

TEACHING TOOLS: NYS UNIFIED COURT SYSTEM

HIGH SCHOOL INTRODUCTION

This set of four projects was developed to create a series of teaching tools for high school students in grades 9 through 12. Drawing on concepts from the core curriculum, with a particular focus on Social Studies Standards 1, 4 and 5, these activities were created to help enhance the education of students who have already developed an understanding of and appreciation for the role of justice and the judiciary in our society. These projects are meant to teach students how to recognize the concepts of justice, fairness and due process in our laws and rules, as well as to teach them how to apply these concepts in their dealings with other individuals or groups. In an effort to address the more sophisticated Senior year curriculum, several of the activities encourage students to become aware of the economic precepts that are inherently connected to our concepts of justice and fairness.

1. "Justice and the Jury Experience"
This project is intended to foster an appreciation for the jury system in the United States. The combination of these exercises provides an historical overview of the jury system, as well as an opportunity to critique the jury system as we know it. Sample factual scenarios permit the students an opportunity to deliberate toward a unanimous verdict, which will foster an appreciation for the dynamics of group decision-making and the task that the justice system faces. Finally, with all that they have learned in mind, the students will have the opportunity to view and analyze the popular movie, "Twelve Angry Men."
2. "Mock Trial: United States v. Captain Quog & Fresh Oil Corporation"
This project provides an interdisciplinary approach to the legal process and an opportunity for older students to teach younger students about the important civic duty of jury service. A fact pattern and several witness statements provide the basis for a mock trial regarding an environmental disaster that had major economic consequences. If class location permits, high school students may conduct a jury selection exercise, ideally using information they learned during "The Jury Experience" activities to educate the younger student jurors about the process. The mock trial is to be conducted in front of the younger students or in front of peers, who will then deliberate with the help of the teachers. The trial and jury deliberation process provide a valuable lesson to all of the students involved, and the participatory nature of the various activities emphasizes the opportunities for participation in the justice process.
3. "Student Infomercial: Student Rights and Responsibilities"
This project is designed to teach students about the privileges they enjoy and duties that they owe as students in the State of New York. The first exercise will help familiarize students with the various laws, rules, and policies that govern education in New York, with an acknowledgment of the economic implications inherent in the education system. The students will analyze and propose amendments to policies of their school that directly affect them. Perhaps with the assistance of a communications expert, the students will design and conduct a survey of issues that concern classmates and community members. Using the results of the survey, the students will design an infomercial or presentation to discuss the issues, survey

findings, and develop a proposed solution. At the teacher's discretion, the infomercial may be presented to the school board or administration for consideration.

4. "Judicial Independence"

This project will allow students to compare and contrast New York's elective versus appointive methods of judicial selection. Students will research and debate whether one method is preferable over the other. Students may also have the opportunity to see the process in action in a local judicial election. Appendix materials provide primary sources for students to review if they are interested in reading an opinion that reflects judicial independence or in reading some of the provisions that govern the conduct of New York State judges.

We hope that each component will prove useful in educating students regarding the legal system, and that teachers will choose to use all or part of these materials to implement the lessons mandated by the Social Studies core curriculum.

ACKNOWLEDGMENTS

Along with the individuals specifically acknowledged within the various teaching tools that they helped author, the Unified Court System wishes to generally acknowledge the assistance of the following:

Law, Youth and Citizenship Program of the New York State Bar Association and the New York State Education Department.

Thomas O'Donnell, former Director of Project P.A.T.C.H. and retired educator.

TEACHING TOOLS: NYS UNIFIED COURT SYSTEM HIGH SCHOOL LEVEL

Mock Trial:

United States v. Captain Quog & Fresh Oil Corporation*

LEARNING CONTEXT

Purpose:

This mock trial experience is designed to encourage high school students to work with younger students and teach them about the justice system. The mock trial provides students an opportunity to demonstrate reasoning, analytical, critical thinking and organizational skills. It also provides an insight into the economic factors that play a role in virtually every decision.

Grade Level:

Grades 9, 10, 11, and 12

Learning Standard:

Social Studies Standards 1 and 5

Core Curriculum (excerpts from the Social Studies Resource Guide with Core Curriculum):

Students will learn how decisions are made in our jury trial system and the economic implications of many of these decisions (Methodology of Global History and Geography). Additionally, students will monitor the application of basic constitutional principles. Students should understand those basic principles and the cultural heritage that support our democracy so that they can become informed, committed participants in our democracy. Students will recognize how individuals and groups throughout history have challenged and influenced public policy and constitutional change (United States History and Government). Through participatory activities, students will learn to define, analyze, monitor and discuss issues and policies (Grade 12 Social Studies: Participation in Government). Students will learn rational decision making skills and see the role that economics plays in all aspects of our society (Grade 12 Social Studies: Economics and Economic Decision Making).

Concepts/Themes:

- Understanding how the courts insure justice, fairness, and due process for all people who seek to utilize or otherwise become involved in the court system.
- Analyzing the sources of the nation's values as embodied in federal and state constitutions, statutes and case law; appreciating the principles, ideals and core values of our democracy (human dignity, liberty, justice, and equality).

*Developed with the assistance of Aaron Banks, Law & Public Service Magnet Program, Yonkers School District, Charles E. Gorton High School

Prior Knowledge:

Students should understand that the courts provide a forum for the peaceful resolution of disputes between people, or between citizens and government -- that the courts are called upon daily to decide cases related to family, business, health, school, work, public safety, and environmental matters. Students should be familiar with the basic purpose of our justice system, the role of the courts in that system, and the purpose of a trial. Students should understand civic values, such as justice, due process, equality, fairness, and majority rule with respect for minority rights, as expressed in the constitutions and laws of the United States.

The teacher may wish to conduct all or part of “The Jury Experience” exercises with the students before beginning this set of activities.

Students should be at a stage where they are able to develop problem-identification and problem-solving skills. They should be able to gather, process, and present information in verbal and written forms.

PROCEDURE

Students will conduct a mock trial based on a “stipulated” fact pattern, meaning that both sides agree as to the basic fact pattern.

The teacher must plan ahead to the extent that the high school students will need to visit a younger classroom and teach those students about serving as jurors for the mock trial. If access to a younger classroom is not possible, the mock trial may be conducted without a jury—the jury selection exercise would simply be omitted, and the teacher would have to foster a self-evaluation discussion among the mock trial participants.

Special Message to Teachers

The activities within each Teaching Tool are designed to build on each other to, first, develop students’ knowledge of basic law-related concepts; then, show students how the concepts are utilized or implemented in the court system; and, finally, demonstrate how students should apply the concepts in their everyday lives. However, the various activities that comprise each tool may also be used as stand-alone exercises. For example, you may choose to incorporate only Day 1 or Day 3 into your course work. Or, you may choose to use Day 1 in connection with one unit and then use Day 2 in a later unit.

There is more than one way to utilize the Teaching Tools – the proper use is the use that is beneficial to your classroom.

Day 1 – Assignments

Students should spend a class period familiarizing themselves with the facts and the roles of the various attorneys and witnesses who will be involved in the mock trial. The following constitutes the stipulated fact scenario and witness statements:

Fact Scenario

On March 1, 2000, an oil tanker owned by Fresh Oil Corporation was carrying 20 million gallons of crude oil when it hit a submerged iceberg in the Alaskan port of Icetown, while moving oil from Alaska to California. The ship's bottom split and 10 million gallons of oil spilled into the harbor, destroying Icetown Bay and its neighboring shorelines. The disaster devastated the local environment, as well as the regional fishing villages because of the vast amounts of fish and birds killed by the resulting oil slick.

The Environmental Protection Agency (EPA) conducted an investigation into the spill and determined that the ship's captain, Captain Quog, was not at his post while he was on duty and was responsible for the spill. Accordingly, the EPA is suing Fresh Oil Corporation and Captain Quog and is seeking to recover the cost of the cleanup of the oil spill (compensatory damages), \$200 million. In order to punish Fresh Oil Corporation and Captain Quog for the spill, the EPA is also seeking \$600 million in punitive damages (additional damages above the compensatory damages that are specifically meant to discourage the person from acting a certain way in the future). The EPA has stated that it will give half of any punitive damages recovered to the villages along Icetown Bay to help reinvigorate the economy.

The costs of cleanup may be obtained if the EPA can demonstrate that the spill occurred as the result of the captain's negligence (an unintentional improper act or failure to act that results in harm) and caused damage to the environment. The corporation may be held liable for these costs if it is found that an employee was negligent or if the corporation did not properly supervise the negligent employee. The punitive damages may be obtained if the EPA can demonstrate that the defendants acted with reckless disregard (acting improperly even though you know that it will likely result in harm) for the environment or for the lives, health and welfare of others. The corporation may be held liable for these costs if it is found that one of its employees had a pattern of acting with reckless disregard and the corporation knew about such actions.

The trial will involve two prosecutors from the EPA -- one that is concerned with establishing the improper behavior of Fresh Oil Corporation and Captain Quog (the liability phase) and the other, who is focused on the amount of money sought in the case (the damages phase). The trial also will involve two defense attorneys -- one that is defending Fresh Oil Corporation and Captain Quog against the allegations of negligence and reckless disregard (liability) and the other, who is focused on demonstrating that the federal government paid too much in cleanup costs, cleaned up more than what was actually damaged by this spill, and that the cleanup could have been accomplished much less expensively (damages). The trial will also involve several witnesses: Captain Quog; John Smith, President of Fresh Oil Corporation; Coast Guard Officer Kelly Jones; Crewman Derrick Shipman; Dr. Joe Green, an environmental expert hired by Fresh Oil; and Maria Brown, the owner of a bankrupt Icetown fishing business. The EPA has already gathered statements from these witnesses, and these statements will form

the basis of the information the EPA seeks to elicit at trial, as well as the basis of the information the defense attorneys will rely on to help the defendants.

Witness Statements

Captain Quog:

I really do not know what went wrong. The ship seemed to be tilting to the right no matter what I did to steer it, so I went below to get help. I know the ship protocol says that the Captain should never leave the wheel unattended, but I felt I had no choice. As soon as I went below, there was a huge crash and the ship came to a sudden halt. I immediately returned to the wheel, but it was too late. I have never left the wheel of the ship before, but I thought it was an emergency situation.

John Smith, President of Fresh Oil Corporation:

Accidents happen, and we stand by Captain Quog as a fine captain. He had fifteen years worth of experience in the oil tanker business before we hired him, and he has successfully completed several training exercises while working for us. The ship protocol calls for the captain to be at the wheel at all times while the captain is on duty, but the ship protocol also allows the captain to exercise his discretion in an apparent emergency situation. Captain Quog thought he detected an emergency situation, so we do not think he violated the ship protocol by leaving the wheel. There was no indication that the captain ever acted improperly before or during this incident.

Kelly Jones, Coast Guard Officer:

We were just across the Bay when we received the ship's distress signal and arrived only minutes after the crash. Captain Quog was not at the wheel. Another crewman brought the captain up from below deck, and the captain seemed groggy, as if he had been sleeping. The captain was confused as to what had happened to cause the crash and admitted that he had not been at the wheel when it happened. At the time of the accident, the captain did not explain why he had not been at the wheel. In fact, I have seen this ship speeding through Icetown Bay several times, with no one at the wheel. Once, I saw the President of Fresh Oil in town, and I told him that his captains should be more careful in our waters.

Derrick Shipman, Crewman:

Shortly after I heard and felt the crash, I saw Captain Quog below deck asking what had happened. I escorted him up to the wheel, and the Coast Guard was already at the scene, so I never had a chance to talk to Captain Quog about the crash. I do know that the captain frequently uses the autopilot so that he does not have to stand at the wheel, but I think he at least stays above deck when he does that.

Dr. Joe Green, Environmental Expert hired by Fresh Oil:

I have seen worse oil spills. This spill could have been cleaned up very quickly, but the EPA was too busy accusing Captain Quog of doing something wrong. The cleanup was so costly because of this delay and because of the fact that the EPA tried to tie in the cleanup of areas previously contaminated by other spills. Accordingly, the cleanup has dragged on unnecessarily for years, and Fresh Oil should not pay for these additional cleanup expenses. With respect to the EPA pledge to give punitive damages to Icetown villages, the EPA is just

trying to boost the Icetown economy, which has never been booming -- it's simply a fact that fishing villages suffer hard times. The EPA should not be allowed to take advantage of Fresh Oil.

Maria Brown, former fishing business owner:

The Fresh Oil oil spill wiped out my family fishing business and the businesses of several other people that I know. We have never seen an oil spill so bad in this area. There have been other minor spills from fishing boats that the EPA has investigated. However, they never ordered a cleanup before this massive spill. Fresh Oil is a billion dollar corporation that has destroyed our lives and now does not want to take responsibility for its carelessness.

The students should select or be assigned the role that each wants to play, dividing into more than one set of attorneys/witnesses, if necessary. Students should fill the following roles:

- EPA prosecutor #1 – focusing on negligence/reckless disregard
- EPA prosecutor #2 – focusing on damages
- Defense attorney #1 – focusing on negligence/reckless disregard
- Defense attorney #2 – focusing on damages
- Captain Quog – liability witness for defense
- President Smith – liability witness for defense
- Coast Guard Officer Jones – liability witness for prosecution
- Crewman Derrick Shipman – liability witness for prosecution
- Dr. Joe Green – damages witness for defense
- Maria Brown – damages witness for prosecution

As a homework assignment, the student attorneys should start thinking about questions they will ask the witnesses based on the information in the witness statements. They should also start formulating brief opening and closing remarks to explain and summarize the case. Toward that end, students should be encouraged to develop a theory of the case to help them elaborate on the statements; for example, they could focus on the timing of the incident, the lapse of time between the crash and the crewman seeing the captain below deck -- was the captain truly seeking help for a moment, or had he been napping in his cabin? Or, they could focus on Captain Quog's record at the wheel -- was he exemplary, as the President of Fresh Oil seems to think, or careless, as the Coast Guard Officer indicates. Similarly, the witnesses should be prepared to elaborate with their answers.

Day 2 – Jury Selection

The high school students should have the opportunity to visit a younger classroom to conduct a jury selection exercise. The high school participants should be reminded that the jury has no knowledge of the facts or witness statements, so it will be up to them to present all facts to the jury during the trial. Similarly, at the jury selection phase, the potential jurors will not know details about the trial and they may not even understand the jury selection process.

In preparation, the high school students should know enough about the jury selection process to explain it to their potential jurors. If the high school students have created a “History of the Jury System” handbook, they may wish to distribute it and review it with the younger students.

The high school students may explain that the case is about an oil spill that resulted from a ship colliding with an iceberg, but no more details should be given about the case. The high school students should be split into several groups before the exercise and, perhaps as a homework assignment, should have pre-formulated questions to ask the potential jurors. The jurors may be asked the questions as a group, with the younger students volunteering to answer the questions.

The questions should help the high school students reach an opinion as to how the jurors might feel about the case. Some examples follow:

- Do you own stock in any oil companies?
- Do you and your family use oil, and for what? To cook, drive cars, etc.?
- Do you belong to any environmental organizations?
- Do you fish?
- Do you own or drive a boat?

As a homework or evaluation exercise, the high school students may be asked to explain whether they think the majority of the younger students answering questions would be for or against Captain Quog and Fresh Oil and why. For instance, the high school students might note that many of the potential jurors drive boats, so they may be sympathetic to a boat company and boat captain. Or, many of the jurors like to fish, so they would want the EPA to win.

Day 3 – The Mock Trial

The high school students should return to the classroom of jurors and present the trial as follows (60 minutes). Note that if there are two sets of high school trial teams, then the younger class should be divided in half and trials conducted simultaneously in two separate rooms, with one teacher supervising each.

Opening:

| | |
|--|-----------|
| Opening Statement Prosecutor #1 (Should cover both liability and damages) | 2 minutes |
| Opening Statement Defense #1 | 2 minutes |

(Should cover both liability and damages)

Liability Phase:

| | |
|--|-----------|
| Coast Guard Officer Jones Direct by Prosecutor #1 | 3 minutes |
| Coast Guard Officer Jones Cross by Defense #1 | 3 minutes |
| Crewman Derrick Shipman Direct by Prosecutor #1 | 3 minutes |
| Crewman Derrick Shipman Cross by Defense #1 | 3 minutes |
| Captain Quog Direct by Defense #1 | 3 minutes |
| Captain Quog Cross by Prosecutor #1 | 3 minutes |
| President Smith Direct by Defense #1 | 3 minutes |
| President Smith Cross by Prosecutor #1 | 3 minutes |

Damages Phase:

| | |
|--------------------------------------|-----------|
| Maria Brown Direct by Prosecutor #2 | 3 minutes |
| Maria Brown Cross by Defense #2 | 3 minutes |
| Dr. Joe Green Direct by Defense #2 | 3 minutes |
| Dr. Joe Green Cross by Prosecutor #2 | 3 minutes |

Closing:

| | |
|--|-----------|
| Closing Statement Prosecutor #2 (Should cover both liability and damages) | 2 minutes |
| Closing Statement Defense #2 (Should cover both liability and damages) | 2 minutes |

The classroom of jurors should then be “charged” with the “law” (1 minute) – that the costs of cleanup may be obtained if the EPA can demonstrate that the spill occurred as the result of negligence (an unintentional improper act or failure to act that results in harm) and actually caused damage to the environment. The corporation may be held liable for these costs if it is found that one of its employees was negligent or that the corporation did not properly supervise the negligent employee; the punitive damages (additional damages above the compensatory damages that are specifically meant to discourage the person from acting a certain way in the future) may be obtained if the EPA can demonstrate that the defendants acted with reckless disregard (acting improperly even though you know that it will likely result in harm) for the environment or for the lives, health and welfare of others. The corporation may be held liable for these costs if it is found that one of its employees had a pattern of acting with reckless disregard and the corporation knew about such actions.

The teachers (of the high school and younger students) should then foster a jury deliberation and determination (15 minutes) regarding the issues of liability and damages by asking questions to determine whether the attorneys and witnesses were able to convey the facts to the jurors. For example, for the liability phase, the teachers could ask which witnesses the jurors believed and why. For the damages phase, the teachers could ask whether the jurors think that the testimony of Maria Brown is enough to substantiate the bill for the cleanup costs or if they believe Dr. Green’s testimony that the bill is too high, instead. Should Fresh Oil pay? For the entire \$200 million cleanup or just part? Should Fresh Oil be assessed with all \$600 million punitive damages or just part? What is the reasoning behind these decisions -- fairness, sympathy for the locals versus dislike of large corporations, the mere fact that the corporation can afford to pay?

The entire trial and jury deliberations may be videotaped for debriefing purposes.

Day 4 – Debriefing and Discussion

Back in their own classroom, the teacher should foster a discussion among the high school students about what happened during the trial and during jury deliberation. The students should discuss how easy or difficult it is to enter facts into evidence through a question and answer process (the Socratic method), whether they think that the jurors ended up understanding the case and the positions of the attorneys, and whether there were any surprises during jury deliberations.

The teacher of the “jurors” may also want to take some time to evaluate the process, and, if so, the two classrooms may join for this final activity.

INSTRUCTIONAL/EDUCATIONAL MODIFICATIONS

The teaching tool is designed to be a cooperative, cross-age learning activity. High school students can conduct the activities with 4th, 5th or 6th grade students. This will allow the high school students to develop their communication skills, and allow students of both age groups to develop their knowledge of the justice process.

ASSESSMENT PLAN

Students will be evaluated by direct observation and in the context of formal and informal group activities. The teachers should monitor group dynamics and provide assistance to individuals, where appropriate.

The New York State Law, Youth and Citizenship high school mock trial rating sheet, found at www.nysba.org/lyc/perform.html may be used as a model for a trial rating sheet.

RESOURCES

- Copies of the stipulated fact pattern and witness statements
- Transportation to and from the younger classroom, if necessary

TEACHING TOOLS: NYS UNIFIED COURT SYSTEM HIGH SCHOOL LEVEL

Justice and the Jury Experience*

LEARNING CONTEXT

Purpose:

Students will learn about and appreciate the history of the jury system, understand the role that the jury plays in the American system of justice, and appreciate the importance of citizen service on juries.

Grade Level:

Grades 9, 10, 11 and 12

Learning Standard:

Social Studies Standards 1, 2 and 5

Core Curriculum (excerpts from the Social Studies Resource Guide with Core Curriculum):

Students will investigate how citizenship is defined and how different societies view the rights and responsibilities of citizenship. They will also learn how concepts of justice and human values differ across time and space and how decisions may be made under different political systems (Methodology of Global History and Geography). Additionally, students will monitor the application of basic constitutional principles. Students should understand those basic principles and the cultural heritage that support our democracy so that they can become informed, committed participants in our democracy. Students will recognize how individuals and groups throughout history have challenged and influenced public policy and constitutional change (United States History and Government). Through participatory activities, students will learn to define, analyze, monitor and discuss issues and policies (Grade 12 Social Studies: Participation in Government).

Concepts/Themes:

- Understanding how the courts insure justice, fairness, and due process for all people who seek to utilize or otherwise become involved in the court system.
- Analyzing the sources of the nation's values as embodied in federal and state constitutions, statutes and case law; appreciating the principles, ideals and core values of our democracy (human dignity, liberty, justice, and equality).

*Developed with the assistance of Kevin O'Hagan, Garden City High School, Garden City Union Free School District; Jack Hurley, Coordinator of Law Magnet Programs, Rochester City Schools

Prior Knowledge:

Students should be familiar with the basic purpose of our justice system, the role of the courts in that system, and the purpose of a trial. Students should understand civic values, such as justice, due process, equality, fairness, and majority rule with respect for minority rights, as expressed in the constitutions and laws of the United States.

Students should be at a stage where they are able to develop problem-identification and problem-solving skills. They should be able to gather, process, and present information in verbal and written forms.

PROCEDURE

The teacher should adjust the topics to specifically address the Core Curriculum requirements of their course or grade level. The teacher should expect to spend an hour of preparation to adjust the curriculum and to ensure that sufficient resources are available to the students within the school, on the Internet, and through community resources, such as the local library.

Special Message to Teachers

The activities within each Teaching Tool are designed to build on each other to, first, develop students' knowledge of basic law-related concepts; then, show students how the concepts are utilized or implemented in the court system; and, finally, demonstrate how students should apply the concepts in their everyday lives. However, the various activities that comprise each tool may also be used as stand-alone exercises. For example, you may choose to incorporate only Day 1 or Day 3 into your course work. Or, you may choose to use Day 1 in connection with one unit and then use Day 2 in a later unit.

There is more than one way to utilize the Teaching Tools – the proper use is the use that is beneficial to your classroom.

Day 1 – History of the Jury System

Students will view a portion of the New York State Unified Court System’s video, “Your Turn,” in which the concept of trial-by-ordeal is discussed. After this viewing, the teacher should foster a classroom discussion regarding the jury system and ways to insure that justice is accomplished through use of the jury system. For example, students should understand that the jury system is intended to provide a fair opportunity to defendants and that all citizens are entitled to be considered for service on a jury. A brainstorming activity may be used to allow students to list the “pros” and “cons” of the jury system utilized in the United States.

If the teacher wishes to have the student research the history of the jury system in greater detail, an exercise is provided in the Appendix to foster the creation of a Jury System Handbook.

Day 2 – Can the Jury System Be Improved?

The teacher should build on the Day 1 discussion and foster a discussion regarding how a jury functions, where in the system there is the potential for a breakdown, and how the law addresses those concerns. Some of the topics may include the following:

- laws against jury tampering, bribing, or influencing jurors in some way;
- laws to insure that jury selection is conducted in a non-discriminatory manner;
- laws against perjury that try to guarantee that the jury hears the truth;
- evidentiary rules that prevent the admission of material that is “more prejudicial than probative” and may simply inflame the jury;
- the judge’s ability to “overrule” the jury when the evidence does not support the verdict or to issue a directed verdict when there is no issue of fact for the jury to consider;
- the concept of jury nullification, when the jury does not follow the law in making its determination, and the importance of Pattern Jury Instructions;
- mistrials and hung juries.

The teacher may wish to have the students break into groups to research these topics. For example, using key word searches in a legal database, the students should be able to find New York statutes or Jury Instructions that address each of these topics.

In the alternative, the teacher may wish to use a recent case of local or national prominence to discuss some of these concepts as a class. For example, the OJ Simpson case could have been used to highlight the dynamics of the jury selection process or the use of evidentiary rules.

Day 3 – Mock Jury Deliberations

The teacher should divide the class into groups of at least six students. The groups will spend the class deliberating and trying to reach a unanimous “verdict” regarding various factual scenarios. The teacher should circulate among the groups and foster discussion regarding various aspects of the factual scenarios, which can either be drawn from recent news events or selected from the examples listed below:

- (1) criminal: John is accused of throwing a rock through his neighbors', the Smiths, living room window one night. Mrs. Smith claims that she looked out the window when the rock was thrown and saw John hiding behind a tree in the Smith's front yard. A street light provided adequate lighting for her to see John, and she was wearing her glasses. Mrs. Smith admits that she has never liked having John as a neighbor. It cost the Smiths \$300 to replace the window. John claims that at the time the rock was thrown, he was at his friend Joe's house for dinner. Joe confirms that alibi. John also claims that Mrs. Smith rarely comes out of her house and doesn't even know who John is. The punishment for the vandalism is a fine. Is John guilty? If the judge asked you, how much should he pay?
- (2) civil: John's dog bit Joe's finger, and Joe had to go to the emergency room, incurring a bill of \$300. Joe sues John for \$3,000 to cover his “pain and suffering” and the emergency room bill. John claims that his dog has never bitten anyone before. John thinks that Joe was teasing the dog, and John doesn't think he should pay a dime. Should John pay anything? How much?
- (3) criminal: Sue is accused of shoplifting. The store security officer saw her try on several scarves and then try to leave the store with one wrapped around her neck. When the officer attempted to stop her, she walked quickly out of the store, wearing the scarf that was priced at \$100. Sue says that she usually wears scarves, forgot to put one on that morning, and decided to stop at a store to buy one. She tried several on at the same time and did not like any of them. She claims she did not notice that she had left one of the scarves around her neck, and she hurried out of the store because she was late for work. When the security guard stopped her, she tried to explain, but he would not listen to her. The punishment for the shoplifting charge is a fine. Is Sue guilty? If the judge asked you, how much should she pay?
- (4) civil: Sue agreed to shovel two of her neighbors' driveways for the winter. She charged \$200 for the season and was entitled to keep the money no matter how much snow fell. It never snowed during the winter, so Sue gave \$50 back to one of the neighbors. The other neighbor found out that Sue returned money, and is suing Sue to make her pay back the \$200. Should Sue pay anything back? How much?

The teacher can foster discussion by asking individual members of each group which “side” they believe and why they feel that way and then asking whether any other members of the group disagree and why. The teacher may want to ask the students whether they or family or friends have ever been in similar situations and what happened. The students should be aware of how their personal experiences affect how they feel about the case. For example, a student whose family owns a store may have strong feelings about the shoplifting scenario. The students should also be aware of whether and how they have to compromise in order to reach a unanimous verdict.

Days 4 & 5 – “Twelve Angry Men”

The teacher may wish to show this film now that students understand the significance and intricacies of jury deliberation.

Students may be provided with the Discussion Chart (annexed) to fill out during the film and then discuss later, or the teacher may wish to have the class fill it out the chart together as part of a post-film discussion.

INSTRUCTIONAL/EDUCATIONAL MODIFICATIONS

Topics should be assigned and groups divided with student needs and abilities in mind. The teacher should monitor group dynamics and provide assistance to individuals where appropriate, particularly with respect to the handbook activity.

ASSESSMENT PLAN

Students will be evaluated by direct observation and formal and informal discussions of their work as a group. The group research and discussion activities will have to be closely monitored by the teacher. The worksheets provided may serve as a basis of objective evaluation with respect to historical information.

With respect to the handbook activity in the Appendix, the checklist (attached) should be provided to each team and reviewed at a formal conference. Upon completion of the chapter, each group will submit their work to be scored according to the checklist.

RESOURCES

1. A copy of Juror’s Handbook for each student. These can be obtained from the County Commissioner of Jurors office
2. Unified Court System’s videotape regarding jury service, “Your Turn” – this resource can be obtained from your school superintendent
3. Videotape of “Twelve Angry Men” from a local library or video store
4. Internet access/access to legal databases for research projects

Name: _____

Date: _____

JURY SERVICE QUIZ

TRUE OR FALSE

1. _____ A jury may decide who wins or loses in a court of law.
2. _____ You may volunteer for jury service if you are qualified.
3. _____ A “hung” jury results when the jury cannot reach a verdict.
4. _____ If you work full time, you may ignore a jury summons.
5. _____ Juries are only used in the New York State Supreme Court.
6. _____ Juries in criminal and civil trials must reach a unanimous verdict.
7. _____ Only middle or upper class people can afford to serve on juries.
8. _____ A juror must be a U.S. citizen.
9. _____ Once you serve as a juror, you will be called for jury service once a month.
10. _____ You must be 18 years old to serve on a jury.
11. _____ If you do not understand English, you may not serve on a jury.
12. _____ A person convicted of a felony may not serve on a jury.
13. _____ If you are unemployed, you may be compensated for jury service.
14. _____ If you are called for jury service, your employer may demote you.
15. _____ Juries may be sequestered and not permitted to return home until deliberation is complete.

Name: _____ Date: _____

YOUR TURN:
LEARNING ABOUT JURY SERVICE IN NEW YORK STATE

I. History of the Jury System

A. Matching

- | | |
|-----------------------|--|
| _____ Ancient Greece | a. guilt or innocence was determined by “trial by ordeal” |
| _____ Roman Empire | b. the first known juries developed |
| _____ Medieval Europe | c. neighbors of an accused person acted as witnesses <u>and</u> jurors |
| _____ England | d. laws and judges were substituted for juries |

B. Early America

1. Why was the trial of Peter Zenger important in the history of the jury system?
2. Which amendments to the U.S. Constitution are important in providing the right to trials by jury?

II. The Jury System in New York State

1. In a criminal trial, who are the opponents and what is the issue?

In a civil trial?

2. Matching courtroom people and responsibilities

- | | |
|----------------------------|---|
| _____ judge | a. represents the person accused of wrongdoing |
| _____ court reporter | b. swears in the jury and witnesses |
| _____ court officers | c. maintain order in the court |
| _____ clerk | d. conducts the trial in accordance with the law |
| _____ prosecuting attorney | e. produces a certified record of the trial |
| _____ defense attorney | f. represents the State of New York in bringing the case against the accused person |

3. *Voir Dire*

a. Briefly describe what happens during the *voir dire*.

b. What is the purpose of the *voir dire*?

WORKSHEET:
UNDERSTANDING AND ANALYZING “TWELVE ANGRY MEN”

1. What is the role of a jury in a criminal trial?

2. What right does a criminal have with regard to who determines his/her legal guilt or innocence?

3. In New York State, how many people serve on a jury in a felony criminal trial?

4. How many jurors must agree in order to reach a verdict?

5. What happens if the jury does not reach a verdict?

6. What must the prosecution prove in order to get a guilty verdict?

7. What is “reasonable doubt?”

8. What crime is the defendant charged with?

9. What is the punishment for this crime?

10. Why did juror #7 vote “not guilty?”

**EVIDENCE ANALYSIS CHART:
TWELVE ANGRY MEN**

Arguments in favor of
"Guilty"

Arguments in favor of
"Not Guilty"

MOTIVE

KNIFE

WITNESS:
WOMAN
ACROSS
STREET

WITNESS:
MAN WHO
LIVED ON
SECOND FLOOR

Arguments in favor of
"Guilty"

Arguments in favor of
"Not Guilty"

ALIBI

STAB
WOUND

TESTIMONY OF
PSYCHIATRIST

APPENDIX

“HISTORY OF THE JURY SYSTEM” HANDBOOK

Students should be separated into groups and assigned a specific topic to research related to the history of the jury system. The topics may include, but are not limited to, the following:

1. early jury-type systems (the Greek *decury* or Roman *judex*);
2. alternate trial systems in early cultures (ordeal/battle in Europe, Tasmania, Central Asia, etc.);
3. Scandinavian roots of the jury “*Things*”;
4. Ninth and Tenth century England of Alfred I (pre-Norman);
5. Norman Conquest and widespread use of jury system under Henry II;
6. trial of William Penn and establishment of jury/judicial independence from the King;
7. trial of John Peter Zenger; and
8. development and use of the grand jury system.

Over the course of the next week, each group of students should meet outside of class time to prepare a written presentation of their topic as if it were a chapter in a handbook. Based on group size, students can be assigned as drafters or as editors of the chapters or as liaisons for the compilation of the handbook. Students should be encouraged to include a strong introduction and conclusion, as well as be aware of the components listed in the evaluation check list (attached). The teacher may wish to hold a formal conference with the student groups at least once during the creation of the chapters, using a checklist (see sample checklist, attached) to measure progress.

When compiled, the handbook may be used in conjunction with the Captain Quog mock trial exercise. High school students may use the handbook to help prepare younger students as prospective jurors for the mock trial.

**Scoring Checklist for Student Chapters in the
“History of the Jury System” Handbook**

- | | |
|--------|--|
| 9 - 10 | Strong introduction/conclusion Pertinent, well-placed references from outside sources Excellent use of visual and graphic aids Well structured, well written, proper spelling, grammar, mechanics |
| 7 - 8 | Clear introduction/conclusion Solid use of references from outside sources Good use of visuals and graphics Clearly written, some minor errors |
| 5 - 6 | Introduction/conclusion weak, but address the topic Modest use of references Fair use of visuals Weak organization, some errors that detract from writing |
| 3 - 4 | Introduction/conclusion unfocused and confusing Poor use of references, incorrect at times Poor use of visuals and graphics Poor organization, many errors in standard English |
| 1 - 2 | Introduction/conclusion misleading, distracting References misplaced, little or no connection to subject Visuals unrelated to topic, offer no assistance in understanding topic Disorganized, numerous glaring errors in standard English |
| 0 | No introduction/conclusion No references to outside sources made No use of visuals or graphics Lacks any organization, completely disjointed |

TEACHING TOOLS: NYS UNIFIED COURT SYSTEM HIGH SCHOOL LEVEL

The Student Infomercial: Student Rights and Responsibilities*

LEARNING CONTEXT

Purpose:

Students will become aware of the laws, rules, and policies that directly govern them. They will consider and identify school or community issues relating to education that could use innovative solutions. Students will construct a videotaped “infomercial” or other presentation that depicts the issue of concern and provides a possible solution that the school or community may consider.

Grade Level:

10, 11, and 12

Learning Standards:

1, 4, and 5

Core Curriculum (excerpts from the Social Studies Resource Guide with Core Curriculum):

Students will investigate how citizenship is defined and how different societies view the rights and responsibilities of citizenship. They will also learn how concepts of justice and human values differ across time and space and how decisions may be made under different political systems (Methodology of Global History and Geography). Additionally, students will monitor the application of basic constitutional principles. Students should understand those basic principles and the cultural heritage that support our democracy so that they can become informed, committed participants in our democracy. Students will recognize how individuals and groups throughout history have challenged and influenced public policy and constitutional change (United States History and Government). Through participatory activities, students will learn to define, analyze, monitor and discuss issues and policies (Grade 12 Social Studies: Participation in Government). Students will learn rational decision making skills and see the role that economics plays in all aspects of our society (Grade 12 Social Studies: Economics and Economic Decision Making).

Concepts/Themes:

- Analyzing the sources of the nation’s values as embodied in federal and state constitutions, statutes and case law; appreciating the principles, ideals and core values of our democracy (human dignity, liberty, justice, and equality).
- Working together and with community members to identify and seek solutions to students’ concerns regarding their rights and responsibilities.

*Developed with the assistance of George Habib, Director, Law-Related Education Program, John Jay High School

Prior Knowledge:

Students should be familiar with the basic purpose of our justice system. Students should understand civic values, such as justice, due process, equality, fairness, and majority rule with respect for minority rights, as expressed in the constitutions and laws of the United States.

Students should be at a stage where they are able to develop problem-identification and problem-solving skills. They should be able to gather, process, and present information in verbal and written forms.

PROCEDURE

The teacher should adjust the topics to specifically address the Core Curriculum requirements of their course or grade level. The teacher should expect to spend three hours of preparation to adjust the curriculum and to ensure that sufficient resources are available to the students.

Students will learn about the laws and rules that regulate behavior in school, from state statutes to school policy manuals. Students will then interview one another and, if possible, survey members of the community in order to find out what kind of issues or concerns the students, as well as the community, face with respect to student rights and responsibilities. After all interview and survey results are analyzed, the class will select an issue to fully research and analyze for a resolution. The students will then create an “infomercial” on videotape or, if that is not possible, with a live presentation regarding the school/ community issue.

This exercise places the students in a position to use verbal, written, research, communication, and technology skills, as well as discover their own interest in public service.

Special Message to Teachers

The activities within each Teaching Tool are designed to build on each other to, first, develop students’ knowledge of basic law-related concepts; then, show students how the concepts are utilized or implemented in the court system; and, finally, demonstrate how students should apply the concepts in their everyday lives. However, the various activities that comprise each tool may also be used as stand-alone exercises. For example, you may choose to incorporate only Day 1 or Day 3 into your course work. Or, you may choose to use Day 1 in connection with one unit and then use Day 2 in a later unit.

There is more than one way to utilize the Teaching Tools – the proper use is the use that is beneficial to your classroom.

Day 1 – Student Rights and Responsibilities

The teacher should discuss with the students the various laws that govern schools, teachers, and students, ranging from federal laws that generally prevent discrimination against all individuals, to state laws that mandate certain courses of study, state regulations that describe those courses of study in detail, and individual school policy manuals that address particular issues, such as disciplinary issues. The Appendix provides citations to pertinent primary resources if the students are interested in seeing some of the provisions that apply directly to them.

Students should understand the interdependence of these laws, rules and policies. The teacher should obtain a copy of the school's disciplinary policies and foster a discussion among the students about the need for the various policies and the manner in which concepts like justice, fairness and due process are evident in the school policies. The class should discuss any recent court cases in the federal or state courts that involve disciplinary issues (the teacher may check the Unified Court System web page for a "case of the month" that may be of interest). The teacher and students may also search for and discuss recent newspaper articles regarding topics related to education, such as charter schools, school vouchers, school busing changes, etc. The students should also be aware of the economic implications of many of the governing principles (grant money, budgetary considerations) and of the recent issues discussed (charter schools).

As a homework or evaluation assignment, the students should draft an amendment to one of the disciplinary policies, citing a reason for the amendment. The students should list the various perspectives of people that would be affected by the policy change (school administration, teachers, budget planners, students, parents, bus drivers, maintenance staff, etc.) and set forth an opinion that each affected person might have about the amendment. For example, a disciplinary provision regarding expulsion may be amended to require a second chance prior to expulsion. Parents may like this change because it insures a second chance for their children to remain in school, but teachers may not because they will not be able to easily expel a student that is creating a disciplinary problem.

In the alternative, the teacher may wish to have different groups of students review different parts of the disciplinary policy, research whether the policies have been successfully implemented or are in need of revision, and present their findings to the rest of the class. If merited, the class may work on a formal request to the local Board of Education to change existing rules or establish new policies and procedures.

Days 2 & 3 – Student Survey

The teacher may wish to contact the Communications Department of a local institute of higher education or a representative of a local public relations firm to ask for a classroom visit and assistance with the proper method of constructing and analyzing a survey.

The students should create a brief survey form to be distributed to other students in the school building and to appropriate members of the community (parents, relatives, family friends). The

purpose of the survey is to determine what issues or problems their peers or community members are encountering that they find difficult to understand and resolve.

The students should interview each other to create a list of public concerns about which they would like to poll public opinion. They can consult local newspapers for recent topics, or consider topics of interest to them. Some examples follow:

- students who have encountered difficulties riding the bus may wish to have bus monitors placed on buses in addition to bus drivers
- if the school has a policy that only seniors may leave school grounds during their lunch hour, students may wish to investigate the reasons for that policy
- students may want the cafeteria to serve different kinds of foods
- students who play Varsity sports may want to be excused from the physical education requirement and have study halls instead of gym classes
- students may wish to have an after school peer tutoring program set up by the school

From the list of public concerns, a topic should be chosen, and the survey should be developed and distributed. The responses should be collected within a week, and then this exercise should continue with Day 4's activities.

Days 4 & 5 – Creating an Infomercial

The students should review the results of the survey to find common themes to address. The students should research whatever issues or concerns are the focus from the survey, develop a proposed solution, and create an infomercial or presentation that would coherently present the problem and the proposed solution to the community, as well as to those in a position to implement the proposed solution. Students should present all perspectives in some way over the course of the infomercial and should incorporate statistics or facts garnered (as a result of the survey and research) to support and rationalize the proposed solution.

If the teacher wishes, this could become a semester long project to develop an infomercial or presentation that will actually be presented to the school administration. The project offers a variety of participation opportunities for students with various interests. For example, some students may be interested in actually videotaping the project, some in directing it, and some appearing in the infomercial. The flexible nature of the project will allow the teacher to accommodate these various interests.

RESOURCES

Depending on the scope of the project, the students may need access to computers with graphic design capabilities (for the survey), video recording and editing equipment, and transportation. If this equipment is unavailable to a school, it may be worthwhile to contact a local television station for assistance. In the alternative, it may be possible for your class to create power point presentations, instead of a videotape.

ASSESSMENT PLAN

Students will be evaluated by direct observation and in the context of formal and informal group activities. The teachers should monitor group dynamics and provide assistance to individuals, where appropriate. The surveys, homework suggestions, and infomercial itself will provide tangible products for consideration.

APPENDIX

If the students wish to view some of the pertinent laws, rules, and policies in original form, they should research the following:

- New York State Education Law section 801 (a statute) requires courses of instruction in patriotism and citizenship and in certain historic documents
- 8 NYCRR 100.1 (a regulation) sets forth the state learning standards, which includes the five social studies learning standards
- 8 NYCRR 100.2 (a regulation) addresses general school requirements; it cross references Education Law section 801; it also requires that schools adopt and implement written policies on school conduct and discipline “designed to promote responsible student behavior”
- review your school policy manual

For other examples, or for use as a research tool, visit the New York State Bar Association’s Law, Youth and Citizenship web site, www.nysba.org/lyc/rights.html and review the guide, “Rights and Responsibilities of Young People in New York State.”