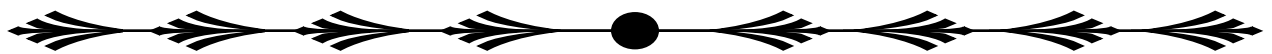




LEGAL
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To the Teacher

The materials in this teacher’s guide are designed so that you can develop activities to stimulate student discussion, investigation, research, and discovery. Please be aware that it is not possible to accommodate all the variations in the judicial systems that occur from state to state within the programs and related materials. Please modify the materials to illustrate more precisely a local situation. This guide provides general information about the judicial system, activities to be used in the classroom, and suggested resources.

Introduction

The call to jury service is a call to a most important task. Jurors will be asked to hear evidence presented at a trial, decide the facts, apply—to the facts—the law given by the judge, and render a verdict. The trial could involve a controversy, essentially private in nature, between two parties. The controversy could include property rights, claims for damages, or matters generally dealing with money. This is known as a civil case. Or it could be that the state, city, or county has accused someone of committing a crime. This is called a criminal case. In either type of case, jurors will be asked to carefully consider evidence presented by both sides, decide the facts of the case, and then decide the outcome of the case based on those facts.

General Information

How are jurors chosen?

Potential jurors are selected randomly by the jury commissioners using lists designated by the court, such as the voter registration list and the driver’s license list. In some courts, this is done by hand, and in others, it is done by computer. Either way, the selection method is designed to produce a cross section of the community. Men and women over 18 years of age and from all walks of life have an equal opportunity to be called for jury service.

Are jurors allowed to go home each day?

Usually, jurors go home at the end of the day and return the next morning. They are simply told not to discuss the case with anyone nor to watch, read, or listen to news reports about the case. It is essential that jurors follow these instructions.

However, in extremely rare cases, a jury will be “sequestered” during the trial or during the jury’s deliberations. Sequestered means that instead of going home at the end of the day, jurors stay in hotels, where their access to other people and to radio and television news or newspapers is limited. This is usually to keep them from accidentally hearing something about the trial that wasn’t told in court or from being influenced by news reports. This is important because juries must reach their decisions based only on what they’ve heard during the trial.

The Trial

What are the jurors responsibilities?

In any trial, two kinds of questions will have to be decided at various times. These are questions of law and questions of fact. The judge decides the questions of law. Jurors decide the questions of fact. After jurors have decided the questions of fact, they will apply the law to the facts as directed by the judge at the end of the trial.

What is a “question of law?”

Questions of law involve the determination of what the law is. They may be about procedural matters (what information can be admitted as evidence, what kind of questions can be asked, which witnesses can appear, and what can witnesses testify about.) Or they may involve questions of substantive law, which create, define, and regulate the rights of parties.

What is a “question of fact?”

Quite simply, it’s deciding what really happened in a case. Jurors should not be surprised if the evidence given by both sides is conflicting or if the testimony given by one witness contradicts the testimony of another witness. After all, if everyone were in agreement about what happened and what should be done about it, the dispute probably wouldn’t be in court, and a jury probably wouldn’t be needed. The jurors’ job is to listen to all the testimony, consider all the evidence, and decide what the jurors think really happened.

Who else will be in the courtroom? What will they be doing?

A number of people will be in the courtroom besides the judge, the jury, and the attorneys. The list below explains who they are and what they’ll be doing.

Plaintiff (civil case)—In a civil case, the person who brought the case to court is called the plaintiff.

Defendant (civil case)—The person being sued in a civil case is called the defendant.

Defendant (criminal case)—A person who has been charged with a crime is the defendant in a criminal case.

Attorneys or counsel—Attorneys representing the plaintiff, defendant, or the government in a criminal case are also referred to as counsel. Depending on who they represent and what court jurors are in, jurors may hear them called counsel for the plaintiff, plaintiff’s attorney, counsel for the defendant, or defense attorney. An attorney representing the government in a criminal case is called the prosecuting attorney.

Court reporter—The court reporter keeps the official record by recording every word spoken during the trial.

Bailiff—The bailiff keeps order, maintains the security of the court, and helps the judge and the jury as needed.

Clerk of court—The clerk of court, also called the clerk, maintains the court files and preserves the evidence presented during the trial. The clerk may also administer the oaths to jurors and witnesses.

Witnesses—Each side in a trial will probably have a number of witnesses who have information about the dispute. Very often, the judge will ask them to wait outside the courtroom until it is their turn to testify. This is done so they won’t hear each other’s testimony and be influenced by it.

What happens during a civil trial?

After the clerk or bailiff has sworn in the jury, the case is ready to begin. Both attorneys may make opening statements explaining their client’s position and outlining the evidence they expect to present that will support their claims. These statements are not evidence and should not be considered as such. The witnesses for the plaintiff are then called and questioned by the attorney for the plaintiff and cross-examined by the attorney for the defendant. After cross-examination, the plaintiff’s attorney may reexamine some of the witnesses. After all the plaintiff’s witnesses have been called and all the plaintiff’s evidence has been presented, the attorney will tell the judge that the plaintiff rests.

Witnesses for the defendant may then be called. This time, the defendant’s attorney questions the witnesses, and the plaintiff’s attorney cross-examines them. When all the defendant’s witnesses have

been called and all the defendant's evidence has been presented, the defense will rest. After the defendant has finished, the plaintiff has the right to offer testimony in reply.

The judge and the attorneys will then go to the judge's chambers to consider the instructions the judge will give the jurors about the law of the case (this is discussed below). After the judge has decided on the instructions, the judge and the attorneys return to the courtroom. The judge reads the jury instructions to the jury, then the attorneys make their closing arguments. The closing arguments let each attorney tell the jury what he or she thinks the evidence proves and why his or her client should win. These closing arguments may help jurors recall many details of the case, but these arguments are not evidence. The plaintiff's attorney speaks first, followed by the defendant's attorney. Finally, the plaintiff's attorney speaks again and closes the case.

What are jury instructions?

Jury instructions tell the jury what the laws are that govern a particular case. Each attorney gives the judge a set of proposed jury instructions. The judge considers each instruction and gives the ones that properly state the law that applies to the case. The jurors must accept and follow the law as instructed by the judge even though they may have a different idea about what the law is or ought to be.

Who awards damages in a civil case?

In some civil cases, the jury not only decides on a verdict for one side or the other, but also awards damages. That is, if the jury determines that an award of money should be made, the jury decides how much money should be paid.

How are criminal cases tried?

Criminal cases are very similar to civil cases, except, instead of a plaintiff, there is a prosecuting attorney. The prosecuting attorney may represent either the state or a city, county, or town.

What are the two types of criminal cases?

There are two kinds of criminal offenses: felonies and misdemeanors. A felony offense is one that can be punished by death or by a prison sentence of a year or more. If the felony offense is one that can be punished by death, it is called a capital offense. If the maximum punishment allowed by law is less than one year in confinement or only a fine, the offense is called a misdemeanor.

Who sets the punishment in criminal cases?

In some criminal cases, if the jury finds the defendant guilty, jurors set the punishment at the same time they decide their verdict. After a guilty verdict in some capital cases, however, the jury hears evidence in a separate proceeding before deciding on the penalty.

Why do the attorneys object to certain statements or evidence?

An important part of an attorney's job is to protect the client's rights during a trial. This includes making sure that the only evidence presented during the trial is evidence that is proper, relevant, and allowed by law. So, if evidence is submitted that the attorney feels is improper, or if the attorney feels that the other side is asking questions that are unlawful, the attorney will call out, "Objection!" By doing this, the attorney is asking the judge to rule on whether the law allows that particular piece of evidence or statement or question to be admitted. If the judge thinks it should be admitted, the judge will say, "Objection overruled." If the judge agrees that the evidence in question is improper, the judge will say, "Objection sustained." How often an attorney raises objections during the trial shouldn't bias jurors against that attorney's case.

What should jurors do when testimony is stricken from the record?

Jurors must disregard that testimony. Sometimes the jury hears testimony that the judge later decides they should not have heard. The judge will tell the jury to consider the case as if they had never heard it. Jurors must follow the judge's instructions if the parties in the case are to receive a fair trial.

Can jurors talk to anyone about the trial while it's going on?

No. As long as the trial is still going on, jurors must not discuss the trial with anyone. They are not to even discuss the case with fellow jurors until the jury begins deliberations. When the trial is over, jurors can discuss it with anyone.

Sequence of a Trial***I. Selection of a Jury******II. Opening Statements***

- A. Plaintiff's attorney (or prosecuting attorney for a criminal case)
- B. Defendant's attorney

III. Testimony of Witnesses and Presentation of Evidence

- A. Plaintiff's attorney (or prosecuting attorney for a criminal case)
 - 1. Direct examination of plaintiff's witnesses by plaintiff's attorney
 - 2. Cross-examination of plaintiff's witnesses by defendant's attorney
 - 3. Redirect examination of plaintiff's witnesses by plaintiff's attorney
- B. Defendant's attorney
 - 1. Direct examination of defendant's witnesses by defendant's attorney
 - 2. Cross-examination of defendant's witnesses by plaintiff's attorney
 - 3. Redirect examination of defendant's witnesses by defendant's attorney

IV. Selection and Preparation of Jury Instructions***V. Jury Instructions Presented to the Jury******VI. Closing Arguments***

- A. Plaintiff's attorney (or prosecuting attorney for a criminal case)
- B. Defendant's attorney
- C. Plaintiff's attorney (or prosecuting attorney for a criminal case) to close the case

VII. Jury Deliberations***VIII. Verdict of Jury***

Deciding on a Verdict

What happens after the closing arguments?

After the judge gives jurors their instructions and they hear the attorneys' closing arguments, jurors leave the courtroom and go to the jury room to begin deliberations. "Deliberation" is the process the jury uses to reach its verdict. During deliberations, the jury will discuss evidence and review law and facts.

What is the first thing that jurors do?

The first thing they should do is elect one member of the jury to preside over the deliberations, seeing that everyone has an opportunity to participate and that the discussions remain orderly. The person chosen to preside takes part in deliberations and votes on the verdict along with everyone else.

How should jurors conduct their deliberations?

Each juror may have a different opinion at the start of deliberations. To reach a unanimous decision, some jurors may have to change their opinions. Jurors should keep an open mind; they should listen carefully to other people's opinions and to the reasons for their opinions. They should be prepared to tell the other jurors what they think and why they think it. Jurors should be fair and should carefully consider what fellow jurors are saying. After a full discussion of the issues, the jury should be able to reach a decision that each juror can agree to with a clear conscience.

Do all the jurors have to agree?

Yes. Every juror must agree on the verdict. This is known as a unanimous verdict.

What should jurors do after they have reached their verdict?

The person chosen to preside will write down the jury's verdict on a form prepared by the judge, sign it, and notify the bailiff that a verdict has been reached. The bailiff will notify the judge, who will call everyone including the jury back to the courtroom. The clerk will ask for the jury's verdict and read it out loud.

Glossary

Action, case, cause, suit, lawsuit—These terms all refer to a proceeding in a court of law.

Acquit—To find a defendant not guilty in a criminal trial.

Affidavit—A written or printed statement made under oath.

Answer—A formal response made by the defendant, which admits or denies what is claimed by the plaintiff.

Assault—To threaten to or attempt to strike another person.

Burden of proof—Refers to which side is obligated to prove the facts of the case.

Cause of action—A legal claim.

Charge—A formal accusation that someone has committed a criminal offense.

Counterclaim—A claim presented by the defendant in a civil case alleging that the plaintiff owes damages to the defendant.

Cross-examination—An attorney's questioning of a witness called to testify by the other side in the case.

Damages—Compensation (usually monetary) awarded to someone who has suffered loss, detriment, or injury to his or her person, property, or rights.

Deposition—Sworn testimony taken and recorded outside the courtroom but according to the rules of the court.

Direct Examination—An attorney's questioning of his or her witness.

Evidence—Any form of proof legally presented at a trial, including records, documents, photographs, and testimony of witnesses.

Exhibit—A paper, document, or other physical object presented to the court as evidence during a trial.

Fraud—Intentionally lying to someone, causing the person to suffer a loss.

Hearsay—Statements made out of court by someone other than the person testifying in court, which are offered to prove a matter in court.

Impeachment of a witness—An attempt to show that the testimony of a witness is not truthful, accurate, or reliable.

Inadmissible—Material or information that cannot be admitted or received as evidence under established rules of evidence.

Indictment—A written accusation by a grand jury charging someone with committing a crime.

Judicial Notice—A fact recognized by the judge that does not have to be proven.

Leading question—A question that suggests to a witness the answer the attorney wants to hear.

Litigant—An individual who brings or defends a lawsuit.

Misrepresentation—Lying to obtain money, a product, or a service from another person.

Motion—A request made by an attorney for a ruling or an order by a judge on a particular issue.

Perjury—Lying under oath, which is a criminal offense.

Plea—Defendant’s statement of “guilty” or “not guilty” to criminal charges made against him or her.

Pleadings—Formal, written allegations of their claims by both sides.

Polling the jury—Asking jurors individually after the verdict has been read whether they agree with the verdict.

Rebuttal—The introduction of contradicting or opposing evidence.

Rules of Evidence—Rules that govern the admissibility of evidence at hearings and trials.

Search warrant—A written order issued by a judge or magistrate, directing a law enforcement officer to search a specific location for specific things or individuals.

Stipulation—An agreement by the attorneys that certain facts are true. Facts that have been stipulated do not need to be proven in the trial.

Testimony—Any statement made by a witness under oath.

Tort—An injury or wrong committed to someone else’s person or property for which an injured party is requesting damages.

Suggested Activities

Village of Sheepfold v. Joey Wolfcryer

1. Discuss with students that a fable is a story told to express a particular lesson or moral. Ask students what lesson or moral this story is trying to teach?
2. In the 1919 case *Schenck v. United States*, the United States Supreme Court ruled that “The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic” and “that the question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger...” Ask students to list what speech should not be protected by the First Amendment and why.
3. Discuss with students how the phrase “to cry wolf” came from an Aesop fable. Ask students what they think the phrase means. Direct students to use the Internet, dictionary, or other resources to find the origins and meanings of the following sayings: wolf in sheep's clothing; wolf down your food; thrown to the wolves; a lone wolf.
4. In 1798, Congress passed the Sedition Act. Direct students to use the Internet, library, or other resources to explain the differences and similarities of the Sedition Act to the First Amendment. Discuss with the students the following question: What would justify placing limits on freedom of speech?

B. B. Wolf v. Curly Pig

1. According to B. B. Wolf, his initials, “B. B.”, mean “Big Beautiful.” Direct students to list adjectives that begin with the letter “b.” Ask students to pair the adjectives to give the wolf different first and middle names.
2. Tell students that they are reporters covering the civil case. Divide the class into two groups. Assign one group to be reporters for *The Wolf Digest* and the other group to be reporters for *The Pig Digest*. Direct students to write a list of questions they would ask B. B. Wolf and Curly Pig.
3. Information on conducting mock trials is available at www.isba.org/teachers/mocktrial/.

The Town of Nottingham v. Robin Hood

1. Direct students to research the amendments to the constitution to determine which amendments protected Robin Hood during his arrest and trial?
 2. When the town attorney asked Robin Hood, “Did you shoot at anyone that night?” Robin answered by “pleading the Fifth Amendment.” Explain to students what “pleading the fifth” means. Direct students to research the Fifth Amendment to the Constitution to answer the following questions:
 - a. When was the Fifth Amendment ratified?
 - b. How did the Fifth Amendment protect Robin Hood?
 - c. Why do you think Robin Hood used the Fifth Amendment to keep from answering the question?
 3. The legend of Robin Hood has been told in poems, plays, and ballads for over 600 years. In this time frame, the spelling of words has changed. Discuss with students how the spelling of words in the English language has changed over the centuries. Ask students to write a list of words that are
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associated with “school” (eg., school, English, pen, etc.). Direct students to use a dictionary that includes word origins to see if the words on their lists are spelled differently in Old English, Middle English, and Modern English. For example, the word “English” was spelled “Englisc” in Old English and “Englisch” in Middle English.

4. The town attorney presented an arrow with the monogram “RH” on it as evidence. Show students a picture of a monogram. Discuss with students that a monogram is a design composed of one or more letters and that a monogram, usually, contains the initials of the owner. Give students a sheet of paper and colored markers or pencils. Direct students to create a personal monogram.
5. Robin Hood’s defense for keeping the treasure was that he found it in the forest, and the Town of Nottingham has a “finders-keepers” law. Direct students to contact their local police and ask about local laws or codes concerning abandoned or lost property.

Suggested Activities for Emperor of Gawdia v. Swin and Del

1. One of the witnesses for the Emperor was a child. Direct students to research their local laws to determine if there is a minimum age requirement for witnesses.
 2. Due to the large amount of money the Emperor was seeking, he was not able to sue the defendants in small claims court. Direct students to investigate their local small claims court to answer the following questions:
 - a. What is the maximum amount you can seek in small claims court?
 - b. Are the rules for small claims court proceedings the same for civil court proceedings? (For example, are lawyers present? Are witnesses called?)
 3. The Emperor employed Swin and Del after hearing rumors about their work. If this story took place today, the Emperor may have heard about Swin and Del from a television or radio commercial or an advertisement in the newspaper.
 - a. Divide students into groups of two and ask each group of students to create a commercial for Swin and Del.
 - b. Give students paper and colored markers or pencils. Ask students to create a newspaper advertisement for Swin and Del.
 4. Discuss with students the elements of a newspaper article.
 - a. Tell students that they are reporters for the town of Haberdash and that they are covering the parade where the emperor shows off his new clothes. Ask students to recall the court testimony about the parade and write their answers on the board. Direct students to write a newspaper article. Students may add photos (drawings) to their articles.
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Extension Activities

1. Invite a lawyer to the classroom to discuss civil and criminal courts. Students should prepare questions dealing with these topics before the visit. Local bar associations often have a list of lawyers who are willing to speak to classes.
2. Hold a mock trial.
3. In order for students to understand the various courts (e.g., state supreme court, court of appeals, circuit court, municipal court, district court, etc.) and the jurisdiction of each, direct students to research their state judicial system to find what each court does. Students can work in teams to locate information and present it to others.
4. Direct students to choose one career to investigate from the following list of law-related careers. Help them locate appropriate sources and schedule possible interviews. Students may use such topics as educational requirements, work environment, job skills, salary, and description of duties and responsibilities to include in their investigations. Ask students to present their findings to other class members.

Bailiff	Insurance Attorney	Private Investigator
Corrections Officer	Insurance Claims Officer	Probation Officer
Court Manager	Lawyer	Secretary
Court Reporter	Legal Secretary	Title Examiner
Court Stenographer	Paralegal Assistant	Title Searcher
District Attorney	Police Officer	Judge

5. Show students a picture of the Lady of Justice. Involve students in a discussion of why this statue is used as a symbol for justice. Students may want to research Themis, the Greek goddess of justice and order, or Justitia, the Roman goddess of justice, and compare these figures to the Lady of Justice.
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