



## **Democracy Speaks Through Criminal Law?**

Curriculum Unit 00.02.03

by Joyce Bryant

This unit is designed for seventh and eighth grade students, however, it is the instructor who will best determine its value.

The unit will enhance students reading ability comprehension skills, and provide enrichment reading. It will also provide knowledge with regard to our justice system, how it works and the effect that it will have upon students as they become adult members of this fast paced ever changing technological society.

Students in the New Haven public school system are required to read several books during the year and this unit will provide an additional curriculum with extra materials for students to enhance their reading. While reading some of the books that will be listed in the bibliography and the material that will be taught they will learn that our judicial system speaks through judges, prosecutors, plaintiffs and defendants, victims, witnesses and jurors.

In order to make our justice system work, citizen participation is needed. In today's democracies, there are extensive programs to provide economic security, to ease suffering, hardships and to develop individual potential. Qualified students should be willing to run for public office, to serve on juries, and to contribute to the welfare of their country. Citizens should help shape public opinion by speaking out on important political issues and by supporting the political party of their choice. An active citizenry, is thought to be one of the best guarantees against corrupt social agencies and inefficient government.

Faith in the power of education is a characteristic of democracy. According to democratic ideals, widespread participation in politics does not necessarily ensure good government. The quality of government depends on the quality of participation. Well informed and well-educated citizens are able to participate more intelligently.

Our justice system needs educated citizens who can think for themselves. Citizens have a duty to take part in public affairs, to keep informed on public issues, and to vote intelligently. Democratic institutions must produce leaders worthy of public trust and responsibility.

As students grow, mature and develop they will learn that their education is important. The need to learn that our justice system is very important and the choices they make will affect them in all facets of life.

Most people make their way through a web of laws crisscrossing their life by applying common sense and general knowledge of the laws that govern our society. If people could not deal with the laws on a practical

basis our society would be in grave danger. Citizens need to become more aware of our increasingly important legal system as changes have been made and are still being made. Before one can use the law to settle his or her affairs, the person must have some knowledge of his or her legal rights and duties. Citizens also need to be aware of current laws. Ignorance of the law is no excuse. The law is everybody's concern and therefore it is incumbent upon every citizen to gain as much knowledge as possible, however, there is no substitute for a good lawyer.

Our justice system as well as society at large is designed to treat people equally and fairly which does not happen. Our justice system produces winners and losers because of their cultural, religious and ethnic and economic background.

The criminal justice system is where society and the individual meet as adversaries. American trials are based on the adversary system, which seeks justice by requiring two opposing attorneys, and a prosecutor to face each other in a court of law and argue their case to the best of their ability. The difficulty lies in deciding which opinion to agree with and which lawyer seems the most credible. Also at stake is the type of defendant. Does democracy speak, that depends. Democracy means freedom and in our justice system there is freedom for some and not for others. Our justice system is discriminatory against blacks, and other minorities, including the less fortunate. Fairness is an important idea to Americans that we learn at an early age in our society.

Our jury system is an important entity in our justice system and if it is to remain a central institution of democracy and citizenship it should be refined. Many Americans serve as jurors on state courts. The public perceives that the scales of justice tip in the favor of the rich defendants with high-priced counsel and the educated. Courts subject citizens to repeated summonses, intrusive personal questioning, and long and inefficient trials.

Unsurprisingly, many people avoid jury duty. In court they serve a passive role dictated by rules that presume jurors are incapable of impartial deliberation and that provide help in understanding points of law or evaluating testimony. The jury's democratic role is intertwined with other ideas enshrined in the Bill of Rights and it is a democratic institution because it is a means by which citizens can engage in self-government. Through the jury system, citizens learn self-government by doing it. It is both the most effective way of establishing the people's role and teaching them how to rule.

Power in our justice system is really given to prosecutors, judges, lawyers and the police. There is so much hatred and bias, so much so, that these people are unsure of their power. The police is supposed to be a law-abiding citizen and they are out among the public for the purpose of keeping order, preventing and discovering crimes. They arrest law and non-law-breakers.

Vigorous defense counsel is a course of their defense of a citizen accused of a crime, provide an important teaching tool. Police departments have learned that if they do not rid themselves of, or at least appropriately discipline and retrain, rogue officers, then vigorous defense counselors will expose the truth about those officers and the fate of many cases may hang in the balance. Also, inaccurate police lab work will be exposed.

Lawyers are legal counselors that are retained by defendants and plaintiffs to represent them in a court of law. The reality of defense attorneys is that attorneys are outstanding servants of their clients and the public good. The major tasks of defense lawyers including public defenders is to defend their clients honestly and zealously under the Sixth Amendment and this insures that the innocent and the protected are protected.

If democracy is to really speak within our justice system, then our justice needs to be reformed. There is too

much corruption in our system among the police, prosecutors, judges, and defense attorneys, when there should not be any.

Lawyers are legal counselors that represent the defendant. They argue the case before a judge and sometime make a bargain with the prosecutor. The prosecutor is a lawyer and a person who works for the justice system in prosecuting a person who has been involved with a crime.

The basic operations of the prosecutor include the basic legal activities of the office, the processing of cases from intake and screening through preliminary hearing, arraignment, plea negotiation, trial, appeal, and final disposition. The prosecuting attorney examines the facts of a situation presented to him, and then exercises his discretion to determine what further action, if any, should be taken. The prosecutor may decide to commence or continue a criminal prosecution; order further investigation; apply any of several possible alternatives to formal prosecution; the prosecutor may also dismiss the matter altogether.

In most prosecutors' offices, cases in which a defendant is formally charged with a crime may be reviewed or screened several times. Screening may take place prior to charging, in the arraignment court, at the preliminary hearing, just before or at the grand jury, during motions, at the pretrial conference, and, too often, at the midnight hour immediately preceding the scheduled beginning of the trial.

It is clear that the prosecutor's functions has great discretion in determining whether or not to prosecute. There is no obligation or duty upon a district attorney to prosecute all complaints that may be filed. While it is the prosecutors duty to prosecute criminals, it is obvious that a great portion of the power of the state has been placed in their hands for them in the furtherance of justice, and this does not give prosecution in all cases where there appears to be a violation of the law no matter how trivial.

In general, the district attorney is not answerable to any other officer of the states in respect to the manner in which they exercise those powers. True, they are answerable to the people, for it they fail in their trust, they can be recalled or defeated at election time. In the event they willfully fail to perform their duties or is involved in crime, they may be suspended from office.

The judge sits on the bench and listens to cases being presented by defense counsel and makes a final decision based on the law. The judge also sentence criminals and free some based on the evidence that is presented.

Democracy is the quintessential political system. In a democracy the widest scope should be provided for citizens participating in the selection and evaluation of decision makers. Through allowing public officials to exercise judgment and enabling the citizenry to evaluate those judgments the purposes of democracy are advanced. Furthermore, the objectives of decision making, include especially those within the law system, are political, and the most important constraints upon them also should be political.

It is the laws, of which the Constitution is the most symbolically important, both in spirit and in fact, that for liberals are the bulwarks standing guard against illegitimate usurpation of authority. Therefore, constraining public officials' discretionary behavior through law is perceived in the liberal mind to be at the very core of a search for a healthy and democratic polity.

The law presents us with a crucial paradox. One cannot hold that laws and the people who make, enforce, and interpret them are qualitatively distinct entities. Laws have a historical, a cultural, a socioeconomic-political, and often a specifically individual character to them. All too often, particularly when they function as symbols,

laws, become reified and begin to take on an almost independent existence. In people's minds this myth making process distances laws from their origins and their essential political qualities.

It is beyond merely trivial that individuals make interpretations of, from, and about the law. Different individuals read the law differently; different individuals view the law differently; different individuals implement the law differently. This is not to say that there is no common meaning within the law system. Rather, it is to underscore the point that the grand symbolic postulate that "we are a nation of laws and not me" cannot be a sufficient barrier to negative behavior, although it is in a number of ways a helpful barrier.

Laws, along with those structures and processes associated with their implementation, are inadequate as an independent barrier against crime. Democracy needs to speak within our law and justice system for all people regardless of that status. Equality is at the core of such a full democratic citizenship perspective. Its importance is underscored in any discussion or practice or discretionary behavior in decision making and implementation. The basic proposition is that all citizens are to be viewed as being qualitatively equal as human beings; as an idea that is not new, but as a goal it is yet to be achieved.

It is essential that we adopt a philosophy of who you are and emphasize on leaving the past in the past. Our strategies should take the learners from where they are and give them the confidence that they can achieve through a democratic society and that persistence is more important than high achievement.

In our justice system, individuals and private organization carry out many social and economic activities that are for the most part, free of government control. The Declaration of Independence adopted in 1776 expressed the belief that "all men are created equal, that they are endowed by their creator with unalienable rights."

People in the past believed that the government that governs least governs best. In time people changed their minds and became convinced that some government regulation of society was necessary to make personal freedom more meaningful and to promote equality, as well as to improve the welfare of the nation.

In the 1870's, many Americans thought the rules of their government needed changing, so fifty-five of the most famous men at the time gathered together for the purpose of writing a new set of rules that would last, The Constitution of the United States. James Madison's knowledge of history and philosophy helped in solving the political problems that existed. Madison's idea was the "Virginia Plan", which would divide the powers among three independent branches of government. The legislative branch which would make the laws, a chief executive, called the president, that individual would head the executive branch or court system, which would judge the meaning of the laws. The courts would also judge the way the laws are carried out.

In May of 1787, a constitutional convention was held in order to discuss ways to strengthen the federal government. Many of America's brightest leaders were among the delegates to the convention and they represented the people who had the power to make changes in America. However, native Americanism, black Americans and women of all races were not allowed to have a say in helping to form the government. The convention almost broke down over a disagreement between the large and small states. James Madison plan stated that "congress, the legislative branch have a lower and upper house. The plan urged that the states be represented in congress based on the size of their populations but it was not accepted because of the small states."

Connecticut suggested a plan later called the "Great Compromise" which met the demands of both large and small states. The House of Representatives would be based on the size of the individual states population. In

the Senate, all states large or small would have two representatives. The plan called for a democracy, a type of government in which the people hold the ruling power through elected representatives. It took some time but all the states ratified the constitution. The states objected to the fact that there was no Bill of Rights in the constitution. A Bill of Rights was needed to define and protect the rights of the citizens. The Constitution, with the addition of the Bill of Rights, established a democratic government to protect American's rights.

Americans are very interested in our legal justice system today. A change of the dial on T.V. or a look at the movies will prove this. Our government is made up of three branches. The executive branch, the legislative branch, and the judicial branch, each unit will exclusive tasks known as "separation of powers".

The head of the executive branch is the President, whose duties are to carry out the laws as well as making policy decisions on matters such as economics and relation with foreign governments. Two of his most important duties are to appoint federal judges and to veto laws made by the legislature. This system of checks and balances prevents any one branch from becoming too powerful. On the state level, the governor is the head of the executive branch, local governments have a mayor as their executive head. The legislative branch of our government is made up of the House of Senate and the House of Representatives called congress and it is their job to make laws.

The judicial is the most difficult branch to understand. Its tasks are to interpret the laws and decide if they are constitutional. There are three levels of courts in the judiciary branch, are trial courts, appellate courts and courts of last regard such as the supreme court.

Federal judges preside over cases that people are unhappy with the results of their trial through appeals. People in America believe in jury trials. The jury system is extremely popular in settling disputes. Eighty to ninety percent of the jury trials take place in America. Our court system, which relies on juries to settle disputes fits into our constitution's design of checks and balances. The courts interpret the laws and strike down the laws that do not conform to our constitution but juries don't do this.

In the past and present written laws were a step toward justice for every citizen. Our United States constitution was founded on democratic ideals. It values justice and freedom above all else. Our justice system did not spring, or fully developed, from the minds of our forebears. Before our Constitution and Bill of Rights could be written, many things had to happen. Changes had to be made, not only in the ways our government were organized but also in the way people thought. In America, it is easy to take our rights and freedom for granted. Yet winning these rights and freedoms was no easy task. To balance the rights of each citizen and the powers that be is an on going process. If we study the growing importance of the individual and the growth of real justice we will see that the two go hand in hand.

The Bill of Rights did much to protect people from abuse by the government, especially those accused of crimes. It is the basis of our justice system. But it was not the final step in the development of true justice in the United States. Other amendments were later added to the Constitution. For example, the Fourteenth Amendment requires that laws in the individual states protect the right to due process of law and equal protection of the laws. In addition, new interpretations of the meaning of the Bill of rights have developed as new situations have arisen. The meaning of such terms as "due process" has been altered. More change based on new interpretations will occur. True and perfect justice may never be possible, but in the United States, our desire for justice means that the process must continue.

The Constitution defined the government in such a way that no one branch of the government could assume complete power. Still, many people were worried that this system of "checks and balances" might not be

enough to ensure all the rights citizens deserved. The Bill of Rights was ratified in 1791. It contained ten amendments to the Constitution. They clearly defined exactly what rights a citizen had and limited the power of government over its people. All of the amendments are important - the rights to freedom of religion, freedom of speech, freedom of the press, freedom to peaceably assemble, and the right to keep and bear arms. But certain amendments determined the kind of justice Americans could expect.

They are: **FOURTH AMENDMENT. Security From Unreasonable Searches and Seizures.** The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation and particularly describing the place to be searched, and the persons or things to be seized. (Ratified December, 1791) We the People. P. 157.

The Fourth Amendment protects citizens from unreasonable searches and/or seizures of their persons, house, papers and effects. The difficulty with the Fourth Amendment is in the word “unreasonable.” Since the ratification of the Bill of Rights, the definition of “unreasonable” has been the source of much argument.

Today, police searches must be conducted according to set procedures. First, the police must get a “search warrant” signed by a judge. The judge will not allow the search unless the police have “probable cause”, or good reason, to believe that criminal activity or illegal articles will be found. They cannot conduct a general search. The police must describe specifically which places will be searched and the articles they believe they will find. Once the warrant is obtained, however, the police may do whatever is necessary to conduct their search, even if they must break down a door.

New inventions have caused many problems in protecting people from unreasonable searches. It is one thing to search a home or an office for things such as s files, money, or stolen articles. But what of invading privacy by listening in on phone conversations? Phone-tapping devices were used to gather evidence against many people suspected of crimes until the Supreme Court, in 1967, made the practice illegal. A year later Congress passed a law that permitted the use of wiretapping when used for national security if a court order is obtained first.

In comparison to other kinds of search warrants, wire-or phone-tapping warrants are very difficult to obtain. Only state or federal judges may authorize them. No law exists, however, that requires police to get warrants before using “undercover” measures such as hiding cameras or tape recorders on themselves. They can also listen in on phone extension when they have permission from one of the people involved.

Seizure means that the police restrain a person’s freedom of movement by physical force or by a show of authority. That person does not feel he is free to leave. Legally seizing or arresting a person also has certain requirements. For instance, the police are forbidden to enter someone’s home to arrest him unless they have a warrant. They may enter without a warrant only if they have good reason to believe a life-threatening situation exists or they are in “hot pursuits” of a crime in progress. In public places, arrests can be made without a warrant if police believe that have “probable cause,” strong indications that the person has just committed or is about to commit a crime. If they do arrest without a warrant, however, the accused person must be brought before a judge immediately afterward. The judge will then decide whether the arrest was justified.

**The FIFTH AMENDMENT. Rights of due Process of Law.** No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any

person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation. (Ratified December, 1791.) We the People pg. 157.

The Fifth Amendment requires the government to present its evidence against someone accused of a serious crime to a grand jury before it can actually try a person in court. A grand jury is usually composed of twelve to twenty-three citizens. These jurors hear the evidence, but they do not decide whether the accused person is guilty or innocent. They merely decide whether enough evidence has been gathered against the accused to justify a trial. The Fifth Amendment requirement forces the government to be extremely careful and thorough with regard to the charges it brings against citizens. It puts the burden on the government to have strong evidence, a good case against someone, before formally charging that person.

Another part of the Fifth Amendment declares that once a person has been found innocent of a crime, he cannot be tried again for that same crime. He is free forever, even if new evidence is found. The Fifth Amendment also ensures that the accused has the right to remain silent. No person who stands trial for criminal charges can be forced to testify against himself. No assumption of guilt can be drawn from refusal to testify. It is not the accused's responsibility to prove his innocence; it is the government's responsibility to prove guilt. The government must be able to do so without the accused's testimony. If the accused person does choose to take the stand, he can not then claim the right to remain silent when questioned by the prosecutor. Although this right was originally intended for criminal prosecutions, it has been used regularly by people questioned in congressional hearings and other government investigations.

One of the most confusing provisions of the Fifth Amendment is that which states that no one can be deprived of life, liberty, or property without "due process of law." "Due Process," however, seems to have no exact definition, and even the Supreme Court refuses to define it precisely.

Due process requires, for instance, that all laws be clear in meaning and application. If they are vague, they violate due process. Due process requires certain procedures by which a case is heard. Due process requires that all provisions of the Bill of Rights in the Fourth through Eighth amendments are observed in all court cases. It tries to ensure fairness.

Due process refers not only to how the government may use its power, but it also limits when and why that power may be exercised. It protects us against unreasonable laws, no matter how clearly defined or properly enacted they are. Confining mentally ill people against their wishes if they are not dangerous to themselves or the public, for instance, in an unreasonable limit of their liberty. It violate due process. Even if a law reflects the wishes of the majority, it must also be a reasonable law. It must be just.

The SIXTH AMENDMENT. Right to a fair trial. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense. (Ratified December, 1791). We the People pg. 157.

The Sixth Amendment deals with the rights of those accused of crimes. First of all, those accused of a crime have a right to a "speedy" trial. How quickly the trial actually occurs after arrest, however, is affected by several things. Those accused of crimes often as for many delays in order to prepare their cases. Delays often

work to benefit the defendants because people forget and their testimony grows foggier. The court's schedule of cases, called a docket, is also crowded. It may be a long time before an opening occurs. But the government is obligated to at least state in advance the time limits for bringing the case to trial. Should a reasonable "speedy trial" be denied, the case must be dismissed.

The trial may not be held in secret; it must be public. The accused has the right to a jury drawn from the state and district in which the crime was supposedly committed. The Constitution allows courts to have juries composed of at least six people who, by majority, decide the defendant's guilt. Federal courts are required to have a jury of twelve people who must all agree that the defendant is guilty. To be impartial, juries must be a fair cross section of the community.

The defendant also has the right to be sure that each member of the jury has no prejudice against him because of race, religion or national origin. His attorney can question possible jurors before the trial and excuses those whose decisions might be unfairly influenced by prejudice.

No one can be held in jail without being informed of the charges against him or her. If there are witnesses against the accused, he or she has the right to confront those witnesses and challenge their testimonies. He or she also has the right to force into court witnesses who can help their case, even if they do not want to testify. Lastly, the accused has the right to have a lawyer to protect their rights, to prepare the defense, and to present the case in court.

The SEVENTH AMENDMENT. Trial by Jury. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law. (Ratified December, 1791.) We the People pg. 157.

The Seventh Amendment protects the right to a trial for those sued in civil cases. Civil cases are different from criminal cases. Criminal cases involve such crimes as assault, kidnaping, theft, or murder. In civil cases, no crime has been committed, yet some "harm" or "injury" has been done. Perhaps one person has written untrue things about another, Perhaps someone has failed to live up to an agreement with another. In some but not all civil cases, those sued have the right to a trial by jury.

The EIGHT AMENDMENT. Fair Bail and punishments. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. (Ratified December, 1791.) The Eight Amendment protects those accused of crimes and those found guilty of crimes in three ways. In early times people accused of crimes often had to wait in jail until their cases came to court. They had not yet been proven guilty. They actually might have been innocent. Being jailed while awaiting trial was an unjust punishment. They should have had the right to remain free until found guilty. Some way to ensure their return at the time of trial had to be devised. It is called "bail." Bail is a bond or guarantee of payment should the accused person disappear before his trial. A judge sets the amount of bail required to free an accused person until the time of trial. Bail can be very high if the crime is considered quite serious or if the accused person is not very reliable. The Eight Amendment, however, forbids federal judges to set excessively high bail. We the People pg. 157.

Sometimes, as in cases involving very serious crimes such as murder, judges may refuse to release a defendant, even if he can pay bail. The reason is that a defendant who could be put to death for his crimes would be likely to run no matter how high the bail. Judges also have the right to release defendants without bail if they are reliable members of the community. Fines are often part of all of the punishment chosen by the judge. The Eight Amendment protects the guilty from excessive fines.



The NINTH AMENDMENT. Rights Retained by the People. The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people. (Ratified December, 1791.) We the People pg. 157.

The fact that many important rights are listed and protected in the Constitution does mean that they are the only rights that people have or that their other rights are less important.

The TENTH AMENDMENT. Powers Reserved to States and People. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. (Ratified December, 1791.). We the People. pg. 158.

All of the powers not given to the federal government or not withheld from the states are left to the states or to the people.

## LESSON PLANS

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1. Under the fourth amendment what do the police need before they can search a persons home? Why do you think amendment four was needed? Explain.
2. How does the fifth amendment protect the rights of a person accused of a crime?
3. What rights are given to a person accused of a crime to make sure they get a fair trail under the sixth amendment?
4. If a right is not mentioned in the constitution, does this mean that a person, may not have this right? Explain.
5. Write a story about what you think America might be like without the Bill of Rights.
6. Select a book from the bibliography for students. After you have the book write a book report and share it with the class.
7. What rights are guaranteed to all Americans?
8. How does the Constitution keep any one branch of the government from becoming too powerful?
9. What are the powers of the president, the congress and the courts?
10. How can changes be made in America's government?
11. How important are your rights to you?
12. In your opinion, explain why you think adults and juveniles should be treated differently when they violate the law?
13. Why are the police officers so important in our society?
14. Why is the guarantee of due process so important?
15. How is citizen participation related to the purpose of our government? Explain why participating in government is in our best interest.

## ACTIVITIES

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1. Contact an attorneys office and a paralegal and invite them to speak to the class on crime and punishment. Also the effect that it will have upon them based upon the laws including juveniles and adults.
2. Plan a mock trial: Include, plaintiff, defendant, witnesses, judge, jury, and prosecutor. Have students write a reaction paper after the mock trial. Define the characters role.
3. Plan a field trip to court.
4. Make a call to one of the correctional institutions and plan a field trip.

## RESOURCE LIST

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Family Services - Sgt. Patrick Reading - # 203-946-6946

South Central Criminal Justice Administration - Charles Sherwood # 203-946-6072

## VOCABULARY LIST

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**Action.** The legal, formal name given to the issues embodied in a complaint against another.

**Accused.** The defendant in a criminal case.

**Alibi.** A reason why a defendant could not have done what they are accused of doing; usually a statement by a witness that the defendant was somewhere else.

**Appeals Court (also called Appellate Court).** A court that reviews decisions made by trial courts because one side in a case is unhappy with the decision and asks for a “second opinion” on review; an appeals court can agree with the trial court and uphold the lower court decision or disagree with the lower court and overturn the decision.

**Award.** An official decision by a judge or jury that one party must pay another party a specific amount of money.

**Bailiff.** The law enforcement officer responsible for order and security in a courtroom.; also responsible to watch over and assist the jury.

**Bench.** The place in the courtroom where the judge sits; also, the court itself.

**Burden of Proof.** The amount of evidence required in a case in order for the jury to find in favor of the person bringing the suit; the more serious the consequences of the case, the greater amount of proof required.

**Civil Case.** A legal action stated against another asking recovery for a private wrong; not a criminal case.

**Client.** A person who employs or retains a lawyers to advise and defend them in a legal matter.

**Closing Arguments.** The opportunity given to the lawyers at the close of testimony to sum up what they believe the jury's verdict should be.

**Complaint.** In civil cases, the legal document that states the reasons why someone is being sued and the relief sought, for example, monetary damages or return of property. In criminal cases, the legal document that states the law (or laws) broken and the reasons why the person (or persons) named in the complaint is accused of committing a crime.

**Counsel.** Lawyer, attorney, or counselor; someone who gives advice in a legal matter.

**Cross Examination.** Questioning of a witness by the lawyer who did not call the witness.

**Defendant.** A person in a trial who is accused of a crime or some wrongdoing.

**Defense Attorney.** A lawyer who acts on behalf of a defendant on trial.

**Finding.** A decision made by a judge or jury.

**Grand Jury.** A jury that investigates criminal complaints and decides whether someone should be formally charged with committing a crime.

**Hung Jury.** A jury that cannot agree on a verdict; this can result in a new trial before different jurors.

**Jury.** A group of people who have sworn to decide the facts in a court case and to reach a fair verdict, or decision.

**Juvenile Law.** A legal system for people under the age of eighteen that is different in some ways from the adult system.

**Oath.** A formal promise to perform a specific duty or act.

**Objection.** A request by a lawyer during a trial that the judge order a witness not to answer a question asked by the other lawyer. The judge must either "sustain" the objection (agree with it and forbid the witness to answer it) or "overrule" it (allow the question to be asked).

**Opening Statements.** The presentation made by the lawyers on each side of a case at the start of trial. During opening statements the issues and facts that will be presented are outlined; the purpose of opening statements is to give the jury an overview of the case so the jurors will be better able to understand the evidence they will hear.

**Plaintiff.** A person who starts the action, files a complaint, or sues another person.

**Plea Bargain.** A criminal court practice that allows someone charged with a crime to plead guilty to a lesser offense (so there will be no trial) or allows them to plead guilty to the original charge with the prosecutor promising to recommend a particular sentence.

**Prosecute.** To bring someone to trial to obtain a conviction.

**Prosecutor.** The government official who is authorized to accuse and prosecute (bring to trial) someone who is believed to have committed a crime. Prosecutors are known by various names in different places, i.e. district

attorney, state's attorney, and people's attorney.

Public Defender. In criminal cases, a lawyer who is appointed and paid by the state or federal government to defend a person who has been accused of committing a crime and who is not able to afford a private attorney.

Rest One's Case. An announcement by a lawyer that he or she has finished presenting the evidence for that side.

Sentence. In criminal cases, the decision by a judge or jury as to what punishment is appropriate for a convicted defendant.

Subpoena. An order signed by a judge or prosecutor requiring the presence of someone or something (ie. Records) in a court on a specific date and time.

Summons. An official order issued by a judge or law enforcement official which notifies the person named in the summons that legal action has been started against the person and which tells him or her a date, time, and place they must appear to answer the complaint.

Testimony. Evidence given after taking an oath in court to tell the truth, questions answered under oath concerning what one knows about a case being heard in court.

Trial. The formal presentation of both sides of a dispute before a judge or jury.

Verdict. The decision that a jury or judge makes after hearing and considering all of the evidence and testimony in a case.

Witness. Someone who has seen or heard something; someone who provides evidence about something; someone who is officially ordered to testify in a court.

## **Annotated Bibliography for Teachers**

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Bender, David L., *Criminal Justice*: Greenhaven Press, California, 1998.

This book provides access to a wide range of diversity of opinions about criminal justice.

Bender, David L., *Crime and Criminals*: Greenhaven Press, California, 2000.

This book contains information on the types of crimes and the people that commit them.

Center for Civic Education, *We the People*: Calabasas, California, 1993.

This book contains material that is of benefit to the adults and minors concerning the legal justice system.

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