YLLC

AKA

YOUNG LAW LEGAL CLUB

Curriculum Outline and Lesson Plans

Ignorance of the Law is No Excuse.
Knowledge is Freedom!

ExFelon Association and Repair Shop Outreach Ministries

Educational and Training Department

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Learning Objective:

- ✓ *Train, learn and apply the laws while applying the elements of the law in every day living.*
- ✓ *Students will be adapted to use law to protect and to know the law applying the knowledge of law to issues that effect them in every day life.*
- ✓ *Understanding elemental aspects of criminal and civil law. Gain awareness of what the law actually entails and is really about.*
- ✓ *Learn basic features of understanding basic law and the events that trigger a crime in society.*

Expected Outcome:

Communities and ultimately our nation will benefit as we create a better place to live. Our students will be prepared to teach and learn the elements of law by our class studies. The American legal landscape will change by us teaching law to our students.

The goal is to eradicate entanglement in The Criminal Justice System through advocacy, prevention, training and education through faith, love and truth.

YLLC recognizes young persons desire to belong and snatches them from the possibility of negative gang involvement into a positive mentoring leadership development membership club.

The model trains in the law as it pertains to misdemeanor and felony convictions and the science of the legal structure of courts and crimes.

Students will share advanced lectures as a means to stay free of legal convictions.

Youth will engage in training and responsibilities. As they grow each youth, male and female, will be instructed on the laws of society and on State and Local Laws. They will be instructed on The Constitution of the United States while gradually moving from basic law to advanced law,

The goal is to train all youth with instruction In law and to help our youth and adults understand laws. The reason for this legal instruction is to defend against a legal attack that can leave any child or adult wounded for life with a criminal record. Our impact is national in nature. We are the first Youth Legal Law Club in American History with a Basketball Law Club League fully functioning under our Law and Basketball Athletic League.

The YLLC allows youth to be leaders of today while developing them into trailblazers of tomorrow.

Rankings

Rankings will be rewarded for completion of law instruction levels.

The ranks are:

1. Private First Class – Law Student
2. Corporal – Law Student
3. Sergeant – Law Advisor
4. Sergeant First Class – Law Advisor
5. Master Sergeant – Law Advisor
6. Senior Master Sergeant – Senior Legal Advisor
7. Legal Master Sergeant – Senior Legal Advisor
8. Master Law Sergeant – Law Advocate General

STUDENTS WILL BE ABLE TO MOVE INTO JUDGE ADVOCATES GENERALS RANKING FOR ADVANCED STUDENTS. The Judge Advocates Generals are ranked as officers of YLLC in all of Florida and United States. Each student will earn a commission rank. This class will comprise commander officers assigned and commissioned by The Exfelon Association exclusively.

1. *Lieutenant – Legal Officer Jr.*
2. *Captain – Legal Officer Sr.*
3. *Major – Legal Officer 1st*
4. *Master Lt Colonel – Legal Officer Senior Master*
5. *ColoneL Judge Advocate General of Legal Division*
6. *Brigadier General - Judge Advocate Law General 1 Star*
7. *2 Star General – Judge Advocate*
8. *Law General 2 Star*
9. *3 Star General - Judge Advocate*
10. *Law General – 3 Star*
11. *Star General - Judge Advocate Law Master General – 4 Star*
12. *5 Star General – Judge Advocate Law Master General – 5 Star*
13. *Field Marshall - Senior Advocate Law Supreme General – 6 Stars*

Beginner Law Module 1- Street Law

Street Law consists of common everyday practical law knowledge that empowers an individual to safeguard self and other from unwhitingly becoming entangled in the Criminal Justice System. Street Law is a grassroots appoach. Elements of practical law taught include awareness of human rights/civil rights, democratic principles, conflict resolution, the advocacy process, criminal and civil law, employment law, family law, and consumer rights.

The Basics:

Police officers are meant to keep you safe. Sometimes a police officer can be your greatest danger in a situation. Just like there are good and bad people. There are good and bad officers.

The Bill of Rights: The bedrock of your rights in the face of the law.

1. *The First Amendment provides several rights protections: to express ideas through speech and the press, to assemble or gather with a group to protest or for other reasons, and to ask the government to fix problems. It also protects the right to religious beliefs and practices. It prevents the government from creating or favoring a religion.*

2. *The Second Amendment protects the right to keep and bear arms.*

3. *The Third Amendment prevents government from forcing homeowners to allow soldiers to use their homes. Before the Revolutionary War, laws gave British soldiers the right to take over private homes.*

4. *The Fourth Amendment bars the government from unreasonable search and seizure of an individual or their private property.*

   A police officer can approach someone even without suspicion of wrongdoing and begin a conversation without violating the Fourth Amendment. As long as the individual reasonably feels free to end the discussion and walk away, it is a consensual encounter.

5. *The Fifth Amendment provides several protections for people accused of crimes. It states that serious criminal charges must be started by a grand jury. A person cannot be tried twice for the same offense which is known as double jeopardy or have property taken away without just compensation. People have the right against self-incrimination and*

cannot be imprisoned without due process of law, fair procedures and trials.

6. *The Sixth Amendment provides additional protections to people accused of crimes, such as the right to a speedy and public trial, trial by an impartial jury in criminal cases, and to be informed of criminal charges. Witnesses must face the accused, and the accused is allowed his or her own witnesses and to be represented by a lawyer.*

7. *The Seventh Amendment extends the right to a jury trial in Federal civil cases.*

8. *The Eighth Amendment bars excessive bail and fines and cruel and unusual punishment.*

9. *The Ninth Amendment states that listing specific rights in the Constitution does not mean that people do not have other rights that have not been spelled out.*

10. *The Tenth Amendment says that the Federal Government only has those powers delegated in the Constitution. If it is not listed, it belongs to the states or to the people.*

Your Miranda Rights: An explanation of how you are mirandized and what that means.

What is Reasonable Suspicion?: Explanation of this legal standard that applies to searches, seizures, and arrests.

Reasonable suspicion is a standard lower than probable cause, and it does not require anywhere near 50% certainty that you have done something illegal.

What is Probable Cause?: A guide to when judges can issue warrants or justify arrests. Probable cause usually refers to the requirement in criminal law that police have sufficient reason to arrest someone, conduct a search, or seize property relating to an alleged crime.

Children in the United States are fully formed human beings with the same basic constitutional rights that adults enjoy. Like every other citizen, children have the right to due process under the law and the right to counsel. Children are generally afforded the basic rights embodied by the Constitution.

Beginner Module 2 – Types of Law

Question? What is law? It is known as jurisprudence which is defined as the set of rules or regulations by which a government, regulates the conduct of the people within a given society.

Laws are influenced by traditional ideas of right and wrong. However, everything that is considered immoral is not always breaking a law. Lying to a friend is immoral and wrong, but it is not illegal as defined by law. Every society that has existed has recognized the need for some law, because without law there would be confusion and harm to many. Furthermore, as we progress we also find that some laws are also not fair and have been instituted in such a way as to cause harm to some classes of people.

We have different kinds of law in our government structure. Local laws, called Ordinances and State Laws, called State Law and Federal Laws. Each law affects us all. Laws can overlap causes an individual to break multiple laws from one criminal charge. This is known as stacking charges.

Laws also fall into two major groups which are criminal and civil. Criminal is crime that a person commits that has a effect on the person or when committed is punished by the State where the crime is committed. Civil law is defined as the system of law concerned with private relations between members of a community rather than criminal, military, or religious affairs.

CRIMINAL LAW IS DEFINED AS LEGAL ACTION BY THE STATE AGAINST YOU.

In Criminal Law, there is an action that the State takes against a person that commits a violation of a statue or code of a State. Each State has a Group of Statues that have been signed by a Legislative body of law makers who meet every year to enact new laws. They vote on these laws in the legislative sessions. A favorable vote passes the bill into law. The new law is then sent to the Governor of the State for signature and approval of the Governor which finalizes the law becoming effective and the law is placed on the States Statues. Not all new Law are good laws and many in our Country have repealed some of the new laws.

CIVIL LAW IS THE OTHER TYPE OF LAW

Civil Law regulates matters pertaining to individuals or groups of people. In civil law if someone has done you wrong or damaged you in some way, you can file a lawsuit for damages. This is known as a Civil Lawsuit. Many seek monetary damages while others seek correction of a bad decision by an agency or a

Government that has ruled in a way that has damaged a person or their property. A Civil Law suit is very common in auto accidents where a person survived a accident but has sustained injuries that may impair them for months or for life.

Types of Law:

Statues are law by Nature. The Federal Government has their own statues or laws. Each state has their own statues or state laws. Each of the 50 states have their own laws. Something can be a law in one state and not a law in another state or the law can be lesser crime or charge with a lesser punishment in another state. Each state establishing their own laws. Some Federal and State statues are different.

The broad topic of constitutional law deals with the interpretation and implementation of the United States Constitution. As the Constitution is the foundation of the United States, constitutional law deals with some of the fundamental relationships within our society. This includes relationships among the states, the states and the federal government, the three branches (executive, legislative, judicial) of the federal government, and the rights of the individual in relation to both federal and state government. The area of judicial review is an important subject within Constitutional Law. The Supreme Court has played a crucial role in interpreting the Constitution. Consequently, study of Constitutional Law focuses heavily on Supreme Court rulings.

LOCAL COUNTY AND CITY ORDINANCES

Local rules are in Cities and Counties and are a set of rules people must obey. These rules can also be called regulations. They apply only within that city or county jurisdiction. One city may have a regulation such as you cannot park you car on your lawn and the city next door does may not prohibit one from parking your car on your lawn. Each city has different regulations.

It is important to know that all law making is limited by The US Constitution. Our Constitution sets out and establishes the basic rights of all Americans. If a Legislative Law Violates a persons freedom of movement or speech. You have the right to go to court and appeal the unjust law and ask to have the law repealed, overturned or overruled. This is practice is known as judicial review.

AGENCIES – Many of the Laws that affect you are made by Government Agencies. Once Congress on the Federal Level or the State on the State Level passes a Law, they often authorize a administrative agencies to develop regulation or rules setting forth enforcement of the law. These regulations effect our daily lives and are in effect law. Violations can result in fines or jail in many

cases. City zoning is a example. Cities zone where one can build a new home, establish rules on the sale of alcohol and the sale of tobacco to under age individuals and the hours a store can to sell liquor. These are all local rules that are rules laid out for a business or an owner to obey. Violations of these rules can be subject to a fine in most cases and sometimes arrest.

Beginner Module 3 –The Court System

COURTS AND HOW THEY WORK

All courts are there for Case Law and Common Law.

There are two distinct types of courts in the United States: Trial Courts and Appeal Courts. Trial Court hears dispute cases. Once a trial court has made a decision the losing party may be able to appeal the decision in an appellate court. In a appeals court, one party presents arguments asking the court to change the decision of the trial court. Not everyone that loses in trial can appeal. The claim of an error in the law is an issue. The Defendant, person making the appeal is must argue an error of law. An appeals court issues a written opinion when a case is decided or ruling is made. Courts make law when a case is overruled and the case becomes favorable to the Defendant. The case become is known as case la . This means that case can be used in other legal issues and cases to show the court that they had overturned a previous case similar to your case that you are pleading.

Law is not always standard as a Higher Court may agree or disagree with a ruling in your case. As a case moves to a Higher court, the issue becomes more intense. In State courts, the higher the court the case goes the better, because in most cases your chances of winning on appeal increases. However, even that is not always a proven win. An Appeals court may settle your case and this is one step above a local district court level. Your chances of winning is good if the issue is a direct violation of law. Loosing here at this level is not the end. You have the option of moving to the next level in a State Case which the States Supreme Court for a ruling as this is the next level of appeal. In some cases, the court may overturn a conviction or civil lawsuit. One will get a decision or ruling by written notice of the results of their ruling. In a issue where civil rights are involved which is in a civil lawsuit case, one can bring a action in to the Federal Courts on Violations of Law. The fact that a persons arrest was made on the violations of Constitutional rights is necessary to begin the appeal process. The question becomes did the law arrest a person on issues that violated the persons Constitutional rights. This happens often in criminal Issues. These law cases come out by many having convictions also were their attorney had not plead for them rightly. Had the attorney executed the proper pleading and defended properly in the court of a violation of rights that perhaps the police had done or the State Attorney had done then the case would had been dismissed or the Defendant would had never had a charge put on them. Many things transpire in court and this is why as a student of YLLC you will learn how to defend yourself.

CIVIL AND CRIMINAL CASES

Criminal cases begin with an arrest and civil cases begin with a complaint. Criminal cases have first appearance after arrest. In Civil Cases the claimant files papers claiming damages. In Criminal cases, a person is charged by way of indictment or information. These are set by the State Attorneys Office. IN FLORIDA THE STATE HAS 33 DAYS TO CHARGE A PERSON. Criminal cases have pretrial proceedings for charges.

Civil Lawsuits involve more paperwork, but can be as damaging as a criminal case in monetary means. In a civil law suit against a person, the person sues you for damages. The type of damages can be such as a car accident you had caused by your neglect. You may have ran a red light and collided with their vehicle causing them lifelong physical damages. They hire a attorney and they file claims against you in court to sue you for money. If they prevail, you will be accounted as liable to paying the cost of the damages. In some cases you may lose and your insurance company may not pay the full extent of the claim money and you will be liable for the balance.

Suppose civil lawsuit asks for 300,000 damages for injuries. Your Insurance company only pays 175,000 of the claim. You are then responsible for the 125,000 balance. In some States the suing party can come after your home and other property you own to collect the money. This is an example how a Civil Lawsuit Works. There are different kinds. Another example is a claim for a Civil Rights Damage. The damaged party is presenting into Federal Court a claim for a violation of a right gone wrong. Some of these claims can be settled in a State action court. However, the most common is a Federal Court claim for something like a false arrest. The person if convicted has to have the case settled as not guilty before they can go after a Policeman or State Attorney for a conviction that has Constitutional violations. In a conviction, a person is Heck Barred from suing for damages until the conviction is overturned. If a person is arrested with no conviction charged, then they are at that point not Heck Barred , and can go straight to the Federal court to sue for a false arrest. There is substantial case saw supporting false arrest .

As you continue to learn how to handle the Law you will be empowered to protect yourself, your family and your friends from a false conviction. So stay in the training and we will expose some simple tricks law enforcement and even lawyer inflict upon individuals who do not understand their rights and the law. The Best Defense is Knowledge and hat is why you are in the Youth Law Legal Club.

Beginner Module 4 – Juvenile Justice

Persons under eighteen are considered juveniles under Florida law. The juvenile court system is part of the circuit court and its purpose is to rehabilitate, not just punish, juveniles in trouble with the law.

If a juvenile is arrested, a law enforcement officer must attempt to notify the child's parent, guardian or legal custodian. Juveniles have the right to consult an attorney before making any statement to the police. A child can be taken to the county jail and held for up to six hours to be fingerprinted and photographed if a reasonable belief exists that he or she has committed a crime.

If a juvenile is charged with a crime, he or she has the right to be represented by an attorney at all stages of any juvenile court proceeding. If a judge determines the parents are financially capable, the judge may order the parents to provide an attorney. Otherwise, the judge will appoint a public defender to represent the child. It should be noted that there is no constitutional right to be tried as a juvenile. There are provisions in Florida law permitting the state attorney to transfer certain charges or certain children to the adult criminal courts.
If a juvenile court finds that a child is responsible for a crime, the child is said to be delinquent. Unlike criminals, a delinquent child cannot be sentenced to prison.

Instead, the juvenile court may order:
*The child be committed to a licensed childcare agency
*The child's driving license be revoked or suspended
*The child or the child's parents make restitution
*The child to participate in a community work project
Juvenile records are kept confidential and separate from other court records. Access is limited to the child, his or her attorney, the child's parents, the Department of Juvenile Justice, law enforcement and some school personnel. Juvenile records are not accessible to the general public. However, juvenile court proceedings are open to the general public and the press is free to publish any information gathered at these proceedings.

Youth under the age of 18 who are accused of committing a delinquent or criminal act are typically processed through a juvenile justice system and while

similar to that of the adult criminal justice system in many ways—processes include arrest, detainment, petitions, hearings, adjudications, dispositions, placement, probation, and reentry—the juvenile justice process operates according to the premise that youth are fundamentally different from adults, both in terms of level of responsibility and potential for rehabilitation. The primary goals of the juvenile justice system, in addition to maintaining public safety, should be skill development, habilitation, rehabilitation, addressing treatment needs, and successful reintegration of youth into the community. YLLC finds the juvenile justice system to be lacking in these areas and endeavors to educate and equip you to navigate the system in a way that is in your best interest and those you will share your new found knowledge with in the future.

Juveniles enter the juvenile justice system most often through law enforcement (i.e., arrest). Often, law enforcement statistics are used as a proxy for examining trends in juvenile crime and offending. Law enforcement provides "input" for the rest of the juvenile justice system, and thus understanding these inputs is critical for examining how the system responds to juvenile crime.

Law enforcement agencies refer approximately three-fifths of all arrested youth to a court with juvenile jurisdiction for further processing. As with law enforcement agencies, the court may decide to divert some juveniles away from the formal justice system to other agencies for service. Prosecutors may file some juvenile cases directly in criminal (adult) court. The intake department may decide to dismiss the case for lack of legal sufficiency or to resolve the matter formally (petitioned) or informally (nonpetitioned). Juvenile courts adjudicate petitioned cases and may order probation or residential placement, or they may waive jurisdiction and transfer certain cases from juvenile court to criminal court. While their cases are being processed, juveniles may be held in secure detention.

Juvenile probation has been termed the workhorse of the juvenile justice system." Probation is a mechanism used by juvenile justice agencies at many different points in the system. It serves as a sanction for juveniles adjudicated in court, and in many cases as a way of diverting status offenders or first-time juvenile offenders from the court system. Some communities may even use probation as a way of informally monitoring at-risk youth and preventing their progression into more serious problem behavior. With such varied uses, there is no doubt that probation touches large numbers of juveniles. For example, probation was ordered in 49% of the 601,700 delinquency cases that received a juvenile court sanction in 2015, compared with 11% that received placement in an out-of-home facility.

The most severe sanction that a juvenile court can impose entails the restriction of a juvenile's freedom through placement in a residential facility. Most often,

such placement occurs after a youth has been adjudicated delinquent for an offense; however, a youth may also be held in detention after arrest or during court proceedings. In a few cases, jurisdiction over the youth might be transferred to criminal court, which then carries out processing and sentencing.

Out-of-home placement results in a great burden both on the youth who receive this sanction and on the juvenile justice system itself. The youth experience a disruption in their normal routines, schooling, and family/social relationships. The juvenile justice system must bear the responsibility for mental health care, substance abuse treatment, and education, among other requirements.

Beginner Module 5 – Definitions of Crimes

Crimes Against Property - This category includes crime in which property is destroyed, such as arson and vandalism, and crimes by which property is stolen or otherwise taken against the will of the owner, such as robbery and embezzlement.

Arson – Is the willfully and malicious burning of another person's property. Laws in most states make it a crime to burn any building or structure, whether owned by the accused or not. Moreover, any property that is burned with the intent to defraud an insurance company is usually a separate crime, regardless of the type of property burned and regardless of who the property belonged to.

Vandalism - also known as " malicious mischief is the willful destruction of or causing of damage to the property of another. Vandalism causes millions of dollars in damages each year and includes such things as breaking windows, ripping down fences, flooding basements and breaking off car emblems. Vandalism can be either a felony or a misdemeanor depending on the extent of the damage.

Larceny – is the unlawful taking and carrying away of the property of another with the intent to steal it. In most states larceny is divided into two classes which are grand and petty depending on the value of the stolen item. Grand Larceny involves the theft of anything above a certain value which is often as little as 100.00 and is a felony. Petty larceny is the theft of anything of small value usually less than 100.00 and a misdemeanor .

Embezzlement - is the unlawful taking of property by someone to whom it was entrusted to handle with care and in the best interest of the owner. For example, the bank teller who takes money from the cash drawer or the stockbroker who takes money that should have been invested are both guilty of embezzlement. In recent years a number of states have merged the crime of larceny, false pretense and embezzlement into the statutory crime of theft .

Robbery -Robbery is the unlawful taking of property from a person's immediate possession by force or intimidation . Robbery, unlike other theft offenses , involves two harms theft of property and actual or potential physical harm to the person. In many states, the element of force is the difference between robbery and larceny. Hence a pickpocket who is unnoticed and takes your

wallet is liable for the crime of larceny. A mugger who knocks you down and takes your wallet by force is liable for the crime of robbery**.** Robbery is almost always a felony, but many states impose stricter penalties for armed robberies which is thefts that are committed with a gun or other weapon.

Extortion – called blackmail is the use of threats to obtain the property of another. Extortion statues generally cover threats to do future physical harm. Threats to destroy property like I will burn down your house unless you pay me 500.00 or threats to injure someone's character or reputation.

Burglary – was originally defined as the breaking and entering of the dwelling house of another during the night with the intent to commit a felony. Modern laws have broadened the definition to include the unauthorized entry into any structure with the intent to commit a crime regardless of the time of day. Most states have stiffer penalties for burglaries committed at night, burglaries of inhabited dwellings or burglaries committed with weapons.

Forgery – is a crime in which a person alters a writing or document with intent to defraud. This usually means signing without permission the name of another person to a check or some other document. It can also mean altering or erasing part of a previously signed document. Uttering which in many states is a separate crime is offering to someone a fake document as a genuine document.

Unauthorized Use of a Motor Vehicle The crime is committed when a person takes, operates or removes a motor vehicle without consent of the owner. This would include joyriding. A passenger in a stolen car may be guilty if that had knowledge the vehicle was stolen.

Receiving of Stolen Property - A person who receives stolen property that is known to be stolen by the receiver or has reason to believe it is stolen has committed the crime of receiving stolen property. Knowledge that the property is stolen may be implied by the circumstances. In most states. this is a felony if the value of the property received is more than 100.00 and a misdemeanor if the value is 100.00 or less.

Drug Offense Possession, distribution or sale of certain drugs is a crime that may also violated Federal and State Laws. The Federal Law known as Controlled Substances Act classifies drugs into various groups . Penalties are steep for sale of drugs and can cause a long prison term for dealing in drugs. Up to 15 years in prison can be given for selling controlled drugs along with heavy fines. Staying clear of drugs is a wise choice as a individual can ruin there life by being involved with drugs. A drug conviction can stay on your records for a lifetime. It just is not worth the involvement.

Sex Offenses Certain sex crimes such as rape or child molestation, which means , using a underage child in a sexual performance. These crimes are against another person. Some sex crimes occur in private between consulting adults and are said to be unenforceable .
Bigamy - is the offense of marring a person while still married to another person. Adultery is the act of sexual intercourse between a married person and someone else and it is grounds for divorce in almost every state in the United States.

Prostitution – the performance of sexual acts for money is a crime in every state except a few counties in Nevada. Prostitution almost always takes place between consenting individuals, but it is nerveless outlawed as a violation of cultural norms and offense against public decency.

Suicide and Euthanasia – Suicide is the deliberate taking of ones own life . In earlier times suicide was treated as a felony punishable by burial in a unmarked grave and forfeiture of the dead persons belongings to the state. This has been abolished. Some states still have criminal penalties for attempted suicide. These laws are rarely enforced. Most people that have attempted suicide are most commonly referred to counseling or treatment.

Euthanasia – often referred to as mercy killing is an act or method of putting to death persons who are terminally ill. Some people advocate euthanasia, as humane way of dealing with victims of incurable diseases, but many people feel it is a highly controversial moral and religious issue. Euthanasia is illegal in every state and may be prosecuted for anyone that assist a person to die.

Defenses in Crimes - A conviction to occurs in a criminal case when the prosecutor establishes beyond a reasonable doubt that the defendant committed the act in question or the element of the crime. The accused is the defendant and is not required to present a defense, but can instead simply force the system to prove its case. There are a number of possible defenses in a criminal case .

No Crime has Been Committed – The defendant or the accused did not do anything wrong. For example, the defendant was carrying a gun, but had a valid license to carry said gun. The defendant did not commit rape because the woman was legal age and consented. In these examples there was no crime.

Defendant committed a criminal act was excusable or justified defense in this category includes self defense , defense of property and others , and duress or necessity. The Law recognizes the right of a person unlawfully attacked to use

reasonable force of self defense. It also recognizes the right of one person to use reasonable force to defend another person from imminent attack. There are a number of limitations to these defenses .

A person who reasonable believes there is imminent danger of bodily harm can use a reasonable amount of force in self defense . A person cannot use more force than necessary. However, if after stopping an attacker, the defender continues to use force. The roles reverse and the defender can no longer claim self defense. Deadly imminent danger of death or serious bodily harm. A person is allowed to use non-deadly force in defense of any third person if the person defended is entitled to claim self defense. Reasonable non-deadly force may also be used to protect property.

Duress and necessity - This category of defense involves situations where an individual violates a criminal law to avoid a greater harm. In the case of duress, a criminal act may be excused by showing that the accused was not acting of his or her own free will and to be shown that the accused or some member of his immediate family was threatened with death or serious body harm.

Beginner Module 6 – Who are the Player

There are many elements and players within the criminal justice system that need to be understood if one is to effectively navigate the system. Of course, a fundamental precondition is that many of these rights have been established within the legislative and case law framework in different states.

The criminal justice system, at its fundamental level, includes the following:

Law enforcement.
Prosecution.
Defense counsel.
Judiciary.
Probation.
Institutional corrections.
Parole.
Allied professions, such as mental health, child welfare, medical, and others, often have significant roles within the criminal justice process. The dynamics of these professional perspectives within the system need to be understood to best protect victims' rights.

Criminal Justice System Agencies' Roles and Responsibilities

LAW ENFORCEMENT should maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen, in the interest of community welfare . . .

It is important to keep in mind that the three primary functions of law enforcement are to do the following:

Protect life and property.
Prevent crime.
Apprehend offenders (Barlow 1990).

Officers who initially respond to a crime scene, as well as investigating officers, are responsible for gathering evidence that can lead to arrest and prosecution of alleged perpetrators..

PROSECUTION - When law enforcement has investigated a crime and a suspect has been arrested, the case is then referred to a prosecutor. Although each state's laws and procedures provide for different ways to initiate a criminal

action, this is usually handled through either an initial court appearance or some process leading to charging and arraignment. At this point, information regarding the investigation and facts of the crime is presented by law enforcement to the court with the assistance of prosecutors and appropriate charges are levied against the defendant. When appropriate, the defendant is bound over for trial on the charges levied.

The prose has three main tasks: to investigate crimes, to decide whether or not to instigate legal proceedings and to appear in court. The prosecutor investigates crimes together with the police. ... The task of the prosecutor is to prove that the suspect has committed the crime.

DEFENSE ATTORNEYS are an integral part of the continuum of criminal justice.

Significant components of the role of defense counsel include the following:

Defending their client's constitutional rights and, therefore, defending the integrity of the constitution itself.

Conducting an independent investigation of the case to reveal facts not known to, or revealed by, the prosecution, such as violations of their client's rights by law enforcement or inconsistencies in witness statements, forensic or other evidence.

Preparing for trial by preparing the defendant to best aid in his or her defense, preparing witnesses that may be called by the defense, and/or preparing to cross-examine prosecution witnesses.

Objecting to the introduction of evidence by the prosecution through witness testimony or otherwise.

JUDICIARY - The judiciary is a neutral entity that oversees the progress of a criminal action. Judges should strive to equally weigh and protect the rights of all parties involved in a criminal prosecution. Of course, a judge can typically take only those actions that are specified by law and procedural rules, or are otherwise within the discretion mandated by law. Judges are empowered to sentence convicted criminals for their crimes.

PROBATION is often a condition of a plea bargain, or is the actual sentence handed down by a court following a trial. Prior to any agreement of probation. The probationer may be required to fulfill certain requirements called conditions of probation that might include no contact with the victim; payment of monetary obligations to the victim such as restitution, child support, mortgage payments, payment of fines, no use of alcohol or other drugs with an agreement to submit to random testing specific treatment that addresses the probationer's criminal activities.

INSTITUTIONAL CORRECTIONS - When convicted offenders are sentenced to a term of imprisonment, the State Department of Corrections or Federal Bureau of Prisons assumes responsibility for their supervision.

PAROLE AGENCIES -When inmates are released from prison, their reintegration back into the community is accomplished through the parole process. Parole is the supervised release of prisoners to the community, with conditions attached to that release that are designed to protect the safety of both the victim and the public. Parole is considered part of the prison sentence but is served in the community. Violations of any conditions of parole can result in revocation, which means the offender will be returned to an institutional corrections setting. There are two main functions of paroling authorities: parole boards and parole agencies.

Parole boards. The American Correctional Association identifies four primary functions of a state parole board, which are to:
Grant parole to prisoners.
Supervise control of parolees.
Discharge individuals from parole.
Make parole revocation decisions.

Medical personnel, Mental health service providers andChild protection professionals can also play roles in the process.

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Mid-Level Module 1 – How the System Works

Criminal justice is the delivery of justice to those who have committed crimes. The criminal justice system is a series of government agencies and institutions. Goals include the rehabilitation of offenders, preventing other crimes, and moral support for victims. The primary institutions of the criminal justice system are the police, prosecution and defense lawyers, the courts and prisons.

The criminal justice system is any organization that touches upon the question of law and order in society. As an individual, you can come in contact with the criminal justice system in a number of ways. If you come in contact with a cop out on the street, you come in contact with the criminal justice system. If you are called to jury duty, you've come in contact with the criminal justice system. Our prison system is part of the criminal justice system. Our courts are part of the criminal justice system. Our law enforcement is part of the criminal justice system.

When you vote on laws and legislation, you're voting to influence the criminal justice system. Those laws impact individuals in terms of delineating what society will and will not accept. These laws also then dictate how police officers are going to conduct business; they determine sentencing guidelines and who's going to be kept in custody. When people get out on probation, that's part of the criminal justice system. Once you've been released from custody, that doesn't mean you've been released from the criminal justice system. If you're on parole or probation, you're still very much connected with the criminal justice system. The criminal justice system ripples through society from top to bottom because when you incarcerate somebody, you're not just affecting them. This criminal justice system is so much bigger than the average citizen realizes and so much more interconnected.

So the criminal justice system is a huge part of our society and a huge amount of your tax dollars are going to support this criminal justice system. Yet most people are really only aware of bits and pieces of it.

1. What is the criminal justice system?

The term 'criminal justice system' is used to describe laws, procedures, professionals, authorities and institutions that apply to witnesses and victims/survivors, and to those alleged as, accused of, or recognized as having committed a criminal offence[1], whether adults or children. The criminal justice system can range from the first contact with the police to release from custody after serving a prison or custodial sentence. Even after release from a prison or custodial sentence there may be a period of probation or supervision during

which the person is still part of the criminal justice system. International human rights law requires states to develop a separate criminal justice system for children (those under 18 years of age). This is known as the justice system for children in conflict with the law (or juvenile justice system).

2. What is the purpose of the criminal justice system?

Although the criminal justice system is determined largely by a country's socio-political and cultural context, in general its purpose is to:

Set and maintain standards of behaviour that are acceptable in the community;
Allow for a peaceful or law-abiding society;
Prevent crime;
Protect society from harm, especially society's most vulnerable members;
Uphold / enforce the law;
Have an authority (police or prosecutors) to investigate crimes/offences;
Deal with those who commit or are accused of committing acts against individuals and society that have been deemed to be crimes;
Have legally established courts to hear evidence against accused persons and to impose a sentence / disposition as prescribed by law;
Provide the accused person the opportunity to be legally represented; to be heard by an independent and impartial person or persons; to challenge the witness/evidence presented against them; to appeal against any finding.
The purpose of the criminal justice system should therefore not be just to arrest, prosecute and punish criminals. The system as a whole should have a greater purpose – to prevent crime and to create a peaceful, law-abiding society.

Actors in the criminal justice system need to balance short term actions with the effect they have on this greater goal in the longer term: "The Committee wishes to emphasize that the reaction to an offence should always be in proportion not only to the circumstances and the gravity of the offence, but also to the age, lesser culpability, circumstances and needs of the child, as well as to the various and particularly long-term needs of the society. A strictly punitive approach is not in accordance with the leading principles for juvenile justice spelled out in article 40 (1) of CRC […]. In cases of severe offences by children, measures proportionate to the circumstances of the offender and to the gravity of the offence may be considered, including considerations of the need of public safety and sanctions. In the case of children, such considerations must always be outweighed by the need to safeguard the well-being and the best interests of the child and to promote his/her reintegration." [3]

For example, arresting and imprisoning a child for stealing food does not address why s/he stole the food in the first place (because they were hungry)

and nor does it prevent him/her from stealing again in the future. In fact it may be more likely that s/he commits a more serious crime in the future which they have learned through negative peer influence in detention. Public safety is therefore being harmed in the longer term. A system that implements international standards which embody prevention, diversion and alternatives to detention over deterrent and punishment is more likely to reduce offending and re-offending and therefore contribute to public safety. This is particularly true when interventions on prevention, diversion and alternatives address the root causes of the offending behaviour, for example through social welfare and family support. Interventions may adopt a restorative justice approach where this is possible and appropriate.

The Mid-Level Module 2- How the Players Work in the System

Below is a basic outline of the sequence of events in the criminal justice process, beginning when the crime is reported or observed. The process may vary according to the jurisdiction, the seriousness of the crime (felony or misdemeanor), whether the accused is a juvenile or an adult, and other factors. Not every case will include all these steps, and not all cases directly follow this sequence. Many crimes are never prosecuted because they are not reported, because no suspects can be identified, or because the available evidence is not adequate for the prosecutor to build a case.

Entry into the System

Report: Law enforcement officers receive the crime report from victims, witnesses, or other parties (or witness the crime themselves and make a report). Investigation: Law enforcement investigates the crime. Officers try to identify a suspect and find enough evidence to arrest the suspect they think may be responsible.

Arrest or Citation: If they find a suspect and enough evidence, officers may arrest the suspect or issue a citation for the suspect to appear in court at a specific time. This decision depends on the nature of the crime and other factors. If officers do not find a suspect and enough evidence, the case remains open.

Prosecution and Pretrial

Charges: The prosecutor considers the evidence assembled by the police and decides whether to file written charges (or a complaint) or release the accused without prosecution.

First Court Appearance: If the prosecutor decides to file formal charges, the accused will appear in court to be informed of the charges and of his or her rights. The judge decides whether there is enough evidence to hold the accused or release him or her. If the defendant does not have an attorney, the court may appoint one or begin the process of assigning a public defender to represent the defendant.

Bail or Bond: At the first court appearance (or at any other point in the process- depending on the jurisdiction) the judge may decide to hold the accused in jail or release him or her on bail, bond, or on his or her"own Recognizance" (OR)," (OR means the defendant promises to return to court for any required

proceedings and the judge does not impose bail because the defendant appears not to be a flight risk). To be released on bail, defendants have to hand over cash or other valuables (such as property deeds) to the court as security to guarantee that the defendant will appear at the trial. Defendants may pay bail with cash or bond (an amount put up by a bail bondsman who collects a non-refundable fee from the defendant to pay the bail). The judge will also consider such factors as drug use, residence, employment, and family ties in deciding whether to hold or release the defendant.

Grand Jury or Preliminary Hearing: In about one-half of the states, defendants have the right to have their cases heard by a grand jury, which means that a jury of citizens must hear the evidence presented by the prosecutor and decide whether there is enough evidence to indict the accused of the crime. If the grand jury decides there is enough evidence, the grand jury submits to the court an indictment, or written statement of the facts of the offense charged against the accused. In other cases, the accused may have to appear at a preliminary hearing in court, where the judge may hear evidence and the defendant is formally indicted or released.

Arraignment: The defendant is brought before the judge to be informed of the charges and his or her rights. The defendant pleads guilty, not guilty, or no contest (accepts the penalty without admitting guilt). If the defendant pleads guilty or no contest, no trial is held, and offender is sentenced then or later. If the defendant pleads not guilty, a date is set for the trial. If a plea agreement is negotiated, no trial is held.

Adjudication (Trial Process)
Plea Agreements: The majority of cases are resolved by plea agreements rather than trials. A plea agreement means that the defendant has agreed to plead guilty to one or more of the charges in exchange for one of the following: dismissal of one or more changes, a lesser degree of the charged offense, a recommendation for a lenient sentence, not recommending the maximum sentence, or making no recommendation. The law does not require prosecutors to inform victims about plea agreements or seek their approval.
Trial: Trials are held before a judge (bench trial) or judge and jury (jury trial), depending on the seriousness of the crime and other factors. The prosecutor and defense attorney present evidence and question witnesses. The judge or jury finds the defendant guilty or not guilty on the original charges or lesser charges. Defendants found not guilty are usually released. If the verdict is guilty, the judge will set a date for sentencing.

Post-Trial

Sentencing: Victims are allowed to prepare for the judge (and perhaps to read at the sentencing hearing) a victim impact statement that explains how the crime affected them. In deciding on a sentence, the judge has a range of choices, depending on the crime. These choices include restitution (paying the victim for costs related to the crime), fines (paid to the court), probation, jail or prison, or the death penalty. In some cases, the defendant appeals the case, seeking either a new trial or to overturn or change the sentence.
Probation or Parole: A judge may suspend a jail or prison sentence and instead place the offender on probation, usually under supervision in the community. Offenders who have served part of their sentences in jail or prison may-under certain conditions-be released on parole, under the supervision of the corrections system or the court. Offenders who violate the conditions of their probation or parole can be sent to jail or prison.

Mid-Level Module 3 – Constitutional Cases

A constitutional ruling is a legal case in the United States in which the United States Supreme Court interprets the Constitution of the United States and makes a ruling that binds all states. It is contrasted with a common law case which sets precedent in federal cases, but is not binding in state cases.

Constitutional law is a body of law which defines the role, powers, and structure of different entities within a state, namely, the executive, the parliament or legislature, and the judiciary; as well as the basic rights of citizens and, in federal countries such as the United States.

A landmark case is a court case that is studied because it has historical and legal significance. The most significant cases are those that have had a lasting effect on the application of a certain law, often concerning your individual rights and liberties.

Marbury v. Madison. Plessy v. Ferguson. Roe v. Wade. Bush v. Gore.

And now, Obergefell v. Hodges.

The Supreme Court's decision on same-sex marriage instantly will enter the pantheon of landmark Supreme Court cases, and for good reason. It settles the major civil rights issue of the early 21st century.

Here' is a look at the court's most famous decisions:

Marbury v. Madison, 1803 (4-0 decision)- Established the Supreme Court's power of judicial review over Congress.

McCulloch v. Maryland, 1819 (7-0 decision) - Established the federal government's implied powers over the states.

Dred Scott v. Sandford, 1857 (7-2 decision) - Denied citizenship to African American slaves.

Plessy v. Ferguson, 1896 (7-1 decision) - Upheld "separate but equal" segregation laws in states.

Korematsu v. United States, 1944 (6-3 decision) - Upheld internment of Japanese Americans during World War II.

Brown v. Board of Education, 1954 (9-0 decision) - Separating black and white students in public schools is unconstitutional.

Linda Smith, the former Linda Brown, stands in front of the Sumner School in Topeka, Kan., on May 8, 1964. The refusal of the public school to admit Brown in 1951, then age 9, because she is black led to the Brown v. Board of Education court case.

Gideon v. Wainwright, 1963 (9-0 decision) - Criminal defendants have a right to an attorney even if they cannot afford one.

New York Times v. Sullivan, 1964 (9-0 decision) - Lawsuits based on libel or defamation must show intent or recklessness.

Miranda v. Arizona, 1966 (5-4 decision) - Prisoners must be advised of their rights before being questioned by police.

Loving v. Virginia, 1967 (9-0 decision) - Invalidated state laws prohibiting interracial marriage.

Roe v. Wade, 1973 (7-2 decision) - Women have a constitutional right to an abortion during the first two trimesters.

United States v. Nixon, 1974 (8-0 decision) - President cannot use executive privilege to withhold evidence from criminal trial.

Regents of the University of California v. Bakke, 1978 (5-4 decision) - Upheld use of race as one of many factors in college admissions.

Bush v. Gore, 2000 (5-4 decision) - No recount of the 2000 presidential election was feasible in a reasonable time period.

Lawrence v. Texas, 2003 (6-3 decision) - Struck down state laws that prohibited sodomy between consenting adults.

District of Columbia v. Heller, 2008 (5-4 decision) - Citizens have a right to possess firearms at home for self-defense.

Citizens United v. Federal Election Commission, 2010 (5-4 decision) - Corporations and unions can spend unlimited amounts in elections.

National Federation of Independent Business v. Sebelius, 2012 (5-4 decision) - Upheld the mandate that most Americans have health insurance.

Shelby County v. Holder, 2013 (5-4 decision) - States and localities do not need federal approval to change voting laws.

United States v. Windsor, 2013 (5-4 decision) - Federal government must provide benefits to legally married same-sex couples.

Obergefell v. Hodges, 2015 (5-4 decision) - Same-sex marriage is legalized across all 50 states.

Mid-Level Module 4 – The Role of Evidence

The term evidence as it relates to investigation, speaks to a wide range of information sources that might eventually inform the court to prove or disprove points at issue before the trier of fact.

Sources of evidence can include anything from the observations of witnesses to the examination and analysis of physical objects. It can even include the spatial relationships between people, places, and objects within the timeline of events. From the various forms of evidence, the court can draw inferences and reach conclusions to determine if a charge has been proven beyond a reasonable doubt.

The law of criminal evidence provide a body of rules which prescribe the ways in which evidence is presented in a criminal trial. The rules also regulate how the prosecution puts its case to the court. Rules of evidence are also there to ensure that the accused has a fair trial.

There are four types of evidence recognized by the courts and we will take a look at them today. The four types of evidence recognized by the courts include demonstrative, real, testimonial and documentary. The first type, demonstrative, is evidence that demonstrated the testimony given by a witness.

Physical evidence is any and all objects that can establish that a crime has been committed or can provide a link between a crime and its victim or perpetrator. ... Physical evidence aids in the solution of a case, provides an element of the crime, such as fear or force, and proves a theory in the case.

Evidence -- crucial in both civil and criminal proceedings -- may include blood or hair samples, video surveillance recordings, or witness testimony. The Federal Rules of Evidence govern the admissibility of evidence in federal trials, but state rules of evidence are largely modeled after the federal rules.

What If Evidence Is Considered Inadmissible? If an item of evidence is considered inadmissible, it means that it can't be used in court during trial as evidence against the accused. An example of this is where a witness statement is considered irrelevant because it doesn't prove or disprove any facts in the case.

Usually a written statement has to be notarized in order to be used in court. However, if there is a trial then the person would have to be present to testify and be cross-examined by the other side.

The strongest type of evidence in formal writing is statistical evidence. This ranges from true, hard data presented as a percentage or number, to survey-type data.

Physical evidence refers to any item that comes from a nonliving origin, while biological evidence always originates from a living being. The most important kinds of physical evidence are fingerprints, tire marks, footprints, fibers , paint, and building materials.

The four characteristics used to help ensure evidence is legally admissible in court are Authenticate, Hearsay, Relevant or Privileged (Pendleton, 2013).

Evidence that is formally presented before the trier of fact (i.e., the judge or jury) to consider in deciding the case. The trial court judge determines whether or not the evidence may be proffered.

Hearsay evidence is not admissible in court unless a statue or rule provides otherwise. Therefore, even if a statement is really hearsay, it may still be admissible if an exception applies. ... Generally, state law follows the rules of evidence as provided in the Federal Rules of Evidence, but not in all cases.

Circumstantial evidence is evidence that relies on an inference to connect it to a conclusion of fact—such as a fingerprint at the scene of a crime. By contrast, direct evidence supports the truth of an assertion directly—i.e., without need for any additional evidence or inference.

The notion that one cannot be convicted on circumstantial evidence is, of course, false. Most criminal convictions are based on circumstantial evidence, although it must be adequate to meet established standards of proof.

Search and Seizure of Evidence

In order for items of physical evidence to be accepted by the court as exhibits, each item of evidence must meet the test of having been searched for and seized using the correct lawful authorities. There are a number of ways in which items of evidence may be legally searched for and seized.

Investigators may search for and seize or receive items of evidence:
By consent of the person being searched
On authority of a search warrant
As part of a search incidental to the lawful arrest of a suspect
As part of a safety search incidental to the lawful detention of a suspect
Under the doctrine of evidence in plain view at a lawfully entered crime scen

Mid-Level Module 5 – What is Common Law

The Common law applies only to civil cases. England is the origin of the common law that exists in the U.S.. The English common law originated in the early middle ages in the King's Court (Curia Regis) and eventually led to the formulation of various viable principles through which it continues to operate.

Common law is defined as a body of legal rules that have been made by judges as they issue rulings on cases, as opposed to rules and laws made by the legislature or in official statutes. An example of common law is a rule that a judge made that says that people have a duty to read contracts.

Common law, also called Anglo-American law, the body of customary law, based upon judicial decisions and embodied in reports of decided cases, that has been administered by the common-law courts of England since the Middle Ages.

From it has evolved the type of legal system now found also in the United States and in most of the member states of the Commonwealth formerly the British Commonwealth of Nations. In this sense common law stands in contrast to the legal system derived from civil law..

The Origin Of The Common Law

The English common law originated in the early Middle Ages in the King's Court, a single royal court set up for most of the country at Westminster, near London. Like many other early legal systems, it did not originally consist of substantive rights but rather of procedural remedies. The working out of these remedies has, over time, produced the modern system in which rights are seen as primary over procedure. Until the late 19th century, English common law continued to be developed primarily by judges rather than legislators.

The common law of England was largely created in the period after the Norman Conquest of 1066. The Anglo-Saxons, especially after the accession of Alfred the Great (871), had developed a body of rules resembling those being used by the Germanic peoples of northern Europe. Local customs governed most matters, while the church played a large part in government. Crimes were treated as wrongs for which compensation was made to the victim.

The Norman Conquest did not bring an immediate end to Anglo-Saxon law, but a period of colonial rule by the mainly Norman conquerors produced change. Land was allocated to feudal vassals of the king, many of whom had joined the conquest with this reward in mind. Serious wrongs were regarded mainly as

public crimes rather than as personal matters, and the perpetrators were punished by death and forfeiture of property. The requirement that, in cases of sudden death, the local community should identify the body as English ("presentment of Englishry")—and, therefore, of little account—or face heavy fines reveals a state of unrest between the Norman conquerors and their English subjects. Government was centralized, a bureaucracy built up, and written records maintained. Controversy exists regarding the extent to which the efficient government of the Anglo-Norman realm was due to the legacy of Anglo-Saxon institutions or to the ruthlessness of the Norman invaders. Elements of the Anglo-Saxon system that survived were the jury, ordeals (trials by physical test or combat), the practice of outlawry (putting a person beyond the protection of the law), and writs (orders requiring a person to appear before a court; see below The development of a centralized judiciary). Important consolidation occurred during the reign of Henry II (1154–89). Royal officials roamed the country, inquiring about the administration of justice. Church and state were separate and had their own law and court systems. This led to centuries of rivalry over jurisdiction, especially since appeals from church courts, before the Reformation, could be taken to Rome.

Modern common law is developed by judges through decisions of courts and similar tribunals also called case law, rather than through legislative statues or executive branch action. The body of precedent is called common law and future decisions are bound by it.

Is common law used today?

Yes, the US is still a common law country. ... As for relevance, much of what developed under English common law is still being used today. A lot of the various writs (e.g., habeas corpus, mandamus, attachment, replevin, etc.) are still in use in the courts today.

Judge-made law – known as common law – is law that has developed from judgments handed down in court. It is most often used to make decisions about areas that are not included in Acts of Parliament. When using common law judges decide cases along the lines of earlier decisions made in similar cases ('p

Mid-Level Module 6 – What is Roman Law

The basis for Roman law was the idea that the exact form, not the intention, of words or of actions produced legal consequences. Romans recognized that there are witnesses to actions and words, but not to intentions.

Many aspects of Roman law and the Roman Constitution are still used today. These include concepts like checks and balances, vetoes, separation of powers, term limits, and regular elections.

The Twelve Tables aka Law of the Twelve Tables was a set of laws inscribed on 12 bronze tablets created in ancient Rome in 451 and 450 BCE. They were the beginning of a new approach to laws where they would be passed by government and written down so that all citizens might be treated equally before them. Although not perhaps a fully codified system, it was a first step which would allow the protection of the rights of all citizens and permit wrongs to be redressed through precisely-worded written laws known to everybody. Consequently, the Roman approach to law would later become the model followed by many subsequent civilizations right up to the present day.

Most important of all, Roman Law will have great significance in regard to the formation of uniform legal rules which further the process of political integration in Europe. Roman Law is the common foundation upon which the European legal order is built.

Roman Law is the basis of the democracy that we have today in America. Rome was a centralized powerful government and passed laws that still kept the universally moral basis of right and wrong such as the 10 commandments, because of their Catholic Churches. This is what our Founding Fathers also kept when the legislation of America was created over 200 years ago. In the same way, the Roman Empire had levels of authority like the pope, archbishop, emperor just like we have a judicial branch, President, or senate. We have just improved on our government by balancing power.

There were three broad categories of Roman law. The ius civile was the law which emanated from statutes (leges), plebiscites, decrees of the senate, enactments of the emperor and from the authority of the jurists, and originally was the body of law that applied to the citizens of Rome. The ius gentium referred both to the body of law that applied to 'foreigners' in their engagement with the citizens of Rome and to the law governing the relations of Rome with other states. The ius commune was the general law common to all, the law which was binding on all peoples, including Roman citizens.

Liber Primus: Tit. I. De Justitia et Jure

Justice is the constant and perpetual wish to render everyone his due.

1. Jurisprudence is the knowledge of things divine and human: the science of the just and the unjust.

2. The maxims of the laws are these: to live honestly, to hurt no one, to give everyone his due.

3. The study of law is divided into two branches; that of public and that of private law. Public law is that which regards the government of the Roman Empire; private law, that which concerns the individuals. We are now to treat of the latter, which is composed of three elements, and consists of precepts belonging to natural law, to the law of nations and to the civil law.

As stated, the expression of this law in turn influenced the natural law doctrines of the medieval Roman Catholic Church and what have been described as 'secularised' natural law theories. In his De Legibus, Cicero writes: True law is right reason in agreement with nature, diffused among all men; constant and unchanging, it should call men to their duties by its precepts, and deter them from wrongdoing by its prohibitions ….

Every community governed by laws and customs uses partly its own law, (the civil law — the law of the particular state) and partly laws common to all mankind.5
Ius gentium referred to the law of nations and also to the laws common to all mankind. These were human-made laws but, as stated, "common to all mankind". Today, we would designate ius gentium as (in part) 'international law'. Rules of diplomacy and state relations were governed by the ius gentium. Laws relating to commercial trade and commercial practices were also comprised in the ius gentium — what we call private international law today.

The Roman law of 'things' (res) — economic assets — was divided into the law of property (that is, 'things' in a restricted sense), the law of succession and the law of obligations. Today, this division of the law is a cardinal feature of the modern civil law.

The law of sale is set out in Justinian's Institutes (Liber Tertius, Tit. XXII De Consensu Obligatione). The Romans became great merchants — men of business — and built a business empire which required law to regulate their transactions. This extract below from the Institutes refers to the law of obligations:

Obligations are formed by the mere consent of the parties in the contracts for sale, or letting to hire, of partnership, and of mandate. An obligation is, in these cases, said to be made by the mere consent of the parties; because there is no necessity for any writing, nor even for the presence of the parties; nor is it requisite that anything should be given to make the contract binding, but the mere consent of those between whom the transaction is carried on suffices.
'Reception' or 'revival' of Roman law

The noted teacher Irnerius (c.1055-c.1130), who taught at Bologna, expounded the Corpus Juris Civilis clause by clause. Irnerius, his peers and his successors became known as the 'Glossators'. Roman law became a popular subject of study at the universities of Italy.

Roman law and the common law

Julius Caesar arrived in Britain in 53 BC. Britain was a Roman province for three and a half centuries. Many thousands of Roman soldiers were garrisoned in Britain over that time. The Roman soldiers were withdrawn c.410 AD because they were required to defend bases in Italy against invasions.

Latin, for a time, was the language of official documents in England and in the courts. It would only be natural then that there would have been a Roman law influence on early English law. Dr. Perch H. Winfield has acknowledged that in the context of land law, the grants of land to private individuals 'unclogged' by the native 'folkright' can be linked to the Roman conception of ownership.10 It has also been argued that the law of wills probably had a Roman origin by way of ecclesiastical law.11

Legal scholars now have come to the conclusion that the concept of trial by jury, long regarded as of Anglo-Saxon origin, is in fact of Roman origin.12

The common law that shaped American law and what are described as other common law jurisdictions contains many principles that have a Roman law origin. The statement "by natural law all men are equal" is from the pen of Ulpian, a noted jurist whose major legal texts date from c.211 to 222 AD; another notable principle from Ulpian is the celebrated concept expressed in the words 'justice is the constant and perpetual wish to render everyone his due'. The maxim and legal concept of volenti non fit injuria (the voluntary assumption of risk) is again another principle of law direct from Ulpian. A significant amount of the writings of Ulpian were 'codified' in Justinian's Institutes.

There are other more specific contributions that Roman law made to the law of England — the home of the common law. The principles enshrined in what is

termed Habeas Corpus — a remedy where a person is detained unlawfully — and several principles of the law of torts are of Roman origin. The fundamental right encapsulated in the expression "every man's house is his castle", although claimed to be of Anglo-Saxon origin, is of Roman origin. Justinian's Digest prohibits forcing a man from his house and compelling him to court without lawful justification — a principle articulated by Cicero.13

There is considerable evidence that the advent of Christianity and the new religion's association with Rome and the Canon Law had a significant impact on the development of native 'law' in Britain. Pope St. Gregory the Great, "a Roman of the Romans", sent St. Augustine to Britain in 595 AD where he established his episcopal seat at Canterbury (597 AD). St. Augustine and his monks were familiar with the Justinian law. For the clergy the law was the canon law, influenced and intertwined with Roman law. The law was frequently committed to paper by the regal authorities in the pre-Norman period by those familiar with the Roman codifications.

Basic principles of American law like English law have Roman origins — such as the law of "adverse possession, bailments, carriers and innkeepers, contracts, the descent of property, easements, legacies and wills, guardianship, limitation of actions, marriage, ownership and possession, conveyances, sales trusts, warranties, partnerships, and mortgages.

Roman law was not confined in its genesis to the City of Rome or the Italian peninsula but to the genius of minds from many lands, and it has left a great legacy in the legal systems of the world. The Emperor Justinian, building on earlier jurists, codified in a structured written form a sophisticated system of law by means of the Digest, Institutes and Codex. This codified system of law has influenced most of the civil law around the world. The concepts inherent in the legal order comprised in the ius naturale and ius gentium, intended to extend beyond national borders, are today the cornerstones of human rights law and international law throughout the world. The influence of Roman law on the development of the common law is equally undeniable.

Mid-Level Module 7 – How Law Changed

Society changes over time and so the views and values of its citizens. Law reform is the process of changing and updating laws so that they reflect the current values and needs of modern society. ... Some of the ways that society changes, generating a possible need for law reform, include: Changing social values.

The main function of the law is to ensure social cohesion, and to allow individuals to live together in peace. In theory, social cohesion will only exist when people recognise the authority of the law. Therefore, as society changes, so too must the law in order to maintain cohesion. There are a number of social, cultural, economic and political changes, which lead to the need for a change in the law.

Changing community values
As the values of society change, so too must the law. Otherwise, the law does not reflect the society it governs. For instance, the "Family Law Act 1975" was introduced partially to make divorce more accessible to married couples, in response to shifting community values towards divorce. This Act repealed the "Matrimonial Causes Act 1959", which required proof that one or both parties were at fault for the dissolution of the relationship. These grounds for divorce were covered under section 28, and included reasons such as adultery, criminal activity, or failing to consummate the marriage.

Changing expectations of the legal system
Historically, communities have expected the law to regulate behaviour. Recently, these expectations have expanded. For instance, federal and state parliaments have introduced legislation to protect people, and ensure their safety, rather than regulate them. Compulsory bike helmets, seatbelts in cars, and restrictions on smoking in public places and using mobile phones while driving are all examples of the law assuming a more protective role.

Changes in community awareness
People are arguably more aware of their rights and responsibilities now than in the past. Therefore, they are likely to question law and demand change. In order to accommodate a perceived increased awareness, governments have established new methods of dispute resolution and new avenues of legal assistance.

Changes in technology
The law needs to change to meet demands made by the emergence of new technology. State governments need to regulate the use of these technologies to protect the rights of others. For instance, the development of digital cameras led to the Upskirting Amendment Act (2007).

Law is changed in one of two ways - through legislative action to pass new laws that amend, create, or remove existing laws; or through judicial action that changes the way that laws are interpreted, applied, or whether or not they are enforceable, in part or in whole.

Social norms, those unwritten rules of acceptable behavior, can change over time, such as Americans' attitudes toward gay marriage and marijuana legalization. ... While laws that conflict with norms are likely to go unenforced, laws that influence behavior can change norms over time.

How are laws changed in the US?

A bill can be introduced in either chamber of Congress by a senator or representative who sponsors it. Once a bill is introduced, it is assigned to a committee whose members will research, discuss, and make changes to the bill. The president can approve the bill and sign it into law or not approve (veto) a bill

What law would you change and why?

Mid-Level Module 8 – Knowing Your Rights

Law enforcement officers in Florida must treat everyone fairly, regardless of race, ethnicity, national origin or religion.

YOUR RIGHTS

You have the right to remain silent. You do not have to answer questions about where you were born, whether you're a U.S. citizen, or how you entered the country. (Separate rules apply at international borders and airports.)
You are only expected to identify yourself to Florida law enforcement officers (police officers and Sheriff's deputies, not immigration or FBI agents) when you are stopped on suspicion of a crime or a traffic violation. If you don't have identification documents, you may choose to remain silent.
You have zero obligation to provide your name or "show your papers" to an ICE officer for any reason.

If you choose to volunteer information about your legal immigration status (i.e. " am a permanent resident or I am here on a temporary visa,, you have the option to only do so when you are carrying your papers and ready to show them.

YOUR RESPONSIBILITIES

Keep calm.
Do not interfere with the police or obstruct them.
Do not tell lies or give false documents.
Prepare yourself and your family in case you are arrested.
Remember the details of the incident.
Prepare a written complaint or call your local ACLU if you think your rights have been violated.
If you're over 18, you're not a U.S. citizen, and you have valid immigration documents, you must carry them with you at all times. If you don't have valid immigration papers, you may choose to remain silent.

IF YOU ARE STOPPED AND QUESTIONED

Keep calm. Do not run. Do not argue, resist or obstruct the officer, even if you are innocent and the police are violating your rights. Always keep your hands where the officer can see them.

Ask if you are free to leave. If the officer says yes, move calmly and quietly. If you are arrested, you have the right to know why.

You have the right to remain silent and cannot be punished for refusing to answer questions. If you want to remain silent, tell the officer out loud. But note that you are expected to identify yourself to Florida law enforcement officers when you are stopped on suspicion of a crime or a traffic violation.

You are not required to give permission to have your person or belongings searched. Officers can search your person if they suspect you have a weapon. You must not resist physically, but you have the right to refuse a search. If you consent, this can harm you later in court.

IF YOU'RE STOPPED IN YOUR VEHICLE

Stop the vehicle in a safe place as soon as possible. Turn off the car, turn on the interior light, open the window a little and place your hands on the steering wheel. If you are requested, show the police your driver's license, registration and proof of insurance. If you are not in possession of the required documents, you may choose to remain silent.

If an officer asks to search the inside of your car, you can deny this request. However, if the officer believes that your car contains evidence of a crime, they can conduct a search without your permission.

Both the driver and passenger(s) have the right to remain silent. If you are a passenger, you can ask if you are free to leave. If the officer says yes, remain seated in silence or leave calmly. Even if the officer says no, you have the right to remain silent.

IF THE POLICE OR IMMIGRATION AGENTS ARRIVE AT YOUR HOME

If officers arrive at your house, you do not have to let them in unless they have certain types of court orders.

Ask the officer to pass the court order under the door or hold it at the door window for you to review. A search warrant allows law enforcement officers to enter the address indicated in the order, but officers can only search the area for the items that are mentioned in the order. An arrest warrant allows officers to enter the house of the person indicated in the order, if they believe the person is inside. Deportation / removal orders and "ICE warrants" do not allow immigration agents to enter your home without your permission.

Even if the agents or officers have a court order, you have the right to remain silent. If you choose to speak with them, leave and close the door.

YOUR RIGHT TO REMAIN SILENT

If you're under arrest and you wisely choose to remain silent at least until you have a chance to consult a lawyer, you should tell that to your interrogator. If you just keep your mouth shut and say nothing, the police can legally continue to question you, and if they do, you might eventually say something you later regret. (Somewhat ironically, the general rule is that you have to say something to claim your right to remain silent.) However, you don't have to use a precise set of words to invoke your Miranda rights. After an officer gives you a Miranda warning, you can stop the questioning by saying something like:
"I don't want to talk to you; I want to talk to an attorney."
"I refuse to speak with you."
"I invoke my privilege against self-incrimination."
"I claim my Miranda rights

IF YOU ARE ARRESTED

Do not resist arrest, even if you think it is an unfair arrest.

Say you want to remain silent and ask for a lawyer immediately. Do not give any explanation or pretext. If you cannot pay for a lawyer, and you have been arrested on suspicion of a crime, one will be provided for you. If you have been arrested for immigration / deportation proceedings, a lawyer will not be provided, but you have the right to hire a lawyer; ask for a list of pro bono legal services providers. Do not say anything, sign anything or make any decision without a lawyer.

You have the right to make one local call. Law enforcement officers may not listen to your conversation if you request to call a lawyer, unless you consent; if you are being held for immigration / deportation proceedings, ask explicitly for a phone that is not monitored.

Prepare yourself and your family in case you are arrested. Memorize the phone numbers of your family and your lawyer. Make emergency plans if you have children or need to take a medication.

Special considerations for people who are not citizens:

Ask your lawyer about the impact on your immigration status, if you receive a criminal conviction or are considering pleading guilty to the charges.
Do not talk about your immigration status with anyone except your lawyer.

Mid-Level Module 9 – Defending Your Rights

What happens if the government violates the Constitution?

If police violate your civil rights by refusing to show you the search warrant, you can protest their action in court, and could possibly have charges dropped or dismissed altogether. ... They may seize other evidence if found in the course of a lawful search, but may not do so if they have overstepped their bounds. When one of these (laws, procedures, or acts) directly violates the constitution, it is unconstitutional. All the rest are considered constitutional until challenged and declared otherwise, typically by courts through judicial review.

The Supreme Court ruled that state judges may be sued for civil rights violations and may be ordered to pay the lawyers' fees of those who sue them successfully. ... The decision written by Associate Justice Harry A. Blackmun, retained the bar against suits for damages.

If one's human right has been violated, once can approach the Commission on Human Rights. CHR is an independent agency that investigates all concerns relating to human rights violations both civil and political rights.

Penalties - Federal civil rights violations can carry stiff penalties for violations that result in bodily injury and they are punishable by up to ten years in federal prison. If death results, then the crime is punishable by the death penalty or life imprisonment.

Color of law refers to an appearance of legal power to act that may operate in violation of law. For example, if a police officer acts with the "color of law" authority to arrest someone, the arrest, if it is made without probable cause, may actually be in violation of law.

The Civil Rights Act of 1871 is a federal statute, numbered 42 U.S.C. § 1983, that allows people to sue the government for civil rights violations. It applies when someone acting “under color of” state-level or local law has deprived a person of rights created by the U.S. Constitution or federal statutes.

The First Amendment to the Constitution protects five basic freedoms: freedom of religion, freedom of speech, free- dom of the press, freedom of assembly, and freedom to petition the government. These civil liberties are the cornerstone of our democracy.

Is violation of civil rights a felony?
The offense is always a felony, even if the underlying conduct would not, on its own, establish a felony violation of another criminal civil rights statute. ... Section 241 is used in Law Enforcement Misconduct and Hate Crime Prosecutions.

One of the requirements for a Section 1983 lawsuit to succeed is that plaintiff must prove the defendant was acting under color of law. One of the requirements for a Section 1983 lawsuit to succeed is that plaintiff must prove there was a violation of a right given by the Constitution or by federal law.

The Supreme Court has also held that, similar to tort law, PUNITIVE DAMAGES are available under section 1983 (Smith v. Wade, 461 U.S. 30, 103 S. Ct. 1625, 75 L. Ed. As in tort law, the judge has the right to overturn a jury verdict if the jury awards what the judge considers to be excessive punitive damages.

If you believe that a protected right was violated, you likely have a number of options available to you including: resolving the matter through informal negotiations, filing a claim with the government, and filing a private lawsuit in civil court.

Mid-Level Module 10 – Review and Tie Downs for Mid-level Law

Open discussion for student review, assessment and application of Mid-level law lessons. Discussion how students feel they are now more prepared to know the law and use the knowledge of law in everyday life.

Advanced Module 1 – Blacks Law Dictionary

Excerpt from Blacks Law Dictionary:

What is LAW?
1. That which is laid down, ordained, or established. A rule or method according to which phenomena or actions coexist or follow each other. 2. A system of principles and rules of human conduct, being the aggregate of those commandments and principles which are either prescribed or recognized by the gov- erning power in an organized jural society as its will in relation to the conduct of the members of such society, and which it undertakes to maintain and sanction and to use as the criteria of the actions of such members. "Law" is a solemn expression of legislative will. It orders and permits and forbids. It announces rewards and punishments. Its provisions generally relate not to solitary or singular cases, but to what passes in the ordinary course of affairs. Civ. Code La. arts. 1. 2. "Law," without an article, properly implies a science or system of principles or rules of human conduct, answering to the Latin "jus;" as when it is spoken of as a subject of study or practice. In this sense, it includes the decisions of courts of justice, as well as acts of the legislature. The judgment of a competent, court, until reversed or otherwise superseded, is law, as much as any statute. Indeed, it may happen that a statute may be passed in violation of law, that is, of the fundamental law or constitution of a state; that it is the prerogative of courts in such cases to declare it void, or, in other words, to declare it not to be law. Rurrill. 3. A rule of civil conduct prescribed by the supreme power in a, state. 1 Steph. Comm. 25; Civ. Code Dak.

Why is it called Black's Law Dictionary?
Black's Law Dictionary is, as the name implies, a book of legal definitions. The definitions are largely culled from decided cases. Corpus Juris Secundum (which is Latin for "Second Body of the Law"— its predecessor was known as Corpus Juris) is an encyclopedia containing entries on legal subjects.

If you are involved in politics, sooner or later someone will prove his point by quoting to you a line from Black's Law Dictionary, Corpus Juris Secundum, or a similar source.

Black's Law Dictionary is, as the name implies, a book of legal definitions. The definitions are largely culled from decided cases. Corpus Juris Secundum (which is Latin for Second Body of the Law — its predecessor was known as Corpus Juris) is an encyclopedia containing entries on legal subjects. Another widely-used encyclopedia is American Jurisprudence 2d.

Excerpts of Black's Law Dictionary free online pdf will be printed and available for class.

Advanced Module 2 – The Constitution

The authors of the Constitution were heavily influenced by the country's experience under the Articles of Confederation, which had attempted to retain as much independence and sovereignty for the states as possible and to assign to the central government only those nationally important functions that the states could not handle individually. But the events of the years 1781 to 1787, including the national government's inability to act during Shays's Rebellion (1786–87) in Massachusetts, showed that the Articles were unworkable because they deprived the national government of many essential powers, including direct taxation and the ability to regulate interstate commerce. It was hoped that the new Constitution would remedy this problem.

The Constitution concisely organizes the country's basic political institutions. The main text comprises seven articles. Article I vests all legislative powers in the Congress—the House of Representatives and the Senate. The Great Compromise stipulated that representation in the House would be based on population, and each state is entitled to two senators. Members of the House serve terms of two years, senators terms of six. Among the powers delegated to Congress are the right to levy taxes, borrow money, regulate interstate commerce, provide for military forces, declare war, and determine member seating and rules of procedure. The House initiates impeachment proceedings, and the Senate adjudicates them.

Article II vests executive power in the office of the presidency of the United States. The president, selected by an electoral college to serve a four-year term, is given responsibilities common to chief executives, including serving as commander in chief of the armed forces, negotiating treaties (two-thirds of the Senate must concur), and granting pardons. The president's vast appointment powers, which include members of the federal judiciary and the cabinet, are subject to the "advice and consent" (majority approval) of the Senate (Article II, Section 2). Originally presidents were eligible for continual reelection, but the Twenty-second Amendment (1951) later prohibited any person from being elected president more than twice. Although the formal powers of the president are constitutionally quite limited and vague in comparison with those of the Congress, a variety of historical and technological factors—such as the centralization of power in the executive branch during war and the advent of television—have increased the informal responsibilities of the office extensively to embrace other aspects of political leadership, including proposing legislation to Congress.

Article III places judicial power in the hands of the courts. The Constitution is interpreted by the courts, and the Supreme Court of the United States is the final court of appeal from the state and lower federal courts. The power of American courts to rule on the constitutionality of laws, known as judicial review, is held by few other courts in the world and is not explicitly granted in the Constitution. The principle of judicial review was first asserted by Supreme Court Chief Justice John Marshall in Marbury v. Madison (1803), when the court ruled that it had the authority to void national or state laws.

The framers of the Constitution were especially concerned with limiting the power of government and securing the liberty of citizens. The doctrine of legislative, executive, and judicial separation of powers, the checks and balances of each branch against the others, and the explicit guarantees of individual liberty were all designed to strike a balance between authority and liberty—the central purpose of American constitutional law.

Class discussion how well they have limited power of government?

Do think current government needs limits? If so, why and what?

Advanced Module 3 – Rules of Criminal Procedure

The rules of criminal procedure are extremely important to defendants because they are designed to guarantee constitutional due process to those individuals charged with a crime. Criminal convictions can carry severe consequences, including: Paying steep fines and court costs.

1. Meet Your Deadlines

Once you file the necessary papers to begin a lawsuit, you will face several deadlines—for everything from requesting a jury trial (as opposed to a court trial in front of a judge) to telling your opponent the witnesses you plan to call at trial. Most courts have local rules posted on the court's website. The rules will tell you everything you must do before the trial. Make careful note of these deadlines and make sure that you meet every one. The judge won't give you any leeway just because you are representing yourself—and missing a crucial deadline could result in you receiving a monetary sanction, not being able to present evidence or testimony, or your case being thrown out of court.

2. Choose a Judge or Jury Trial

Certain types of cases can be heard only by judges—such as small claims cases. In most instances, however, either party has the right to request a jury trial. An attorney will usually choose a jury for a sympathetic case and a judge for a case involving complicated law or disturbing facts. The thought is that a judge is in a better position to apply the law in an unbiased manner. Even so, most people representing themselves will have an easier time presenting a case in front of a judge than a jury—primarily because jury trials are more complicated because of the voir dire process used to select jurors. However, if your opponent requests a jury trial, you'll have to deal with a jury, whether you want one or not. If you want a jury, you must alert the court in advance and deposit jury fees. Consult the court's local rules for the deadline to do so and the fee amount.

3. Learn the Elements of Your Case

You won't win a lawsuit by simply striding into the courthouse and demanding money from your opponent. Each type of legal claim has several "elements" that you'll need to prove to win. It's an all or nothing proposition. If you fail to prove an element, you'll lose. For example, in a contract dispute, you must prove that a contract existed, that you held up your end of the bargain, that your opponent failed to meet his or her contractual obligations, and that you were harmed as a result. You'll want to plan carefully making sure that you can prove every element of your case—or, if you are defending yourself against a

lawsuit, making sure that you can disprove at least one element of your opponent's case. One of the easiest ways to find the elements is by reviewing jury instructions. Jury instructions are simple statements of the law that the judge will read to the jury so the jury knows the elements that you must prove, too. Each state has a set of civil and criminal jury instructions. Look through the table of contents to find your cause of action.

4. Make Sure Your Evidence Is Admissible

Once you know the elements you'll have to prove to win your case, you can figure out what types of evidence will help you prove each key fact. However, not every kind of evidence can be presented in a courtroom. Complicated rules of evidence determine whether a particular document, statement, or item is admissible in court. Although you don't have to master every detail of these rules, you should do enough research to make sure that you'll be able to present the evidence you need to win.

5. Prepare a Trial Notebook

During your trial, you'll probably testify, question witnesses (both those who support you and those who support your opponent), and present arguments about why you should win the case. To keep track of the questions you want to ask, the points you want to make in your argument, and the facts you have to prove to win the case, put together a trial notebook. You can use a simple three-ring binder with tabs for each section.

6. Learn the Ropes

Lawyers spend years learning how to question witnesses, present evidence, and make arguments in court. Before you make your courtroom debut, you should learn the basic procedures and rules of the courtroom and how to prove your case. You might find some information in the court's local rules, but the information will likely be limited to pretrial evidentiary disclosure. You'll have to look elsewhere for help on presenting your case. The self-help book Represent Yourself in Court, by Paul Bergman, and Sara Berman (Nolo) explains how to handle every step in a civil trial.

7. Watch Some Trials

Before your case comes up for trial, go down to the courthouse and sit in on a couple of trials involving similar issues. You'll see how to present your story and your evidence to the judge. This is especially helpful if you want to learn what to expect in a small claims trial. Because of the expedited process, you'll be able to watch several trials within an hour or so. Other trials can take days or weeks to

see to completion, so you might want to sit in on portions of several trials throughout the day. When you know what to expect, you'll be much more relaxed about your trial.

8. Be Respectful

A little respect goes a long way in the courtroom, particularly when you are representing yourself. Address the judge as "your honor," not as "Judge Smith" or "Mr. Smith." Try your best to be polite to your opponent, not demeaning or petty. Showing respect for people and procedures in the courtroom will help you gain the respect of the judge, which will make your day in court a more pleasant experience.

9. Don't Interrupt

It can be tough to sit quietly while your opponent, your opponent's lawyer, or—worst of all—the judge makes light of your arguments or implies that you aren't telling the truth. But no matter how frustrated you get, you shouldn't interrupt—especially not the judge. You'll get a chance to tell your side of the story. Remember, calm people are more believable, so it benefits you to keep your cool.

10. Assert Yourself

If you find yourself up against a lawyer who won't stop rattling off legal citations or won't let you get a word in edgewise, you'll have to stand up for yourself. Tell the judge that you are representing yourself without a lawyer because you can't afford or justify the expense and that you'll rely on the judge to apply the correct law and reach the right conclusions. Many judges will make an effort to keep the proceedings comprehensible to a self-represented party—and will take steps to rein in an opposing lawyer who tries to take unfair advantage.
If you're representing yourself in a small claims action, Everybody's Guide to Small Claims Court by attorney Cara O'Neill provides practical advice for every step of the process.

Advanced Module 4 – What is a Pre-Trial Motion

The purpose of the Pretrial Motion is to have the prosecutor and the criminal defense team appear before a criminal court judge and present arguments and certain evidence that should be kept out of the actual trial. ... In some instances the case may be entirely dismissed through the use of a pretrial motion.

The majority of pretrial motions are requests to admit or exclude certain evidence at trial, but the aim of a motion to dismiss is to stop the criminal prosecution altogether. For a criminal defendant, getting a motion to dismiss granted is the best case scenario—it means beating the case without having to go to trial.

A pretrial hearing is a meeting between parties to a case that happens prior to the beginning of a trial. ... Pretrial hearings help to clear up any issues and administrative details that can be handled prior to trial, which then frees the parties up to focus on the real legal issues of the case without the distraction.

A typical prelim may take from a half hour to two hours, and some prelims only last a few minutes. Preliminary hearings are conducted in front of a judge alone, without a jury. Trials can also be conducted by judges alone, when the defe After the preliminary hearing and before a criminal case goes to trial, the prosecutor and the defense team usually appear before a criminal court judge and make pre-trial motions -- arguments that certain evidence should be kept out of the trial, that certain persons must or cannot testify, or that the case should be ...

Some common pretrial motions are:
motion to suppress (evidence or testimony)
motion to compel (production of evidence or testimony)
motion for a change of venue (trial location), and.
motion to dismiss (charges or the case).

There are a variety of pre-trial motions available for each party in a civil cause of action. ... Motions in Limine: Is a motion filed by a party to the lawsuit which asks the court for an order to rule out or prevent certain evidence from being presented by the other side at trial.

The purpose of the Pretrial Motion is to have the prosecutor and the criminal defense team appear before a criminal court judge and present arguments and certain evidence that should be kept out of the actual trial.

Types of pleadings (Rule 202). Pleadings include any application, complaint, petition, protest, notice of protest, answer, motion, and any amendment or withdrawal of a pleading.

An omnibus pre-trial motion is a preliminary motion. The defense attorney preserves the right to litigate various motions before your trial. You need to talk to your lawyer about your case.

Inclusionary - A motion asking the court to have something included in the trial. Exclusionary - A motion asking the court to have something excluded in the trial. Preclusionary - A motion asking the court to have something precluded in the trial.

If a Motion to Dismiss is granted on all claims, the case is ended, and the defendant wins. A case can be dismissed with prejudice or without prejudice. When a case is dismissed with prejudice, it means the plaintiff cannot file the same case against the same defendant again.

A motion is a written request to the court to ask for a decision. ... Either side in a case can file a motion. Motions are filed with the clerk of the court where your case is being heard and are decided by a judge at a motion hearing. a notice of motion lets the other side know that you filed a motion with the court.

Advanced Module 5 – How to Write a Motion

1. Make an Outline

You wouldn't start constructing a building without a plan, and neither should you begin to write a motion without outlining what you want to say first. A detailed outline is a great way to focus your argument and improve its presentation.

When outlining a motion, I ask two important questions: what do I want to prove, and what do I want the judge to do? If you can answer those questions clearly, you're half-way home already.

Some modern case management solutions even allow for processes like these to be standardized as button-triggered workflows. With that kind of automation in place, attorneys can streamline their writing processes and focus on quality.

2. Keep Your Motion Simple

Motions should be simple. There's no need to channel your "inner-Jefferson" here. You're trying to write a motion, not declare national independence.

Judges are usually highly-intelligent and well-read, and they've heard hundreds if not thousands of legal arguments. Don't waste their time with highfalutin phrases and five-dollar words—it won't impress.

Don't go overboard with extreme or frivolous claims, either. Judges are busy people and are not noted for their patience or their sense of humor. Keep your arguments simple and straight-forward so that the judge doesn't have to struggle for understanding while reading your motion.

3. Maintain Credibility

It's crucial that you come across as credible. Credibility once lost is difficult to recover. You will develop and maintain professional credibility by accurately stating and representing case law; failure to do so will sink you faster than anything else.

Judges read the opposing attorney's filings as well and will be sure to contrast your presentation and arguments with the opposition's. So whenever you set out to write a motion, make sure it could only improve your credibility before you submit it.

To this end, the importance of maintaining an organized and accessible caseload can't be overstated. Always check the details of your motion against the facts and development of the involved case. Cloud-writing tools like Filevine's Edit-in-Place feature are great for applying needed edits to a previously uploaded motion.

4. Mind Your Citations

You will be citing holdings or statutes buttressing your position. It's best if the holdings and statutes come from the jurisdiction in which you're trying the case. It's even better if you can cite one or more of your judge's own decisions in support of your motion. In this instance, subtle flattery is appropriate.

Make certain your citations are up-to-date and not overruled or reversed. Careless citations tell the judge that you didn't take the time to verify your sources. Relying on incorrect or outdated case law is a quick way to your motion being rejected.

I've seen this happen when a local magistrate asked an attorney if he was "aware that the ordinance in question" was no longer in effect—an embarrassing experience that could have been avoided with a thorough search of the statute.

Watch out for decisions that have been criticized by a higher court. And don't avoid holdings contrary to your position. Look for reasons why their different from what you are asking and explain the differences. Judges aren't infallible and most will respect a well-reasoned argument, even if it's contrary to one of their earlier rulings.

Be judicious when bolding and italicizing citations.

When formatting citations in your motion, follow the Blue Book. However, be aware if your jurisdiction has any specific rules of citation that take precedence over the Blue Book. Once you know your court's preferred citation format, be consistent with it whenever you write a motion.

5. Focus on Facts

Although Joe Friday of Dragnet fame never said, "Just the facts," your motion will live and die by facts. Never overstate, stretch or omit relevant facts. And remember, not every fact is relevant, so don't clutter up your motion with the entire case history. If it's not relevant to your motion, leave it out.

Use signed declarations or affidavits and reference any attached exhibits like contracts, photos and so forth to support facts when appropriate.

You can also ask the court to take "judicial notice" of something that supports your motion. This can include weather conditions, time of day, a full moon, anything at all.

And again, the right case management software can help. You should have unfettered access to any facts or details that will support your motion, even as you're actively defending that motion in court. A cloud-based case management solution will secure access to the information you need, wherever you are. Even the most experienced lawyers might overlook a seemingly non-important fact, but those overlooked details could prove to the backbone of your case.

I saw a great example of this in West Virginia. A land-owner sued an oil company claiming that since a certain natural gas well was not in operation, the lease should revert to him. The oil company videoed the well in operation and asked the judge to note the "plaintiff's illegal supply-line" delivering gas from the well to his trailer. The judge dismissed the case with a stern lecture to the plaintiff.

6. Keep Your Intro Short

This is your opportunity to set the scene and tell what the case is about, what you want the judge to do and why it should be done.

Judges handle a lot of cases and may not even know anything about your case, so, come out strong to grab their attention. Include the facts, the parties involved, your request and why it should be granted.

Length is important. While I've seen introductions that went on for several pages, I suggest you try to keep the intro down to a half-page. I've never met a judge who didn't appreciate brevity.

I actually have seen judges frown and grumble under their breath when flipping through a long introduction, though. The last thing you want your motion to do is irritate the judge.

7. Respect the Opposition

Never insult or condescend the opposing party or their counsel. Backing your argument up with evidence and facts is all you need to do to win the day.

Always be professional and magnanimous, even when the other side's argument is ridiculous. You didn't write a motion just to throw a few jabs at the opposition, did you?

8. Write in English, Not Legalese

Almost all non-lawyers think legal documents must include fancy-phrasing. Unfortunately, too many attorneys seem eager to oblige. There is no need to clutter your motion with archaic words and phrases.

I recently received a complaint starting with "COMES NOW…." It sounds very formal and official—and a bit pretentious—but unless your court requires it, don't write it. Keep your emotions in plain English, they are much easier to understand for everyone involved.

Additionally, avoid using phrases like "subsequent to," and "prior to." Just write "before" and "after." My pet peeve is "attached herewith." Just say "attached." The judge will understand.

I recommend avoiding colloquialisms or adages. Phrases like "pulling-the-wool-over the court's eyes" and "plaintiff is attempting to have-their-cake-and-eat-it too," often come across as insulting or condescending.

Skip the slang. Unless it is a direct quote, never use "ain't" or other similar terms. You're a trained attorney. Be professional.

9. Tone Down Hyperbole

Arrogance in front of the bench is never good. Refrain from terms that might insult the judge's intelligence or the opposition's argument.

Keep out of your motion words like, "Clearly," "notably," "worth-noting-that," "interestingly" and "surprisingly."

"It-goes-without-saying," is my favorite because a federal judge once corrected me, writing, "Then why say it?"

10. Manage Sentence Length

Short sentences are easy to follow. Too many commas can turn a simple sentence into an onerous slog. You're an attorney drafting a motion, not Dostoyevsky writing the Brothers Karamazov with its 9-page paragraphs.

11. Use Descriptive Headings

Busy judges like clear and descriptive headings. They can break your argument into bite-size pieces enabling the judge's focus on particular points with ease.

Headings should be short, one or two lines at the most. If a heading goes to three lines, it's a paragraph. Re-write it!

12. Explain Cryptic Acronyms

Be careful when including these in your motion. Some like the "FBI" and "SEC" do not need to be explained. Others do. If you feel the need to explain, write out one time what the acronym stands for and then include the acronym in parentheses. For example, the Fair-Debt-Collection-Practices-Act ("FDCPA").

13. Edit & Proofread Your Motion

Chief Justice Warren Burger once told me, "There is no such thing as good writing, just good re-writing." No matter how experienced you are, always edit and proofread your motions before filing. It shows respect for the court.

Advanced Module 6 – Understanding Due Process

Due process is the legal requirement that the state must respect all legal rights that are owed to a person. ... When a government harms a person without following the exact course of the law, this constitutes a due process violation, which offends the rule of law.

RIGHT TO DUE PROCESS

The phrase due process embodies society's basic notions of legal fairness. A first reading of the due process clauses of the Fifth and Fourteenth Amendments, which prohibit government from taking a person's "life, liberty or property without due process of law," suggests a limitation that only relates to procedures. In fact many due process cases do involve the question of fair procedures or procedural due process. However, question of legal fairness may be related not only to procedures, but also to legislation that unfairly affects people. As a result, courts in the U.S. have interpreted the language of these Amendments as a limitation on substantive powers of legislatures to pass laws affecting various aspects of life. When applying what is called substantive due process, courts look at whether a law or government action unreasonably infringes on a fundamental liberty.

In a case from 1833, the Supreme Court of the U.S. decided that the Fifth Amendment was not directly binding on state governments. As a result of that case, neither the Supreme Court nor the federal court in general exercised much control over the substance of state laws or over the processes by which states administered their laws during America's early years. This situation changed dramatically with the passage of the Civil War Amendments (13, 14, and 15), which were designed to prevent discrimination by states against blacks freed from slavery as a result of that war.

The Fourteenth Amendment's due process clause was almost identical to the Fifth Amendment's clause. But the Fourteenth Amendment was specific in limiting the actions of the state governments. Courts have interpreted these two clauses identically: the Fifth Amendment now limits the power of the federal government and the Fourteenth Amendment limits the power of state (and local) governments.

Procedural Due Process

Many of the modern due process cases deal with what is called procedural due process (fair process, procedures). Due process procedures do not guarantee that the result of government action will be to a citizen's liking. However, fair

procedures do help prevent arbitrary, unreasonable decisions. Due process requirements vary depending on the situation. At a minimum, due process means that a citizen who will be affected by a government decision must be given notice of what government plans to do and have a chance to comment on the action.

Government takes many actions that may deprive people of life, liberty, or property. In each case, some form of due process is required. For example, a state might fire someone from a government job, send defendant to prison, revoke a prisoner's parole, or cut someone's social security payments or other welfare benefits. Due process does not prohibit these actions, but it does require that certain procedures be followed before any action is taken.

If a person has a right to due process, the next question is this: What process is due? Due process is a flexible concept. The procedures required in specific situations depend on several factors: seriousness of the harm that might be done to the citizen; the risk of making an error without the procedures; and the cost to the government, in time and money, in carrying out the procedures. According to past decisions of the Supreme Court, the primary reason for establishing procedural safeguards - once a life, liberty, or property interest is affected by government action - is to prevent inaccurate or unjustified decisions.

In addition to notice and an opportunity to be heard, due process may include a hearing before an impartial person, representation by an attorney, calling witnesses on one's behalf, cross-examination of witnesses, a written decision with reasons based on evidence introduced, a transcript of the proceeding, and an opportunity to appeal the decision.

If you believe that the government has not followed proper procedures, the best thing to do is to first consult an attorney. With the attorney's advice and assistance, you can file a complaint directly with the government agency. You may also be able to go to court and seek an order that the government follow due process in dealing with you.

Substantive Due Process

Substantive due process refers to the Supreme Court's examination of the reasons why the government passed a law or otherwise acted in a manner denying a citizen or a group of citizens life, liberty, or property (regardless of the procedure the law provides). In some cases, such as when a law infringes upon a citizen's First Amendment rights, right to privacy, right to vote, or makes a racial or sexual classification, the Supreme Court requires the government to have an extremely important or "compelling" reason for the law. The Court will "strictly scrutinize" the government's reasons and, in all likelihood, will strike the law

down. In other cases, such as when the government enacts taxation or zoning laws, the personal rights involved are not as fundamental, and the Court will uphold the law as long as the government's motives are not arbitrary or irrational.

Advanced Module 7 – What are Malicious Trial Tactics

Prosecution is the process through which the state brings criminal charges against an individual. Any prosecution must have a foundation of probable cause or reason to believe the individual committed the crimes in question. Additionally, criminal charges exist with the intent of upholding justice. "Malicious prosecution" is a legal term pertaining to any prosecution made without probable cause or for purposes other than bringing an alleged criminal to justice. A victim of malicious prosecution can speak with a Trial attorney and file action for damages suffered because of the malicious prosecution.
How Can You Prove Malicious Prosecution?

A malicious prosecution is essentially a baseless accusation brought against an individual for the purposes of harassing or distressing him or her. The plaintiff in a malicious prosecution case must provide evidence for several factors to succeed in a claim. These four elements include:
Proving the initiator of the prosecution acted in bad faith, or for some other reason other than the pursuit of justice against an alleged offender.
The resulting proceeding led to a ruling in the victim's favor.
There was no probable cause that would have reasonably led to the proceeding.
The initiator of the proceeding acted with malice toward the victim.
What Does a Victim of Malicious Prosecution Need to Do?

Victims of malicious prosecution face several hurdles in pursing damages for these incidents. First, proving that a police officer or government agent did not have probable cause is usually difficult. The other difficulty lies in the legal concept of qualified immunity. Many law enforcement agencies and government agencies are immune from legal action from private citizens except under extraordinary circumstances. The victim will need to prove that the malicious prosecutor acted outside the scope of his or her position and engaged in willful and unreasonable conduct.
The final hurdle for victims of malicious prosecution lies in state laws. Some states define malicious prosecution and unfair trials differently and will allow a plaintiff to sue for one, but not the other. Additionally, various elements of a malicious prosecution case may lead a judge to dismiss the allegations or allow the plaintiff to file an action for an unfair trial instead.
What is False Arrest?

People commonly conflate malicious prosecution with false arrest or false imprisonment. False arrest applies to situations in which someone without the

proper authority to conduct the arrest arrests a victim. False imprisonment applies to confining someone against his or her will. Malicious prosecution only applies when someone intentionally misuses the justice system.

What are the Damages for Malicious Prosecution?

Generally, plaintiffs in malicious prosecution cases seek to recover any expenses they incur because of the malicious prosecution. This can extend to attorney's fees, court filing fees, lost income from time spent in prison or being otherwise unable to work, and other compensation. In some cases, plaintiffs can receive compensation for the emotional distress of withstanding an abuse of the justice system. Plaintiffs may also sue for damaged reputation and lost future earning potential.

Anyone who suffers from malicious prosecution needs to act quickly to protect his or her rights. A competent attorney can help a victim of malicious prosecution prove the improper actions of the defendant in question and help the victim secure compensation for such a distressful – and often expensive – ordeal.

Advanced Module 8 – Understand Plea Deals

A plea bargain is an agreement between a defendant and a prosecutor, in which the defendant agrees to plead guilty or "no contest" (nolo contendere) in exchange for an agreement by the prosecutor to drop one or more charges, reduce a charge to a less serious offense, or recommend to the judge a specific sentence.

Advantages of Plea Bargaining

1. It removes uncertainty from the legal process.
Defendants who take a plea bargain eliminate the uncertainty that a trial may bring. It is also a way to take away the maximum sentence that could be imposed if they were found guilty by a judge or a jury. In the United States, nearly 500,000 people are held in prison with charges, but are awaiting trial, which means they do not have a conviction. Plea bargaining speeds up this process.

2. It creates certainty for a conviction.
Prosecutors are also gambling when they take a defendant to trial. There is always a chance that the jury will find the defendant not guilty. By agreeing to a plea bargain, it creates certainty for a conviction. It gets that person off the street or assigns a penalty that can still bring a measure of justice. That allows prosecutors to pursue other cases because they have more time.

3. It can be an effective negotiating tool.
One way to secure witnesses for a large case is to offer a plea bargain that includes testifying against another person. This process allows prosecutors to put everyone involved in a serious case into prison and allows them to pursue the maximum sentence against the person or people they feel are most responsible for a crime when it occurs.

4. It provides more resources for the community.
If a case is taken to trial, every police officer involved in the investigation that led to charges may be asked to testify during the proceeding. Law enforcement officers from other agencies may be called upon. Psychologists may be asked to perform evaluations over a person's competency. In the United States, the NCJRS reports that the cost of prosecuting and defending a drug offender in the criminal justice system may be over $70,000 per incident. If there are just 10 cases like this, more than $700,000 in taxpayer funds will be spent. A plea bargain could reduce this cost to $4,200 per case.

5. It reduces population levels in local jails.

Many who are awaiting trial are kept in jails at the local level. These jails are usually run by city or county officials and provide little in the way of rehabilitation, education, or therapy. They are holding centers with a bed, meals, and not much else. With a plea bargain moving cases through the criminal justice system faster, it becomes easier to give people the resources they need if they wish to make changes in their lives.

Disadvantages of Plea Bargaining

1. It removes the right to have a trial by jury.
In the United States, every person has a Constitutional right to have a trial by jury. Offering a plea bargain to avoid this trial may seem like a coercive attempt to waive those rights. Pressuring a defendant into accepting a plea deal could be deemed illegal. A defendant must always have the right to take their case to trial for a plea bargain to be an effective tool.

2. It may lead to poor investigatory procedures.
Since 90% of cases in many jurisdictions go to a plea bargain instead of a trial, there is an argument made that this concept leads to lackluster investigation practices. Attorneys and law enforcement officials may not spend time to prepare a case because they have an expectation that it will plead out. Instead of trying to secure justice, the goal is to make a deal, and it could be argued that expecting a deal really isn't justice.

3. It still creates a criminal record for the innocent.
An innocent person may agree to a plea bargain to cut their losses. That agreement means they will have a criminal record. They may be asked to serve time in prison. There may be fines or restitution to pay. Even if a plea bargain isn't accepted, there may be legal expenses to pay that may be greater than the cost of what a bargain offers, which leads to an acceptance of a deal.

4. Judges are not required to follow a plea bargain agreement.
The prosecutor and defendant may agree to a plea bargain, but a judge can void that agreement. A judge is not usually required to follow a plea bargain. They can impose longer sentences or decide that no sentence should be imposed. A judge can also require a case to go to trial if they feel like a plea bargain is being offered in bad faith.

5. Plea bargains eliminate the chance of an appeal.
If a case goes to trial and a defendant loses, there may be several grounds upon which an appeal may be filed. Because a plea bargain requires a

defendant to plead guilty to the charges, even though they are reduced, it eliminates the ability to file an appeal in almost any circumstance.

6. It provides soft justice for the guilty.
In many circumstances, a plea bargain provides a lighter sentence for someone, even if they may be guilty. It can be treated as an escape route for a prosecutor. Some may argue that a guilty plea and a guaranteed sentence is not the same as being found guilty and having an accurate sentence imposed.

The advantages and disadvantages of plea bargaining may get criminals off the streets, but it could also put innocent people into prison. It opens up a court schedule but changes the effectiveness of the criminal justice system.

Advanced Module 9 – How to Achieve Due Process

There are two types of due process: procedural and substantive. Procedural due process is based on the concept of fundamental fairness. In the area of criminal law, however, substantive due process means the government may not prosecute an individual for conduct that affects certain fundamental rights.

Procedural law provides the process that a case will go through (whether it goes to trial or not). The procedural law determines how a proceeding concerning the enforcement of substantive law will occur. Substantive law defines how the facts in the case will be handled.

The Due Process Clause of the Fourteenth Amendment is exactly like a similar provision in the Fifth Amendment, which only restricts the federal government. It states that no person shall be "deprived of life, liberty, or property without due process of law." Usually, "due process" refers to fair procedures. However, the Supreme Court has also used this part of the Fourteenth Amendment to prohibit certain practices outright. For instance, the Court has ruled that the Due Process Clause protects rights that are not specifically listed in the Constitution, such as the right to privacy regarding sexual relations. In Roe v. Wade (1973), the Court ruled that this right to privacy included a woman's decision to have an abortion. In addition, the Court used the Due Process Clause to extend the Bill of Rights to the states over time through a practice known as "incorporation."

The Fourteenth Amendment promises that all persons in the United States shall enjoy the "equal protection of the laws." This means that they cannot be discriminated against without good reason. All laws discriminate, because governments must make choices about what is lawful. For example, a law that prohibits burglary discriminates against burglars. But the Equal Protection Clause requires that a state have a good reason or a "rational basis" for such choices. In certain areas where there has been a history of past wrongful action—such as discrimination based on race or gender—the state must meet a much higher burden to justify such classifications.

Image - equal_protection_clause_image1-309x150.pngRacial discrimination has a long and pernicious history in the United States. In Plessy v. Ferguson (1896), the Supreme Court upheld racially segregated public facilities, in a doctrine of "separate but equal." But in Brown v. Board of Education (1954), the Court reversed this doctrine regarding public schools, ruling that "separate educational facilities are inherently unequal." Even in cases of affirmative action, where the government is seeking to counter the effects of past discrimination in education and employment, the Supreme Court has ruled that racial classifications are "inherently suspect." Consequently, the Court held in Ricci v. DeStefano (2009)

that the city of New Haven, Connecticut, could not invalidate a promotion exam for firefighters merely because a disproportionate percentage of racial minorities did not pass.

The Equal Protection Clause also applies to illegal immigrants in certain cases. In Plyler v. Doe (1982), the Supreme Court struck down a Texas law that prohibited children who were not legal residents to attend free public schools. The Court held that "the Texas statute imposes a lifetime hardship on a discrete class of children not accountable for their disabling status."

The Fourteenth Amendment allowed states to disenfranchise those convicted of rebellion or other crimes, a clause that was intended to limit the voting rights of former Confederate soldiers. Now, during the nation's war on drugs, this same provision has resulted in the vote being denied to thousands of African Americans who, as a group, have been disproportionately convicted of drug offenses. Ironically, the very same amendment that was written to ensure equal rights for African Americans now provides a mechanism to make them second-class citizens. In many states, tens of thousands of minority offenders still cannot vote due to their criminal history. According to Michelle Alexander in her book, The New Jim Crow: Mass Incarceration in the Age of Colorblindness, We have not ended racial caste in America; we have merely redesigned it.

Advanced Module 10 – Review and Tie Down of Advanced Law

Open discussion for student review, assessment and application of Mid-level law lessons. Discussion how students feel they are now more prepared to know the law and use the knowledge of law in everyday life.