



# **Good Times, Bad Times: Drugs, Youth and the Judiciary**

## **FACILITATOR'S GUIDE**

A Project of the  
Citizenship Law-Related Education Program for the Schools of Maryland  
of the Maryland State Department of Education and  
the Maryland State Bar Association  
in cooperation with  
Maryland Public Television  
and primary funding provided by the  
State Justice Institute



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## **ACKNOWLEDGEMENT & DISCLAIMER**

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# ACKNOWLEDGEMENTS

Understanding the role of the judiciary in our society is critical to effective citizenship. Unfortunately, our research indicated that little instructional time was dedicated to study of the judiciary, especially our state courts. Further, little material of substance was available to educators who wanted to include the courts in their government, contemporary issues or political science courses. This project grew out of our desire to provide teachers and students with substantive information presented in a way that students would want to learn more about their state courts.

On behalf of the Citizenship Law-Related Education Program for the Schools of Maryland of the Maryland State Bar Association and the Maryland State Department of Education, we would like to thank the following individuals and organizations who provided critical assistance in making this Facilitator's Guide and video possible.

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Ellery M. "Rick" Miller, Jr.  
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# **GOOD TIMES, BAD TIMES: DRUGS, YOUTH AND THE JUDICIARY**

## **INTRODUCTION**

This video was produced as a cooperative effort by the Citizenship Law-Related Education Program for the Schools of Maryland and Maryland Public Television through a State Justice Institute grant. The video, which is twenty minutes in length, is intended for use in secondary schools but the tape and these lessons are adaptable for use with adult groups as well. The video was developed for use in Maryland and emphasizes the Maryland court system. However, the information and lessons provided can be used by educators in all 50 states.

The purpose of this video is to provide secondary students with information on the role and function of the Maryland Judiciary. The video also explores the potential legal impact of substance abuse for the "recreational user". Enrichment lessons focus on Maryland's drug laws and the difference between the treatment of adults and juveniles in our legal system.

One of the many problems that social studies educators face is to demonstrate how the structure and workings of our government impact student lives everyday. The rules of procedure and formality of our Judiciary often seem too difficult to be understood by the average student. While the law is pervasive and ever present in the lives of Americans, we often overlook the importance of the law and our judicial system in creating and protecting our society.

When we speak of the "costs" of drug abuse, students rarely look beyond the out-of-pocket cost to the addict or to the government's cost of control and rehabilitation. Drug use affects more than just the addict or user. It has an impact on the family, our economy, society, and the legal system. This issue of drug use must be dealt with by our students, for the realization is that we will not win this war in the near future. As mature adults, students will need to focus on this issue, analyze the alternatives and make the correct decisions if they hope to control its effect on society. There is no doubt about the importance of this issue. There is no doubt that our American society must control this problem. There is no doubt that our students must be fully educated about this issue and be prepared for coping with its impact. As educators, it is our responsibility to provide our students with the skills that will be necessary for them to be educated, productive and successful citizens in the 21<sup>st</sup> century.

Educators are encouraged to refer to other sources for lessons dealing with crime, the Maryland court system, drugs and the juvenile system. Other CLREP publications which can be used as resources include: CRIME AND JUSTICE: A MARYLAND PERSPECTIVE; JUVENILE JUSTICE: A MARYLAND PERSPECTIVE; SHAPING AMERICAN DEMOCRACY; THE BILL OF RIGHTS: SECURING THE BLESSINGS OF LIBERTY, and UNDERSTANDING THE JUDICIAL BRANCH OF MARYLAND GOVERNMENT.

# OBJECTIVES

The objectives of the video, **GOOD TIMES, BAD TIMES**, are:

- To provide students with an opportunity to examine and understand the structure and jurisdiction of the Maryland state courts.
- To acquaint students with the physical setting of the courtroom and to describe the roles played by each participant in a trial.
- To provide students with an understanding of our adversarial process through a case study in the Maryland Circuit Court.
- To provide students with a better understanding of Maryland's drug laws and their impact on the lives of young people.
- To provide students with the opportunity to develop an understanding of the immediate and long-term costs of the drug problem on our society as a whole.
- To provide students with the knowledge that will enable them to make educated decisions when dealing with the problem of drugs and their impact on our society.

# PRE AND POST TEST

**OBJECTIVE:** To provide students with the opportunity to evaluate their knowledge before and after viewing the video and completing these lessons.

**DIRECTIONS:** All answers are to be placed in the answer space provided to the left of the number. There is only one answer for each question.

## PART I: TRUE OR FALSE

- \_\_\_\_\_ 1. The public defender is the prosecuting attorney for the state.
- \_\_\_\_\_ 2. All delinquent acts are crimes for which a youth may be accused.
- \_\_\_\_\_ 3. The docket is the place where the defendant sits during the trial.
- \_\_\_\_\_ 4. When a defendant is found guilty by a jury, a judge can impose any sentence he or she deems fair.
- \_\_\_\_\_ 5. In Maryland, all criminal and civil jury decisions must be unanimous.
- \_\_\_\_\_ 6. The jury foreman is located on the same side of the courtroom as the plaintiff/prosecution.
- \_\_\_\_\_ 7. Appeal courts have original jurisdiction and are the courts where a felony trial begins.
- \_\_\_\_\_ 8. A prosecutor may attempt to convict the accused for a higher offense than charged.
- \_\_\_\_\_ 9. Both the prosecution and the defense must agree to a court trial versus a jury trial.
- \_\_\_\_\_ 10. A minor, 16-18 years old, may be tried in court as an adult.
- \_\_\_\_\_ 11. The purpose of the jury is to decide if the rules of law are followed during the trial.
- \_\_\_\_\_ 12. In a criminal trial, the state must prove that the accused is guilty beyond any reasonable doubt.

- \_\_\_\_\_ 13. The system of trial justice in the United States is one in which each of the adversary parties have the opportunity to present evidence before a court.
- \_\_\_\_\_ 14. The search of an automobile can only be done with a legal search warrant.
- \_\_\_\_\_ 15. Juries are found only at the Circuit Court level in Maryland.

## **PART II: MULTIPLE CHOICE**

- \_\_\_\_\_ 16. What is it called when the court has the power to hear a particular case for the first time? (A) precedent; (B) original jurisdiction; (C) appellate jurisdiction, or (D) preliminary hearing.
- \_\_\_\_\_ 17. What is the lowest court in the Maryland court system? (A) Court of Appeals; (B) Court of Special Appeals; (C) Circuit Court, or (D) District Court.
- \_\_\_\_\_ 18. The courts which have original and appellate jurisdiction and which hear most criminal and civil cases are the: (A) Court of Appeals; (B) Court of Special Appeals; (C) Circuit Court, or (D) District Court.
- \_\_\_\_\_ 19. The highest court in Maryland is the: (A) Court of Special Appeals; (B) District Court; (C) Court of Appeals, or (D) Circuit Court.
- \_\_\_\_\_ 20. Which of the following rights do juveniles **NOT** have? (A) the right to bail; (B) the right to counsel; (C) the right to be informed of the charges, or (D) the right to remain silent.
- \_\_\_\_\_ 21. The purpose of the juvenile justice system is to: (A) punish juveniles; (B) put juveniles in separate jails than adults; (C) provide rehabilitation for wayward youth, or (D) provide juveniles with criminal labels.
- \_\_\_\_\_ 22. The cost to the taxpayers to arrest and convict a person for the use of marijuana is about: (A) \$500; (B) \$1,200; (C) \$2,000, or (D) \$2,500.
- \_\_\_\_\_ 23. The 1990 Federal Budget allocation to fight the war on drugs was: (A) \$9 billion; (B) \$6.5 billion; (C) \$10 million, or (D) \$500,000.

- \_\_\_\_\_ 24. In order to prove that the accused is guilty of the crime of possession with the intent to distribute, the state must prove that all of the following elements did exist **EXCEPT**: (A) the defendant did possess the substance; (B) the defendant sold or transferred the substance; (C) the substance was a controlled, dangerous substance, or (D) the defendant possessed the substance with the intent to distribute some or all of it.
- \_\_\_\_\_ 25. Which of the following is **NOT** a crime? (A) the direct control of a controlled, dangerous substance; (B) possession of a controlled, dangerous substance which was obtained with a valid prescription; (C) knowledge of the existence of a controlled, dangerous substance in your automobile, or (D) not using but passing a "joint" from one person to another.

### PART III: MATCHING

- |  |                     |
|--|---------------------|
| _____ 26. Can be cross-examined.   | A. Bailiff          |
| _____ 27. Person delivering the first closing statement.                     | B. Defendant        |
| _____ 28. Guards the defendant.  | C. Judge            |
| _____ 29. Swears in the witness.   | D. Court clerk      |
| _____ 30. Records what is said in court.                                     | E. Witness          |
| _____ 31. Tries to show that the evidence leaves jury with reasonable doubt. | F. Prosecutor       |
| _____ 32. Decides the factual issues in the case.                            | G. Court reporter   |
| _____ 33. Announces that the court is in session.                            | H. Jury             |
| _____ 34. Cannot be forced to testify.                                       | I. Defense attorney |
| _____ 35. Rules on legal issues during trial.                                | J. Sheriff          |

# PRE AND POST TEST ANSWER KEY

## PART I: TRUE OR FALSE

1. FALSE
2. TRUE
3. FALSE
4. FALSE
5. TRUE
6. TRUE
7. FALSE
8. FALSE

9. FALSE
10. TRUE
11. FALSE
12. TRUE
13. TRUE
14. FALSE
15. TRUE

## PART II: MULTIPLE CHOICE

16. B
17. D
18. C
19. C
20. A

21. C
22. B
23. A
24. B
25. B

## PART III: MATCHING

26. E
27. F
28. J
29. D
30. G

31. I
32. H
33. A
34. B
35. C

# THE PROCESS OF JUSTICE

## LESSON 1

**OBJECTIVE:** To provide students with an understanding of our adversarial process through a case study in our Maryland Circuit Court.

**MOTIVATION:**

*"The basic presumption of our criminal justice system is that the accused is innocent until proven guilty by the state."*

Either read this statement to the class or place it on the chalkboard and ask a volunteer to read it.

Have students work with a partner or work together as a class to develop a list of methods that have been used in the past to try a person. Provide students with the worksheet **"The Process of Justice"** and define these systems for them.

**LESSON:**

1. Explain to the students that they will be viewing a video today that will examine the adversarial process as it works in our Maryland Circuit Courts.
2. In advance of the lesson, you might choose to assign the 25 terms provided on the **"Working Vocabulary"** sheet. The terms are listed in alphabetical order. A complete glossary of legal terms has been provided at the end of this facilitator's guide.
3. After viewing the video, assign the crossword puzzle for homework. This contains the 25 terms from the vocabulary sheet and the name of two of the characters in the film.

# **THE PROCESS OF JUSTICE**

**TRIAL BY ORDEAL:**

**INQUISITORIAL SYSTEM OF JUSTICE:**

**INQUIRY SYSTEM OF JUSTICE:**

**ADVERSARY SYSTEM OF JUSTICE:**



# **THE PROCESS OF JUSTICE**

## **TRIAL BY ORDEAL:**

During the medieval period, man believed that God would always protect the innocent. Therefore, an accused individual would prove his innocence through a trial by ordeal. There were a number of different ordeals used at that time, but in all cases it was believed that if the accused was innocent, he would be protected from harm by God. There were ordeals of water as well as ordeals of fire. An example of the one most often used during the medieval period utilized a cauldron of boiling water. Before the trial by ordeal actually began, a cauldron of boiling water was placed in the center of the church. The arm of the accused was held in the water and then removed and wrapped in a bandage by the priest. After three days the bandage was removed. Any evidence of scalding was considered proof of guilt.

## **INQUISITORIAL SYSTEM OF JUSTICE:**

This next example of justice was used during the Counter-Reformation period, about 1550. It was used most often during the Inquisition in Spain, but examples of this system of justice were found around 1660 in both Switzerland and France. The assumption of guilt was again the guiding factor in this system of justice. Inquisitorial justice became manifest when some form of divine intervention spared the accused from pain, suffering and death, or when the accused admitted his guilt as a result of torture or some other form of corporal punishment.

## **INQUIRY SYSTEM OF JUSTICE:**

The inquiry system of justice is used today in some countries, especially in Europe. This is a modified form of the inquisitorial system in which the judge is more active in questioning witnesses and controlling the court process, including the gathering and presentation of evidence. In this system of justice, all persons--judge, prosecutor, defense attorney, defendant, and witnesses--are obliged to cooperate with the court in its inquiry into the crime. Out of this inquiry, it is believed the truth will emerge. Until that time, the individual's guilt is assumed.

## **ADVERSARY SYSTEM OF JUSTICE:**

The trial system in the United States is an adversary process. This means it is a contest between opposing sides. The theory of this process is that the trier of fact (the judge or jury) will be able to determine the truth from the arguments presented by opposing parties or adversaries. In a criminal case, these adversaries are the prosecutor, who must present enough evidence to prove the guilt of the accused beyond any reasonable doubt, and the defense, who must show that the evidence presented by the prosecution is inept and should not be believed. In a civil case, the burden is on the plaintiff to prove his or her case by a preponderance of the evidence. In the American judicial process, the accused is presumed innocent and the burden of proof is placed on the court or the state.

## WORKING VOCABULARY

### DIRECTIONS:

As you define these terms, think of their definitions in terms of crime, the courts and the legal system.

- |               |                 |
|---------------|-----------------|
| 1. Appeal     | 14. Minor       |
| 2. Arrest     | 15. Misdemeanor |
| 3. Bail       | 16. Probation   |
| 4. CDS        | 17. Proof       |
| 5. Counsel    | 18. Prosecutor  |
| 6. Defendant  | 19. Search      |
| 7. Defense    | 20. Seizure     |
| 8. Doubt      | 21. Sentence    |
| 9. Felony     | 22. Trial       |
| 10. Future    | 23. Waive       |
| 11. Innocence | 24. Witness     |
| 12. Intent    |                 |
| 13. Jury      |                 |

# GOOD TIMES, BAD TIMES VOCABULARY PUZZLE

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# GOOD TIMES, BAD TIMES

## VOCABULARY PUZZLE CLUES

### ACROSS CLUES

3. The jury determines this about the defendant.
8. Testifies to what he has seen, heard or observed.
9. The punishment assigned by the judge.
10. To take a case to a higher court for review.
11. Unlawful to possess this substance without a valid prescription.
12. Matt's was ruined this one night.
14. Guaranteed by the Sixth Amendment.
19. Public officer who represents the state in a criminal case.
20. A less serious crime.
21. An accomplice in Matt's crime.
22. Having the object or purpose to commit a crime.
25. In Maryland, anyone under the age of 18.
26. The police can do this if they have probable cause.

### DOWN CLUES

1. The prosecution must prove one's guilt beyond any reasonable \_\_\_\_\_.
2. The defendant in this film.
4. The person accused of a crime.
5. This burden is on the state in a criminal case.
6. The \_\_\_\_\_ of the drug was reasonable.
7. In this case it was "Guilty".
13. Represents the defendant in the criminal trial.
15. Determines the guilt or innocence of the defendant.
16. Is posted to guarantee that the defendant will appear for his trial.
17. A more serious crime punishable by death or imprisonment in excess of one year.
18. To voluntarily give up a right or claim.
19. Instead of going to prison, the criminal may be placed under the jurisdiction of \_\_\_\_\_ officers.
23. Where adversary parties present opposing facts and evidence in a court.
24. To take into custody by authority of the law.

# ANSWER SHEET

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# REASONABLE SEARCH AND SEIZURE

## LESSON 2

**OBJECTIVE:** To examine the conditions under which the police may conduct a search of an automobile and seize evidence.

### MOTIVATION:

Ask the students to take approximately five minutes to summarize the exact chain of events in the video **Good Times, Bad Times** from the moment that the State Trooper noticed Matt's car up to the actual arrest of Matt and his friends. Ask for volunteers to share their lists. With the agreement of the class, list these events on the chalkboard.

The following is an example of some of the items in this list:

1. Trooper flashes his lights at Matt's car.
  2. Matt pulls over and rolls down window.
  3. Officer says Matt was speeding and swerving. Asks for license and registration.
  4. Matt produces documents.
  5. Trooper requests that Matt get out of car.
  6. Trooper conducts field sobriety test.
  7. Matt submits to the test.
  8. Trooper examines exterior and interior of vehicle.
  9. Trooper finds open beer in plain view.
  10. Trooper notices suspicious packets in console.
  11. Matt and his friends are arrested and taken into custody.
- (Note: Teachers should allow all reasonable assumptions such as previous sentence.)*

### LESSON:

1. Tell the students that the U.S. Supreme Court has made many exceptions to the requirement of a warrant for a legal search. One exception concerns automobiles. Because of the fact that an automobile can be easily moved and any evidence present in it can be moved as well, the Court permits law enforcement officials to search and seize evidence in a vehicle if they have *probable cause*.

**Probable Cause** is a series of events, not one act of suspicion. Thus the officer would first stop a driver for a traffic violation. Suspicious behavior or evidence of possible contraband would lead to further investigation and a search. (Note: Students might raise questions of **Reasonable Suspicion**. This is a lesser degree of evidence accepted by the Courts and may be based on only one act.)

2. Have the students look back at the list of events on the chalkboard. Develop an understanding of the reasons for the trooper's actions. Ask questions of the students which will require them to make assumptions. For example:

- ▶ Did the trooper have a legitimate reason for stopping Matt in the first

place?

- ▶ Could the trooper stop Matt if he merely suspected that Matt would have drugs in his automobile?
  - ▶ Why do you suppose the trooper requested that Matt get out of his automobile?
  - ▶ As the driver of an automobile in Maryland, do you have the right to refuse to submit to a sobriety test?
  - ▶ What reasons might the trooper have had for examining the exterior and interior of the automobile that Matt was driving?
  - ▶ Did the trooper have the right to search the console in Matt's automobile without a legal warrant?
  - ▶ As passengers in an automobile where drugs are found, can Matt's friends be arrested?
  - ▶ Why do you suppose Matt's friend lied on the witness stand?
3. Divide your class into two groups. Have one group assume the role of the defense attorney. (Their task is to develop a list of arguments supporting the illegality of the search and the evidence seized by the trooper.)
  4. The second group will assume the role of the prosecuting attorney. (Their task is to develop a list of arguments that the evidence seized by the trooper was legal and should be admissible.)
  5. Debrief this activity by having the students discuss their arguments for both sides.

### **ASSIGNMENT:**

For homework, have the students assume that they are the judge in this case. They are to decide whether or not the evidence seized by the trooper was legal and should be admitted in court. In a paragraph, students are to completely explain the reasoning used to make their decisions.

### **ADAPTATION:**

Divide the class into triads: groups of three students each. Within each group, have one student assume the role of the prosecutor, one the role of the defense attorney, and one the role of the judge. The prosecutor must develop and present to the judge his arguments to uphold the legality of the trooper's actions. The defense attorney must develop and present to the judge his arguments that the evidence was illegally seized and should be suppressed (not permitted to be admitted in the trial). The judge must

then determine whether or not to admit the packets as evidence in this case. Do not allow the judge to give his opinion until after the attorneys have presented their arguments. Set a time limit for all triads to have completed their arguments and then debrief by having each judge explain their decision and reasons to the class. Compare the judges decision and, more importantly, the rationale behind the decision.

This activity is especially valuable in that every student must take on a role and present the issues to their peers. For some classes, this activity may proceed the written homework assignment.



# POSSESSION, INTENT, DISTRIBUTION

## LESSON 3

**OBJECTIVE:** To examine the Maryland Annotated Code and to understand the elements of those crimes associated with drugs.

### MOTIVATION:

1. Distribute copies of the TRUE/FALSE test on drug laws to the students. Explain to them that the test will not count towards their grade.
2. Once they have completed the task, have the students put their test papers to the side until the end of the lesson.

### LESSON:

1. Provide students with copies of the worksheet "**Criminal Offenses**". Discuss the differences in the three crimes and emphasize the elements of each. Explain to the students that in order to convict an individual of any of these crimes, the State must prove **ALL** elements of the crime existed at that time.
2. Now have the students look at their drug law test. Ask them to examine their answers and see if there are any changes that they would like to make. Have students make those changes.
3. Debrief the lesson by going over the correct answers to the questions. Provide students with explanations to these answers whenever possible.

### ANSWERS:

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

## TEST YOUR KNOWLEDGE OF MARYLAND'S DRUG LAWS

**DIRECTIONS:** Read the question carefully. Write **TRUE** or **FALSE** in the blank to the left of the statement.

- \_\_\_\_\_ 1. It is legal for a person to possess controlled, dangerous substances if they were obtained with a valid prescription.
- \_\_\_\_\_ 2. Possession of controlled dangerous substances refers only to the direct control of the substance.
- \_\_\_\_\_ 3. You cannot be charged with possession if a controlled dangerous substance is found in your automobile but not on your person.
- \_\_\_\_\_ 4. Mere knowledge of the presence of a CDS in your automobile is enough to charge you with possession.
- \_\_\_\_\_ 5. Passing a "joint" from one person to another, even if you do not smoke it, is considered distribution.
- \_\_\_\_\_ 6. New mothers could be charged with "distribution to a minor" if their newborns are born addicted to drugs due to maternal use during pregnancy.
- \_\_\_\_\_ 7. Maryland law enforcement officials will automatically and immediately confiscate a car involved in a drug case.
- \_\_\_\_\_ 8. Intent to distribute is based on the amount of CDS in your possession at the time of the arrest.
- \_\_\_\_\_ 9. Law enforcement officials may not search you or your automobile without a warrant.
- \_\_\_\_\_ 10. A juvenile will never do time for the possession, intent or distribution of CDS.

# **CRIMINAL OFFENSES**

## **NARCOTICS AND CONTROLLED DANGEROUS SUBSTANCE--POSSESSION**

*Art. 27, sect. 287 (1982 Repl. Vol.)*

Possession is defined as having control over a thing, whether actual or indirect.

Indirect Possession is defined as knowingly having both the power and intention to exercise control over a thing either personally or through another.

The following circumstances must be taken into consideration:

- **Proximity**--the distance between the defendant and the CDS.
- **Proprietary Interest**--defendant's knowledge of the presence of the CDS.
- **Automobile**--defendant's ownership or possessory interest in the place where substance was found.
- **Location**--where the substance was found; whether it was hidden or in plain view.
- **Participation**--defendant's participation with others in the use and enjoyment of the CDS.

The state must prove that the following elements of the law did exist:

- the defendant did possess the substance
- the substance was a controlled dangerous substance

## **NARCOTICS AND CONTROLLED DANGEROUS SUBSTANCE--POSSESSION WITH INTENT TO DISTRIBUTE**

*Art. 27, sect. 286 (A) (1) (Supp. 1986)*

Distribution is defined as the selling, exchanging or transferring of the possession of a substance or the giving away of it.

Intent is defined as a question of fact. It is seldom probed directly, but is more often found by drawing inferences from facts.

No specific quantity is required. There is no specific amount below which intent disappears. There is no specific amount above which intent disappears.

The state must prove that the following elements of the law did exist:

- all elements of possession of CDS
- the defendant possessed the substance with the intent to distribute some or all of it

## **NARCOTICS AND CONTROLLED DANGEROUS SUBSTANCE--DISTRIBUTION**

*Art. 27, sect. 286 (A) (1) (Supp. 1986)*

The state must prove that the following elements of the law did exist:

- defendant sold, exchanged, transferred or gave away the substance
- the substance was a CDS

# LEARNING ABOUT MARYLAND'S COURTS\*

## LESSON 4

**OBJECTIVE:** To examine the structure and jurisdiction of the Maryland court system.

**MOTIVATION:**

Place the following drill on the chalkboard or on a transparency and have the students match the term with its correct definition.

- |                           |  |
|---------------------------|--|
| 1. Appellate Jurisdiction | A. Power to hear certain cases   |
| 2. Civil Case             | B. Dispute between two parties   |
| 3. Criminal Case          | C. Concerns an act against society   |
| 4. Issue of Fact          | D. Arises where evidence is undisputed and only one conclusion can be drawn                        |
| 5. Issue of Law           |  |
| 6. Jurisdiction           | E. Court has power to hear a case appealed from lower court  |
| 7. Original Jurisdiction  | F. Arises when a fact is maintained by one party and is controverted by the other in the pleadings |
|                           | G. Court has power to hear a case for the first time   |

(Answers: 1=E, 2=B, 3=C, 4=F, 5=D, 6=A, 7=G)

**LESSON:**

1. Make copies of the resource sheets **The District Court, The Circuit Court, The Court of Special Appeals, and The Court of Appeals**. Distribute these to the students.
2. Have volunteers read these orally to the entire class. Have the students go back and read the information again. As they re-read, ask them to locate and highlight the following information in the reading:
  - \* the jurisdiction of each Court
  - \* the term of office of the judges
  - \* the method of selection for judges (election or appointment)

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\* Adapted from Understanding the Judicial Branch of the Maryland Government, Citizenship Law-Related Education Program for the Schools of Maryland, 1992.

3. Evaluate student knowledge by having them complete the flow chart **Functions and Powers of the Maryland Courts**. They should include the function of the specific court, the jurisdiction of the court, the terms of office of the judges and whether the judges are appointed or elected. Teacher's Copy is included.

**ASSIGNMENT:**

Distribute copies of the **Review Sheet on Functions and Powers of the Maryland Court System** to the students for homework. You may choose to use this review sheet as an exam on the topic. Answers have been provided.

## **The District Court\***

The District Court of Maryland was created as the result of the ratification in 1970 of a constitutional amendment proposed by the legislature in 1969.

The District Court began operating on July 5, 1971, replacing a miscellaneous system of trial magistrates, people's and municipal courts. It is a court of record, is entirely State funded, and has statewide jurisdiction. District Court judges are appointed by the Governor and confirmed by the Senate. They do not stand for election. The first Chief Judge was designated by the Governor, but all subsequent chief judges are subject to appointment by the Chief Judge of the Court of Appeals. The District Court is divided into twelve geographical districts, each containing one or more political subdivisions with at least one judge in each subdivision.

As of July 1, 1992, there were 97 District Court judgeships, including the Chief Judge. The Chief Judge is the administrative head of the Court and appoints administrative judges for each of the twelve districts, subject to the approval of the Chief Judge of the Court of Appeals. A chief clerk of the Court is appointed by the Chief Judge. Administrative clerks for each district are also appointed as are commissioners who perform such duties as issuing arrest warrants and setting bail or collateral.

The District Court has jurisdiction in both the criminal, including motor vehicle, and civil areas. It has little equity jurisdiction and has jurisdiction over juvenile cases only in Montgomery County. The exclusive jurisdiction of the District Court generally includes all landlord/tenant cases; replevin actions; motor vehicle violations; criminal cases, if the penalty is either less than three years imprisonment and/or does not exceed a fine of \$2,500; and civil cases involving amounts not exceeding \$2,500. It has concurrent jurisdiction with the circuit courts in civil cases over \$2,500, but not exceeding, \$20,000; and concurrent jurisdiction in misdemeanors and certain enumerated felonies. Since there are no juries provided in the District Court, a person entitled to and electing a jury trial must proceed to the Circuit court.

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\* Source: Annual Report of the Maryland Judiciary, 1988-1989.

## **The Circuit Courts\***

The Circuit Courts are the highest common law and equity courts of record exercising original jurisdiction within the State. Each has full common law and equity powers and jurisdiction in all civil and criminal cases within its county and all the additional powers and jurisdiction conferred by the Constitution and by law, except where, by law, jurisdiction has been limited or conferred upon another tribunal.

In each county of the State and in Baltimore City, there is a Circuit court which is a trial court of general jurisdiction. Its jurisdiction is very broad, but generally it handles the major civil cases and more serious criminal matters. The Circuit Court also decides appeals from the District Court and from certain administrative agencies.

The courts are grouped into eight geographical circuits. Each of the first seven circuits is comprised of two or more counties while the Eighth Judicial Circuit consists of Baltimore City. On January 1, 1983, the former Supreme Bench was consolidated into the Circuit Court for Baltimore City.

As of July 1, 1992, there were 123 Circuit Court judges with at least one judge for each county and 25 in Baltimore City. Unlike the other three court levels in Maryland, there is no chief judge who is the administrative head of the circuit courts. However, there are eight circuit administrative judges appointed by the Chief Judge of the Court of Appeals, who perform administrative duties in each of their respective circuits. They are assisted by county administrative judges.

Each Circuit Court judge is initially appointed to office by the Governor and must stand for election at the next general election following, by at least one year, the vacancy the judge was appointed to fill. The judge may be opposed by one or more members of the bar. The successful candidate is elected to a fifteen-year term of office.

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\* Source: Annual Report of the Maryland Judiciary, 1988-1989.

## The Court of Special Appeals\*

The Court of Special Appeals was created in 1966 as Maryland's intermediate appellate court. Its creation was the result of a rapidly growing caseload in the Court of Appeals which had caused a substantial backlog to develop in that Court.

The Court of Special Appeals sits in Annapolis and is composed of thirteen members: a chief judge and twelve associates. One member of the Court is elected from each of the first five Appellate Judicial Circuits while two members are elected from the Sixth Appellate Judicial Circuit (Baltimore City). The remaining six members are elected from the State at large. As in the Court of Appeals, members of the Court of Special Appeals are appointed by the Governor and confirmed by the Senate. They also run on their records without opposition for ten-year terms. The Governor designates the Chief Judge of the Court of Special Appeals.

Unless otherwise provided by law, the Court of Special Appeals has exclusive initial appellate jurisdiction over any reviewable judgment, decree, order or other action of a circuit court and generally hears cases appealed directly from the circuit courts. The judges of the court are empowered to sit in panels of three. A hearing or rehearing before the Court **en banc** may be ordered in any case by a majority of the incumbent judges of the Court. The Court also considers applications for leave to appeal in such areas as post conviction, habeas corpus matters involving denial of or excessive bail, inmate grievances, and appeals from criminal guilty pleas.

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\* Source: Annual Report of the Maryland Judiciary, 1988-1989.



## The Court of Appeals\*

The Court of Appeals is the highest tribunal in the State of Maryland. It was created by the Constitution of 1776. In the early years of its existence, the Court sat in various locations throughout the State, but since 1851 it has sat only in Annapolis. The Court is composed of seven judges, one from each of the first five Appellate Judicial Circuits and two from the Sixth Appellate Judicial Circuit (Baltimore City). After initial appointment by the Governor and confirmation by the Senate, members of the Court run for office on their records, unopposed. If a judge's retention in office is rejected by the voters or there is a tie vote, that office becomes vacant and must be filled by a new appointment. Otherwise, the incumbent judge remains in office for a ten-year term. The Chief Judge of the Court of Appeals is designated by the Governor and is the constitutional administrative head of the Maryland judicial system.

As a result of legislation effective January 1, 1975, the Court of Appeals hears cases almost exclusively by way of **certiorari**, a discretionary review process. That process has resulted in the reduction of the Court's formerly excessive workload to a more manageable level, thus allowing the Court to devote more time to the most important and far-reaching issues.

The Court may review cases already decided by the Court of Special Appeals or bring up for review cases filed in that court before they are decided. In addition, the Court of Appeals has exclusive jurisdiction over appeals in which a sentence of death is imposed. The Court of Appeals may also review cases from the circuit court level if those courts have acted in an appellate capacity with respect to an appeal from the District Court. The Court is empowered to adopt rules of judicial administration, practice, and procedure which will have the force of law. In addition, it admits persons to the practice of law, reviews recommendations of the State Board of Law Examiners and conducts disciplinary proceedings involving members of the bench and bar. The Court of Appeals may also decide questions of law certified by federal and other state appellate courts.

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\* Source: Annual Report of the Maryland Judiciary, 1988-1989.

## FUNCTIONS AND POWERS OF MARYLAND COURTS



# FUNCTIONS AND POWERS OF MARYLAND COURTS

## **MD COURT OF APPEALS**

Judges appointed by Gov., confirmed by state Senate.

Serve for 10 yrs.

Orig. & Appellate jurisdiction



## **MARYLAND COURT OF SPECIAL APPEALS**

Judges appointed by Gov., confirmed by Senate.

Serve for 10 yrs.

Appellate jurisdiction



## **CIRCUIT COURTS**

Judges elected by voters.

Serve for 15 yrs.

Original and Appellate jurisdiction



## **DISTRICT COURTS**

Judges appointed by Gov., confirmed by Senate.

Serve for 10 yrs.

Original jurisdiction.

## REVIEW SHEET ON THE FUNCTIONS AND POWERS OF THE MARYLAND COURT SYSTEM

Determine which Maryland State Court has jurisdiction over the case. Write your answer in the space provided.

- \_\_\_\_\_ 1. Mr. Dunn sued Ms. Burger for \$25,000 for property damage.
- \_\_\_\_\_ 2. Ms. Newcomb appealed her death sentence on a conviction in Anne Arundel County, Maryland.
- \_\_\_\_\_ 3. Mr. Badd was arrested and charged with murdering Mr. Good at his home in Baltimore City.
- \_\_\_\_\_ 4. Ms. Speed appeals her traffic ticket received while driving on Interstate 95 in Maryland.
- \_\_\_\_\_ 5. A jury decided a civil case brought by Mr. Seek against Dr. Wrong.
- \_\_\_\_\_ 6. Ms. Hogan appealed her assault and battery conviction.
- \_\_\_\_\_ 7. As a result of an auto accident, Dan sues Barbara for \$35,000.
- \_\_\_\_\_ 8. Carl sues Joe for not paying the \$1,000 damages in a property suit.
- \_\_\_\_\_ 9. Robert is arrested in Annapolis for selling souvenirs without a license.
- \_\_\_\_\_ 10. John has his death penalty sentence reviewed.

Decide whether the following cases, if brought to trial, would be civil or criminal:

- \_\_\_\_\_ 11. Greg agreed to cut June's grass for \$25. After he finished, June only paid him \$15.
- \_\_\_\_\_ 12. As Pam exited from the Metro, a young man snatched her purse and fled up the escalator.
- \_\_\_\_\_ 13. Sally needs a new coat. She goes to Allen's Department Store, tries one on and then leaves without paying for it.
- \_\_\_\_\_ 14. James borrowed a compact disc player from Sue for a party. Bill, having had too much to drink, fell and broke the CD player.

- \_\_\_\_\_ 15. On his way home from McDonald's, Joe tossed the trash out the car window.
- \_\_\_\_\_ 16. Bill wanted to save his gas money so he siphoned gas from Greg's parked car without permission.
- \_\_\_\_\_ 17. Cheryl and Ed sold the Brooklyn Bridge to the elderly Ms. Trustone.
- \_\_\_\_\_ 18. Charles picked up Alice's daughter from the day care center and refused to give her to Alice without \$1,000 payment.
- \_\_\_\_\_ 19. Mr. Smith constructed a privacy fence one foot inside the property of Mr. Jones.

Decide whether each of the following is an issue of law heard in an appellate court or an issue of fact heard in a trial court.

- \_\_\_\_\_ 20. Mike was charged with shoplifting.
- \_\_\_\_\_ 21. Dan, who is 15 years old, believes that his death penalty sentence is unconstitutional under Maryland law.
- \_\_\_\_\_ 22. Betty wishes to appeal the finding of the District Court Judge in her shoplifting case.
- \_\_\_\_\_ 23. Mr. Jones believes that the fence his neighbor constructed is on his property.
- \_\_\_\_\_ 24. Joe was arrested for speeding and drunken driving, but he believes the charges are wrong.
- \_\_\_\_\_ 25. In Jane's felony trial, she believes that the judge allowed illegally obtained evidence to be admitted.
- \_\_\_\_\_ 26. You were arrested along with your friend who was driving a stolen automobile.
- \_\_\_\_\_ 27. Jill believes that the all-male jury was not impartial enough to render an unbiased decision in her trial.
- \_\_\_\_\_ 28. Gino's confession was used in his trial. However, he is upset because his lawyer was not there when he spoke to the police.
- \_\_\_\_\_ 29. Gail believes that the used car dealer did not honor the 90-day/3,000 mile warranty on the car she bought.

## **REVIEW SHEET ANSWERS ON THE FUNCTIONS AND POWERS OF THE MARYLAND COURT SYSTEM**

1. Maryland Circuit Court
2. Maryland Court of Appeals
3. Maryland Circuit Court
4. Maryland Circuit Court
5. Maryland Circuit Court
6. Maryland Court of Special Appeals
7. Maryland Circuit Court
8. Maryland District Court
9. Maryland District Court
10. Maryland Court of Appeals
11. Civil
12. Criminal
13. Criminal
14. Civil
15. Criminal
16. Criminal
17. Criminal
18. Criminal
19. Civil
20. Fact & Trial
21. Law: Appellate
22. Law: Appellate
23. Fact: Trial
24. Fact: Trial
25. Law: Appellate
26. Fact: Trial
27. Law: Appellate
28. Law: Appellate
29. Fact: Trial

# THE COURTROOM

## LESSON 5

**OBJECTIVE:** To acquaint students with the physical setting of the courtroom and to describe the roles played by each participant in a trial.

**MOTIVATION:**

Ask the students to identify who you are. Do not give them the correct answers. These will be used as a review for homework.

"Who am I? I must present enough evidence to prove the guilt of the accused beyond a reasonable doubt." (Prosecuting attorney)

"Who am I? I must remain impartial throughout the proceedings." (Judge)

"Who am I? I must decide if the accused is guilty of the crime for which he has been charged." (Jury/Judge)

"Who am I? I must show that the evidence is insufficient to prove guilt." (Defense attorney)

**LESSON:**

1. Distribute the resource sheet **Courtroom Diagram** to each of the students. Then make a transparency of the Teacher Resource and project it onto the overhead. Have students label their courtroom diagram from the overhead projection.
2. Explain to the class that the courtroom layout is intended to allow all parties--counsel, jurors, and judge--to observe all of the proceedings.

Note that the prosecutor (or plaintiff in a civil suit) is always seated nearest to the jury box.

The defendant is always seated farthest away from the jury box.

Explain that the courtroom may be reversed, with the jury box on the left-hand side of the room. In this case, the counsel's table will also be reversed.

3. With the help of the students, rearrange your classroom to resemble the courtroom diagram on the overhead.

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\* Adapted from Crime and Justice: A Maryland Perspective, Citizenship Law-Related Education Program for the Schools of Maryland, 1990.

4. Prepare cards on string or yarn which can be hung around the necks of students for identification. You will need eight cards. Place the following names on the cards, one on each:

Bailiff	Judge
Clerk	Plaintiff or Prosecutor
Court Reporter	Defendant or Defense
Jurors	Attorney
	Witness

5. Ask for eight volunteers to assume the roles of the participants in a trial. Each will be given one of the role cards to be placed around his neck and will be asked to stand or sit at the appropriate place in the classroom.

Provide each volunteer with the appropriate task card as found on the Resource Sheet **Courtroom Duties**. One at a time, ask these students to stand and to read their card to the class, explaining their duty in the courtroom.

6. Require students to take notes on the duties of each of these individuals.

#### **ASSIGNMENT:**

Give students copies of the Resource Sheet **Who Am I?** (Part I from the motivation). Ask them to complete this activity for homework.

As a follow-up evaluation of their knowledge, use the Resource Sheet **Exam on Courtroom Duties**.

#### **ANSWERS TO EXAM ON COURTROOM DUTIES:**

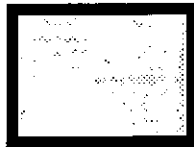
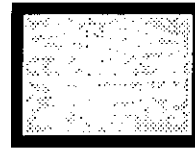
- |                           |                   |
|---------------------------|-------------------|
| 1. Defense                | 7. Bailiff        |
| Attorney/Plaintiff's      | 8. Court Clerk    |
| Attorney (Prosecutor)     | 9. Defendant      |
| 2. Defense Attorney       | 10. Defense       |
| 3. Judge                  | 11. Jury          |
| 4. Plaintiff's Attorney   | 12. Bailiff/Judge |
| (Prosecutor)              |                   |
| 5. Plaintiff (Prosecutor) |                   |
| 6. Plaintiff's Attorney   |                   |
| (Prosecutor)              |                   |

#### **VARIATION:**

Use this lesson as a preparation for a class visit to the court.



## COURTROOM DIAGRAM

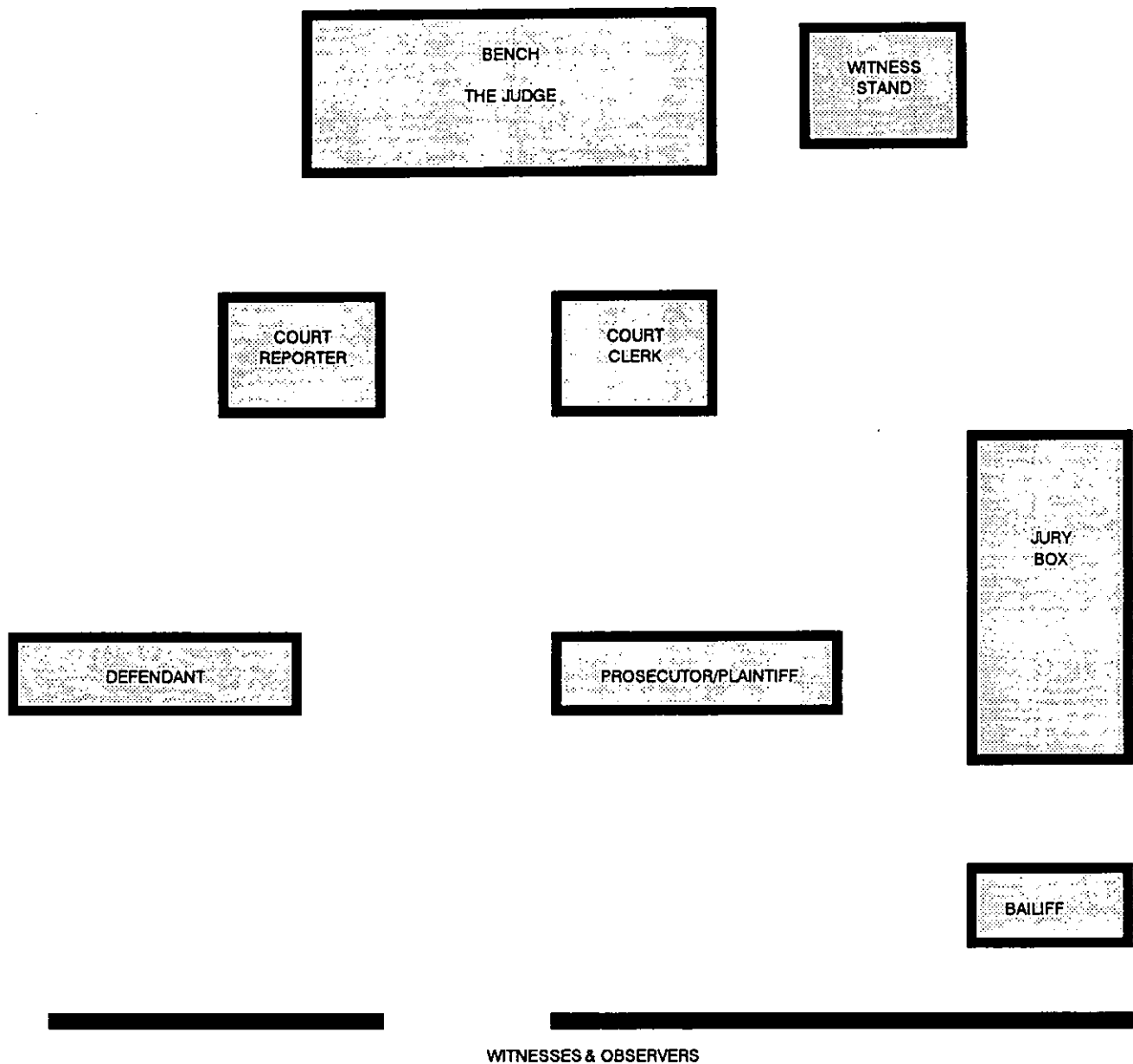


Correctly label the diagram.

Answer the following questions:

1. The Defendant is always seated \_\_\_\_\_ the jury box.
2. The Prosecutor/Plaintiff is always seated \_\_\_\_\_ the jury box.

## COURTROOM DIAGRAM



1. The Defendant is always seated farthest from the jury box.
2. The Prosecutor/Plaintiff is always seated nearest to the jury box.

## **COURTROOM DUTIES**

### **BAILIFF:**

1. Ministerial officer of the court.
2. Calls the court to order.
3. Takes custody of accused.
4. Calls witnesses into courtroom.
5. Serves bench warrants.
6. Services process (subpoenas).
7. Takes charge of jury when they are deliberating.
8. Maintains order in the court.

### **CLERK:**

1. Swears in witnesses.
2. Polls jury for impaneling at time of trial.
3. Swears in jury after selection.
4. Prepares judge's calendar of trials, hearings, sentencing, motions, and other matters.
5. Enters decisions in the file.
6. Sends out judgement notifications.
7. Records evidence introduced at trials and hearings.
8. Records all pleas entered and trial dates.
9. Responsible for care of all exhibits.

### **COURT REPORTER:**

1. Records verbatim testimony in civil and criminal actions including objections made, rulings of the court, exceptions taken, arraignments, pleas, sentences, arguments of prosecution and defense, all statements and remarks made and oral instructions given.
2. Retains all notes but need not transcribe them, except on request of the court or either party.
3. At judge's request, reads aloud portions of stenographic notes to the court.

### **JURORS:**

1. Listen carefully to all evidence presented during the trial.
2. Discuss the evidence and reach conclusions as to what was proved by each side.
3. Arrive at a verdict based on their findings of fact and after applying the law applicable to the case.

### **JUDGE:**

1. In criminal cases, must maintain a delicate balance between the preservation of human rights and the protection of society.
2. Acts as neutral and impartial arbiter between the opposing sides.
3. May decide the facts as well as apply the law.
4. May sentence the guilty person.

### **PLAINTIFF AND PROSECUTOR:**

1. Plaintiff starts a civil lawsuit.
2. Prosecutor is the district attorney. He/She must prove beyond a reasonable doubt (in a criminal case) or by the preponderance of evidence (in a civil case) that the defendant is guilty.

### **DEFENDANT AND DEFENSE ATTORNEY:**

1. Defendant is person accused of a civil or criminal offense.
2. Defense attorney is the lawyer attempting to insure that only proper evidence is presented in the courtroom.
3. Defense attorney sees that the client is given a fair trial, and that all evidence favorable to defendant is brought out in court.

### **WITNESS:**

1. Gives testimony for either side in a case before the court.
2. May be friendly, hostile, expert or other specific witness.

## WHO AM I?

### PART I

**DIRECTIONS:** Determine who is being described and identify them on the lines provided.

- \_\_\_\_\_ 1. "Who am I? I must present enough evidence to prove the guilt of the accused beyond a reasonable doubt."
- \_\_\_\_\_ 2. "Who am I? I must remain impartial throughout the proceedings."
- \_\_\_\_\_ 3. "Who am I? I must decide if the accused is guilty of the crime for which he has been charged."
- \_\_\_\_\_ 4. "Who am I? I must show that the opposing counsel's evidence is insufficient to prove guilt."

### PART II

**DIRECTIONS:** Make up four "Who Am I?" descriptions of your own. Try to make your choices different from the ones above.

5.

6.

7.

8.

## **EXAM ON COURTROOM DUTIES**

From the brief descriptions of the courtroom duties provided below, identify the participants.

1. Delivers closing argument:
2. Cross-examines the prosecution witness:
3. Gives jury instructions:
4. Direct-examination of prosecution witness:
5. Gives opening statement:
6. Cross-examines defense witness:
7. Calls court to order:
8. Marks exhibits for the court:
9. One accused of a crime:
10. Direct-examines defense witness:
11. Deliberates and makes its decisions:
12. Guards the accused:

## THE STEPS IN A CRIMINAL TRIAL

### LESSON 6

**OBJECTIVE:** To examine the principal steps in processing a criminal case.

**MOTIVATION:**

Place the following quote on the chalkboard:

***"Out here, due process is a bullet."***

Explain to the students that this was once said by John Wayne in one of his movies. Ask if any of the students think they know what he was talking about.

Ask for a student to explain the meaning of **due process**.

**LESSON:**

1. Begin by defining **due process** for the class. Through discussion, students will probably agree that due process refers to justice or fairness before the law. This is a good working definition.
2. Explore the meaning of the word **fair**. Brainstorm with the students. Raise some of the following questions with them:
  - ▶ How does our government make fair decisions?
  - ▶ Whose rights must society protect in order to be fair?
  - ▶ Do the courts always make the right or most fair decision?
  - ▶ What guarantees do Americans have that their government will attempt to act fairly?
3. Provide students with a copy of Resource Sheet **A General View of the Criminal Justice System**. As you go over each step of this flow chart, develop a working vocabulary with the students.
4. When you have finished walking through the steps of this process with the students, ask them to identify and to star on the flow chart that point at which the accused becomes a criminal.
5. Focus on the trial process. Make a transparency of the Resource Sheet **Steps in a Trial**. Have students copy down this information as you go over each step and give an explanation or definition for each.
6. Evaluate their knowledge of this lesson by providing students with copies of the Resource Sheet **What Do You Know?**. Have them complete this in class or for homework.

**Answers to WHAT DO YOU KNOW? Part II:**

A. 8	E. 3	I. 2
B. 5	F. 11	J. 12
C. 10	G. 7	K. 9
D. 4	H. 1	L. 6

**You may find it easier to view the answers this way:**

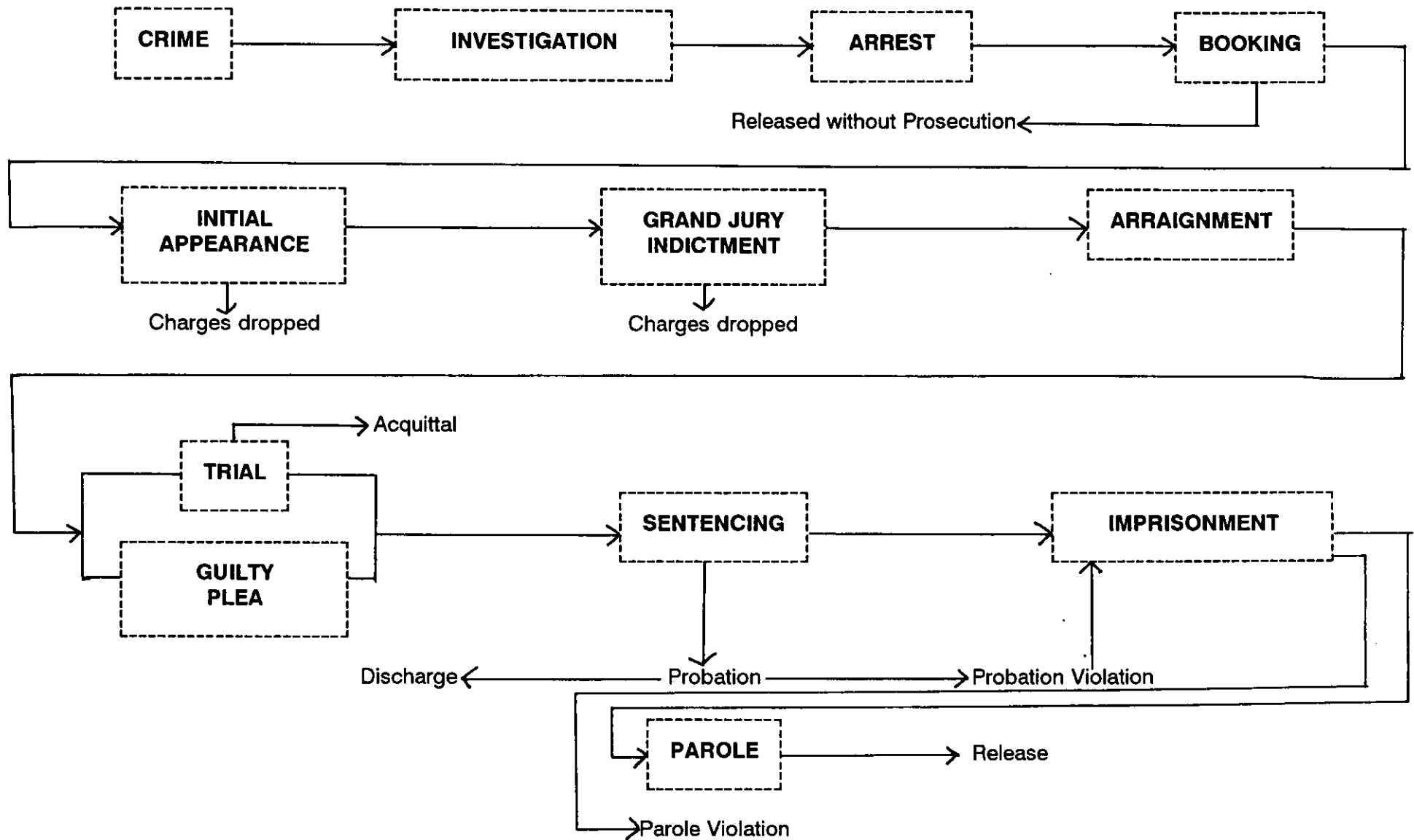
H, I, E, D, B, L, G, A, K, C, F, J.

**VARIATION:**

- ▶ You may wish to develop a working vocabulary in advance of this lesson. Using their textbook, have students define a list of terms which you have developed.
- ▶ Prepare a crossword puzzle using the terms on the flow chart.
- ▶ Have the students write a story using five of the terms on the vocabulary list. The story should be about a hypothetical crime which has been committed and it should follow the steps on the procedural flow chart as the circumstances of the crime and the prosecution unfold.
- ▶ Plan a field trip to the Circuit Court to observe a criminal trial. Use the Resource / Sheet **Criminal Court Field Trip Observation**.

See **Circuit Court Information** for additional information.

## A GENERAL VIEW OF THE CRIMINAL JUSTICE SYSTEM\*



\* Adapted from: American Government, Robert L. Hargrave, Jr. Chicago: Harcourt, Brace, Jovanovich, Publ., 1986. p.687.



## **STEPS IN A TRIAL**

1. OPENING STATEMENT by Plaintiff or Prosecutor -
2. OPENING STATEMENT by Defense -
3. DIRECT EXAMINATION by Plaintiff or Prosecutor -
4. CROSS-EXAMINATION by Defense -
5. MOTIONS -
6. DIRECT EXAMINATION by Defense -
7. CROSS-EXAMINATION by Plaintiff or Prosecutor -
8. CLOSING STATEMENT by Plaintiff or Prosecutor -
9. REBUTTAL ARGUMENT -
10. JURY INSTRUCTIONS -
11. VERDICT -

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\* Adapted from: Constitutional Rights Foundation Mock Trial materials.

## WHAT DO YOU KNOW?

### PART I

**DIRECTIONS:** Using your procedural flow chart as a resource, answer the questions which follow.

1. When does an investigation actually end?
2. At what point(s) can the accused be released without prosecution?
3. Where in the process might charges be dropped or dismissed?
4. When does the grand jury meet and why?
5. At what point does the judge explain the charges to the accused?
6. What pleas are available to the accused?
7. Must a defendant have a jury trial?
8. What will happen if you violate parole?
9. At what point might you be released from jail?
10. What are some alternatives to incarceration?

## WHAT DO YOU KNOW?

### PART II\*

**DIRECTIONS:** Assume that Greg is on trial for murder; that his attorney is Ms. Jones; that the State's Attorney is Mr. Bailer, and that Judge Johnson is presiding. Place the statements below in correct order by numbering them in chronological order. There are twelve items in the list.

- \_\_\_\_\_ A. Mr. Bailer delivers his closing argument.
- \_\_\_\_\_ B. Ms. Jones cross-examines the prosecution witness.
- \_\_\_\_\_ C. Judge Johnson gives the jury their instructions.
- \_\_\_\_\_ D. Mr. Bailer examines a prosecution witness.
- \_\_\_\_\_ E. Ms. Jones gives her opening statement.
- \_\_\_\_\_ F. The jury deliberates, makes its decision and returns to the courtroom.
- \_\_\_\_\_ G. Mr. Bailer cross-examines the defense witness.
- \_\_\_\_\_ H. Court is called to order.
- \_\_\_\_\_ I. Mr. Bailer gives the prosecution's opening statement.
- \_\_\_\_\_ J. Judge Johnson releases or sentences the defendant.
- \_\_\_\_\_ K. Ms. Jones delivers her closing argument.
- \_\_\_\_\_ L. Ms. Jones conducts her direct examination of a defense witness.

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\* Adapted from: Constitutional Rights Foundation Mock Trial materials.

## **CRIMINAL COURT FIELD TRIP OBSERVATION**

**DIRECTIONS:** Answer the following.

1. What was the most important thing you observed or learned during your court visit?
2. How did you think the defense and prosecution presented their cases?
3. What do you know now about what goes on in a courtroom that you did not know before?
4. What do you think about our justice system after seeing a courtroom in action?
5. What was the purpose of the part of the trial which you saw?
6. Based upon your observation, what would you like to see changed in our legal system?
7. What questions do you have about what you observed?
8. What questions do you still have about the Maryland legal system?

# MARYLAND CIRCUIT COURT INFORMATION

More information regarding the Circuit Court in your county is available by contacting the Office of the Circuit Court.

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<u>COUNTY</u>	<u>PHONE NUMBER</u>	<u>COUNTY SEAT</u>	<u>ZIP CODE</u>
Allegany	(301) 777-5922	Cumberland	21502
Anne Arundel	(410) 224-1397	Annapolis	21404
Baltimore County	(410) 494-2601	Towson	21204
Baltimore City	(410) 659-3733	Baltimore City	21202
Calvert	(410) 535-1600	Prince Frederick	20678
Caroline	(410) 479-1811	Denton	21629
Carroll	(410) 848-4500	Westminster	21157
Cecil	(410) 398-0200	Elkton	21921
Charles	(301) 645-0560	La Plata	20646
Dorchester	(410) 228-0480	Cambridge	21613
Frederick	(301) 694-1976	Frederick	21701
Garrett	(301) 334-2543	Oakland	21550
Harford	(410) 883-6000	Bel Air	21014
Howard	(410) 992-2111	Ellicott City	21043
Kent	(410) 778-4600	Chestertown	21620
Montgomery	(301) 251-7200	Rockville	20850
Prince George's	(301) 952-3318	Upper Marlboro	20870
Queen Anne's	(410) 758-1773	Centreville	21617
Saint Mary's	(301) 475-5621	Leonardtown	20650
Somerset	(410) 651-1555	Princess Anne	21853
Talbot	(410) 822-2611	Easton	21601
Washington	(301) 733-8660	Hagerstown	21740
Wicomico	(410) 543-6551	Salisbury	21801
Worcester	(410) 632-1221	Snow Hill	21863

# JURY SELECTION

## LESSON 7

**OBJECTIVE:** To provide students with a learning experience related to the jury system.

### MOTIVATION:

Have students work in pairs to answer the following questions:

Who do you think should serve on a jury? Why?

How is a jury chosen? Why is a jury chosen this way?

Do you feel the selection process is effective? Why? If not, what changes would you recommend?

How does a jury decide a case?

Does a jury always have to have twelve jurors?

Does the decision have to be unanimous? Is this generally the case? Are there any situations in which you feel this might not be necessary? Why?

### LESSON:

1. Explain to the class that today they will be participating in a jury selection activity, a **VOIR DIRE** procedure.

In advance of the activity, you might like to choose four students to play the role of lawyers. Two will be lawyers for the defense and two will be lawyers for the prosecution. Allow for these students some time to become familiar with the case and to discuss their role. They should be directed to develop a list of questions to be asked by the judge and answered by members of a pool of possible jurors. Provide the lawyers with copies of the Resource Sheet **How to Prepare Effective Questions**.

Tell the rest of the students that they are a pool of possible jurors who will decide the guilt or innocence of the defendant in the case of *Maryland vs. The Big Bad Wolf*. You or another student will serve as the judge and will ask questions of the students. These questions have been submitted by the lawyers for the defense and the prosecution. Provide students with a copy of the Resource Sheet **Jury Selection Worksheet**.

2. Refer to the Resource Sheet **List of Characters**. Make small name cards for each of the students, including ones for "counsel" and judge, and place them on the students' desks. Direct their attention to their roles. Remind them that they are, at all times, to answer the questions as though they are indeed the character they are role-playing. It may be necessary to fill in some information about each character for some students. Notice that most of the characters are from stories

and fables about the "Wolf". Students should assume that the other characters do not know Mr. Wolf.

3. Ask the lawyers to come forward and submit their questions to you. Have the prosecution sit to your left and the defense to your right.
4. Familiarize your students with the case by having the judge (you or a student) give the following explanation:

*"This is the case of the state of Maryland vs. the Big Bad Wolf. The defendant has been charged with trespassing and the destruction of property. It is my duty, as judge, to ask you a few questions which have been submitted by the lawyers for the defense and the prosecution. We will attempt, as a result of your answers, to choose an impartial jury to hear the evidence against Mr. Wolf. Some questions will be asked of the group in general, some may be asked of you individually. May I remind you that you are to answer **ONLY** the questions being asked. Please be specific in your responses."*

5. Role-play by having the judge read all of the questions and having the prospective jurors answer them.
6. Go around the room asking each character to stand up one at a time. Ask the lawyers if they wish to keep or discharge each character. Continue to do this until they have been able to choose 12 impartial jurors.
7. Use the questions on the **Jury Selection Worksheet** to debrief this activity. You may assign the worksheet for homework or put it on a transparency to be discussed in class.

#### **VARIATION:**

- ▶ Have students develop their own cases, both criminal and civil, and do them at the appropriate times in your curriculum.
- ▶ Visit the Circuit Court and arrange to see a jury selection in person.
- ▶ Arrange for an attorney or judge to visit your class and to play the role of the judge during the simulation. He can also act as an observer and participate in the debriefing.

## **HOW TO PREPARE EFFECTIVE QUESTIONS**

### **Hints For Attorneys**

Draw up a list of questions that will aid you in determining jurors' possible prejudices in a criminal or civil case. Open-ended questions reveal more information than Yes/No questions.

The idea is to discover jurors' attitudes that are either antagonistic or sympathetic toward your side and to establish a rapport with individual jurors. First you will need to think about the issues that are most relevant to your case. The phrasing of your question is very important. Have a purpose for the question that you are asking. All answers should help you to determine the juror's attitude. Listen carefully to the answers to your questions and do not hesitate to follow-up on any answers that may need clarification. Do not repeat a question that has already been asked, even if it was asked by another lawyer.

Some possible areas for questioning might include the following:

- knowledge about the case
- personal relationship to the defendant
- knowledge of the defendant
- previous problems with the defendant
- victim of the same crime
- family member or friend who was victim of this crime
- beliefs that may prejudice the case, directly or indirectly
- membership in a group (i.e. MADD, ACLU, etc.)
- desire to serve
- previous jury duty
- occupation
- education
- racist or sexist attitudes
- attitudes toward police, victims, criminals, etc.
- age
- marital status
- family makeup
- residence
- ethnic background
- physical appearance, including handicaps
- membership in religious and social organizations



## **JURY SELECTION WORKSHEET**

**DIRECTIONS:** Answer the following questions from today's class activity. Be prepared to discuss them in class.

1. What is the purpose of questions asked by the lawyers of the prospective jurors?
  
  
  
  
  
  
  
  
  
  
2. What did you notice about the type of questions asked by the prosecution?
  
  
  
  
  
  
  
  
  
  
3. What did you notice about the type of questions asked by the defense?
  
  
  
  
  
  
  
  
  
  
4. What was the greatest difficulty faced by these lawyers?
  
  
  
  
  
  
  
  
  
  
5. Do you believe that Mr. Wolf will be able to receive a fair trial? Explain.

## LIST OF CHARACTERS

Judge  
Lawyer for Defense  
Lawyer for Defense  
Lawyer for Prosecution  
Lawyer for Prosecution  
Mr. Big Bad Wolf  
Patty, one of the three little pigs  
Pam, one of the three little pigs  
Priscilla, one of the three little pigs  
Boy Who Cried Wolf  
Peter  
Little Red Riding Hood  
Mother of Little Red Riding Hood  
Grandma of Little Red Riding Hood  
Woodcutter  
Baa-Baa Black Sheep  
Ms. Wolf  
Little Bo Peep  
Snow White  
Tom Tom, the piper's son  
Tommy Tucker  
Mary Mary  
Old King Cole  
Jack  
Jill  
Mother Goose  
Mother Hubbard  
Little Boy Blue

# THE EFFECT OF THE GAULT CASE ON JUVENILE JUSTICE\*

## LESSON 8

**OBJECTIVE:** To analyze the evolution of the juvenile justice system and to consider the impact of the Gault decision on juvenile rights and procedures.

### MOTIVATION:

Provide students with the chart **What Do You Know About Juvenile Rights?** Ask a volunteer to read the list of rights orally to the class. Then have the students complete the first two columns. They are to place a check in the column next to the right if they believe that it exists for the group. For adults, all rights should be checked. For juveniles, pre-Gault, no rights should be checked. Explain to the students that today you will view the film, "**In Re Gault**", a landmark case in which the U.S. Supreme Court ruled that juveniles accused of crimes have certain constitutional rights. Tell them that they will have an opportunity to complete the third column after viewing the film.

### LESSON:

1. On the overhead, project a copy of the worksheet **Treatment of Juveniles**. You may either have the students copy this directly into their notes or provide them with copies of this.
2. As you provide them with this information, share with them the background information provided in the Teacher's Guide to the film.
3. Develop a working vocabulary with the students: *accountability, capital punishment, child savers, common law, corporal punishment, due process, parens patriae, rehabilitation*.
4. View film "**In Re Gault: A Study of Juvenile Justice**" available for loaning purposes from the Citizenship Law-Related Education Program for the Schools of Maryland and for purchasing from the Arizona Center for Law-Related Education. (21 minutes)
5. Share the copy of the case with the students. Have them complete the brief format as they are reading about the case. Take some time to discuss their responses before you collect this brief format for grading.
6. Summarize the lesson by having the students complete the last column of the chart **What Do You Know About Juvenile Rights?** (Checks should be next to rights #4, 5, 6, and 8).

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\* Juvenile Justice: A Maryland Perspective; Citizenship Law-Related Education Program for the Schools of Maryland, 1990.

# THE GAULT CASE

Jerry Gault was sent to reform school for six years, but he didn't know what law he had broken! He was 15 years old--and he was scared. As a juvenile (anyone under 18, in Jerry's State of Arizona), what could he do? What rights did he have? Jerry had to wait three years before he got answers--from the U.S. Supreme Court. Those answers now affect all young people accused of breaking laws. Here's Jerry's story:

Fifteen-year old Gerald Gault was arrested by the police after a neighbor charged him with making an obscene phone call. As Gerald's parents were both at work at the time of the arrest, he was sent to the children's detention home.

When Gerald's parents returned home, they had difficulty finding where he was. When they did, they went immediately to the Detention Home to get him. Authorities there refused to surrender him, telling the parents he would have a hearing the following day.

The next day a probation officer filed a petition saying that Gerald Gault was a delinquent minor. The petition contained no explanatory statements. Gerald's mother and older brother were at the hearing as well as the probation officer and the juvenile court judge. The neighbor who made the accusation was not present. No written record was made of the hearing. The judge made no decision at the time, sending Gerald back to the detention home for two or three more days. When he was released, the probation officer sent a note to Gerald's mother saying that further hearings would be held.

At a second hearing, Gerald's parents were present; but the neighbor was not. The judge declared Gerald a juvenile delinquent and committed him to the State Industrial School "for a period of his minority." Since Gerald was then 15, this sentence made a possible six-year commitment.

Because no records were made, confusion over the testimony was great. Gerald, however, claimed that he did not confess that he made the phone call. All he admitted doing was dialing the number and giving the phone to a friend who did the talking.

Gerald's parents did not feel that he had been treated fairly, and they appealed the case (by *habeas corpus*). At the appeal, the juvenile judge was questioned and was uncertain about what law Gerald had broken. Disturbing the peace? Using lewd language in the presence of another person? Was the boy habitually involved in immoral matters?

The state courts upheld the juvenile court judge's decision to commit Gerald, and this case eventually reached the Supreme Court of the United States.

In 1967, they got the nation's highest court to review the case. The nine justices

of the U.S. Supreme Court listened to Jerry's lawyer. They heard a lawyer defend Arizona's juvenile court system, too.

Afterwards, the justices discussed the case and voted on one of the following opinions. In each, a justice says how he thinks the Bill of Rights should apply to juveniles. Read the opinions.

1. With which Justice do you agree most? Why?
2. Which Justice do you think the Court supported by an 8-1 vote?

### **JUDGE ABE FORTAS' OPINION**

The Bill of Rights is not for adults alone. Juveniles need its protection, too.

Parts of the Bill of Rights apply to this case. These parts ensure "due process of law."

What does "due process" mean to people accused of lawbreaking? It means that they have the right to expect the government to treat them fairly. Fairness is "due" them--that is, it's owed them as citizens.

The Bill of Rights sets up some basic rules of fairness. The 5th and 6th Amendments to the U.S. Constitution give the Jerry the right:

- (1) to know the charges against him;
- (2) to be told that he can have a lawyer to defend him;
- (3) to remain silent, if he wishes, and
- (4) to see and question his accuser.

The judge in juvenile court did not honor these rights. For this reason, Jerry Gault should be set free.

### **JUDGE POTTER STEWART'S OPINION**

Our juvenile justice system began in 1899. Before then, children could go on trial in criminal courts at age seven. There, children had the same rights as adults. But they often got the same punishment, too. Sometimes, they were hanged.

In the last 70 years, all this has changed. Our juvenile courts now keep children from being tried--and punished--as criminals.

Juvenile court hearings aren't like criminal trials. Juvenile court judges are expected to act like wise parents. They must have full power to decide what's best for the child. Rules of due process would only tie the hands of these judges.

So, we must support the judge in the Gault case. Jerry Gault should not be set free.

## WHAT DO YOU KNOW ABOUT JUVENILE RIGHTS?

RIGHTS	ADULTS	JUVENILES BEFORE GAULT	JUVENILES AFTER GAULT
1. To be free from unreasonable search and seizure.			
2. To grand jury indictment.			
3. Against double jeopardy.			
4. To be free from self-incrimination.			
5. To be informed of charges against you.			
6. To be confronted by witness against you.			
7. To call a witness in your defense.			
8. To have a lawyer present.			
9. To a jury trial of your peers.			
10. Against excessive bail and cruel and unusual punishment.			

## **TREATMENT OF JUVENILES\***

### **Prior to the twentieth century:**

- \* juveniles received very little "special" treatment; they were tried and punished the same as adults.
- \* some juveniles were sentenced to death and executed.
- \* juveniles were housed with adults (e.g., young beggars or petty thieves right beside adult murderers) in filthy cells.
- \* some juveniles were deported overseas where they worked without pay.
- \* juvenile court was originally an extension of the American Society for the Prevention of Cruelty to Animals (ASPCA).

### **Changes that came with the twentieth century:**

- \* industrial and reform schools were created.
- \* juveniles were treated separately from adults.
- \* juvenile court system was developed in 1899; new approach was "to not look at the act but at the child."
- \* the term "delinquent" replaced "criminal" in reference to juveniles.
- \* judge became main decision maker; informality and a more relaxed atmosphere evolved.
- \* no right to "remain silent" for juveniles.
- \* no jury trial.

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\* Source: Juvenile Justice: A Maryland Perspective, Citizenship Law-Related Education Program for the Schools of Maryland, 1990.

## BRIEF FORMAT

<b>CASE:</b>	
<b>FACTS:</b>	
<b>ISSUE(S):</b>	
<b>DECISION:</b>	
<b>REASON:</b>	
<b>DISSENT:</b>	
<b>LAW:</b>	



## BRIEF FORMAT

<b>CASE:</b>	Name of parties opposing each other in a trial. Will follow "X vs. Y" format.
<b>FACTS:</b>	A description of the circumstances that occurred to raise the legal question.
<b>ISSUE(S):</b>	The legal problem which results from the factual situation. This is posed as a question which may be answered "YES" or "NO".
<b>DECISION:</b>	How the court responds to the presented question.
<b>REASON:</b>	The reasons the court takes into consideration in reaching its decision (often based on existing laws or on previous, similar cases).
<b>DISSENT:</b>	The opinions of justices who do not agree with the majority of the Court's decision.
<b>LAW:</b>	The Court's response to the question presented, restated to express a principle or rule of law.

# DUE PROCESS: ADULT V. JUVENILE\*

## LESSON 9

**OBJECTIVE:** To compare due process rights for adults and juveniles and relate these to the specific steps in a typical juvenile case.

### MOTIVATION:

Provide students with the table **Comparison of Terms Used in Adult and Juvenile Justice Systems**. Ask them to look over the table and determine what are goals and purpose of the juvenile justice system today. Discuss their ideas and list them on the board. Possible responses should include: *preventing juvenile crime, upholding the law, protecting the victim, avoiding criminal labels, evaluating the best interests of the child, rehabilitating wayward youth, controlling chronic offenders, fairness and justice, increasing their effectiveness, and acting as a social-control agent.*

### LESSON:

1. Review the role of the juvenile justice system with the class. Remind them that this system was designed with the philosophy that young offenders have a special status which requires that they be protected and corrected, not necessarily punished. Emphasize to the class that the juvenile justice system must guarantee that neither the juvenile nor society is victimized. Juveniles come to the attention of the courts as delinquents, children in need of assistance, children in need of supervision, or as status offenders. In Maryland, the juvenile courts have jurisdiction until the age of 22 if a youth is detained or under treatment. Remind the students that juveniles may be waived to the adult criminal justice system at the age of 15.

Jurisdiction may be waived over any child charged with an offense which is punishable by death or life imprisonment. Effective July 1, 1988, the Annotated Code of Maryland was amended to provide the following penalty for defendants less than 18 years of age found guilty of murder:

*If a person found guilty of murder in the first degree was less than 18 years old at the time the murder was committed, the person shall be sentenced to imprisonment for life or imprisonment for life without the possibility of parole and may not be sentenced to death.*

---Art. 27, 412

2. Explain to students the process by which a juvenile can become a delinquent. Distribute copies of **A Walk Through the Juvenile Services System in Maryland**. Tell the Students that the process starts with a *complaint* and ends with *treatment*.
3. As you walk through the system using the graph, provide students with an

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\* Juvenile Justice: A Maryland Perspective: Citizenship Law-Related Education Program for the Schools of Maryland, 1990.

explanation of each of the steps. You may wish to provide the class with the worksheet **A Juvenile Becomes A Delinquent**.

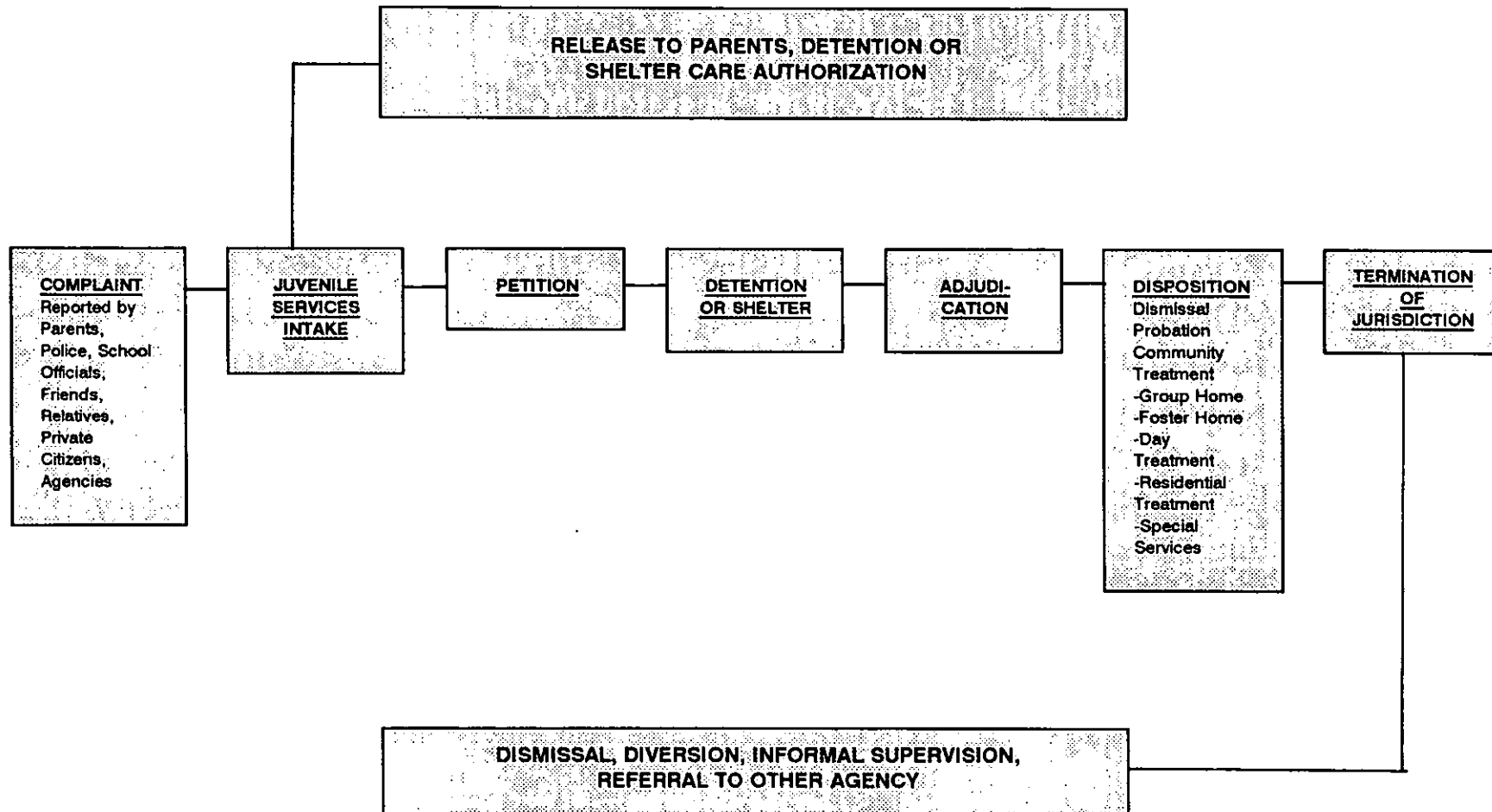
4. Have students work in pairs to figure out the answers to the case studies. Students should answer either juvenile or adult court and cite the law when possible to explain their reasons why.

## COMPARISON OF TERMS USED IN ADULT AND JUVENILE JUSTICE SYSTEMS\*

DEFINITION	JUVENILE TERMS	ADULT TERMS
The person and the act	Delinquent child	Criminal
	Delinquent act	Crime
Pre-adjudicatory stage	Take into custody	Arrest
	Petition	Indictment
	Agree to a finding	Plead guilty
	Deny the petition	Plead not guilty
	Adjustment	Plea-bargain
	Detention facility, child care center	Jail
Adjudicatory stage	Substitution	Reductions of charge
	Adjudicatory or fact-finding hearing	Trial
	Adjudication	Conviction
Post-adjudicatory stage	Dispositional hearing	Sentencing hearing
	Disposition	Sentence
	Commitment	Incarceration
	Youth development center, treatment center, training school	Prison
	Residential child-care facility	Halfway house
	After-care	Parole

\* Source: Joseph J. Senna, Larry Siegel, Juvenile Delinquency, (New York: West Publishing, 1988), 335.

# A WALK THROUGH THE JUVENILE SERVICES SYSTEM IN MARYLAND\*



\* Source: Department of Juvenile Services.

# A JUVENILE BECOMES A DELINQUENT

Steps in the procedure:

1. **Complaint.** Juveniles come to the attention of the juvenile authorities through a complaint. This may be a report filed by agencies, friends, parents, police, private citizens, relatives, teachers or other school authority, or victims.
2. **Juvenile Services Intake.** The intake officer must determine how serious the act was, if there was a victim or if this was a victimless crime. The officer will also take into account whether or not the juvenile is a known troublemaker. At this point several options may be taken. The juvenile may receive a warning and be released to his parents. He may be placed in a treatment program, placed on probation, placed in a community treatment center, or removed from his home for **detention** or **shelter**. Lastly, the intake officer may determine whether to file a **petition** requesting an adjudicatory hearing or a request to transfer jurisdiction to the adult criminal courts.
3. **Adjudication.** If the juvenile does not admit to the charges and is not transferred to an adult court, and adjudication hearing is held to determine the facts of the case. The juvenile is brought before a court unlike the court with jurisdiction over adult criminals. In all counties in Maryland, except Montgomery County, this is at the Circuit Court level. The court hears evidence on the allegations in the delinquency petition. At this point, the juvenile is entitled to certain procedural guarantees given to adult offenders. These include the right to counsel, freedom from self-incrimination, right to confrontation and cross-examination of witnesses, and in certain instances the right to a jury trial (when possible sentence is \$500.00 or more fine, or more than 90 days incarceration).
4. **Disposition.** In disposing cases, juvenile courts usually have far more discretion than the adult criminal courts. In addition to such options as probation, commitment to correctional institutions, restitution, or fines, state laws grant juvenile courts the power to order removal of children from their homes to foster homes or treatment facilities. Juvenile courts also may order participation in special programs aimed at shoplifting prevention, drug counseling, or driver education. The Master, acting as the judge, imposes a disposition on the juvenile offender based on the offense, prior record, and family background. This is one of the most important stages in the juvenile process because it may be the court's last opportunity to influence the child's behavior. Disposition is concerned primarily with treating the child and controlling antisocial behavior.

# GUIDELINES FOR DETERMINING JURISDICTION\*

The juvenile court has exclusive original jurisdiction over a child alleged to be delinquent, in need of supervision, in need of assistance or who has received a citation for a violation.

The juvenile court has exclusive original jurisdiction over proceedings arising under the Interstate Compact on Juveniles.

The juvenile court has concurrent jurisdiction over proceedings against an adult for contributing to the delinquency of a minor, child abuse or neglect, and offense as a juvenile who is now an adult.

The jurisdiction of the court is concurrent with that of the District Court in any criminal case arising under the compulsory public school attendance laws of this State.

The juvenile court does not have jurisdiction over:

- a child 14 years or older alleged to have done an act which, if committed by an adult, would be a crime punishable by death or life imprisonment, as well as all other charges arising, out of this incident.
- a child 16 years or older alleged to have done an act in violation of traffic laws or ordinances, except an act that is punishable by incarceration.
- a child 16 years or older alleged to have done an act in violation of any law, rule or regulation governing the use or operation of a boat, except an act that is punishable by incarceration.
- a child 16 years or older alleged to have committed the crime of robbery with a dangerous or deadly weapon or attempted robbery with a dangerous or deadly weapon, as well as all other charges arising out of the same incident.
- a child 16 years or older alleged to have committed a crime while wearing, carrying or transporting a handgun (the unlawful use in commission of crime), as well as all other charges arising out of the same incident.

**NOTE:** In Maryland, the punishment for murder in the first degree, for defendants less than 18 years old, is imprisonment for life or imprisonment for life without the possibility of parole. The sentence may not be death.

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\* Sources: Courts of General Jurisdiction, Section 3-804. Jurisdiction of Court, and Annotated Code of Maryland, Art. 27, Section 412. Punishment for murder.

## CASE STUDIES\*

1. Rose is 16 and has admitted to running away, possession of crack and intent to distribute crack and marijuana. Last night, Rose shot one of her buyers in the face for failing to pay for drugs. The victim died this morning.

Which court has the original jurisdiction for this case? Why?

2. Peter is 15 and was picked up for vandalizing his neighborhood on Halloween. Damage to two cars, four houses and two classrooms at the school total nearly \$2,000.00.

Which court has original jurisdiction for this case? Why?

3. Tom is 13 years old and is very large for his age. He was charged with breaking and entering, and theft of an \$85 tape recorder. He was also charged in the same incident with possession of a handgun.

Which court has original jurisdiction for this case? Why?

4. Tina is 16 years old and last night she took her uncle's car without permission. While driving without a license, she was stopped by a state trooper for speeding. She was also charged with DWI (Driving While Intoxicated).

Which court has original jurisdiction for this case? Why?

5. Manny is 13 years old and has been charged with making obscene phone calls to his social studies teacher.

Which court has original jurisdiction for this case? Why?

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\* Source: Juvenile Justice: A Maryland Perspective, Citizenship Law-Related Education Program for the Schools of Maryland, 1991.



6. Donna is 17 years old. She was caught taking \$250 from the collection plate on Sunday during church services.

Which court has original jurisdiction for this case? Why?

7. Cal and his friends went to Ocean City to go fishing. They consumed three six-packs of beer. While driving back to shore, Cal was involved in a collision with another boat. Cal is 16 years old.

Which court has original jurisdiction for this case? Why?

8. Carol is 14 years of age. She had trouble this year maintaining passing grades at school. On Friday, the guidance counselor said that Carol would need to attend summer school. Afraid of what her parents would say, she ran away to her grandfather's house in Pennsylvania. This is the fifth time this year that Carol has run away.

Which court has original jurisdiction for this case? Why?

#### **ASSIGNMENT:**

Write two case studies about juveniles who have gotten into trouble with the law. Be able to explain which court has original jurisdiction and why. We will share these in class.

# CASE STUDIES

## Answers

1. Rose is 16 and has admitted to running away, possession of crack and intent to distribute crack and marijuana. Last night, Rose shot one of her buyers in the face for failing to pay for drugs. The victim died this morning.

Which court has the original jurisdiction for this case? Why?

*Adult court. Rose is older than 14 and has committed an act which would be a crime if committed by an adult.*

2. Peter is 15 and was picked up for vandalizing his neighborhood on Halloween. Damage to two cars, four houses and two classrooms at the school total nearly \$2,000.00.

Which court has original jurisdiction for this case? Why?

*Juvenile court. Peter has committed a delinquent act.*

3. Tom is 13 years old and is very large for his age. He was charged with breaking and entering, and theft of an \$85 tape recorder. He was also charged in the same incident with possession of a handgun.

Which court has original jurisdiction for this case? Why?

*Juvenile court. If Tom had been 16 or older, the case would have gone to the adult court.*

4. Tina is 16 years old and last night she took her uncle's car without permission. While driving without a license, she was stopped by a state trooper for speeding. She was also charged with DWI (Driving While Intoxicated).

Which court has original jurisdiction for this case? Why?

*Adult court. Tina is 16 and has committed an act in violation of traffic laws.*

5. Manny is 13 years old and has been charged with making obscene phone calls to his social studies teacher.

Which court has original jurisdiction for this case? Why?

*Juvenile court. This is a delinquent act.*

6. Donna is 17 years old. She was caught taking \$250 from the collection plate on Sunday during church services.

Which court has original jurisdiction for this case? Why?

*Juvenile court. This is a theft of under \$300, so there is no threat of incarceration. Therefore, this is a delinquent act.*

7. Cal and his friends went to Ocean City to go fishing. They consumed three six-packs of beer. While driving back to shore, Cal was involved in a collision with another boat. Cal is 16 years old.

Which court has original jurisdiction for this case? Why?

*Adult court. Cal is 16 and has violated a law governing the use and operation of a boat.*

8. Carol is 14 years of age. She has trouble this year maintaining passing grades at school. On Friday, the guidance counselor said that Carol would need to attend summer school. Afraid of what her parents would say, she ran away to her grandfather's house in Pennsylvania. This is the fifth time this year that Carol has run away.

Which court has original jurisdiction for this case? Why?

*Juvenile court. This is a status offense because of Carol's age.*

# GLOSSARY OF LEGAL TERMS\*

## A

**ABSTRACT OF RECORD:** An abbreviated but complete history of a case.

**ACTION:** Lawsuit; the legal demand for one's right asserted in court.

**ACTION IN PERSONAM:** A lawsuit against a person based on personal liability.

**ACTION IN REM:** A lawsuit to determine title to property.

**ADJUDICATION:** Giving a judgement or decree, also the judgement given.

**ADVANCE SHEETS:** Unbound copies of cases that will later be sent in bound form.

**ADVERSARY SYSTEM:** The system of trial practice in the U.S. and some other countries in which each of the opposing or adversary parties has full opportunity to present and establish its opposing contentions before the Court.

**AFFIRM:** When a higher Court declares that a lower Court's action was valid and correct.

**ALLEGATION:** The assertion, declaration, or statement of a party to an action, made in a pleading, setting out what he expects to prove.

**AMICUS CURIAE:** A friend of the Court; one who interposes and volunteers information upon some matter of law.

**ANSWER:** A pleading by which defendant tries to dispute the plaintiff's right to recover by controverting the facts alleged by the plaintiff or the principle of law relied on by him, or both; or by asserting some defense which relieves the defendant of liability.

**APPEAL:** To take a case to a higher Court for review.

**APPEARANCE:** The formal proceedings by which a defendant submits himself to the jurisdiction of the Court.

**APPELLANT:** The party appealing a decision or judgement to a higher Court.

**APPELLATE COURT:** A Court which hears appeals and reviews lower Court decisions, generally on the lower Court record only.

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\* Source: *Shaping American Democracy, Revised Edition 1990*. Pub. Citizenship Law-Related Education Program for the Schools of Maryland and Law, Youth and Citizenship Program of the New York State Bar Association.

**APPELLEE:** The successful party in the lower Court against whom an appeal is taken.

**ARRAIGNMENT:** In criminal practice, to bring the prisoner to Court in person to answer a charge.

**AT ISSUE:** Parties to a suit are at issue when they reach a point in the pleadings at which facts are alleged to exist by one side and are denied by the other.

**ATTORNEY OF RECORD:** Attorney whose name appears in the permanent records or files of a case.

## **B**

**BAIL:** Cash or other security placed on deposit with the Court to obtain the release of an arrested or imprisoned person and to guarantee his reappearance before the Court on a specific day.

**BAIL BOND:** A financial obligation signed by the accused and those who serve as sureties to guarantee his future appearance in Court.

**BAILIFF:** A Court attendant who keeps order and is responsible for the custody of the jury.

**BENCH WARRANT:** An order issued by the Court ("from the bench"), for the arraignment or arrest of a person.

**BEST EVIDENCE:** Primary evidence; the best evidence which is available; any evidence falling short of this standard is secondary; e.g., an original letter is best evidence compared to a copy.

**BILL OF PARTICULARS:** A detailed statement of an event or item referred to in another legal paper.

**BIND OVER:** To hold on bail for trial.

**BINDING INSTRUCTION:** One in which the jury is told if they find certain conditions to be true they must find for the plaintiff or defendant, as the case may be.

**BRIEF:** A written or printed document prepared by counsel to file in Court, usually setting forth both facts and law in support of the case.

**BURDEN OF PROOF:** In the law of evidence, the necessity or duty of proving a fact or facts in dispute.

## **C**

**CAPTION:** The caption of a pleading, or other papers connected with a case in Court, is the heading or introductory clause which shows the names of the parties, name of the Court, number of the case, etc.

**CAUSE:** A suit, litigation or action--civil or criminal.

**CERTIORARI:** An order commanding judges or officers of a lower Court to certify the record of a case for judicial review by an appellate court.

**CHALLENGE FOR CAUSE:** A objection to the qualifications of a juror for which a reason is given; usually on grounds of personal acquaintance with one of the parties or the existence of a bias which may affect the verdict.

**CHALLENGE TO THE ARRAY:** Questioning the qualifications of an entire jury panel, usually on the grounds of partiality or some fault in the process of summoning the panel.

**CHAMBERS:** Private office or room of a judge.

**CHANGE OF VENUE:** The removal of a suit, begun in one county or district to another, or from one Court to another in the same county or district for the purpose of hearing a trial.

**CIRCUMSTANTIAL EVIDENCE:** All evidence of indirect nature; the process of decision by which Court or jury may reason from circumstances known or proved to be established by inference from the principal fact.

**CIVIL CASE:** A case between two parties to remedy a private wrong.

**CLERK:** One who keeps the records of all proceedings, exhibits and administers the oath to jurors and witnesses.

**COMITY:** Courtesy, respect; usually used in the legal sense to refer to the proper relationship between state and federal Courts.

**COMMIT:** To send a person to prison, mental health facility, workhouse, or reformatory by lawful authority.

**COMMON LAW:** Law which derives its authority solely from usages and customs of immemorial antiquity or from the judgement and decrees of Courts.

**COMMUTATION:** The change of a punishment from a greater degree to a lesser degree, as from death to life imprisonment.

**COMPARATIVE NEGLIGENCE:** The doctrine by which acts of the opposing parties are compared to determine the proportion of liability which each shares from the injury, which is the basis of the action.

**COMPETENCY:** In the law of evidence, the presence of those characteristics which render a witness legally fit and qualified to give testimony.

**COMPLAINANT:** Synonymous with "plaintiff."

**COMPLAINT:** The first or initiatory pleading on the part of the complainant, or plaintiff, in a civil action.

**CONCURRENT SENTENCE:** Sentences for more than one crime in which the time of each is to be served concurrently, rather than successively.

**CONTEMPT OF COURT:** Any act calculated to embarrass, hinder, or obstruct a Court in the administration of justice, or calculated to lesson its authority or dignity. Contempts are of two kinds: direct and indirect. Direct contempts are those committed in the immediate presence of the Court; indirect is the term chiefly used with reference to the failure or refusal to obey a lawful order.

**CONTRACT:** An exchange of oral or written promises, enforceable by law, between two or more parties to do or not to do a particular thing.

**CONTRIBUTORY NEGLIGENCE:** A doctrine which prohibits recovery of damages by a plaintiff whose own behavior contributed even slightly to the event which caused the plaintiff's injuries--as distinguished from comparative negligence.

**CONVICTION:** Being found guilty of a crime or misdemeanor.

**CORPUS DELICTI:** The object or thing upon which a crime has been committed, e.g., a body of a murdered person, the charred shell of a burned house.

**CORROBORATING EVIDENCE:** Additional evidence which tends to strengthen or confirm evidence already given.

**COUNTERCLAIM:** A claim presented by a defendant in opposition to the claim of a plaintiff.

**COURTS OF RECORD:** Those whose proceedings are permanently recorded, and which have the power to fine or imprison for contempt. Courts not of record are those of lesser authority whose proceedings are not permanently recorded.

**COURT REPORTER:** The one who makes a permanent record of all the Court's proceedings.

**COURT TRIAL:** A trial without a jury, where the judge is the trier of fact.

**CROSS EXAMINATION:** The questioning of a witness in a trial or in the taking of a deposition by the party opposed to the one who produced the witness.

**CUMULATIVE SENTENCE:** Sentences for two or more crimes to run successively rather than concurrently.

## **D**

**DAMAGES:** Compensation recoverable in Court by one who has suffered loss, detriment or injury to one's person, property or rights due to the unlawful acts or negligence of others.

**DE FACTO:** In fact. In reality.

**DE JURE:** As a result of law, as a result of official action.

**DE NOVO:** Anew, afresh. A "trial de novo" is a retrial.

**DECLARATORY JUDGEMENT:** A ruling which declares the rights of the parties or expresses the opinion of the Court on a question of law, without necessarily ordering anything to be done.

**DECREE:** A decision or order of the Court. A final decree is one which fully and finally disposes of the litigations; and interlocutory decree is a provisional or preliminary decree which is not final.

**DEFAULT:** A "default" in action of law occurs when a defendant omits to plead within the time allowed or fails to appear at trial.

**DEFENDANT:** In a civil action, the party denying or defending itself against charges brought by a plaintiff. In a criminal action, the person indicted for an offense.

**DEMUR:** To file a pleading (called "a demurrer") admitting the truth of the facts in the complaint or answer, but contending they are legally insufficient.

**DEPOSITION:** The testimony of a witness, in pursuance of authority given by statute or rule of Court, to take testimony elsewhere than in open Court.

**DICTA:** Opinions of a judge that are not a central part of the judge's decision.

**DIRECT EVIDENCE:** Proof of facts by witnesses who saw acts done or heard words spoken (as distinguished from circumstantial evidence, which is called indirect).

**DIRECT EXAMINATION:** The first interrogation of a witness by the party on whose behalf he is called.

**DIRECTED VERDICT:** An instruction by the judge to the jury to return a specific verdict.



**DISCOVERY:** A proceeding whereby one party to an action may be informed as to facts known by other parties or witnesses.

**DISMISSAL WITHOUT PREJUDICE:** Permits the complainant to sue again on the same cause of action, while dismissal "with prejudice" bars the right to bring or maintain an action on the same claim or cause.

**DISSENT:** A term commonly used to denote the disagreement of one or more judges of a Court with the decision of the majority.

**DOCKET:** Schedule of different Court proceedings.

**DOUBLE JEOPARDY:** Common law and Constitutional prohibition against more than one prosecution for the same crime, transaction or omission.

**DUE PROCESS:** Law in its regular course of administration through the Courts of justice. The guarantee of due process requires that every person have the protection of a fair trial.

## **E**

**EN BANC:** In the bench. Full bench. A session where the entire membership of the Court will participate in the decision rather than the regular quorum.

**ENJOIN:** To acquire a person, by writ of injunction from a Court of equity, to perform, or to abstain or to desist from some act.

**ENTRAPMENT:** The act of officers or agents of a government in inducing a person to commit a crime not contemplated by him for the purpose of instituting a criminal prosecution against him.

**EQUITY:** Justice administered according to fairness as contrasted with the strictly formulated rules of common law.

**ERGO:** Therefore.

**ERROR, WRIT OF:** A writ issued from an appeals Court to a lower Court requiring it to send to the appeals Court the record of a case in which it has entered a final judgement and which the appeals Court will now review for error.

**ESCHEAT:** The right of the state to appropriate property to which no one else has a valid claim.

**ESCROW:** Writing, deed, fund, or object delivered by one person to another to be held until specified acts are performed or certain conditions are met and then to be disposed of as directed under the terms of the escrow.

**ESTOPPEL:** A person's own act, or acceptance of facts, which preclude his later making claims to the contrary.

**ET AL.:** An abbreviation of *et alii*, meaning "and others."

**ET SEQ.:** An abbreviation for *et sequentes*, or *et sequentia*, meaning "and the following."

**EX CONTRACTU:** In both civil and common law, rights and causes of action are divided into two classes: those arising *ex contractu* (from a contract) and *ex delicto* (from a wrong or tort).

**EX DELICTO:** Rights and causes of action arising from a wrong or "tort".

**EX PARTE:** By or for one party; done for, in behalf of, or on the application of one party only, without notice to the other.

**EX POST FACTO:** After the fact; an act of fact occurring after some previous act or fact, and relating thereto.

**EX REL.:** An abbreviation for *ex relatione* meaning "upon information from"; usually used to describe legal proceedings begun by an official in the name of the state, but at the instigation of and with information from a private individual interested in the matter.

**EXCEPTION:** A formal objection to an action of the Court during the trial of a case, in refusing a request or overruling an objection; implying that the party excepting does not acquiesce in the decision of the Court, but will seek to procure its reversal.

**EXHIBIT:** A paper, document or other article produced and exhibited to a Court during a trial or hearing.

**EXPERT EVIDENCE:** Testimony given in relation to some specific, technical, or professional matter by experts, i.e., persons qualified to speak authoritatively by reason of their special training, skill, or familiarity with the subject.

**EXTENUATING CIRCUMSTANCES:** Circumstances which render a crime less aggravated, heinous, or reprehensible than would otherwise be.

## **F**

**FAIR PREPONDERANCE:** Evidence sufficient to create in the minds of the triers of fact the belief that the party which bears the burden of proof has established its case.

**FALSE ARREST:** Any unlawful physical restraint of another person, in prison or elsewhere.

**FALSE PRETENSES:** Misrepresentation in order to obtain another's money or goods.

**FELONY:** A crime of a graver nature than a misdemeanor. Generally, an offense punishable by death or imprisonment in excess of one year.

**FIDUCIARY:** A trustee; one who has the duty to act primarily for the benefit of another with respect to the subject matter of the trust.

**FRAUD:** An intentional perversion of truth; deceitful practice of device resorted to with intent to deprive another of some property or other right, or in some manner to cause injury.

## **G**

**GENERAL DEMURRER:** A demurrer which raises the question whether the pleading against which it is directed lacks the definite allegations essential to cause of action, or defense.

**GRAND JURY:** A jury of inquiry whose duty is to receive complaints and accusations in criminal cases, hear evidence and find bills of indictment in cases where they are satisfied that there is probable cause that a crime was committed and that a trial ought to be held.

**GUARDIAN AD LITEM:** A person appointed by the Court to look after the interest of an infant of incompetent whose property is involved in litigation.

## **H**

**HABEAS CORPUS:** "You have the body." The name given a variety of writs whose object is to bring a person before a Court or judge. In most common usage, it is directed to the official or person detaining another, commanding him to produce the body of the prisoner or person detained so the Court may determine if such a person has been denied his liberty without due process of the law.

**HARMLESS ERROR:** In appellate practice, an error committed by a lower Court during a trial, but not prejudicial to the rights of the party and for which the Court will not reverse the judgement.

**HEARSAY:** Evidence not proceeding from the personal knowledge of the witness.

**HYPOTHETICAL QUESTION:** A combination of facts and circumstances, assumed or proved, stated in such a form as to constitute a coherent state of facts upon which the opinion of an expert can be asked by way of evidence in a trial.

## **I**

**IMPEACHMENT OF WITNESS:** An attack on the credibility of a witness by the testimony of other witnesses or evidence of prior bad conduct or criminal convictions.

**IMPLIED CONTRACT:** A contract in which the promise made by the obligor is not expressed but inferred by obligor's conduct or implied in law.

**IMPUTED NEGLIGENCE:** Negligence which is not directly attributable to a particular person, but which is the negligence of a person who is in privity (has a legal relationship) with the particular person, and with whose fault this person is chargeable.

**IN CAMERA:** In chambers; in private.

**IN RE:** In the affair of, concerning. Frequent title of judicial proceedings in which there are no adversaries, but rather where the matter itself requires judicial action.

**INADMISSIBLE:** That which, under the established rules of evidence, cannot be admitted or received.

**INDETERMINATE SENTENCE:** An indefinite sentence of "not less than" and "not more than" so many years; the exact term to be served being afterwards determined by parole authorities within the minimum and maximum limits set by the Court or by statute.

**INDICTMENT:** An accusation in writing, found and presented by a grand jury, charging that a person therein named has done some act, or been guilty of some omission, which by law, is a crime.

**INFORMATION:** An accusation of some criminal offense, in the nature of an indictment, but which is presented by a competent public officer instead of a grand jury.

**INFRACTION:** The breaking of a minor law, usually traffic laws, in which no imprisonment may be imposed.

**INJUNCTION:** A mandatory or prohibitive writ issued by a Court.

**INSTRUCTION:** A direction given by the judge to the jury concerning the law of the case.

**INTER ALIA:** Among other things or matters.

**INTER ALIOS:** Among other persons; between others.

**INTERLOCUTORY:** Provisional; temporary; not final. Refers to orders and decrees of a Court.

**INTERROGATORIES:** Written questions propounded by one party and served on an adversary, who must provide written answers under oath.

**INTESTATE:** One who dies without leaving a will.

**IRRELEVANT:** Evidence not relating or applicable to the matter in issue; not supporting the issue.

**ISSUE OF FACT:** Arises when a fact is maintained by one party and is controverted by the other in the pleadings.

**ISSUE OF LAW:** Arises where evidence is undisputed and only one conclusion can be drawn there from.

## **J**

**JURAT:** A clause in an affidavit or information stating when, where, and before whom the document was sworn to or affirmed.

**JURISDICTION:** The power of the Court to hear a case in question, which exists when the proper parties are present, and when the point to be decided is within the issues authorized to be handled by the particular Court.

**JURY:** A certain number of persons selected according to law and sworn to inquire on certain matters of fact and declare the truth upon evidence laid before them.

**JURY TRIAL:** A trial where a group of citizens hears the evidence presented and gives its verdict.

## **L**

**LEADING QUESTION:** One which instructs a witness how to answer or puts into his mouth words to be echoed back; one which suggests to the witness the answer desired. Prohibited on direct examination.

**LIMITATION:** A certain time allowed by statute in which litigation must be brought.

**LIS PENDENS:** A pending suit. Also, a lien on property.

**LOCUS DELICTI:** The place of the offense.

## **M**

**MALFEASANCE:** Evil doing; ill conduct; the commission of some act which is positively prohibited by law.

**MANDAMUS:** The name of writ which issues from a Court of superior jurisdiction, directed to an inferior court or to a public officer, commanding the performance of a particular act.

**MANDATE:** A judicial command or precept, proceeding from a Court or judicial officer, directing the proper officer to enforce a judgement, sentence or decree.

**MANSLAUGHTER:** The unlawful killing of another without malice; may be either voluntary upon a sudden impulse, or involuntary in the commission of some unlawful act.

**MISDEMEANOR:** Offense less than a felony; generally those punishable by fine or imprisonment for a term of one year or less.

**MISFEASANCE:** A misdeed or trespass; the improper performance of some act which a person may lawfully do.

**MISTRIAL:** An erroneous or invalid trial; a trial which cannot stand in law because of lack of jurisdiction, wrong drawing of jurors, or disregard of some other fundamental requisite.

**MITIGATING CIRCUMSTANCE:** Such as do not constitute a justification or excuse for an offense, but which may be considered as reducing the degree of moral culpability.

**MOOT:** Unsettled; undecided; not necessary to be decided. A moot point is one not settled by judicial decisions.

**MORAL TURPITUDE:** Conduct contrary to honesty, modesty, or good morals.

**MULTIPLICITY OF ACTIONS:** Numerous and unnecessary attempts to litigate the same right.

**MURDER:** The unlawful killing of a human being by another with malice aforethought, either expressed or implied.

## **N**

**NE EXEAT:** A writ which forbids the person to whom it is addressed to leave the country, the state, or the jurisdiction of the Court.

**NEGLIGENCE:** The failure to do something which a reasonable person, guided by ordinary considerations would do; or the doing of something which a reasonable and prudent person would not do.

**NISI PRIUS:** Courts for the initial trial of issues of fact, as distinguished from appellate Courts.

**NO BILL:** This phrase, endorsed by a grand jury on the indictment, is equivalent to "not found" or "not a true bill." It means that, in the opinion of the jury, evidence was insufficient to warrant the return of a formal charge.

**NOLLE PROSEQUI:** A formal entry upon the record by the plaintiff in a civil suit.

**NOLO CONTENDERE:** A pleading, usually used by defendants in criminal cases, which literally means "I will not contest it."

**NON COMPOS MENTIS:** Not sound of mind; insane.

**NON OBSTANTE VEREDICTO:** Notwithstanding the verdict. A judgement entered by order of Court for one party, although there has been jury verdict against this same party.

## O

**OBJECTION:** The act of taking exception to some statement or procedure in trial. Used to call the Court's attention to improper evidence or procedure.

**OF COUNSEL:** A phrase commonly applied to counsel employed to assist in the preparation of management of the case, or its presentation on appeal, but who is not the principal attorney of record.

**OPINION EVIDENCE:** Evidence of what the witness thinks, believes, or infers in regard to facts in dispute, as distinguished from personal knowledge of the facts; not admissible except (under certain limitations) in the case of experts.

**OUT OF COURT:** One who has no legal status in Court is said to be "out of Court," i.e., he is not before the Court. For example, when a plaintiff, by some act of omission or commission, shows that he is unable to maintain his action, he is frequently said to have put himself "out of Court."

## P

**PANEL:** A list of jurors to serve in a particular Court, or for the trial of a particular action: denotes either the whole body of persons summoned as jurors for a particular term of Court or those selected by the clerk by lot.

**PAROLE:** The conditional release from prison of a convict before the expiration of the sentence. If parole conditions are observed, the parolee need not serve the remainder of the sentence.

**PARTIES:** The persons who are actively concerned in the prosecution or defense of a legal proceeding.

**PER CURIAM:** "By the Court." An unsigned opinion of the Court or an opinion written by the whole Court.

**PERSONAL RECOGNIZANCE:** When a person is released from custody before trial on his/her promise to return for the trial.

**PETIT JURY:** The ordinary jury of twelve (or fewer) persons for the trial of a civil or criminal case. So called to distinguish it from the grand jury.

**PETITIONER:** One who files a petition with a Court seeking action or relief. When a writ of certiorari is granted by the Supreme Court, the parties to the case are called petitioner and respondent in contrast to appellant and appellee used in an appeal.

**PLAINTIFF:** A person who brings a civil action; the party who complains or sues.

**PLEADING:** The process by which the parties in a suit or action alternately present written statements of their contentions, each responsive to that which precedes, and each serving to narrow the field of controversy until there evolves one or more points affirmed on one side and denied on the other, called the issue upon which they then go to trial.

**POLLING THE JURY:** Asking jurors individually whether they assented and still assent to the verdict announced by the foreman.

**POWER OF ATTORNEY:** Authorization for one person to act as another's agent or attorney.

**PRAECIPE:** An original writ commanding the defendant to do the thing required; also, an order addressed to the clerk of a Court requesting him to issue a particular writ.

**PRE-SENTENCE INVESTIGATION:** An investigation, after a guilty verdict, to provide the Court with background information to help in determining the sentence.

**PREEMPTORY CHALLENGE:** The right of parties in criminal and civil cases to dismiss a prospective juror without giving any reason. The number of such challenges is limited by statute.

**PREJUDICIAL ERROR:** Synonymous with "reversible error"; an error which warrants the appellate Court to reverse the judgement before it.

**PRELIMINARY HEARING:** Synonymous with "preliminary examination"; the hearing given a person charged with a crime by a magistrate or judge to determine whether he should be held for trial. Since the Constitution states that a person cannot be accused in secret, a preliminary hearing is open to the public unless the defendant requests that it be closed. The accused person must be present at this hearing and must be accompanied by an attorney.

**PREPONDERANCE OF EVIDENCE:** The greater weight (in terms of quality not quantity) of evidence, or that evidence which is more believable and convincing.

**PRESUMPTION OF FACT:** An inference as to the truth or falsity of any proposition of fact, drawn by a process of reasoning in the absence of actual certainty of its truth or falsity, or until such certainty can be ascertained.

**PRESUMPTION OF LAW:** A rule of law that Courts and judges shall draw a particular inference from a particular fact, or from particular evidence.



**PRIMA FACIE:** At first sight; referring to a fact or other evidence presumably sufficient to establish a defense or a claim unless otherwise contradicted.

**PRO SE:** For himself, in his or her own behalf.

**PROBABLE CAUSE:** A situation where more evidence favors suspicion that a person is guilty of a crime than not. In criminal law, probable cause permits an officer to arrest someone for a felony without a warrant.

**PROBATE:** The act or process of providing a will.

**PROBATION:** A sentence of being placed under the jurisdiction of probation officers for a set time instead of going to prison.

**PROSECUTOR:** A public officer whose duty is the prosecution of criminal proceedings on behalf of the people.

**PUBLIC DEFENDER:** Lawyers employed by the state to represent defendants accused of crimes who cannot afford to hire their own lawyer.

## **R**

**REASONABLE DOUBT:** An accused person is entitled to acquittal if, in the minds of the jury, guilt has not been proven beyond a "reasonable doubt": the state of mind of jurors in which they cannot say they feel an abiding conviction as to the truth of the charge.

**REBUTTAL:** The introduction of answering evidence; proof by one party disputing proof provided by its adversary; also, the stage of a trial when such evidence is introduced.

**REDIRECT EXAMINATION:** Follows cross-examination and is exercised by the party who first examined the witness.

**REFEREE:** A person to whom a cause pending in a Court is referred by the Court to take testimony, hear the parties, and report therein to the Court. An officer exercising judicial powers and who functions as an arm of the Court for a specific purpose.

**REMAND:** To send back. In the event of a decision being remanded, it is sent back by a higher Court to the Court from which it came for further action.

**REMOVAL, ORDER OF:** An order by a Court directing the transfer of a cause to another Court.

**REPLEVIN:** An action whereby the owner or person entitled to repossession of goods or property may recover those from the one who has wrongfully taken or who wrongfully detains such goods or property.

**REPLY:** When a case is tried or argued in Court, the argument of the plaintiff in answer to that of the defendant. A pleading in response to an answer.

**REST:** A party is said to "rest" or "rest his case" when all evidence intended to be offered has been presented.

**RESTITUTION:** The restoring of goods or money to the victim of a crime by the offender.

**RETAINER:** Act of the client in employing his attorney or counsel; also, denotes the fee which the client pays when he retains the attorney to act for him.

**RIPE:** A case is ready for the U.S. Supreme Court if the legal issues involved are clear enough and well evolved and presented so that a clear decision can come out of the case.

**RULE NISI, OR RULE TO SHOW CAUSE:** A Court order obtained on motion by either party to show cause why the particular relief sought should not be granted.

**RULE OF COURT:** An order made by a Court having competent jurisdiction. Rules of Court are either general or special; the former are the regulations by which the practice of the Court is governed; the latter are special orders made in particular cases.

## **S**

**SEARCH AND SEIZURE, UNREASONABLE:** In general, an unlawful search of one's premises or person; a search which is unreasonably oppressive in its invasion of privacy.

**SEARCH WARRANT:** A written order from a justice or magistrate directing an officer to search a specific place for a specific object, issued upon a showing of probable cause.

**SELF-DEFENSE:** The protection of one's person or property against some injury attempted by another. The law of "self-defense" justifies an act done in the reasonable belief of immediate danger. When acting in justifiable self-defense, a person may not be punished criminally nor held responsible for civil damages.

**SEPARATION OF WITNESSES:** An order of the Court requiring all witnesses to remain outside the Courtroom until each is called to testify, except the plaintiff or defendant.

**SHERIFF:** An officer of a county whose principal duties are to aid the criminal and civil Courts and act as chief preserver of the peace in many places. Sheriffs serve processes, summon juries, execute judgements, and hold judicial sales.

**SINE QUA NON:** Indispensable; that without which something cannot be.

**STANDING:** A person's right to bring a lawsuit because he or she is directly affected by the issue raised.

**STARE DECISIS:** A doctrine that, when a court has once laid down a principle of law as applicable to a certain set of facts, it will adhere to that principle and apply it to future cases where the facts are substantially the same.

**STATE'S ATTORNEY:** Same as prosecutor.

**STATE'S EVIDENCE:** Testimony given by an accomplice or participant in a crime tending to convict others.

**STATUTE:** The written law in contradistinction to the unwritten law.

**STAY:** A stopping or arresting of a judicial proceeding by order of the Court.

**STIPULATION:** An agreement by attorneys on opposite sides of a case as to any matter pertaining to the proceedings or trial. It is not binding unless assented to by the parties; most stipulations must be in writing.

**SUBPOENA:** A process to cause a witness to appear and give testimony before a Court or magistrate.

**SUBPOENA DUCES TECUM:** A process by which the Court commands a witness to produce certain documents or records in a trial.

**SUBSTANTIVE LAW:** The law dealing with rights, duties, and liabilities as distinguished from adjective law, which is the law regulating procedure.

**SUMMONS:** A notification to the named person that an action has been commenced against him in Court and that he is required to appear, on the day named, and answer the complaint in such action.

**T**  
**TESTATOR OR TESTATRIX:** The maker of a written will. A person who dies without leaving a written will dies "intestate."

**TESTIMONY:** Evidence given by a competent witness, under oath; as distinguished from evidence derived from writings and other sources.

**TORT:** An injury or wrong committed, either with or without force, to the person or property of another.

**TRANSCRIPT:** The official record of proceedings in a trial or hearing.

**TRIAL DE NOVO:** A new trial or retrial held in a higher Court in which the whole case is gone into as if no trial had been held in a lower Court.

**TRUE BILL:** In criminal practice, the endorsement made by a grand jury upon a bill of indictment when they find sufficient evidence to warrant a criminal charge.

## U

**UNDUE INFLUENCE:** Whatever destroys free will and causes a person to do something he would not do if left to himself.

**UNLAWFUL DETAINER:** A retention or withholding of real estate without the consent of the owner or other person entitled to its possession.

## V

**VACATE:** To make void, annul or rescind.

**VENIRE:** Technically, a writ summoning persons to Court to act as jurors; popularly used as meaning the body of names thus summoned.

**VENIREMEN:** Members of a panel of jurors.

**VENUE:** The particular county, city or geographical area in which a Court with jurisdiction may hear and determine a case.

**VERDICT:** In practice, the formal decision or finding made by a jury, reported to the Court and accepted by it.

**VOIR DIRE:** To speak the truth. The phrase denotes the preliminary examination which the Court may make of one presented as a witness or juror, as to his qualifications.

## W

**WAIVE:** To voluntarily give up right or claim.

**WAIVER OF IMMUNITY:** A means authorized by statutes by which a witness, in advance of giving testimony or producing evidence, may renounce the fundamental right guaranteed by the Constitution that no person shall be compelled to be a witness against himself, frequently demanded of a public official.

**WARRANT OF ARREST:** A writ by a magistrate, justice, sheriff, officer, or other competent authority requiring him to arrest a person therein named and bring him before the magistrate of Court to answer to a specified charge.

**WEIGHT OF EVIDENCE:** The balance of preponderance of evidence; the inclination of the greater amount of credible evidence, offered in a trial, to support one side of the issue rather than the other.

**WITH PREJUDICE:** The term, as applied to judgement of dismissal, which makes the disposition of the case as conclusive of rights of the parties as if action had been prosecuted to final adjudication adverse to the plaintiff.

**WITHOUT PREJUDICE:** A dismissal "without prejudice" allows a new suit to be brought on the same cause of action.

**WITNESS:** One who testifies to what he has seen, heard, or otherwise observed.

**WRIT:** An order issuing from a Court of justice and requiring the performance of an specified act, or giving authority and commission to have it done.

**WRIT OF ERROR CORAM NOBIS:** A common law writ, the purpose of which is to correct a judgement in the same Court in which it was rendered, on the ground of error of fact.

