guide, are just one way of providing interactive civic learning.

CMS was sponsored by CIRCLE (Center for Information and Research on Civic Learning and Engagement) and the Carnegie Corporation of New York in cooperation with the Corporation for National and Community Service. See www.civicmissionofschools.org for the complete findings of CMS. The CMS report was the creation of a diverse and talented group of civic scholars and practitioners and was accepted by the Bush Administration as an important document that demands careful review.

Former President Jimmy Carter has spoken about the need to “wage peace” as strongly as we have waged war. See Jimmy Carter’s Nobel Lecture as the recipient of the 2002 Nobel Peace Prize in Oslo, Sweden: www.nobelprize.org.

The New Jersey Center for Law-Related Education has been working on curriculum that combines history and conflict resolution explicitly. Contact: Arlene Gardner, director, New Jersey Center for Civic and Law-Related Education, Rutgers/The State University of New Jersey, Livingston Campus, Lucy Stone Hall, Room 1230, Piscataway, NJ 08854, Ph: 732-445-3413/3414, Fax: 732-445-3420, Email: agardner@njclre.rutgers.edu.

This would be a wonderful activity to do to fulfill the Constitution Day educational mandate of the recent Byrd Amendment.

In other words, students in such service activities should be guided, paid for their work or rewarded in some significant fashion.

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A Few Notes About Visiting a Classroom

These ideas come from a variety of sources and are meant to help a presenter feel more comfortable when heading into a classroom.


Who?
Who refers to your audience. Are you visiting an elementary, middle or high school class? Is the school public, private or parochial? How many students are in the class? Are you presenting before more than one class? Is there anything special about the students, teacher or school that you should know before making your presentation? It would be helpful for you to talk with the classroom teacher prior to the presentation to answer these questions. Most teachers will appreciate your efforts to work with them on your program.

What?
What refers to the content of your civic learning presentation. Are you focusing on a specific topic, or are you giving a general overview of the law? If you have been asked to cover a specific content area, please feel free to use the lessons provided in this guide or to contact any of the civic learning providers listed in this guide for additional lessons (see Civic Learning Support Organizations). If you are going to develop your own materials, please see the lesson planning suggestions provided in this guide (see Lesson Planning Ideas).

The following are some useful content and delivery tips to help you get started:

› Be prepared and have a plan that covers the time allotted. Build into your plan the capacity to deviate from it if circumstances, or questions from students, dictate that a change is needed.

› Whatever you cover, be prepared for wide-ranging questions from the students. Answer the questions as best you can and be cautious – some students will try to draw you into making a judgment about an action of a parent, teacher, school administrator or local law/justice official.

› Always try to present both sides of an issue and use the teacher’s old trick of turning the question back on the student who asked it.

› Be prepared for students to share their personal experiences (or their parents’ experiences) with the law. Always try to respect their points of view while encouraging them to expand on those perspectives.
Getting Started: Judges & Lawyers (continued)

Try to focus your presentation on the students by actively involving them. Remember, lecturing is the least effective means of teaching (see Glasser’s Percentages of What Students Learn in the Lesson Planning Ideas section). Think back to times when you were excited about learning and model your lessons on those memories.

Finally, try not to promise the students anything that you will be unable to deliver in the future. If you say you will get back to the class with the answer to a question, make sure you do. If you promise to visit later in the year, make sure that visit takes place.

Where?
Where refers to directions within the school to the classroom. The often overlooked part of knowing where you are going is determining what the school’s rules are for visitors. Do you have to report to the main office? Must you have a pass to walk in the building? Even if you have visited the same school for many years, the problems with school violence have led many schools to tighten visitor controls.

You also will need directions for moving both yourself and the students around in the classroom. When working with students, try not to get yourself locked into one place. There are many different ways to direct students around the classroom and some of the best ways are detailed in the included lesson plans. The easiest and best way to involve students more completely in a lesson is by dividing the large group into smaller groups of four to six students. Ask the teacher if the students already have cooperative learning groups established. You can utilize those groupings for any small group work you wish to do during your presentation.

When?
When refers to the time of your session – both beginning and ending times. Schools run the gamut with regard to scheduling: some schools have 42-minute periods, while others have 90-minute periods. Make every effort to follow the schedule the school sets up for you. In addition, try to get to your class a few minutes early to observe the students entering the classroom. This will give you some hints about the class and also will create anticipation among the students. End the class on time, too. The students will need to move on to their next class. A good way to make sure you end on time is to ask someone (a student, the teacher) to give you a five-minute warning that the class is close to ending.

Why?
Why refers to the purpose of your presentation. Why are you making this presentation? Why is this class having you visit? Knowing these answers will help you to plan your presentation effectively. You may be making a one-time Law Day presentation that is not connected to anything else. On the other hand, you may be expected to provide the background on a project that the class is undertaking. Whatever the reason, recognize and respect the opportunity you have to make a difference in that school.

This lesson plan guide is filled with lessons that get to the heart of our country’s democracy. If there is a topic you wish to teach that is not in the guide, visit the PBA Web site for directories of archived lessons from past Law Day and Celebrate the Constitution programs. The lessons may be found at www.pabar.org/public/education/educationprograms.asp. If you decide to create a new lesson or even just tweak one of ours, let us know. We enjoy featuring the work of others in our materials (see Civic Learning Support Organizations).
This lesson plan guide is designed to help you, and judges/lawyers, introduce civic learning lessons into the classroom with ease. The lessons are fun, informative and easy-to-use, and appropriate handouts have been included.

All of the lesson plans have been linked to Pennsylvania’s Academic Standards for Civics and Government. The lessons also meet many of the other standards, especially in social studies. The Academic Standards for Civics and Government, which became final upon their publication in the Pennsylvania Bulletin on Jan. 11, 2003, describe what students should know and be able to do in four areas:

- 5.1. Principles and Documents of Government
- 5.2. Rights and Responsibilities of Citizenship
- 5.3. How Government Works
- 5.4. How International Relationships Function

“Our Pennsylvania Constitution of 1790 was the basis for the Free Public School Act of 1834, which is the underpinning of today’s system of schools operating throughout the commonwealth. Schools were created to educate children to be useful citizens, loyal to the principles upon which our republic was founded and aware of their duties as citizens to maintain those ideals. Today, social studies education continues the mission of promoting citizenship.” — Pa. Dept. of Education Web site. Visit www.pde.state.pa.us/social_studies to learn more about the standards.

In addition, this lesson plan guide offers you the unique opportunity to invite local judges and lawyers into your classroom to help with teaching the lessons. As you know, students often respond well to outside people who share with them their knowledge and experience in certain subject areas, such as the law. Do not, however, feel restricted only to use these lessons during the Law Day celebration. This guide was created to be a year-long civics and government teaching tool for educators across Pennsylvania. Please also feel free to contact the civic learning organizations listed in this guide for additional civic learning resources (see Civic Learning Support Organizations).
Lesson Planning Ideas

There is probably a civic learning lesson for any topic you might like to present. There are a variety of lessons found in past PBA Law Day and Celebrate the Constitution booklets, which are posted in the Public Education area of the PBA Web site at www.pabar.org/public/education/educationprograms.asp. If you decide to create a new lesson — or even just tweak one of ours — let us know. Send your lesson planning ideas, as well as news of your presentation efforts, to the PBA (see Civic Learning Support Organizations). The PBA likes to feature the work of Pennsylvania lawyers, judges and educators. In fact, some of the lessons in this guide originally were developed by educators, lawyers and judges for classroom visits. For additional civic learning lessons, contact one of the other organizations listed on the Civic Learning Support Organizations page.

If you decide to create your own lesson, the following overview provides a time-tested model for creating an original lesson.

Glasser’s Percentages of What Students Learn

Students Remember:

- 10% of what they read
- 20% of what they hear
- 30% of what they see
- 50% of what they see and hear
- 70% of what they discuss with others
- 80% of what they experience personally (that involves feelings)
- 95% of what they teach someone else

As such, do not distribute a lot of handouts and then lecture. Whenever possible, try to involve the students in interactive learning activities. Conducting a mock trial with the students will teach them much more about how courts operate than a lecture on the structure of the courts. Role-playing a police stop is a far better way to teach about police powers than reading the opinion in Terry v. Ohio.

What Are the Essential Elements of a Good Civic Learning Lesson?

The lesson should:

- develop substantive knowledge about a legal/constitutional concept that is of interest to young people;
- present a balanced view of the topic as well as the legal system;
- develop a wide range of cognitive and affective behaviors, as well as critical thinking skills;
- stress interactive learning processes such as small-group activities;
- provide a debriefing procedure that leads participants to evaluate their own learning; and
- relate to students’ daily lives and be appropriate to the students’ ages and levels of understanding.
Lesson Planning Ideas (continued)

What Are the Steps of a Good Civic Learning Lesson?

1. Have at least one activity during the main lesson other than you talking (see the ideas below). You might want to use a number of different activities during the class (for example – start by asking a question, then move on to a role-play or simulation, have the students brainstorm some ideas, ask them to visualize a scene, read a passage from a case and close with a survey you provide).

2. End with a wrap-up, something that brings closure to the presentation. You might simply ask them to reflect on the lesson. If the teacher thinks a homework assignment is a good idea, give the students an assignment such as this: “Here’s the address of your senator – write the senator and explain how you feel about _______ .”

ACTIVITIES THAT HELP STUDENTS ATTACH MEANINGS TO LEARNING EXPERIENCES

- Writing Logs/Diaries – Students document reactions to events and interpret what happened.
- Naming Themes – Students think of a personal lesson that was learned and try to derive an abstract meaning from the experience. The question, “What does it remind you of?” encourages students to find themes.
- Imagining – Students imagine “What if?” or create alternative outcomes.
- Evaluate – Students rate or rank an experience in relationship to other similar experiences they may have had.
- Role-Playing – Students express their understanding of problems by acting out their interpretations of the elements of the experience (mini-mock trials are great for presentations).
- Drawing – Students identify major themes or issues and draw pictures identifying the meaning derived from the experience.
- Comparing – Students relate reading or taking a field trip to another similar experience. This helps them identify features they consider relevant.
- Concept Mapping – Students visualize and draw the relationships among concepts with a series of links or chains.

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Quick Classroom Lessons

Constitutional Truths

- **Grade Levels:** K-12
- **Academic Standards:** Various Academic Standards for Civics and Government are met by this lesson depending on which “truths” are discussed. The lesson focuses heavily on Academic Standards for Civics and Government 5.1.
- **Materials:** You will need to have copies of the Constitution for students to review. Many classrooms have copies available. If you need copies, contact your Representative in the United States Congress, since they often have pocket copies available.

Walk into the classroom and either write or announce “We hold these truths to be self-evident.” Ask the students if they know where those words are found. Once you establish the words as the opening of the Declaration of Independence, ask the students if they know how that document relates to the Constitution. Listen to the students’ ideas and then explain that the first document, the Declaration of Independence, was a document of revolution, of breaking away from government. The second document, the Constitution, was written to create a government. It was the place where those self-evident truths of the declaration were institutionalized. Ask the students to look for all of the “truths” they can find in the Constitution and to list as many as they can in a timed period (keep it short – this is a warm-up – five minutes tops).

Among the truths found by a class at North Allegheny High School, outside of Pittsburgh, found were:

- The president is commander-in-chief, but Congress has the power to declare war …
- If you are arrested for a crime, you have the right to have a lawyer help defend you …
- Members of the Senate must run for election every six years, but Article Three stipulates that judges serve as long as they demonstrate “Good Behavior” …
- You may vote if you are 18 and a citizen …
- The Supreme Court sits as a trial court for cases affecting Ambassadors, other public Ministers and Consuls, and those in which a state shall be party …

What truths will your group find?
Quick Classroom Lessons (continued)

What's the Law Doing in My Newspaper?

- **Grade Levels**: K-College
- **Academic Standards**: Various Academic Standards in Civics and Government are covered in this warm-up exercise, depending on the accompanying discussion.
- **Background**: This is a variation on the classic Mindwalk lesson that can be found in other forms in past Law Day booklets at www.pabar.org/public/education/lawday/lawdayinformation.asp.

Walk into the classroom with a newspaper. The USA Today is a nice paper to use because you can hand out sections, and the sections are color coded. Bring in enough newspapers so every student can have his or her own section.

Tell the students that you are here to talk about the law because the law is everywhere. Hand out the newspaper sections to every student or simply hold up one newspaper in front of the class. State: “I will now prove that the law is everywhere because there is nothing in the newspaper that doesn’t involve the law.” Have the students challenge you by suggesting items from the paper that have no connection to the law. Finding the law on the front page is easy – the stories of crime, government action and natural disasters are obvious legal connections. Here are some common challenges and responses from less obvious areas:

- **Weather Report** – National Weather Bureau, government agency, created through law.
- **Crossword puzzle** – The item itself is copyrighted.
- **Sports** – Contracts for athletes, steroids and other performance enhancing drugs, ticket holders rights and responsibilities.

One variation on this is to ask the students first to find the law in the paper and then to challenge you with items the students feel have no legal connection. Another variation involves showing students pictures and asking them to find the law in the picture. A picture of a family suggests marriage laws, child protection acts, legal ages of maturity and more.
Quick Classroom Lessons (continued)

Are You An Active Citizen?

- **Grade Levels:** Grade 5-College
- **Academic Standards:** Various Academic Standards in Civics and Government are covered in this warm-up lesson, depending on the accompanying discussion.
- **Background:** This lesson was developed by Anne Spector, coordinator for the Pennsylvania Coalition for Representative Democracy (PennCORD), which seeks to raise the bar for active citizens and provide students with the information they need to know in order to become advocates. Andrew McGinley, a Temple University undergraduate student and the co-author of PennCORD’s student advocacy kit Twenty-Six, assisted in preparing this lesson.
- **Materials:** You will need material from the kit for this warm-up lesson. You can download your own copy of Twenty-Six from www.constitutioncenter.org/penncord/download/attachments/78/26.pdf

Walk into the classroom and announce that the purpose of public education is to teach students to be good citizens. Ask students to define what it means to be a good citizen.

There is a quick survey on page six of the student advocacy kit Twenty-Six that allows students to see if they are active citizens. Either have the students take the survey themselves or give the survey to the entire class. When the survey is completed, go over the checklist with the class for active student citizens found on page 11 of the kit. Ask the students if they can add anything to the list.

If you have time, discuss what it means to be an active citizen beyond the school grounds.

*Here is more from Spector and McGinley:*

Civic education is supposed to be about citizens. Students are expected to learn what it means to be a citizen, and how they can use their citizenship. A great way to use your citizenship is to become an advocate or active citizen, someone who works on behalf of a cause for which they are passionate. The student advocacy kit Twenty-Six walks middle and high school students through the concepts of advocacy and active citizenship and guides them with a series of activities and questions. The kit is made of three sections and an appendix, each containing materials designed to aid students in becoming advocates.

*“Where Do I Begin?”*
- Students evaluate themselves to see how they fit into the world of active citizenship.
- Students’ rights are explained so each student knows what he/she can legally do as an advocate.

*“Is Everyone A Citizen?”*
- Students are further introduced to the world of citizenship.
- Students are given a chance to read about some active citizens and asked to think and discuss what makes these students advocates, why their work is important, and if they feel prepared to become active citizens as well.
- Students think about their communities and how they could be improved.
- Students identify the needs of their own communities.

*“Making Changes: A Guide to Advocacy”*
- Students follow how-to guides on various tools advocates can use.
Shamus and the Constitution

**Grade Levels:** K-3 as modified below

**Academic Standards:** Academic Standards for Civics and Government 5.1, 5.2 and 5.3

Originally submitted by Megan Murray, a second-grade teacher at Clara Barton Elementary School in the School District of Philadelphia (meg717murray@yahoo.com). The lesson was modified for PBA use by LEAP-Kids.

**Background:** This lesson plan is based on the short story “Shamus and the Constitution” created by past Pennsylvania Bar Association Young Lawyers Division Chair J.J. Clark, a U.S. attorney and mother of three who created the story of a young squirrel named Shamus whose tree community is being disturbed by squirrel bullies. In the story, Shamus learns about the rule of law and the three branches of government and uses that education to help the rest of the squirrels create a safer and fairer community, free of bullying and other problems.


**LESSON OVERVIEW:**
Depending on grade level, the students will either listen to or read a story about a squirrel named Shamus who is having a difficult time getting along with his squirrel friends. The story, and this lesson based on the story, demonstrates how learning about the three branches of government helps Shamus and his squirrel friends solve their problems.

**GOALS:**
As a result of this lesson, students will be able to:
1. Have a basic understanding of the U.S. Constitution and the three branches of government
2. Identify the three branches of government
3. Discuss why it is important to follow the laws in our school and in our community
4. Explain about peaceful ways to resolve conflicts, and
5. Identify strategies for dealing with potential bullies.

**MATERIALS:**
Each student will receive a copy of “Shamus and the Constitution.” The story can be downloaded from the Pennsylvania Bar Association Web site at [www.pabar.org/pdf/ShamustheSquirrelFinal.pdf](http://www.pabar.org/pdf/ShamustheSquirrelFinal.pdf). Copies of such elementary materials as “The U.S. Constitution and You” by Syl Sobel would also add to this lesson but are not needed for the basic lesson.


The leaf ([www.pabar.org/pdf/Leaf.pdf](http://www.pabar.org/pdf/Leaf.pdf)) and the tree ([www.pabar.org/pdf/Tree.pdf](http://www.pabar.org/pdf/Tree.pdf)) also are on the PBA Web site.
ACTIVITIES:

1. The students will break up into three groups after reading the story. One group will be the executive branch, the second group will be the legislative branch and the third group will be the judicial branch. Each group will find out information about their branch of government. Each group will receive a picture of a tree with three branches. The students will each fill in information about the branch of government in which they are in charge. Each group will be asked to share the information with the rest of the class about their branch of government.

2. After the class discusses the three branches of government, the students will be given an opportunity to create some laws for the classroom and/or the school. Each group will be expected to use the information that was discussed in order to make the laws. The students will write a letter to Shamus and his friends to make sure the squirrels understand why it is necessary to obey laws. The students will also write about the laws they follow in school every day.

EXTENSIONS OF THE LESSON:
Look at the lesson, "No Animals in the Library", at www.pabar.org/pdf/NoAnimalsintheLibrary.pdf under Law-Related Lessons by Pennsylvania Teachers and Lawyers. This lesson is a wonderful primer on how to draft rules and laws at the elementary level.

The class can create a tree of rights and responsibilities, listing all of the rights (to learn, to be safe, to be loved and responsibilities (come to school ready to learn, keep weapons out of school, care about others) students have in their schools. The rights and responsibilities listed here are just a few of the dozens listed by students at Overbrook Educational Center in Philadelphia during Law Day 2006 activities at the school.

Some schools will use the Shamus story to focus on bullying issues. The story is a wonderful way to introduce School Rules Against Bullying. Classic rules from the Olweus Bullying Prevention Program include promises not to bully anyone and to include anyone who looks left out. (see www.clemson.edu/olweus/ for the Olweus Bullying Prevention Program).

On Writing a Law: No Animals in the Library

This lesson is designed for students in kindergarten through second grade. Through this lesson, students will begin to understand what is written and how to write one. You will guide them through a series of questions to help the students determine that it is not a good law, then ask lessons how to rewrite it.

To begin the lesson, read the book, "I Want My Frog in the Library" by Eric Kimmel, to the students. After you finish reading the book, tell the students that they will write a law to make sure the frog is not in the library. Tell the students that they will write a new rule for their school, that will show what they think about this rule. You must likely will have emotional responses and will need to guide them in their thinking. The following are some questions to help you direct their thinking in the logical process:

- What part of the story left students least comfortable?
- Is the rule written in clear language?
- Is the rule too understandable?
- Does the rule conflict with any other law in the school?
- Is the rule too emotional?
- What position would you suggest when the rule is broken?
- Are these positions reasonable?

Decide, in writing the rules, that students should help them rewrite it using the broad.

Lesson Plans (continued)

Imagining PEACE : Making A Conflict Resolution Flag

- **Grade Levels**: 3-6
- **Academic Standards**: Academic Standards for Civics and Government 5.2C and 5.2G

This lesson was adapted from Project PEACE materials by the Project PEACE training team for the Law Day 2007 guide.

The purpose of the lesson is to allow students to reflect creatively on conflict in their school, looking at the definition of the term while exploring the positive and negative results of conflict.

**MATERIALS:**
Students will need art supplies to complete this lesson. At a minimum, students will need paper and pencils.

**PROCEDURE:**
Start the class by asking the students if they know what the word “conflict” means. Ask students for synonyms for conflict and make a list of all of the words provided. Review the words. Often students will only provide words with negative connotations as synonyms for conflict, words such as “fighting,” “war,” and “argument.” Explain to the students that conflict is neutral, and that the negative words they are providing simply describe the results of conflict. Ask students for synonyms with positive connotations, words such as “cooperating,” “peace” and “agreement.” Now tell the students that they will be making a PEACE Flag to show how conflict is dealt with at their school. This flag should provide a visual image of the way your school currently views conflict and how you would like it to be viewed in the future. Students may create the flags individually or in small groups. If there will be such a follow-up, you might tell the students that these are to be done quickly to get ideas in place for a class or school flag.

After allowing time for the flags to be completed, ask for student volunteers to show and explain their flag pictures. Reinforce the definition of conflict, especially its neutral quality, during these presentations.

**EXTENSIONS OF THE LESSON:**
Some Project PEACE schools have created a school flag to fly at the school, bringing the flag to half-staff (the sign of respect for a loss) or flying it upside down (the international distress symbol) if there has been a fight or some negative result of conflict at the school.

Project PEACE (Peaceful Endings through Attorneys, Children and Educators) is a partnership of Pennsylvania Attorney General Tom Corbett and the Pennsylvania Bar Association that promotes peaceful conflict resolution in the schools. For more about Project PEACE, see www.pabar.org/public/education/projectpeace/projectpeacehome.asp.
Liberty Means Responsibility

Community Problem Solving

- Grade Levels: K-12
- Academic Standards: Academic Standards for Civics and Government - 5.2

In order to grow as an active member of their communities, students should be encouraged to see themselves as change agents. To that end, students as young as first grade should be introduced to community problem-solving.

Step 1: All good literature contains conflict. To introduce the concept of community problem solving, choose an age-appropriate book that has a conflict with which the students might identify. One good book for all age groups is Mrs. McBloom, Clean-up Your Classroom by Kelly DiPucchio. In this book, Mrs. McBloom turns to her students for ideas and help when it finally comes time to *clean up her classroom after fifty years of teaching. (*Ways to clean up a classroom, a playground, a park, etc. is a theme that should be familiar to all students.)

Step 2: Read the story aloud. Choose a place to stop in the story that tells the students what the problem is.

Step 3: Introduce the community problem-solving process and walk through each of the steps with the whole class.

First, identify Mrs. McBloom’s problem:

_____________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________

Second, identify people who might be interested in working with you to solve the problem:

Other students
Other student organizations
Teachers
School administrators
Other school staff (aides, secretaries, etc.)
School board members
Parents
Community residents
Local politicians
Other
Other
Third, brainstorm possible solutions to the problem you want to solve. Also, think about the obstacles associated with each possible solution. Write them below.

Possible Solution:  
________________________________________________________
Obstacles:  
________________________________________________________

Possible Solution:  
________________________________________________________
Obstacles:  
________________________________________________________

Possible Solution:  
________________________________________________________
Obstacles:  
________________________________________________________

After that, choose the solution that best solves the problem and has the fewest obstacles. Consider criteria such as the following:
1. How much it costs to put into place?
2. How easy it is to put into place?
3. How many different people would like your solution?

Then write your best solution below:
_______________________________________________________________________________________
_______________________________________________________________________________________
_______________________________________________________________________________________

Finally, create your Action Plan:

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<th>Who?</th>
<th>Will Do What?</th>
<th>By When?</th>
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You Be the Judge and Jury: Exploring Teen Court in Your School

- **Grade Levels**: Grades 7-12
- **Academic Standards**: Academic Standards in Civics and Government 5.2 and 5.3
- **Background**: This lesson was designed by Keith Bailey, a veteran developer and manager of Youth Courts. It explores how a teen court might work in a school setting and allows students to experience jury service at an age-appropriate level. You will want to check with the teacher whether the school has a teen court program before using this lesson. You will also want to explore if there is a local community-based program in your area so that you may reference it during the lesson. Visit www.youthcourt.net/national_listing/United_states/Pennsylvania.pdf to see a listing of teen courts in Pennsylvania.

**MATERIALS:**
You will need copies of the handouts. It also would be helpful to have a copy of the school handbook handy to check actual punishments in school.

**PROCEDURE:**
Give the students Handout #1 and have them work through the scenarios either individually or in small groups. Have students report on possible dispositions. Discuss what would happen in the schools today without a teen court. Then give each student Handout #2 and see how they rank the possible sentences provided, and compare and contrast the Philadelphia options with the ones generated by the students.

Ask the students to discuss whether they think such a model might work at their school and talk about why nearly 1,200 youth courts exist around the country today.

Keith Bailey adds: Technical assistance is provided to jurisdictions or programs on developing or enhancing youth court programs. The type of technical assistance available ranges from information exchange via telephone, correspondence, information gathered from responses to e-mail questions, and on-site assistance. For more information on how to apply for technical assistance, contact:

National Council for Juvenile and Family Court Judges
PO. Box 8570
Reno, NV 89507
Phone: (775) 784-6932
Fax: (775) 784-6428
E-mail: youthcourt@ncjfcj.org

Keith Bailey, Youthworks Coordinator
Educationworks
3143 Germantown Avenue
Philadelphia, PA 19133
Phone: (267) 735-7148
Fax: (215) 221-6901
In these lessons, you get to be the juror. You get to decide what you feel is the most appropriate disposition (also called sentence) for the youth court defendant or respondent.

You will work through each scenario where you will be presented with the facts and circumstances of the case. For each case, decide what you would do to the student. Do you know what would happen to that student if he/she acted as described in the scenario in your school?

The process that you should go through while participating in these exercises is very much like what you would do if you were a teen court juror in a case involving real students and similar to the process that you might go through when you are an adult serving as a juror or judge on a real case. You should be able to:

✦ Identify the general facts and circumstances of the case. (For example: Who is involved in the case? How did the defendant or respondent behave during the incident? How did the defendant or respondent behave during the youth court hearing?)

✦ Identify who was affected and harmed by the defendant or respondent's actions and how they were affected and harmed. (For example, this can include how the defendant/respondent was affected, how his or her family members were affected, how the victim(s) were affected and how the community was affected.)

✦ Identify what the defendant or respondent has already done to make up for his or her behavior.

✦ Construct a disposition that is tailored to the unique circumstances and facts of the case.

✦ Justify why you feel the options in the disposition you are recommending are the most appropriate ones.

✦ What are the unique facts and circumstances of this case?

✦ Who was harmed in this case?

✦ How were they harmed?

✦ What has the defendant already done to make up for what he/she did?

✦ What does the defendant still need to do to make up for what he/she did?

✦ Considering all of these factors, what is the best disposition I can recommend to help hold the defendant accountable for his/her actions, help him repair the harm caused, and help him/her to learn and grow from this experience?
Lesson Plans (continued)

CASE #1: A 9th grade student is caught walking in the hallway during his 1st period English class without a hall pass. The student curses at the teacher when asked for a hall pass and is told to return to class.

AGGRAVATING FACTORS: Second offense, failing the class, poor school attendance.

MITIGATING FACTORS: Apologized to the teacher, good attitude in the courtroom, accepts responsibility for his actions.

SENTENCE GIVEN:

CASE #2: A 10th grade student made a rude remark about another student’s parent when she came into the school for a meeting. The student had just been dumped by her boyfriend and had been upset all day.

AGGRAVATING FACTORS: Seriousness of offense, victim.

MITIGATING FACTORS: Good grades, never been in trouble before, had some personal issues that affected her behavior.

SENTENCE GIVEN:

CASE #3: An 11th grade student is found smoking in the bathroom during his lunch period. This is the second time he has been caught smoking in the bathroom.

AGGRAVATING FACTORS: Repeat offender, seriousness of offense, effect on other students using the bathroom.

MITIGATING FACTORS: Apologized for his actions, accepts responsibility, student was not cutting a class.

SENTENCE GIVEN:
Lesson Plans (continued)

Student Handout #2

Youth Court Sentencing Options

Below are samples of Teen Court Sentencing Options used by the Philadelphia Teen Courts. Next to them write the types of offenses from the problems that arise at your school that you feel would be applicable for this type of sentence disposition. In addition, rank the sentence options in order of severity. So, if you think that community service is the harshest punishment you can give, you would rank it a “5.”

Jury Duty: Students sentenced to jury duty are required to serve on the jury for another student’s Teen Court case. This is done for several reasons: to help the defendant see how his actions were wrong by looking at the actions of another student in trouble, to give back to the school, and to make some positive connections with students who should be serving as role models (Teen Court students).

Rank

Types of cases:

Verbal and Written Apologies: No explanation needed.

Rank (You can rank the verbal and written versions separately if you want.)

Types of cases:

Written Essays: These are essays assigned to the defendant on specific topics such as smoking, anger management, etc.

Rank

Types of cases:
Lesson Plans (continued)

Daily Report: Students are placed on a daily report by the Teen Court and required to report to the court at the end of the week and present the daily report. This can be maintained until the student’s behavior improves.

Rank

Types of cases:

Community Service: A defendant is required to perform some specific service in the school. This is often tied directly to the offense. The student is supervised by someone from the school, and the supervisor signs off on a community service form.

Rank

Types of cases:

List some other sentences you think would be good for the Teen Court program.
America Responds to Terrorism: What is Terrorism?

- **Grade Levels:** Grades 9-12
- **Academic Standards:** Academic Standards for Civics and Government 5.4B, 5.4C and 5.4D
- **Background:** This lesson was developed by the Constitutional Rights Foundation based in Los Angeles, California (see www.crf-usa.org) and is used with the permission of Todd Clark, executive director of CRF. CRF is part of the Youth for Justice network of the Department of Justice’s Office of Juvenile Justice and Delinquency Prevention. The lesson is one of a series developed after 9/11 by CRF. It has been adapted for use here by Chanel Broadus of Philadelphia.

The purpose of the lesson is to allow students to look critically at a term — terrorism — used commonly by the media and political leaders to see if there is a consensus definition of what the term means. This lesson follows in the tradition of the classic law-related and civic-education lesson, “No Vehicles in the Park,” a lesson that appears on pages 31-32 of the 2004 Law Day Booklet (see www.pabar.org/pdf/lawdaylessonplan04.pdf) and shows how the definition of terms impacts statutory interpretation.

**MATERIALS:**
Student Handouts I and II provide all of the materials needed for this lesson.

**PROCEDURE:**
Announce to the class that the class has been hired by your United States Representative (If you do not know your member of Congress, you can find him or her at www.house.gov/) to help the representative draft a new law that will provide increased penalties for anyone who commits an act of terrorism. The representative wants the class to determine what is the definition of terrorism.

Have the students individually review the situations in Student Handout I and determine which, if any, are examples of terrorism, based on his or her current understanding of the term.

Then divide the class into small groups and do the following: Review the various definitions of terrorism contained in the article in Student Handout II and choose the best one. Or, have the students review the article and create a new definition of terrorism. If there is time, go over the questions at the end of the article.

Then have the students review Handout I again. Have answers changed?
Student Handout #1

Review the following situations and determine which, if any, are examples of terrorism.

1. A radical environmental group burns a vacant hotel that was recently legally built in a wilderness area.
2. Country X, during a time of war, accidentally kills civilians while conducting bombing raids in country Z.
3. Country X hires an organized crime group in country Z to assassinate civilian leaders of a group opposing the international policies of country X.
4. A national separatist group in country X blows up a railroad station in country Z to discourage that government from supporting policies of the government in country X.
Since the terrible events of September 11, 2001, with the attacks on the World Trade Center and the Pentagon, the subject of terrorism has exploded on the world stage. President George W. Bush has declared a war against terrorism. The vast resources of the United States and other countries have been directed toward ending terrorism in America and around the world. Yet, in spite of these developments, it is clear that countries are not only divided about what to do about terrorism, but even about how to define it.

By its nature, the term “terrorism” is bound up in political controversy. It is a concept with a very negative connotation. Because terrorism implies the killing and maiming of innocent people, no country wants to be accused of supporting terrorism or harboring terrorist groups. At the same time, no country wants what it considers to be a legitimate use of force to be considered terrorism. As an old saying goes, “One person’s terrorist is another person’s freedom fighter.”

Today, there is no universally accepted definition of terrorism. Countries define the term according to their own beliefs and to support their own national interests. International bodies, when they craft a definition, do so in the interests of their member states. Academics striving to define terrorism are also subject to their own political points of view.

European countries and the United States tend to define terrorism narrowly, making sure that it only applies to acts of non-governmental organizations. For example, Title 22 of the U.S. Code defines terrorism as “premeditated, politically motivated violence” against “noncombatant targets by subnational groups” usually with the goal to influence an audience.

The U.S. Department of Defense uses a definition that highlights another element of the Western concept of terrorism. Terrorism is “the calculated use of violence or the threat of violence to instill fear; intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally political, religious or ideological.” In other words, terrorism is violence designed to advance some cause by getting a government to change its policies or political behavior.

Contrast these definitions with one produced by Iranian religious scholar, Ayatulla Taskhiri in a paper delivered at a 1987 international terrorism conference called by the Organization of the Islamic Conference. After a review of Islamic sources concerning terrorism, Taskhiri defined it as follows: “Terrorism is an act carried out to achieve an inhuman and corrupt objective and involving threat to security of any kind, and in violation of the rights acknowledged by religion and mankind.”

This is a much broader definition of terrorism. Under this definition, nation states themselves could be guilty of terrorism. Any inhuman or corrupt objective coupled with an act that threatens security and rights regardless of the motivation could be considered terrorism. Later in his paper, Taskhiri accuses the United States of being the “mother of international terrorism” by oppressing people, strengthening dictatorships and supporting the occupation of territories and savage attacks on civilian areas.

The United States would likely reject this definition and Taskhiri’s charges and could point out that many states under this definition would also be chargeable with terrorism. Nevertheless, the definition points out the wide gulf in perceptions about what is terrorism and who is guilty of it.

Consider some additional definitions of terrorism.

- “All criminal acts directed against a state intended or calculated to create a state of terror in the minds of particular persons or persons in the general public.” (League of Nations, 1927)
Lesson Plans (continued)

- “Terrorism is the premeditated, deliberate, systematic murder, mayhem, and threatening of the innocent to create fear and intimidation in order to gain a political or tactical advantage, usually to influence an audience.”
  (James M. Poland, professor of criminal justice at California State University, Sacramento. He has written extensively on terrorism and hostage crisis intervention.)

While there is no universal definition of terrorism, various experts point out that there are common elements to most terrorist acts.

Acts of terrorism usually are committed by groups who do not possess the political power to change policies they view as intolerable. Middle Eastern terrorism intensified in the 1970s in response to defeats of Arab nations in wars with Israel over the Palestine issue. Convinced that further wars were futile, a number of countries, including Egypt, sought peace with Israel. This enraged groups within those countries dedicated to the defeat of Israel, who then turned to terrorism.

Terrorists choose targets and actions to maximize the psychological effect on a society or government. Their goal is to create a situation in which a government will change its policies to avoid further bloodshed or disruption. For these reasons, terrorists often choose methods of mass destruction, such as bombings, and target transportation or crowded places to increase anxiety and fear.

Terrorists plan their acts to get as much media exposure as possible. Media coverage magnifies the terrorist act by spreading fear among a mass audience and giving attention to the terrorist cause. The attacks on Israeli athletes at the 1972 Olympics assured a worldwide television audience, as did crashing planes into the World Trade Center.

Terrorists often justify their acts on ideological or religious grounds arguing that they are responding to a greater wrong or are promoting a greater good. For example, Leon Trotsky, a communist leader during the Russian Revolution, justified the use of terror by the Red Army as a necessary evil to promote the worldwide cause of workers and as a response to the military actions of counterrevolutionaries and Western powers.

For Discussion:
1. Why is it difficult to agree upon a universally accepted definition of terrorism?
2. What are the different definitions of terrorism contained in the article? Which definition do you favor? Why?
3. Why does Alex Schmid call a terrorist act the equivalent of a peacetime war crime? Do you agree? Why or why not?
4. Is it important to arrive at a universal definition of terrorism? Why or why not?

For Further Reading:
Definitions of Terrorism from the Jewish Virtual Library: www.jewishvirtuallibrary.org/jsource/Terrorism/terrordef.html;
Terrorism: An Introduction from the Council on Foreign Relations: www.cfr.org/issue/135/;
Terrorism: Its Political Use Without Definition, article by Saul Stern, executive director of the Interdisciplinary Center in Israel: www.cfr.org/Articles/ArtDetail.cfm?ArtID=193;
Definitions of Terrorism Other Ways, from the CQ Press: www.cqpress.com/cartoon/articles/cq_terror_def.html; http://justicelaw.pitt.edu/terrorism/terrorism5a.htm;
“Terrorism” Definitions from the Center for Arms Control and Non-Proliferation: www.armscontrolcenter.org/terrorism/101/definitions.html;
Lesson Plans (continued)

Student Test of Knowledge: Constitutions from A-Z

- **Grade Levels**: Grades 9-College
- **Academic Standards**: Academic Standards from Civics and Government 5.1D and 5.1E
- **Background**: The United States Citizenship and Immigration Services is in the process this year of revising the test persons seeking citizen status must pass. Here is an open-book test of the rights and responsibilities of citizenship that might test citizens and non-citizens alike. Do you know where certain rights and responsibilities are found in the Pennsylvania and United States constitutions? From A-Z, below are 26 opportunities for discovery.

**MATERIALS:**
Students will need copies of the United States and Pennsylvania constitutions. Many class texts print the United States Constitution. Individual copies of the U.S. Constitution often can be obtained for free by contacting your federal legislators in the United States Congress. If you need help finding your United States Senators or Representatives, visit www.senate.gov or www.house.gov.

Few students in Pennsylvania schools have individual copies of the Pennsylvania Constitution available to them (another great reason to teach this lesson). Free copies of the Pennsylvania Constitution are available through your state legislators in the Pennsylvania General Assembly. Visit www.legis.state.pa.us to identify and contact your state representative and/or state senator. You also can view the Pennsylvania Constitution online at http://sites.state.pa.us/PA_Constitution.html.

**PROCEDURE:**
Begin the class by asking the question: “Liberty Means Responsibility” – this is our theme for this year’s Law Day celebration. From where do we get our liberty? Teachers using this lesson report answers such as the government, the Declaration of Independence and the constitution. When a student mentions the constitution, ask “Which one?”

Explore with the class the concept of state and federal government and explain that the rights and freedoms the students enjoy come from both constitutions. Tell the class that no state constitution can give fewer rights than the United States Constitution gives to all Americans. Explain that, in certain areas, the Pennsylvania Constitution gives Pennsylvanians greater rights than those enjoyed by citizens in the rest of the nation.

Distribute the two constitutions to each student in the class. Ask how many have read the United States Constitution. Ask how many have read the Pennsylvania Constitution. Answers will vary, but it is rare to find many students who have read both before this lesson. Now distribute the “Rights and Freedoms Student Handout.” It goes from A-Z with different rights and freedoms that are found in both, only one or neither of the two documents. You can have the students work individually or in groups. When the students have finished, you can have the class quickly provide answers (i.e. both, U.S., PA or neither) and then go through the questions one by one to have the students check their initial answers by examining the documents more closely.

There are a number of follow-up exercises that can be done with this lesson. One is to make a list of all the responsibilities that accompany all of the rights and freedoms listed. Another is to ask the students to identify rights and freedoms that are not found in either document that they think should be in the documents. You may want to share with the students your own thoughts about the two constitutions and how important both documents are in the lives of Pennsylvanians.
Liberty Student Handout

Review the rights and responsibilities listed below. Decide if you think each one comes from the Pennsylvania Constitution, the United States Constitution, both documents or neither. Write your answers in the provided space.

A) Protection against unreasonable search and seizure  
B) Right to bear arms  
C) Freedom of the press  
D) Freedom of religious exercise  
E) Right to clean air and pure water  
F) Equal rights under the law for men and women  
G) Right to a lawyer  
H) Right to privacy  
I) Right against self-incrimination  
J) Rights not listed still preserved for the people  
K) Government must compensate you for taking your property  
L) Freedom of speech  
M) Trial by jury  
N) Protection against the quartering of troops  
O) Right to alter, reform or abolish government  
P) Freedom from double jeopardy  
Q) Right to petition the government for redress of grievances  
R) Freedom of assembly  
S) Right to free elections  
T) Right to bail  
U) Protection against cruel and unusual punishment  
V) Right to vote  
W) Freedom from government establishment of religion  
X) Protection against a standing army  
Y) Right to a speedy trial  
Z) Right of writ of habeas corpus

Answers for student handout:

A. Both - U.S. Constitution, 4th Amendment; PA Constitution, Article 1, Section 8  
B. Both - U.S. Constitution, 2nd Amendment; PA Constitution, Article 1, Section 21  
C. Both - U.S. Constitution, 1st Amendment; PA Constitution, Article 1, Section 7  
D. Both - U.S. Constitution, 4th Amendment; PA Constitution, Article 1, Sections 5&6  
E. PA Constitution, Article 1, Section 27  
F. PA Constitution, Article 1, Section 28  
G. Both - U.S. Constitution, 6th Amendment; PA Constitution, Article 1, Section 9  
H. Neither - Not specifically cited in either document  
I. Both - U.S. Constitution, 5th Amendment; PA Constitution, Article 1, Section 9  
J. U.S. Constitution, 9th Amendment  
K. Both - U.S. Constitution, 5th Amendment; PA Constitution, Article 1, Section 10  
L. Both - U.S. Constitution, 1st Amendment; PA Constitution, Article 1, Section 7  
M. Both - U.S. Constitution, 6th Amendment; PA Constitution, Article 1, Section 6  
N. Both - U.S. Constitution, 3rd Amendment; PA Constitution, Article 1, Section 23  
O. PA Constitution, Article 1, Section 2  
P. Both - U.S. Constitution, 5th Amendment; PA Constitution, Article 1, Section 10  
Q. Both - U.S. Constitution, 1st Amendment; PA Constitution, Article 1, Section 20  
R. Both - U.S. Constitution, 1st Amendment; PA Constitution, Article 1, Section 20  
S. PA Constitution, Article 1, Section 5  
T. Both - U.S. Constitution, 8th Amendment; PA Constitution, Article 1, Sections 13&14  
U. Both - U.S. Constitution, 8th Amendment; PA Constitution, Article 1, Section 13  
V. Both - U.S. Constitution, 15th, 19th, 21st, 24th and 26th Amendments; PA Constitution, Article 1, Section 5  
W. Both - U.S. Constitution, 1st Amendment; PA Constitution, Article 1, Section 3  
X. PA Constitution, Article 1, Section 22  
Y. Both - U.S. Constitution, 6th Amendment; PA Constitution, Article 1, Section 9  
Z. Both - U.S. Constitution, Article 1, Section 9, Clause 2; PA Constitution, Article 1, Section 14
Lesson Plans (continued)

United States v. Daniel McPherson: A Mock Suppression Hearing

- **Grade Levels**: College
- **Academic Standards for Civics & Government**: These materials were developed by the Administrative Office of the Courts (contact rebecca_fanning@ao.uscourts.gov for more information and materials) for its 2006-07 Open Doors to Federal Courts Program entitled: Partners in Justice: An Independent Judiciary and a Fair-Minded Jury.
- **Background for the Lesson: Questions of Fact and Issues of Law**: In the United States and other countries that derive their legal system from the common law of Great Britain, there is a difference between questions of fact and issues of law. Questions of fact involve disputes as to whether or not a given event actually occurred. For example: Did A, in fact, sell drugs to B? A trial is meant to find the truth in these disputes.

In a criminal trial, each side—the prosecution and the defense—calls witnesses and produces evidence in order to convince the trier of fact that it has the stronger case. The trier of fact is usually a jury, composed of 12 citizens. Article III, Section 2 and the Sixth Amendment to the U.S. Constitution guarantee the right to a jury trial in federal criminal proceedings. In a jury trial, the jury must find “beyond a reasonable doubt” that the defendant committed all elements of the crime for which he/she is charged. When the defendant waives the right to a trial, a judge alone determines the factual issues in the case.

Even though the jury is responsible for determining the facts of a case, the trial must be conducted according to established legal procedures. The judge is responsible for making sure that all parties are adhering to these legal procedures during a criminal proceeding. One legal procedure is a Motion to Suppress Evidence. Under American law, law enforcement personnel must comply with the provisions of the U.S. Constitution when investigating crimes. If they do not, the judge may order that the evidence they discover be suppressed (excluded from use at the trial). When judges rule on a Motion to Suppress Evidence or other related motions, they are deciding issues of law.

To function properly, the American system of law requires the best efforts of an independent judiciary (judges) and a fair-minded jury working together. Judges and juries create a crucial partnership when judges decide issues of law and juries address questions of fact.

**MOTION TO SUPPRESS EVIDENCE:**

Under American law, if defendants believe that the police obtained evidence against them in an unconstitutional manner, they may request that a court suppress it (prevent it from being used at trial). In the case of Weeks v. United States (1914), the Supreme Court of the United States held that this “exclusionary rule” applies to federal criminal proceedings. In the case of Mapp v. Ohio (1961), the court held that it applies in state criminal proceedings.

Despite these rulings, the Supreme Court also realized that suppressing evidence because of a governmental mistake can have drastic consequences, i.e., a guilty person may go free. Therefore, the court has made several exceptions to the exclusionary rule. In the case of United States v. Leon (1984), the court stated that the rule should only be employed “where its deterrence benefits outweigh its ‘substantial social costs.’”

In the fictionalized case of United States v. Daniel McPherson, the defendant, Daniel McPherson, not only argues that he is factually innocent (hence, the need for a trial), but also contends that any incriminating evidence against him should be
suppressed because the federal agents executing the search warrant failed to "knock and announce" their presence before conducting the search. The Supreme Court held in *Wilson v. Arkansas* (1995) that the Fourth Amendment requires law enforcement to "knock and announce." The government responds that the social costs of suppressing this evidence outweigh any benefits of admitting it.

Defendant McPherson filed a motion with the court arguing for suppression of the evidence seized from his residence. The government filed a response in opposition to his motion. After motions for and against suppression are filed, a motion hearing typically is held during which both parties may present their case to, and answer questions from, a judge. At an appropriate time, the judge issues a ruling. Sometimes, the judge agrees to suppress evidence and the case is dismissed because the case cannot be proved without the suppressed evidence. In other situations, the case simply proceeds to trial on any remaining evidence.

**MOTION HEARING SCENARIO:**
All materials are provided for an abbreviated motion hearing. This demonstrates the respective roles of the independent judiciary and the fair-minded jury. Each side should have equal amounts of time before the presiding judge—in arguments before the United States Supreme Court, each side has 30 minutes. The lawyer representing the defendant argues to suppress the evidence. The lawyer for the government argues to admit the evidence. The lawyers may use the sample arguments provided or they may supplement the points, and/or they may develop their own arguments. The judge may ask questions of either student before rendering a decision at the end of the exercise.
"Knock and Announce" house party scenario.

East Town High School has a long-standing reputation for excellence. Its students routinely score very high on state standardized tests and its athletic teams are some of the best in the state. Over the past few years, however, there has been an alarming increase in marijuana use among even the best students. Fearful that East Town High’s reputation might be diminished, and that a ring of drug dealers, known as the East Town Gang, might be behind the criminal activity, concerned parents demanded that school administrators “do something.” The principal and other administrators turned to local law enforcement authorities.

After an initial investigation, local police authorities had reason to believe that the gang was supplying significant amounts of marijuana to a few East Town students who, in turn, were selling to other students. Some estimates put the number of students routinely using at more than 25 percent. Feeling that they were not properly equipped to handle a drug problem of this magnitude, local law enforcement sought the assistance of federal authorities, most notably, the Federal Bureau of Investigation (FBI).

The FBI conducted its own investigation and concluded that the suspicions of the local police department had merit. Relying upon their information, the FBI obtained arrest warrants for several individuals whom they believed were drug dealers and members of the East Town Gang. One individual, John Ellwood, a recently convicted gang member and drug dealer, agreed to cooperate with the FBI prior to his sentencing in return for the promise of a reduced sentence.

As part of his plea bargain, John Ellwood agreed to provide the names of student dealers at East Town High School. Surprisingly, however, he said that there was only one student dealer – a Daniel McPherson – an 18-year-old senior at East Town High who was a member of the Honor Society, ran track and played basketball. Daniel also was very popular.

At first, the FBI did not believe John Ellwood about Daniel’s involvement, but they continued to investigate. Soon, the FBI realized that Daniel was consistently wearing very expensive clothes and had recently added expensive, high-performance components to his car. They saw a steady stream of students coming and going from his house after school when his parents were at work. Following up on a lead from John Ellwood, the FBI obtained a search warrant for Daniel’s bank account and found funds in excess of $20,000. Since Daniel only worked part time, and his parents were not independently wealthy, the FBI concluded that John Ellwood’s story was worth pursuing on the theory that the funds were drug money and that Daniel was a dealer.

Armed with this information, the FBI went to a judge on the U.S. District Court for the District of (provide name) to obtain a search warrant for Daniel’s house; specifically his room, computer files and car. The court granted the warrant, and Agents Lisa Donald and Ryan Smith were assigned to execute the warrant.

They arrived at Daniel’s house around 1:00 p.m. on Friday, April ______. Upon approaching the house, the agents heard a lot of noise, as though a party were in progress. As Agent Donald was about to knock on the door, someone inside yelled “Cops! Hide the weed!” A second voice could be heard shouting “Ditch the beer!” At this moment, Agents Donald and
Smith opened the door, rushed into the living room and ordered everyone to freeze. Although a few individuals managed to exit, most stayed where they were.

After asking whose house it was, Daniel McPherson identified himself and said that it was his house. He replied that his parents were out of town for the weekend so he figured he would throw a party, especially since the students were off that Friday due to a teacher in-service day at the school.

At this time, Agents Donald and Ryan informed everyone that they had a search warrant. They also called the local police to cite the other East Town High School students for alcohol violations. Three individuals, who were smoking marijuana when Agents Donald and Smith entered, also were charged with criminal possession of marijuana.

The subsequent search of Daniel McPherson’s room, computer and car, resulted in a find of seven kilograms of marijuana, more than $2,500 in cash, a computerized financial ledger recording a bank balance of $20,000 marked “Business” with John Ellwood’s name and number inside the front cover. Daniel was arrested for possession and distribution of marijuana.

Due to his age and the relatively small amount of the drug that he possessed, the Assistant U.S. District Attorney decided to charge him under 21 U.S.C.A. 841, which reads:

SS 841. Prohibited Acts

(a) Unlawful acts. Except as authorized by this title, it shall be unlawful for any person knowingly or intentionally—
   (1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; or
   (2) to create, distribute, or dispense, or possess with intent to distribute or dispense, a counterfeit substance.

(b) Penalties. Except as otherwise provided in...
   (sections deleted), any person who violated subsection (a) of this section shall be sentenced as follows:
   (D) In the case of less than 50 kilograms of marijuana, except in the case of 50 or more marijuana plants regardless of weight...
   shall be sentenced to a term of imprisonment of not more than five years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual, or both.

At his arraignment, Daniel pleaded “not guilty.” With his lawyer, he pursued two separate legal strategies:

First, he argued that since the FBI agents failed to “knock and announce” their entry before executing the warrant, their entry and the subsequent search, were unconstitutional and the evidence should be suppressed. The presiding judge has scheduled a motion hearing for arguments on the admissibility of evidence based upon this claim.

Second, Daniel intends to prove his innocence at trial using the following arguments: 1) The evidence against him is circumstantial. The marijuana was found in common areas of the house that the police charged into, not in his room. It could have belonged to someone else; 2) The money in Daniel’s bank account was not drug money, but funds he saved from working at an auto repair shop during the past year and from the $10,000 his grandmother left him for college when she died; 3) The main witness against him (John Ellwood) is an admitted drug dealer who pleaded guilty in a deal with the government for a lighter sentence in exchange for providing the names of student drug dealers.
Defendant, Daniel McPherson, moves this court for an order suppressing any and all evidence seized by federal agents from defendant’s premises located at 115 Northwood Drive, East Town, (name of state) during a search of Defendant’s premises on Friday, 28 April 2006, on the following grounds:

1. The U.S. Supreme Court held in the case Wilson v. Arkansas, 514 U.S. 297 (1995), that the common law requirement that officers “knock and announce” their presence before executing a validly authorized search warrant is mandated by the “unreasonable search and seizure” clause of the Fourth Amendment to the United States Constitution.


3. The “knock and announce” rule is designed to protect individuals by giving them a chance to voluntarily allow the police into their residence so as to 1) minimize the potential for violence and 2) minimize property damage. The rule also protects the privacy rights of individuals by 3) minimizing the chance that government agents will accidentally intrude upon them in an undignified state. None of these interests can adequately be protected in the absence of suppression.

Conclusion: Since Federal Bureau of Investigation (FBI) agents Lisa Donald and Ryan Smith failed to “knock and announce” their presence before executing their validly authorized search warrant upon the Defendant’s premises, described above, all evidence taken from said premises on the date of 28 April 2006 should be suppressed.

This motion is based on all files and records of this case, and any evidence that may be adduced at the hearing on the motion.

Dated ____________________________

________________________
(Name and address of lawyer)

List of Authorities

Cases
UNITED STATES DISTRICT COURT
FOR THE __________ DISTRICT OF _______________

United States of America
Plaintiff
v.

Daniel McPherson, 
Defendant

Criminal Docket No. 07-007

OPPOSITION TO DEFENDANT’S MOTION TO SUPPRESS EVIDENCE

The United States Government, through the Assistant U.S. Attorney, moves this court for an order denying the Defendant’s, Daniel McPherson’s, motion to suppress as evidence all property seized by federal agents from defendant’s premises located at 115 Northwood Drive, East Town, (name of state) during a search of Defendant’s premises on Friday, 28 April 2006, on the following grounds:

1. In the case of United States v. Leon, 468 U.S. 897 (1984), the U.S. Supreme Court rejected calls for “the indiscriminate application” or the “exclusionary rule,” supra at 908, and stated that the rule would only be applied “where its deterrence benefits outweigh its ‘substantial social costs.’” supra at 907.

2. The Government acknowledges that Federal Bureau of Investigation (FBI) agents Lisa Donald and Ryan Smith failed to “knock and announce” their presence while conducting a search on the Defendant’s premises on 28 July 2006, in violation of the U.S. Supreme Court’s command that such action was constitutionally required. Wilson v. Arkansas, 514 U.S. 297 (1995).

3. No deterrent effect would occur as the result of suppressing evidence in this case. The evidence was discovered during the execution of a validly authorized search warrant. The “knock and announce” rule was meant to protect the individuals and property from the potential harms that can occur during announced police searches, as laid out in Point 3 of the Defendant’s motion. It was not meant to provide criminals with a means to prevent evidence from being discovered and used at trial. The Defendant did not allege that any harm arose to himself, his property, or others as a result of Agents Lisa Donald and Ryan Smith’s failure to “knock and announce” their presence.

Conclusion: Without any distinct harm arising to the Defendant as a result of Agents Donald and Smith’s failure to “knock and announce” their presence while conducting a search otherwise authorized by a valid search warrant, the deterrent effect of suppressing the narcotic evidence gathered from the Defendant’s premises would not outweigh the substantial social costs of preventing the Government from prosecuting a trial against the Defendant, an individual whom the Government has probable cause to believe engaged in several criminal narcotics activities. Therefore, the Defendant’s Motion to Suppress must be DENIED.

This motion is based on all files and records of this case, and any evidence that may be adduced at the hearing on the motion.

Dated ________________________

(Name and address of lawyer)

I certify that a copy of this motion was delivered to the Court and opposing counsel on ________________________.

(Date)

(Server)


**Hudson v. Michigan (2006)**  
Supreme Court Case Summary

**Background:** On June 15, 2006, the U.S. Supreme Court released its decision in the case of *Hudson v. Michigan* (2006). This case addressed the issue of whether or not suppression of all evidence (excluding it at a criminal trial) was the required remedy for "knock and announce" violations. This same issue will be presented by teens before the presiding judge in a fictionalized scenario, *United States v. Daniel McPherson*, where FBI agents did not "knock and announce" their presence before entering a home to execute a search warrant.

**Facts:** Police arrived at Booker Hudson’s property to execute a search warrant for drugs and firearms. When they arrived, the police announced their presence, then entered through the unlocked door after a few seconds. They did not knock on the door. Inside, they found substantial amounts of drugs and several firearms. Hudson was arrested and charged with unlawful drug and gun possession.

At his trial, Hudson sought to have the evidence against him suppressed, arguing that the failure of the police to "knock and announce" their presence rendered the subsequent search of his house illegal. The U.S. Supreme Court ruled in the case of *Wilson v. Arkansas* (1995) that, barring certain emergency circumstances, police are constitutionally required under the Fourth Amendment to "knock and announce" their presence before executing a search warrant.

**Issue:** Does the failure of the police to "knock and announce" their presence before executing a valid search warrant require the suppression of all evidence subsequently found during the search?

**Ruling (5-4):** No.

**Reasoning:**

**Majority Opinion**

Justice Antonin Scalia, writing for the majority of the court, noted that suppression of evidence was such an extreme remedy that it has always been a last resort, not the first impulse in remedying Fourth Amendment violations. Although the Fourth Amendment does require police to "knock and announce" their presence before executing a search warrant, he stated that this requirement is not absolute. For example, police need not "knock and announce" where there is reasonable suspicion that this action would risk physical harm or danger; that a criminal may destroy evidence; or that it would be futile to do so.

In this case, Justice Scalia stated that, while the police did violate the constitution’s "knock and announce requirement," the ends of justice would not be served by suppression and would have substantial social costs. In other words, he employed a balancing test, the value that suppression of evidence has on deterring police misconduct versus law enforcement’s need to discover evidence of a crime. Justice Scalia acknowledged that the "knock and announce" rule is meant to protect individuals, giving them a chance to voluntarily allow the police into their house so as to minimize property damage, and to preserve dignity and privacy. However, it is not meant to provide criminals with a right to hide evidence from the police.

Justice Scalia also noted that civil lawsuits are an available remedy to those who think the police have violated their constitutional rights by not adhering to the "knock and announce" rule. Chief Justice John Roberts, and Justices Anthony Kennedy, Clarence Thomas and Samuel Alito joined Justice Scalia's opinion.

**Concurring and Dissenting Opinions:** In a separate concurrence, Justice Anthony Kennedy noted that this decision was not meant to downplay the importance of the "knock and announce" rule. He also questioned the relevance of certain cases cited by Justice Scalia. Justice Stephen Breyer wrote a dissenting opinion joined by Justices John Paul Stevens, David Souter and Ruth Bader Ginsburg. In essence, he stated that the court’s holding was a significant departure from precedent, and that, barring emergency circumstances, suppression has always been the accepted remedy for "knock and announce" violations.
Civic Learning Support Organizations

Civic learning support organizations are great resources for schools, judges and lawyers interested in introducing civics and government into the classroom. Please feel free to contact any of the organizations listed below.

For more organizations, visit the PBA’s civic learning Web site at www.pabar.org/public/education/educationprograms.asp.

Pennsylvania Bar Association
100 South Street, P.O. Box 186
Harrisburg, Pa. 17108-0186
Phone: 1-800-932-0311 – Fax: (717) 238-2342
E-mail: lawday@pabar.org
Web site: www.pabar.org/public/education/educationprograms.asp

The Pennsylvania Bar Association’s civic learning programs are designed to help Pennsylvania schools lay a foundation for teaching civics and government in the classroom. The PBA is a lead partner in PennCORD (Pennsylvania Coalition for Representative Democracy) along with the First Lady of Pennsylvania, Third Circuit Court of Appeals Judge Marjorie O. Rendell, the National Constitution Center and the Pennsylvania Department of Education. The PBA’s cornerstone civic learning projects include, Celebrate the Constitution, Project PEACE, Low Day, Mock Trial and Stepping Out. To learn more about these programs, visit the PBA’s Middle School Civic Learning area on the PBA Web site. Lesson plans from past Low Day and Celebrate the Constitution guides also are available on the Web site.

LEAP-Kids (Law, Education & Peace for Children)
David Travasakis, Director
P.O. Box 428, 6 Royal Avenue
Glenside, Pa. 19038-0428
Phone: (215) 885-1610 — Fax: (215) 885-1036
E-mail: david@leap-kids.com
Web site: www.leap-kids.com

LEAP-Kids is the successor organization to the statewide law-related and civic education program formerly housed at Temple-LEAP. LEAP-Kids develops innovative educational programs aimed at empowering young people through civic learning study. Civic learning is a unique blend of substance and strategy. Students receive substantive information about laws, the legal system and their rights and responsibilities through strategies that promote cooperative learning, critical thinking and positive interaction between young people and adults. LEAP-Kids conducts a wide variety of teacher trainings and also produces general and Pennsylvania-specific curricula related to civics and government.
Youth for Justice Initiative
Features Five National Partners: Street Law Inc.; Center for Civic Education; Constitutional Rights Foundation; Phi Alpha Delta; American Bar Association
Web site: www.youthforjustice.org

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) of the U.S. Department of Justice sponsored a research and development program that established the potential of law-related education in reducing delinquent behavior. In 1983, the OJJDP established the National Training and Dissemination Program (NTDP) to institutionalize high-quality civic learning delinquency prevention programs in public and private schools, kindergarten through grade 12, throughout the nation. In 1994, NTDP became Youth for Justice, a national civic learning program coordinated by five national partners working in cooperation with a network of affiliated state programs (visit the Youth for Justice Web site to learn more about the partners and the state programs). Over one million students participate in Youth for Justice programs annually. With support from OJJDP, Youth for Justice’s five national partners and state programs offer an array of civic learning programs and activities for young people in their schools and communities, working closely with legal, education, government and community groups to initiate and strengthen civic learning programs.

PennCORD
Contact: Anne Spector
c/o National Constitution Center
525 Arch Street, Independence Mall
Philadelphia, Pa. 19106
Phone: (215) 409-6629
E-mail: annespector@comcast.net

The Pennsylvania Coalition for Representative Democracy (PennCORD) is a unique union of educational, advocacy and governmental organizations that are committed to improving civic learning for students in grades K-12. The coalition’s mission is to encourage the creation of local civic learning policy to implement state standards in every school district by: 1) motivating community advocacy for better civic education; and 2) supporting educators across Pennsylvania with civic learning resources and training. The coalition is led by the Office of the Governor, First Lady Reara O. Rendell, the Pennsylvania Bar Association, the National Constitution Center and the Pennsylvania Department of Education. PennCORD is housed at the NCC.
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Front cover artwork: First Place Winner, Pennsylvania Bar Association’s “Celebrate the Constitution” Poster Contest
Jennifer Medarac, Grade 7
Divine Mercy Academy, Beaver Falls, PA 15010