



Curriculum Units by Fellows of the Yale-New Haven Teachers Institute  
2000 Volume II: Crime and Punishment

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## **...By Reason of Insanity An Exploration of the Mental Disease/Defect Defense**

Curriculum Unit 00.02.02  
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## Who is this Unit designed for?

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This unit is designed for students who are in high school. The unit will contain ideas that are high interest and age appropriate. Students placed in this class have tested at 6th grade and below on the TAP test. While the reading material is not complex, the discussions are aimed at students who are sophisticated through experience. Students in this class usually have short attention spans and prefer instant gratification. The classes must move quickly. Immediate feedback and response to each student is necessary. These classes contain fifteen students. I challenge these student to use higher level thinking skills and to feel comfortable with ambiguity.

I have taken seriously the challenge of the standardized tests that students must take at the end of the sophomore year. The unit addresses a variety of learning styles. The challenge to these students is not to answer quickly but concentrate and engage long enough to give a careful response. The Capt and Tap require the students to have a grasp of general knowledge as well as to analyze literature. The interdisciplinary approach requires an integration of history, literature, current events, and a political opinion.

## What is the discipline of reading about?

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Reading requires more than the ability to utter aloud sounds that are written, and to process the printed word. The skills to make an observation, to discover the meaning clues are necessary. A person must recognize, interpret, and attribute meaning to the written word. All of these attributes are required to be fully involved in the process of reading. The student must think through situations. They have to learn to look though and beyond the obvious.

Reading in high school should include reading for information, reading a persuasive test, and reading the narrative text. Reading for fact and opinion. Each style of reading requires a different strategy.

## How does the law determine insanity?

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Criminal law serves the purpose of society by establishing social controls to promote a civilized state. There are crimes against property as well as crimes that do bodily harm. Each state in the United States has its own standards of individual conduct. Each state having its own feel for the boundaries of right and wrong. Law establishes what is considered “outrageous behavior”. In a sense it is law by consensus. The jury of “peers” decides what is reasonable. The federal law obviously rules ultimately.

Case law takes the statues and applies them to each and every circumstance to insure democracy. Law

considers a citizen to be innocent until proven guilty and that every citizen has the right of defense with an attorney. However it must be noted that the quality of attorney often comes with a sticker price that those who do not have allot of money can afford. Therefore questions can be raised about the nature of justice in a capitalistic society.

The law presumes sanity. It is necessary to consider whether or not the defendant intentionally committed the crime or whether their was a loss of control. It is believed that reasonable people can control their rage and not kill when provoked. The law considers "reasonable" to be the standard. What would a reasonable man do in the circumstances or context in which the crime was committed. The defendant is compared to that standard. What is the common law of reasonable people? Under these circumstances what can we expect of a reasonable person? The law assumes every person has a conscience and capacity for knowing right and wrong. It is the sociopath that has no sense of societal boundary. The psycopath is usually in their own world.

The criminal law considers the mental competency of the defendant. Competency to stand trial is based on whether or not the defendant can understand proceedings against him. The defendant who is capable of understanding the nature of the crime he has committed, and the responsibility of knowing right from wrong regarding the crime, is considered to be competent to stand trial. There would be prior history of mental diminished capacity. A consideration of whether or not the defendant was sane at the event of the crime. The sentencing will serve the purpose of retribution or rehabilitation. The defendant either goes to prison or to a mental hospital. A mental hospital is not necessarily better than a prison sentence.

In order to determine intent the law considers the concept of mens rea. Mens rea involves projection, educated imagination, and somewhat fictionalizing to establish intent. The actual thoughts and intent of one human being cannot be absolutely determined by another. In other words one person cannot read another persons mind. However the law seeks to establish intent, or guilt before sentencing. It is impossible for even the most expert of scientist to know another persons head. The law presumes sanity.

Insanity is a legal device to define the outter limits, our boundaries of what we as a society can tolerate. To be considered insane there has to be a demonstration of diminished capacity which has a sliding scale of criminal responsibility. There are conditions such as senility, infancy, epilepsy, or medication's that are medically demonstrable.

Mens rea is simply as having a guilty mind. Criminal courts must establish the "substantial capacity" of an individual to be able to distinguish right from wrong. Susan Estrich does a good job of describing the qualities that are examined to gauge mens rea.

"Mens rea measures the deliberate of choice or criminal intent. Criminal intent is divided into for basic categories: purpose (acting with a conscious object--the worst); knowledge (doing something with virtual certainty of the bad result, which is essentially the same as doing it on purpose); recklessness (knowing a risk is an unreasonable risk, and taking it anyway); and negligence (taking a unreasonable risk, whether you know it or not). Murders are graded according to the intent of the killer. The hit man, who acts on purpose, is worse than the drunk driver, who acts recklessly; the reckless driver who deliberately runs a stop sign is worse than careless one who doesn't even see the stop sign." (Estrich, 10)

In the criminal justice system to establish a plea of guilty by reason of insanity changes the purpose of punishment. Sentencing decides if the defendant will be locked up and what type of rehabilitation will be administered. The desired result of sentencing is to deter the criminal from committing crimes and protecting society. If the defendant is found guilty by reason of insanity a criminal would be sent to a mental hospital

which is considered to be sometimes worse than prison, a warehouse for the criminally insane.

Criminals are determined to be insane at the time of the crime or incompetent to stand trial by two tests. The M’Nagten case of 1843 that produced the control test and the product test. Based on British law the House of Lords handed down a decision in the M’Nagten case that is now referred to as the M’Nagten test.

Americans allow a person who is mentally retarded, or mentally diseased to stand trial. However a person who was not sane at the time of the trial was treated and returned to trial when he could understand the proceedings against him. In the case Ake vs. Oklahoma (470 US) the proceedings were suspended until the defendant was treated. At this point charges are dropped if the crime is not serious or the defendant will be committed to an institution indefinitely. In the Ake vs. Oklahoma (470 US) the crime was a capital offense and the proceeding continued when the defendant was considered competent to stand trial.

“Whether . . . at the time the act was committed (M’Nagten) had that competent use of his understanding as that he knew that he was doing, by the very act itself, a wicked and wrong thing. If he was not sensible at the time he committed that act, that it was a violation of the law of God or of man, undoubtedly he was not responsible for that act, or of liable to any punishment what ever flowing from that act.. . . But . . . you think the prisoner capable of distinguishing between right and wrong, then he was responsible. (Ake vs. Oklahoma 470 US) “

“Every man is to be presumed to be sane. . . To establish a defense on the ground of insanity, it must be clearly proved that, at the time of the committing of the act, the party accused was laboring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing; or if he did know it, that he did not know he was doing what was wrong.” (Ake vs. Oklahoma 470 US)

## **What vocabulary is used to describe insanity?**

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Schizophrenia is defined as any of a group of psychotic disorders, usually characterized by withdrawal from reality, illogical patterns of thinking, delusions, and hallucinations accompanied by other emotional behavioral or intellectual disturbances. (American Heritage dictionary, 1219)

Mania, or manic the other side being depression results in poor judgment. The inability to come oneself during a manic episode often leads to drug or alcohol abuse. It is considered to be the disease of highly intelligent and creative individuals and many famous authors, musicians, have committed suicide during the use of poor judgment to solve their problems. (American Heritage dictionary, 824)

Depression, despondent understood in the mental health field as anger directed at one self and clouds judgment.

Compulsion, obsessive-compulsive usually are driven and have no control over their habit. Usually the habit is ritualistic.

Paranoia fearfulness for reasons that do not appear to be threatening to a reasonable person.

Further definition and descriptions of the vocabulary above can be found in the DSM IV manual.

## Do we have a society that fosters insanity?

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Perhaps it is central to democracy to have the push and pulls of creative tension that an artist feels as he creates a masterpiece. Every expression from every known religious group, many nations coming together in a “melting pot”. What moral standards are necessary and are essential in order to have democracy in pluralistic society is the tension. To some individuals who enjoy the shopping center of ideas it is wonderful, to others the questions are threatening and overwhelming. What is outrageous to one group is not out outrageous to another. Yet there is the law, criminal law, striving to bring consensus through many protections under the constitution. The right of all defendants to have an attorney (even if the attorney isn’t very good) for instance. The basic right of all is to have their “day in court”. The defendant is innocent until proven guilty.

Americans are individualistic. The needs of the individual have developed to be ever more demanding and our appetite for pleasure insatiable. Marriages break readily and speedily. Adults are working and youth are parenting each other. It has been said that the adults are exhibiting more teenage qualities than the teenagers. The Oscar Wining movie of this past year American Beauty certainly hinted to us as a culture that this is indeed standard behavior. Women’s roles have changed drastically. The New Age bookshelves are becoming filled with a different morality, heathen. Those who are theologically literate would say that New Age isn’t new at all but a digression to pre Judaic times. What or who fills the vacuum in enculturating the young with the feeling for respect for self and other? Who protects the most precious part of the self, feeling. Feeling not to be confused with impulse or thrill. Are we the generation that refuses to grow up and set limits to our own insanity? The ability respect to self and others where will this ultimately be learned?

According to Kohlberg the teaching of empathy is the key to teaching morality. To “walk a mile in another shoes”, requires imagination. Yet at the same time we know that it is impossible to walk a mile in another persons shoes. “Beauty is in the eye of the beholder” so we have to listen carefully to hear the other. The teaching of accurate empathy is not a simple task. It does requires imagination to solve problems, to mediate, negotiate and develop laws that fulfill the needs of society. If you can empathize with another it is more difficult to use violence to solve problems? Narcissistic individuals, (everywhere they look in the mirror they see themselves), selfish individuals probably have a difficult time with relationships and solving problems.

Americans have traditionally depended on the institution of family reinforced by religious belief, and education to teach right and wrong, to explain good and evil. If these institutions are in disarray, with what do we replace them? If the family is where human beings learn to be human, to regard themselves and others as valuable what replaces it? If the family is the place where the young learn to negotiate and solve problems, what happens when our youth lose these basic life skills? It is apparently very easy to declare no fault divorce, when clearly there is usually fault and responsibility on the part of someone or both. Is fault by choice? Is this the model for our youth, it wasn’t my fault he/she made me do it, automatically placing angry blame on the other. Is a family the first place to learn responsibility for ones self then stretching to the immediate caregivers and then to the world beyond, school?

It is amazing after the no fault divorce on the part of the adults in the marriage the children of divorce, psychologist tell us, that the child feels responsible for the break up of the home. Perhaps because the adults cannot accept their own responsibility? The burdened children, with all of the noise inside from a divorce are asked to carry on in school and produce test scores that meet state standards.

Mischelle Weldon’s experience of abuse was that her husband, the abuser, accepted no responsibility for his feelings and actions. Indeed she was blamed by the abuser. Is it not the powerless position of placing blame

outside of one's self to the other that sabotages the self esteem? Is the abuser striking out at his/her own powerlessness? "The devil made me do it" is as old as mankind, rendering the individual to a irresponsible, powerless, position. Anger is usually the result of frustration at not being heard or valued. Blaming prevents self awareness. Domestic violence is a reality. Domestic violence is caused when either the abused or the abuser commits bodily harm or mental harassment. The control inquiry is used to establish guilt or innocence, insane at the moment of the crime. Impulsive act or deliberated action. Exacting punishment to fit the crime is the result.

Obviously these are only a few simple observations. Our society is constantly examining itself, asking multiple questions few of which can be resolved in one or a few simple solutions. What is the responsibility of the government in personal issues?

## **Why teach the insanity plea in the criminal justice system?**

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This past year I discovered a curiosity, and a need to understand the nature of some of the crimes that have come to the students attention through the media. Of course there have been horrendous crimes, the crimes of passion and more frightening the seeming crimes of dispassion. Students were affected by the Columbine incident and we spent time sharing our disbelief and asking why, how, what happened. How could a human beings do this?

During this year classes wanted to understand the shooting of the six year old by another six year old. Students had an opportunity to consider the idea of age appropriate morality. It is at this point of dismay I suppose I discovered the most "teachable moments". Students are searching existentially for answers. We ask such questions as what is right or wrong? When does a person become responsible for knowing right and wrong. How does a human being learn right from wrong and who is responsible for teaching morality?

To teach and consider the defense of insanity as a plea in a criminal trial provides students an opportunity to examine motivation, intention, and what is reasonable and what is not reasonable. Through looking at cases from the Supreme Court students can better determine what is unreal, illogical thinking in comparison to what is considered to be rational, objective thought.

In clarifying the Connecticut General Assemblies definition of insanity we can examine the use of a substance as alcohol or mood altering drugs as not being an excuse for violence. Sane people have control over their choice to use a substance knowing that he/she loses some or all ability to control their responses. Substance abuse does influence behavior and perhaps an individual may commit a crime while intoxicated such as a car accident. There is cause to consider personal responsibility and consequences.

Exploration of the insanity defense plea provides clarification between objective and subjective reality. "I just felt like it", "if it feels good do it", can be misleading if harm to another occurs. The application of the M'Nagten test and the control inquiry can be used as the basis discerning appropriate behavior. Ethical discussions resulting from cases and novels provide for abstract thinking and a chance to test for "reality thinking". It is important to reflect on ones own motivation, intentions when harm occurs as a result of our actions. Situation ethics using case studies, can be another strategy for understanding right and wrong in cases.

It seems to be the nature of pre-adolescents and adolescents to test boundaries and limits and to try to stretch the limit beyond what many adults consider “reasonable”. Students can have quite a “reasonable” argument to create doubt in the most concrete rule! Some students have very refined skills at accomplishing this goal. Yet to be able to manipulate the system achieving the goal of “getting away with murder” in the end can become self destructive behavior. Adolescents can begin to believe in their own omnipotence and can outwits adult who have with their thinking cap off even for a moment. I think it is very stressful for youth to be empowered by “getting away with” breaking the rule even if the rule was broken with a reasonable argument.

## Teaching Morality.

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Educators are certainly teaching morality at every turn of every school day from the earliest exposure to a child. The ability to understand right from wrong, and to develop the ability to choose to do right is a goal of education. In the historical novel, novels and cases in this unit students will recognize what is right and wrong and hopefully insight will give them the self control to choose to do what is right and lawful. The exact best way to teach morality is elusive but educators have long believed that the model of ones life is the true educator, or the example speaks louder than words.

The social development of students is a major concern to educators. As a reading teacher part of my job is teaching students to listen and accept boundaries. I have first gained respect by acknowledging the students as unique and entitled to their feeling response. Through examining the criminal behavior students develop insight into human nature. As we have recognized the idea, and experience of multiple intelligence, it is important to place a high priority to emotional education. Affective nurturing should be equal to cognitive nurturing.

## How do we as a society discriminate disturbed individuals from those who are not as disturbed?

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In the mental health field there is used the DSM IV manual to describe characteristics of individuals who are suffering personality disturbances. The purpose of the DSM IV Manual is to provide mental health professionals a tool to make a diagnosis that will communicate to other health professionals and insurance companies. Mental illnesses are now being treated with drugs developed to alter moods or bring an individual back to being a fully functioning member of society. In some cases some defendants are restored to be able to be competent to stand trial.

The mental health field has its own history of development beginning with Sigmund Freud, Carl Jung and now a huge list of followers that have diverged but have become practitioners of psychology, psychiatry, social workers, etc. The therapy model is one that is readily used to try correct deviant human behavior.

Psychiatry is a science and an art and inexact at best. Many trials have been influenced, persuaded in the past by the psychiatrist testimony. Currently, there is a trend not to use them because different psychiatrist have strikingly different opinions. The testimony is now considered to be less credible. Still in Asia the culture does not accept the belief in the unconscious or psychology.



At times I have believed that the DSM IV acts from stereotypes and profiling and yet it is a medical model that we as a society need. Sometimes I think that Psychology as a discipline of science has become a new religion. I was browsing a book on psychology that worded the phrase “thou shalt be honest”. I have no problem accepting honesty as a value regardless of what the belief source is. However the “thou shalt” wording was troubling. The psychology of Sigmund Freud has profoundly effected our legal system.

The study of human nature is central to many disciplines in high school. Can we ever escape the fact that human nature is a mystery and that many of our careers and educational endeavors are spent trying to define, understand, encourage, analyze, and care for people? All of our careers are centered on making the world a better more enjoyable place to live, or at best trying to ensure survival of our young in society that is democratic and to enjoy the freedoms our constitution insures.

Most of the educational skills being taught center on the human being in one discipline or another. Literature, history, food science, consumer science, science, and math. What then is the human being? What is the defining moment, moments, or descriptions of a human beings actions, behavior or demeanor that may challenge us to say that we are not more than just animals. Perhaps we are not all superior to the ape or are we?

This unit will aim to look at some of the philosophical concerns that face us as a human race. Why are human beings violent to one another? It is obvious that nations rise against nations, and that religions rise against religions but why do individuals murder other individuals? Why do individuals sometimes turn on loved ones? Why do individuals murder randomly?

If left to me all acts of violence are insane. This is not the question. The question is was the person or persons who committed the violence insane, or of mental defect at the time the crime was committed.

## **Has there always been “insanity” or is it an idea of the 19th century?**

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Each state in the United States decides it own statue concerning mental disease. Therefore each state decides the punishment for the crime, which then is influenced by each state political view of, for instance, capital punishment. The question becomes how fairly administered is the punishment. How often is a good defense essential to the fair sentencing of punishment. It is understood that “allot of money” buys a “good” defense.

The following issues must be considered in criminal proceedings:

Whether the defendant is competent to stand trial.

Whether the was sane at the time of the criminal act.

Whether the defendant was sane after the trial.(Arbertman, Obrien, and McMahon 92)

In most states there are three possible verdicts:



Guilty.

Innocent.

Not Guilty by reason of insanity. (Arbertman, Obrien, and McMahon, 92)

## **The Connecticut General Assembly defines insanity as the following:**

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### Sec. 53a-13

The lack of capacity due to mental disease or defect as affirmative defense.

(a) In any prosecution for an offense, it shall be an affirmative defense that the defendant, at the time he committed the proscribed act or acts, lacked substantial capacity, as a result of mental disease or defect, either to appreciate the wrongfulness of his conduct or to control his conduct within the requirements of the law .

(b) It shall not be a defense under this section if such mental disease or defect was approximately caused by the voluntary ingestion, inhalation or injection of intoxicating liquor or any drug was prescribed for the defendant by a prescreening practitioner, as defined in subdivision (22) of section 20-571, and was used in accordance with the directions of such prescription.

(c) As used in this section, the terms mental disease or defect do not include, (1) abnormality manifested only by repeated criminal or otherwise antisocial conduct or (2) pathological or compulsive gambling.

“The Supreme Court in Connecticut instructed the jury to consider “wrongfulness” as a test of insanity in the case *State v. Wilson*, 242 Conn. 605 (1997). The defendant must prove that at the time he/she committed the offense he misperceived reality due to a mental disease or defect and, in acting on the basis of the miss understanding, he did not have the substantial capacity to appreciate that his actions were contrary to societal morality, even though he may have been aware that the conduct in question was criminal. . The defendant must hold a sincere belief that society would condone his actions under the circumstances as he honestly perceived them. The court state that a defendant should not be adjudged legally insane simply because he elected to follow his own personal moral code as a result of mental disease.” (Reinhart)

“The court rejected a personal test for “wrongfulness” because such a test would excuse someone from criminal responsibility solely because in his own conscience his act was not morally wrong. The court state that its test balances societal morality and the concepts of moral justification.” (Reinhart)

## What text will be used to teach the distinctions between insanity and sanity?

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An interdisciplinary approach will be used to interpret the nature of criminal law. Is sanity or insanity a political question? Each state and presumably each nation around the world will have a definitive view of what the fine line between sanity and insanity. We hear the exclamation but “that’s insane why in the world would he do that”? Is an individual obviously insane or not?

Politics by nature is relational: man to man, nation to nation, etc. and in my view is interdisciplinary by nature. By this statement I mean that an understanding of the social sciences, literature, religion, etc., must be examined to completely understand human nature to understand politics. The creative tension moves boundaries and changes laws.

From my own experience I have understood history and have been motivated to study history when history has been taught through stories. Jonathan Spence a Yale Professor in Chinese history teaches and writes some of history in the form of stories. I find my students enjoying history through stories as well as other information.

Teaching history through stories is a method that will encourage recall and comprehension. In this unit I will use novels, film, and the case studies. It is for this reason I am using the books *Lisa Bright and Dark*, and *Don’t Blame the Children*, *Compulsion*. I will use the cases Francis Pollard and Joy Baker as text.

### ***Lisa Bright and Dark***

#### Overview

*Lisa Bright and Dark* is a novel whose main character is Lisa. Lisa suffers from schizophrenia. Lisa is a high school student who struggles to maintain touch with reality. Her friends are committed to making sure Lisa’s family and school seek help for her. The novel intimates that the family Lisa grows up in is emotionally cold and she is not valued for herself. Lisa does everything to try to tell her family that she is sick and like typical dysfunctional families they deny this reality for Lisa and keep pretending that nothing is wrong, she is just a teenager. Lisa does commit violent acts against herself and others at school.

*Lisa Bright and Dark* is easy to read with vocabulary that is not overwhelming, demanding a lot of explanation. Students seem to have a gut response when reading the novel.

Before reading the novel, from the dictionary definition of schizophrenia, develop the character of Lisa. Describe what they expect her to be like. Write one page of description. Write their own story about Lisa. After reading the novel make a comparison between the students’ description and the author’s description.

Before each chapter students will be required to write three questions about what they expect to happen in each chapter. They will review these questions to see if the questions they raised were answered. They will then write what they know.

Students will be required to keep a journal of events, in chronological order. Students will record the events in a graphically organized journal recording the cause, the result, the effect of each event. Students will be asked to draw conclusions from each event.

If they had been Lisa's friend what would they have done to help Lisa and to inform the school community of Lisa needs?

What kind of frustrations if any do they encounter at school finding help preventing fights they know might happen at school?

Do students at high school fight because they cannot plan rational ways of solving problems?

Make a list of resources for Lisa in the high school community. That includes outside helping agencies in New Haven.

Visit one soup kitchen in New Haven and help prepare one meal.

Make a presentation to the class about their experience. This can be in writing, photographs, art work, or a person they invite and introduce to the class.

### ***Don't Blame the Children***

#### Overview

Don't Blame the Children is also a novel that is quick to read and can be read independently. There is some new vocabulary for students. There is a murder that occurs in the novel, but the murder was an accident. The novel ends with the confession of guilt by the guilty student. The crime was an impulsive act. After much searching for the murderer a student confesses. An innocent teacher was almost arrested. The characters provide insight into the criminal mind. The act of murder was an irrational response to the bullying of another student.

Students will bring in an article of their choice about a crime recently committed in New Haven.

They will answer the questions who, what, when where, and how.

Students will write an article as a journalist would write for the New Haven Register. Students will answer the questions who, what, when, where, and how.

In small groups students will develop a chart or graph that will be a continuum for mens rea..

Students will decide at what point the boundary has been crossed.

Students will decide the plea that the defendant should enter when he goes to court.

Students will each write two paragraphs to justify the position they take for the punishment they feel fits the crime.

Students will answer the question "What could the defendant have done to have solved his problem other than taking the violent approach of murder". Students must list as many possibilities as they can. The winning team will receive a reward.

Rewrite the ending of the book.

Students will participate in a discussion on blaming, responsibility, and how not to be a bully and to handle bullying.

Students will answer the question of what would happen if the guilty student had not confessed. What were the facts of the case? What are the options about the case. In conclusion; was the book appropriately titled? Make another list of appropriate titles for the book.

## ***Compulsion***

### Overview

The Leopold-Loeb case took place in 1924. The crime was so shocking that several movies and a novel has been written about the case. The infamous Clarence Darrow was obtained to defend the two boys.

Compulsion by Levin is a historical novel copyrighted in the 1950's. The novel is based on facts from the Leopold-Loeb case. Compulsion is about two males age eighteen who are extremely intelligent, white, and from very wealthy homes in Chicago. The two youths were Jewish from fine families with great reputations. The two boys on their way to Harvard the boys decide to experience everything in life just to see what it is like. This existential quest leads them to murder a boy in their own neighborhood just to see what it is like to kill someone. The "game" was to see if they would get caught.

The actual case did occur but Compulsion is fiction because Levin is placing feeling on to the two characters in the historical novel. The crime of murder took place in the 1920's when the Nietzschean God is Dead philosophy was seriously being considered and novel. This philosophy ultimately lead the two boys to believe that they are each gods and are superman/superhuman themselves. Obviously because of the self view they were narcissistic and felt above the law, and that they alone were the decoders of right and wrong. It is in this arrogance that the boys wanted to have as many experiences in life that they could. Nothing and no one could stop them they were superior to all, out smarting everyone.

Compulsion is a novel that reads like a mystery with one event leading to another rapidly. The reader is engaged to predict what will happen next. The book is divided into two sections. The first section is the description of The Crime of the Century , murder. The second section is The Trial of the Century. The second book is astonishingly brilliant in arguing the insanity plea as well as being a spring board for the debate of punishment especially capital punishment. Compulsion examines the crime from a psychoanalytical view. Psychiatry provides insight into the criminal mind.

The case ends in a guilty verdict but the sentence was reduced to life imprisonment instead of hanging if the insanity plea had not been used. Compulsion presents a opportunity to discuss the ethic of capital punishment

as a deterrent to crime. Other discussions center on retribution and punishment.

Compulsion hints toward what happens in a gang by asking the question “could the boys have murdered the boy on their own” or “was there something within the two boys that gave them the courage to do murder because they were acting together”? The answer was that they formed an alliance that cause the two boys to commit the crime because individually they would have never committed murder. This is a great discussion on alliances with friends in school that encourage wrongful deeds. (Levin, 360)

Students will answer the question about the effects of gangs and peers to commit crime. How do some individual gain support for criminal behavior?

The novel Compulsion is too lengthy for most of the students to read, and it consist of four hundred pages. Students will be asked to read the film instead. The Best video store Public Library has a copy.

Prior to “reading the film” students will use their pre-reading prediction skills to write questions about the film. They will use the question words who, where, what when, why and how.

Before viewing the film we will find the dictionary definition of compulsion.

Students will review the M’Nagten control test, to understand and discover the driven nature of these defendants.

Before the film students will write a description of what they believe the two young men are like.

As students review the film they will look for evidence of the two books planning and calculating.

We will attempt to answer the question “Did the two young men know right from wrong. Students will give evidence based on fact not opinion as to whether the two boys knew what they were doing.

Could the two boys control what they were doing using the control inquiry?

What was there so thrilling in planning such a crime?

Is it thrilling to get away with walking the halls at school when a student should be in class?

Where did the thrill come from?

Students will answer the question “Was justice served through the final sentence?

Students will consider the political nature of the crime. Money was used to obtain the best defense.

How necessary is it to have a really good attorney?

What criteria would the students use to obtain an attorney if they ever found it necessary?

The following soliloquy from *Compulsion* provides material for reading, responding and making connections. There are many statements that can be debated. What were the motives of the two boys. Accountability and responsibility is the theme. What should their punishment be? (Issues of capital punishment could be presented).

“No one knows what will be the fate of the child he gets or the child she bears; the fate of the child is the last thing they consider. The wary old world goes on begetting, with birth and with living and with death; and all of it is blind from the beginning to the end. I do not know what it was that made these boys do this mad act, but I do know they did not beget themselves. I know that any one of an infinite number of causes reaching back to the beginning might be working out in these boys’ minds, whom you are asked to hang in malice and in hatred and injustice, because someone in the past has sinned against them.” (Levin, 360)

“I am sorry for the fathers as well as the mothers, for the fathers who give their strength and their lives for educating and protecting and creating a fortune for the boys that they love; for the mothers who go down in the shadow of death for their children, who watch them with tenderness and fondness and longing, and who go down into dishonor and disgrace for the children that they love.” (Levin, 360)

“All of these are helpless. We are all helpless. When you are pitying the father and the mother for poor Paulie Kessler, what about the fathers and mothers of these two unfortunate boys, and the boys themselves, and all the fathers and all the mothers and all the boys and girls who tread a dangerous maze of darkness from ninth to death?” (Levin, 360)

“Do you think you can cure it by hanging these two? Do you think you can cure the hatreds and the maladjustment’s of the world by hanging them? Do you think you can cure the hatreds and the maladjustment’s of the world by hanging them?” (Levin, 360)

Applying the M’Naghten control test are these two boys of mental defect/disease?

How could the product test be applied to the two main characters?

What political decisions were made to obtain the attorney for the two boys?

How was the product test used in the sentencing of the two boys?

List all of the considerations given to the sentencing of the two boys?

What sentence do you believe should have been rendered in this case?

## The Case of Joy Baker

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Good reading skills require the students to exact the difference between fact, opinion, and fiction. Using novels then using cases students can provide strategies required to understand the difference.

The following case of Joy Baker is based on the reader provided by Ian Shapiro for Politics of the Criminal Justice System, 2000. The case of Joy Baker is transcript of the actual dialogue used in court. Students have the opportunity to role play, Joy Baker, the attorney, the psychiatrist, and judge and jury.

The case of Joy Baker is a transcript from the trial and is written in a question and answer form providing students the opportunity to read the case aloud. Students can easily take a role in the attorney defendant dialogue. There is background information providing knowledge of Joy Bakers personal history. In addition there is question and answers from an attorney to a expert witness, a psychiatrist. The psychiatrists interview raises the question of reality testing and declares the relative nature, contextual nature of reality. From Joy Baker's history of experience was her reality accurate or distorted?

The case of Joy Baker provides a good demonstration of the application of the M'Nagten test that is used to decide if a defendant has mental defect. The application of the M'Nagten test to the case of Joy Baker asks the following questions about Joy Baker's reasoning to establish what she was like at the time the crime was committed. (Shapiro)

Applying the M'Nagten test students are challenged to reconstruct the "knowledge" of Joy Baker at the time the defendant committed the crime.

Did Joy Baker understand the nature and severity of the crime she committed?

Did Joy Baker know what she was doing was wrong?

Did Joy Baker understand the morality of wrong?

Did Joy Baker lack emotional appreciation, and understand the meaning of her actions?

Did Joy know what actions are prohibited by law?

The M'Nagten formulation places an emphasis on the affective meaning of knowledge. Applying the control test to Joy Baker the question is asked, Did Joy Baker have an irresistible impulse?

The control test as applied to a psychotic defendant, and the question is "did the defendant have the self-control to control motives that were intra psychic". The validity of the control test can be debated as well as whether or not the insanity plea should be allowed at all.

After completing the reading of Joy Baker and the novels, students can be organized into teams to debate whether or not insanity should be allowed as a defense in a trial.



## The Case of Francis Pollard

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The case of Francis Pollard is short, easy to read and is of course nonfiction. To read a transcript of case will contrast the novels and historical fiction. A different reading strategy is used for fact only.

Comparison and contrast will be made to sense the subtlety of mental defect/disease. This case is an example of loss of control. The summary of evidence provides reading that is concise, exact and verbatim. The case is readable, the detail easy to comprehend and remember. Connections are easy to make. Francis Pollard was a law abiding citizen until seemingly he snapped and robbed a bank. The case is concrete and is open to discussion.

### Lesson I

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Goal:

Students gain an understanding of how an individual can impulsively lose control and reason. The case will take approximately ninety minutes to read and process through four steps.

Objective:

To apply the control inquiry to this case.

Activity: Each student will read aloud one paragraph or two. Each student will respond to each paragraph as he/she reads it. (Emotional and thoughtful response). They will retell the paragraph in their own words.. They will recall as many facts as they can and record on a sheet of paper. Students will connect the information to some prior knowledge in their experience. What questions come to mind as they read the paragraph. Students will evaluate the information in the application of the control inquiry.

Assessment:

Students willingness to be involved in the process is the key component. Students must follow the steps. Read, respond, remember, retell, make connections, develop questions and evaluate.

### Lesson II

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Goal:

Student will understand and appreciate the complexity of the insanity plea. Students will understand mens rea. Students will develop the skill of observation and application of the M'Nagten test that is used prevalently in criminal law. This lesson plan will take a block day and one regular day. (90 minutes and 48 minutes)

### Objective:

Students will read the case aloud taking different parts. Students will answer the questions provided by the M’Nagten test as applied to Joy Baker.

### Activity:

A courtroom stage will be set.

Students will decide who will take which role in the case by consensus decision making.

Students will read the role they accepted.

Students will be given the M’Nagten questions as a hand out and each will the questions providing an example and reason for their answer.

As a class we will discuss the importance the M’Nagten test. Why is it important to ask these questions?

How do we think M’Nagten came up with these questions?

Are there questions we should add to the test? If so what questions?

Can we empathize with someone who is deluded?

Do they believe people decide to be insane?

Are all impulses controllable? Have you ever felt impulse that are destructive?

What do you do to control impulses?

Have you ever seen anyone out of control? Have you ever seen anyone delusion?

What is psychotic?

### Assessment:

Quality of participation.

Quality of reasoning.

Creative application of the M'Nagten test.

Comprehension of the process

## Lesson III

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Goal:

Students will understand the number of careers available to them in the criminal justice industry/system. The goal of the lesson is adaptable. The lesson could be accomplished in ninety minutes and good for a "block day".

Objective:

Students will read and locate resources and information regarding the criminal justice system.

Activity:

Students will research careers in the career center at the high school. Students will find the resources that will list jobs as well as job description, salary. Students will could use the internet or use the occupational books available. The Library is another location that will have the same resources. Students will discover what is necessary to prepare for the careers. Students will consider the location of employment as well as the lifestyle of persons in different occupations. Students will discover skills required to do such jobs. Students will also consider the personal qualities required to hold these positions.

Assessment:

Students will be assessed by the creative effort and ability to use the resources and to locate the information required.

## Lesson IV

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Goal:

To understand punishment that results from crime. The tour of the correctional facility will take ninety minutes.

Objective:

To gain experience of the criminal justice system . Students have an opportunity to get a feel for the

incarceration of a convicted criminal. Students have an opportunity for dialogue with the prison personnel. Students are given a tour of the facility and a chance hear from a prisoner who is trying to turn his life around

#### Activity:

A visit to the Whalley Avenue retention center. From the cases they have studied they can look for signs of impulsive behavior. Students will prepare questions to ask the personnel at the center.

#### Assessment:

Student conduct representing the school. Students will be assessed on their Cooperation-operation, and the ability to listen and process information. Students will be assessed on their ability to respond appropriately to the situation.

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The American Heritage College dictionary. Boston Houghton Mifflin Company, 1997. Arbetman, Obrien, and MCMahon. Street Law. Saint Paul, Mn: West Publishing Company, 1975. Street Law is a textbook used to provide information on basic understanding of law. The text was used in high school law classes.

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May 30, 2000.

Estrich presents a current discussion of the influence of politics on the criminal justice system. The book presents a clear, simple discussion on what is reasonable man. The books visits the ethics needed by attorneys to ensure a fair trial and true justice. Estrich presents ten top sympathy defenses used by attorneys. Compulsion.

Meyer, Leven. Compulsion. New York: Carroll and Graf Publishers, Inc., 1956.

Meyer traces the life of two boys who conspire to commit a crime. He presents a psychoanalytic view of the boys and their families and draw some conclusion about the nature of crime and punishment.

Neufeld, John. Lisa, bright and dark. New York: Signet, 1970.

The fictional story of a teenage cry for help. It is the story of a young girl who has developed schizophrenia, hallucinations. There are some suggestions as to the causes of Lisa' suffering.

Reinhart, Christopher. (Research Attorney "Not Guilty By Reason of Mental Disease or Defect.". Research Report

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Schraff, Anne. Don't Blame the Children.. Iowa: The refection Form Co., 1968.

Fictional novel that is adventurous and exciting to read. There are several scenarios in which to use as opened discussion for students.

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A statistical study and manual used in the mental health profession to describe mental disorder.

Arbetman, Obrien, and MCMahon. Street Law. Saint Paul, Mn: West Publishing Company, 1975. Street Law is a textbook used to provide information on basic understanding of law. The text was used in high school law classes. Augsberger, David W. Pastoral Counseling Across Cultures. Philadelphia; Westminster Press. 1976.

This book provides an anthropological view of three areas of East-West \ and the nine major world religions. It gives a fair study of various areas. It does have a bias but is fair nonetheless.

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Hallowell, Edward M., M.D. and Ratey, John J., M.D. Driven to Distraction. New York: Touchstone. 1994.

Hallowell and Ratey have produced a practical interpretation of attention deficit disorder. Driven to distraction provides practical advice in managing persons who have be diagnosed with ADD.

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<http://www.cga.state.ct.us/ps99/rpt/olr/htm/99-R-0696.htm> May 30,2000.

Satir, Virginia. Peoplemaking.

Satir has written several books in the areas of communication. It is an excellent resource in teaching communication skills and addressing the issue of "blaming" and other defense strategies.

Schraff, Anne. Don't Blame the Children.. Iowa: The refection Form Co., 1968.

Fictional novel that is adventurous and exciting to read. There are several scenarios in which to use as opened discussion for students.

Sue, Derald W. Counseling the Culturally Different, Theory and Practice. New York: Wiley. 1981.

Derald Due is American Indian and he discusses culture as it relates to the individual, and the individual to the Indian, Black, Asian, and White cultures. It speaks of the damage that can be done if a counselor is not culturally literate and aware of his/her own prejudice.

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Michele Weldon has presented her story of the crime of abuse why her ex husband. It is one of the most readable. Michelle has written the book to alert people that abuse is happening to highly successful homes. She is a professor of journalism at Northwestern University, Chicago.

Jamison, Kay Redfield. An Unquiet Mind. New York. Random House. 1995. "A memoir of Moods and Madness", Kay Redfield Jamison a physician tells her own story of struggle with manic depression. This very personal and very descriptive work gives a human look at the experience of mental illness and how she copes.

## Video

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### Compulsion

Leopold-Loeb murder case of 1924 is presented in fictionalized drama. The infamous attorney Clarence Darrow argues the insanity defense.

Rope an Alfred Hitchcock Production. 70 Universal Plaza, Universal City Ca. 1985 MCA Home Video, 1975 United Artist.

Leopold-Loeb case that was tried in 1924. This version has the murder only. It provides a good example how the two boys schemed the murder and the cruelty of the emotionless crime.

## Cases

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