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The Newsletter of the ISBA's Committee on Law-Related Education

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2011 ISBA High School Mock Trial Case Released

The 2011 Illinois State Bar Association High School Mock Trial Materials have been released. This year's case is an arson issue. The mock trial case materials are available on line at the ISBA's Law-Related Education website <http://www.isba.org/teachers/mocktrial>

Teachers wishing to participate will also find the registration materials at this site. And, if teachers want to contact a lawyer or lawyers to help them prepare students for the mock trials, check the Lawyers In Classrooms resource! <http://www.isba.org/lawyersinclassrooms>

The Registration Deadline is February 1, 2011. Registration Fee is \$100, payable to Illinois LEARN, 424 South Second Street, Springfield, Illinois 62701.

Statement of the Case: In the early morning hours of July 5, 2010, the popular pub in downtown Thunderbird, Illinois, known as Bellows & O'Brien's went up in flames. The property was a total loss. Thousands of dollars worth of inventory, including food and beverages, as well as O'Brien's family heirlooms that were going to be used to decorate the pub were destroyed by fire, smoke and water.

The pub was co-owned by Ashton Bellows and Lane O'Brien, friends since high school and partners in the Pub since it opened. In the past year or so, Bellows had lost interest and wanted out, expressing his/her wishes to sell his/her share of the business to O'Brien, as a first option, and if not to O'Brien, then to someone else. O'Brien had assured Bellows that he/she wished to buy Bellows' share of the pub, but would need time to gather adequate funding.

Whitney Grey, jack of all trades for both Bellows and O'Brien, worked as a bartender, runner, server, and cleaning crew, or wherever needed in the pub. Grey has a juvenile record, having started 2 fires in the city of Thunderbird when he/she was 14 years old. Both were set in grasslands outside of town.

Juvenile Justice Focus of State Bar

The Illinois State Bar Association President Mark Hassakis has selected juvenile justice as primary focus of the Bar Association. Each new president picks a topic of interest upon which to direct activities and resource of the State Bar during his or her term. In keeping with the juvenile justice focus the next several editions of the Law Related Education Newsletter will highlight juvenile justice issues and present materials that will assist in the introduction of the topic into the classroom.

In a Bar Journal article entitled, *The Urgent Need for Juvenile Justice Reform*, President Hassakis presented his reasons for selecting juvenile justice. The full article follows:

The Urgent Need for Juvenile Justice Reform

By Mark D. Hassakis

Our costly juvenile justice system too often does more harm than good. Fortunately, there's a better way. Here's what the ISBA is doing - and what you can do - to help.

I told you last month in my inaugural President's Page that we would focus on a single important social issue this year - improving our juvenile justice system. This month I'll provide some background to help you better understand how and why we're failing our young people and what we all can do about it.

You know the key "players" - judges, prosecutors, defenders, probation officers, educators, and political leaders - who can work together to make a difference. The ISBA and its members can and will be the catalyst for change, working in concert with the MacArthur Foundation, Juvenile Justice Commission, Loyola University School of Law Civitas Childlaw Center, Chicago Bar Association, and Illinois Judges Association.

A different approach to juvenile justice

The nation's juvenile court system began more than a century ago right here in Illinois. But those of us who don't practice in juvenile court probably don't give much thought to how the system works. And that's a shame, because it really matters, not only to us as attorneys but to parents, families, neighbors, and citizens throughout the state.

And, of course, our juvenile justice system matters most to youth in conflict with the law. For them, what happens in the system can influence the rest of their lives. Will they start down a path of crime, incarceration, and misery? Or will they have a chance to grow into the healthy young adults our communities need?

These are the incredibly high stakes for our legal system. How are we doing, you ask? Well, there's good news and there's bad news. Let's start with the challenges.

The problem

We spend far too much time and money on punishment as the main tool to change behavior. Simply put, we too often lock up troubled youth who have mental health, education, family, and/or substance abuse problems instead of taking other approaches that work better and cost much less in the long run.

In fact, Illinois spends over \$100 million dollars each year to lock up nearly 1,200 youth in state correctional facilities. We spend even more to lock up over 2,000 youth annually while they await trial in detention centers across the state. It's an uncomfortable - and totally unacceptable - reality that we incarcerate minority youth at a rate far outpacing their numbers in our communities.

Given today's budget shortfalls, most of these facilities cannot provide even the most basic educational or rehabilitative programming. Too often our incarcerated youth leave facilities worse off than when they entered. Over half of the youth we send to juvenile prisons return in three years.

Unfortunately, Illinois law blurs the lines between youth and adult offenders. As any parent of teenagers can attest, they are not little adults. They think and act differently. Brain research shows this clearly, and yet our state policies rarely reflect this reality.

For instance, until January of this year a 17-year-old arrested for a misdemeanor was considered an adult. Seventeen-year-olds charged with more serious crimes still are.

[What you can do](#)

Illinois spent decades expanding the number of circumstances in which juveniles could be prosecuted as adults in criminal courts. This left our state with the most complicated transfer scheme in the nation. While we have begun to reverse these trends, more work is needed to ensure that youth are treated as youth - capable of tremendous growth and change when given the structure and support a juvenile court should provide.

Moreover, we too often rely on incarceration and pursue "adultified" approaches, though we know that confining youth does not provide them with new skills, help them make better decisions, or reduce the risk of new crime. It does, however, cost a great deal.

So why do Illinois and other states pursue failed juvenile justice approaches when less expensive, more effective, and more humane alternatives are available?

Sometimes we're reacting to an unfounded, fear-based notion that juvenile crime is on the rise. It is not. According to the Department of Justice, juvenile crime has decreased over the past two decades and was at an all time low in 2006. We hear about horrible cases in the news, but these are the exception rather than the rule.

We also enact laws, build detention facilities, and "crack down" on young people based on the notion that the public wants to be "tough on crime," and tough on youth crime especially. It doesn't.

Research from the John D. and Catherine T. MacArthur Foundation confirms what most people intuitively know - 95 percent of the public would pay more taxes to place troubled youth in rehabilitation programs rather than incarcerate them.

We want our youth to get better because we know they are coming back to our communities. We know we reap what we sow, and we know it's better to assist and enable our youth to improve rather than punish them with incarceration. The evidence is clear. The public wants and expects rehabilitation.

The solutions

That brings us to the good news. Several factors - including the state's unprecedented fiscal crisis, solid research about "what works" to reduce juvenile recidivism, and the emergence of strong leadership in the juvenile justice community - are coalescing to create tremendous progress in Illinois and beyond.

In short, we now know what works and what doesn't and that we can't afford to waste public resources on counterproductive approaches. As a result, practitioners and policymakers are stepping up to implement and demonstrate more effective, less costly, and more just approaches to juvenile crime.

Some of these leaders are our own attorneys at the forefront of the Illinois Models for Change Initiative, an effort funded by the John D. and Catherine T. MacArthur Foundation, to help Illinois

implement a fair, rational, and effective juvenile justice system. ISBA member Ben Roe, the Ogle County State's Attorney, is one of these leaders.

Elected with a charge of preserving public safety, he is a steadfast champion for youth, for families, and for the entire Ogle County community. He firmly believes that incarcerating youth should be a last resort. He prefers to provide them with treatment and the resources to turn their lives around.

Roe's approach works. Ogle County has drastically reduced formal arrests, prosecution, and detention of youth. It sends nearly 70 percent of cases to diversion programs instead of to court, while maintaining a reoffense rate of about 5 percent, or far better results than incarceration could produce.

Think this can only happen in a small, rural county? Think again. Judge James Radcliffe in St. Clair County is leading efforts there to find and use alternatives to incarceration, and his community is safer for it. Through the Rede-ploy Illinois program, St. Clair County successfully reduced its commitments to the Department of Juvenile Justice by more than 50 persons in one year. The crime rate didn't go up; it went down.

Across our state, defenders, prosecutors, judges, and other lawyers are leading efforts to do better by youth, their families, and our communities. Unfortunately, there is much work to be done. Too many counties have few or no community-based services. Others choose to rely on incarceration for even minor offenses and low-risk youth.

Better options are available. It is our obligation as lawyers, judges, and leaders to develop better policies, practices, and programs. I, along with our Board of Governors, assembly members, section councils and committees, and the ISBA staff look forward to spending the next year raising the awareness of this timely social issue to our members and the public, as well as featuring the good work underway in Illinois, supporting and celebrating the juvenile justice leaders among us and encouraging all of us - lawyers, judges and community leaders - to take a look at juvenile justice.

We must work to ensure that every child has the opportunities we want for our own children to learn, grow, and become assets to our communities. I look forward to working with you to spearhead the next crucial years of juvenile justice reform in Illinois.

What you can do

- Become familiar with the issues by asking these questions: What does your community do when vulnerable youth get in trouble? How does it ensure that youth are treated appropriately? What community-based strategies does it employ?
- Become familiar with the key players in your community. Many are probably fellow lawyers, including prosecutors, defenders, and judges. Ask them what you can do to make the system work better.
- Contact your elected representatives on the county board and in the legislature. Let them know you are interested in alternatives to incarceration, and let them know you are watching their actions.

Juvenile Justice: An Introduction

Juvenile Justice is an area of the law that deals with wrongful behavior by children as well as behavior that can harm children. The primary source of juvenile law is the Juvenile Court Act (JCA).

The Juvenile Court Act creates a special court to handle problems of children and outlines procedures to use in children's cases. There are two basic areas of concern addressed in the Juvenile Court. One area of concern is neglect and child abuse. This area focuses on the behavior of parents and other caretakers whose behavior may harm the child. In Illinois the Department of Children and Family Services is the principle agency charged with investigation abuse and neglect. This area of concern is often referred to as child welfare.

The other area of concern involves wrongful behavior on the part of a young person. The term juvenile justice is generally used in reference to this aspect of juvenile law. If a young person commits a crime it is covered by the delinquency sections of the Juvenile Court Act. The JCA also deals with behavior that is harmful but may not be criminal such as running away and truancy. The Minor Requiring Authoritative Intervention sections of the JCA address this type of behavior. Police agencies usually are involved in starting the juvenile justice process.

In Illinois, youth 16 years old or younger who commit a crime are treated as juveniles and will have their cases heard under the Juvenile Court Act. Beginning 2010 17 year olds charged with misdemeanor offenses also will be dealt with as juveniles. A misdemeanor is a less serious offense. However 17 year olds who commit more serious offenses known as felonies will have their cases heard under regular adult criminal procedures. Also certain very serious offenses such as murder may be transferred to the criminal courts at even younger ages. Fortunately most youth are charged with less serious offenses.

The basic idea behind juvenile justice is that youth because of their mental maturity and state of development should be handled differently than adults. The goal is to come up with age appropriate punishments that will hold the youth accountable but not unduly hinder his or her future. It is based on the belief that while many persons will do something and act compulsively when they are young most will mature into law abiding adults. Modern brain research is demonstrating that the part of the brain that develops last controls risk taking and compulsive behavior.

The goal of juvenile justice is to have a separate court and laws to deal with youthful wrongdoing. This court is staffed with probation officers who will work with other community resources to develop a plan to correct the behavior and in most cases keep the child in the community where he or she lives. Many police departments also have juvenile police officers. Many cases are never brought to court they are handled informally by police officers or probation officers. This process of handling cases outside of court is known as station or probation adjustment.

Illinois has been a leader in the field of juvenile justice for many years. The first juvenile court in the world has established in 1899 in Chicago. The famous social worker, Jane Addams was one of the early advocates for juvenile justice. Within a very short time virtually every state had a juvenile court in operation.

In recent years the Illinois Juvenile Court Act has been amended to encourage the use of restorative justice principles in juvenile court. Restorative justice is based on the theory that crime causes harm to the community and that to the greatest extent possible a solution should be found that will restore the community and victim to the place that existed before the crime occurred

Having the youth repay the victim and community in a real or symbolic manner is often a desired outcome.

Over the next several issues of the LRE Newsletter we will be returning to the subject of juvenile justice. Juvenile justice is ideally suited for law-related education because it is relevant to students and there should be a high level of interest. The newsletter will provide information about the history, procedure and programs used in juvenile justice. We will attempt to develop lesson plans using restorative and juvenile justice themes as well providing references to other resources on juvenile justice.

POINTS OF LAW - Classroom Discussion Topics

With health care reform in the news, we thought some health-related topics might be useful as background for classroom discussions.

Confidentiality of Patient Information: In Illinois, doctors, health care providers, health services corporations and insurance companies are prohibited from disclosing the details of services provided to their patients. There are some exceptions to this rule. Confidential information may be shared with the patient, the party making treatment decisions if the patient is incapable, those directly involved with providing treatment, processing payment for that treatment, and parties responsible for peer review, utilization review and quality assurance. Illinois law also mandates that patient information must be shared with those parties required to be notified under the Abused and Neglected Child Reporting Act, the Illinois Sexually Transmissible Disease Control Act, or where otherwise authorized or required by law. The confidentiality right may be waived in writing by the patient or the patient's guardian. Doctors or other health care providers may not condition the provision of services on the patient's or guardian's agreement to sign such a waiver.

Genetic Testing – You Have Rights: Your genetic make up can tell much about your health, and today doctors are able to test to see if you might be at higher risk of getting any number of serious diseases. Most of these tests show that you are at risk and few can reveal with 100% accuracy if you will actually get a disease. Some individuals are choosing to get tested if they have family histories of certain kinds of cancer, or if relatives have been diagnosed with Alzheimer's, heart disease or diabetes. If you are tested and the results indicate that you are at higher risk for a serious disease, you should be aware that Illinois law offers some protections to you. A health insurer or HMO may not seek or use your genetic test results to deny health coverage. The company or HMO may only use the information if you voluntarily give it, and the test results are in your favor. These restrictions on genetic testing information do **not** apply to life insurance policies.

Organ Transplants and the Law: In legal language, it is known as an anatomical gift, most people know it as leaving one's body to science or donating vital organs for the purpose of transplant. In the interest of sustaining life, the law says that in the absence of instructions in a will or other document, surviving members of a family may donate all or part of a relative's body for medical research or transplants. In order of their authority, those who can exercise this right are the surviving spouse, adult children, parents, adult siblings or the legal guardian. If only one family member decides against it, the donation cannot be made.

The Rights of Nursing Home Patients: There are many concerns when someone you love needs to go to a nursing home facility. Nursing home residents are guaranteed certain protections under Illinois law. Patients have the right to manage their own financial affairs, unless they are unable to do so. They may wear their own clothing and have personal items around them. They may expect security of their person and their personal items. All patients are to be permitted private and uncensored communications by mail, telephone or visitation, and may worship as they choose.

Your Health Care: Who Decides? If you become terminally ill or permanently unconscious, who will make decisions about your medical care? Illinois law permits you to make choices in advance, by signing a health care power of attorney or a living will to ensure that your wishes will be followed concerning life-sustaining efforts. If you do not choose in advance, a state law may allow a family member or friend, acting as your surrogate, to make these decisions according to what is known about your wishes. Now, while you are well, is the time to decide what kind of health care you will want if you are ever unable to make those decisions. Read the Illinois Statutes on power of attorney for health care <http://gac.state.il.us/pdfs/poahc.pdf>

BOOKS FOR HOLIDAY READING

John Grisham has entered the youth literature field with his new book, *Theodore Boone, Kid Lawyer*, a story of a young boy, the child of two lawyers, who wants to become a lawyer, or judge, and becomes involved in a case that leads him into trouble. In reading the reviews at www.amazon.com, we came across a list of additional books that may be of interest to readers over the holidays:

Robert Parker's *Chasing the Bear, the Boxer and the Spy*, and the *Edenville Owls*.

Andy McNab's *Traitor*

Robert Muchamore's *The Recruit*

Anthony Horowitz's *Gatekeeper* series

Jack Higgins's *Surefire*

David Gilman's *Devil's Breath*

All the above were recommended by a middle school librarian.

USING FAIRY TALES AS MOCK TRIAL SCRIPTS

If you are teaching a high school class and are looking for a way to get your students involved with younger classes, consider hosting a mock trial event using a fairy tale mock trial script. Fairy tale mock trials mix laughter and learning. The American Bar Association has some can't-lose choices. All are complete scripts and come with instructions on how to put on a mock trial, simplified rules of evidence, and other useful information. **The excerpts below are taken directly from the ABA Website.**

- [The Big Bad Wolf v. The Three Little Pigs](#) - Showing absolutely no shame, B. B. Wolf (the initials stand for "Big Bad") has the nerve to sue Curly Pig for attempted wolf cooking. This mock trial script features 7 speaking parts (Judge, B.B. Wolf, Curly Pig, Jack Smith, Plaintiff's Counsel, Defendant's Counsel, Bailiff) and includes a glossary of legal terms.
- [Cinderella v. Estate of Padre Mia Tremaine](#) - Feisty Cinderella, now a princess, sues for back wages from her "rotten, wicked stepmother." This mock trial script features 9 speaking parts (Judge,

Bailiff, Plaintiff's Attorney, Defendant's Attorney, The Prince, Cinderella, and 3 witnesses for the defense) and includes a glossary of legal terms.

- [Claude v. The Beast](#) - In this reworking of "Beauty and the Beast," disappointed suitor Claude sues the "Beast" (aka handsome prince) for impersonation and alienation of affections. This mock trial script features 10 speaking parts (including Judge, Claude, Beauty, Beauty's father, The Prince/aka The Beast, Plaintiff's counsel, Defendant's counsel, Bailiff).
- [Emperor v. Swin and Del](#) - Embarrassed monarch sues tailors for fraud and misrepresentation in this retelling of "The Emperor's New Clothes." This mock trial script features 12 speaking parts.
- [Humpty Dumpty v. Sherman King](#) - Humpty Dumpty uses his appearance to make a living, attracting customers to King's Kar World and other businesses. A tragic accident nearly wrecks his career, and, alleging negligence, in this civil case he sues Sherman King, the business's owner, for damages from his fall. This mock trial script features 10 speaking parts and secret information for each witness.
- [Rumpelstiltskin v. Queen Malory](#) - In this civil case, Rumpelstiltskin sues the Queen to collect payment for his work. This mock trial script features 13 speaking parts and secret information for each witness.
- [State v. Delphinia Rose Sweetpea](#) - In this retelling of "The Princess and the Pea," our heroine is on trial for fraudulently pretending to be a princess. This mock trial script features 13 speaking parts and includes secret information for each witness.
- [State v. Jack Robinson](#) - Jack (of beanstalk fame) is on trial for second degree intentional homicide in the death of Clarence Ogre in this lively, fun criminal trial script written by four fifth-grade students from Washington School in Marshfield, Wisconsin. This mock trial script features 7 speaking parts.
- [State of Italia v. Geppetto](#) - Neglect is the issue in this case on whether Pinocchio should remain with the woodcutter or have his care and education become the responsibility of the state. This mock trial script features 8 speaking parts.
- [State v. Richard Fox](#) - In this retelling of "The Fox and the Crow," the fox is on trial for theft by deception- taking a piece of cheese from Camilla Crow by tricking her. This mock trial script features 7 speaking parts.
- [The Three Bears v. Goldilocks](#) - Yikes! The Bears have sued Goldilocks for bad manners.
- [United States v. Bunyan](#) - Federal agencies sue the big lumberjack and "Mr. Ox" to stop them from cutting down forests, making their own waterways, correcting curving highways, and generally creating a nuisance. This mock trial script features 10 speaking parts and includes a glossary of legal terms.
- [Village of Sheepfold v. Joey Wolfcryer](#) - In this retelling of "The Boy Who Cried Wolf," Joey Wolfcryer is accused of violating an ordinance against crying wolf when there is no wolf. (A second ordinance, which imposes a duty to cry wolf if there is a wolf, also figures in the evidence and arguments of this criminal trial.) This mock trial script features 10 speaking parts and includes secret information for each witness.
- [Wicked Witch v. Snow White](#) - Witch sues princess for stealing her "trademark" - Fairest of Them All. This mock trial script features 7 speaking parts (Judge, Snow White, The Queen, The Queen's Huntsman, Plaintiff's Counsel, Defendant's Counsel, Bailiff) and includes a glossary of legal terms.

Each script is available for a purchase price of \$5.95. A free option is to read the actual fairy tale to the students and then discuss the legal ramifications of the actions the characters take in the story.

Questions you might ask after reading the fairy tale:

- Who would you charge with a crime in the story?
- What crime did they commit? You may need to take time to explain trademarks, copyrights, etc.
- Could the crime have been prevented if the victim had done something different?
- How would you feel if something like this happened to you?

- What should the punishment be? Prison, restitution, community service?

If you choose to put on the entire mock trial, characters may be limited. You can use the entire class by assigning roles of judges, jury, bailiff, reporters, courtroom artists, etc.

American Bar Association Fairy Tale Mock Trial Scripts are available at <http://www.abanet.org/publiced/mocktrials.html>

If you'd like a different mock trial script (free), you may wish to visit the ISBA's Law Day Activities Guide (page 26), where we've been authorized to reprint a mock trial script based on *The Wizard of Oz*, Dorothy and Wicked Witch, in which Dorothy is charged with murdering the Witch by water soaking. <http://www.isba.org/Sections/lawday.pdf>

100 Years of Looking the Other Way: Discrimination and the 1964 Civil Rights Act

A lesson plan created by Vicki L. Chase, Clair E. Gale Jr. High School, Idaho Falls, Idaho
CRADLE Lesson Plan No. 71522A

As celebrations of Dr. Martin Luther King's Birthday on January 18th are being planned, consider this lesson plan!

LESSON OVERVIEW: When studying the Reconstruction period, the 13th, 14th, and 15th Amendments, or the 1960s, it is important for students to understand that it took another 100 years for the rights of African Americans to manifest themselves. In this lesson students will work in small groups and individually to understand the history of discrimination in the U.S. prior to the 1964 Civil Rights Act. They will also prepare and conduct oral interviews with people who remember the 1964 Civil Rights Act in order to learn about the impact of this piece of legislation.

GOALS: As a result of this lesson, students will:

- Understand the impact of discrimination in the U.S. prior to the 1964 Civil Rights Act.
- Investigate and recognize instances in history where individual's Constitutional rights have been denied.
- Understand how life changed in the U.S. as a result of the 1964 Civil Rights Act.
- Learn how the community can serve as a historical resource.
- Learn how to develop questions, take notes, and conduct an oral interview.

GRADE LEVEL: 8th-12th grades

MATERIALS:

1. A large sheet of poster paper and markers.
2. Handouts 1, 2, and 3

BACKGROUND:

1. Students should have an understanding of the Thirteenth, Fourteenth, and Fifteenth Amendments of the Constitution.

PROCEDURE:

PART I

1. Divide the class into groups of four or five students. Give each group of students one of the skit descriptions on Handout 1. The students will create short skits to depict the problems listed on their handout. Depending on how detailed you want the skits to be you may also require the students to use outside sources to do further research on their assigned problem. It is also fun to tell the students that each one is responsible for creating a prop to use or wear during the skit.
2. Before the students present their skit, hang a big piece of poster paper in the front of the room with two columns on it. Label the top of the first column "Problems" and the other column "Rights Denied".
3. Have the first group of students present their skit to the class.
4. After the skit has been presented ask the class to generate ideas as to what the underlying problems are. Then have students look in the Constitution for any protection against this type of discrimination. Students should explain the rights denied and where it can be found in the Constitution. Write all of the ideas on the sheet of paper. Once they have exhausted ideas for the first skit go on to the next and continue the process. When the skits are finished the students should have an understanding of some of the basic problems facing African Americans after the Civil War and before the 1964 Civil Rights Act.

PART II

1. Write on the board "100 years". Have the students write down changes which have occurred in the last 100 years. Discuss the ideas and share the changes which they know have happened in the last 100 years. Discuss what 100 years would be in terms of human life. Try to get across the idea that many things can change in 100 years and life can be very different. Also, have them write down family members that they know lived prior to 1894. Many students will not be able to name their great grandparents or their great-great grandparents. Discuss the fact that some do not even know these people.
2. State that the Thirteenth, fourteenth, and Fifteenth Amendments were passed in the 1860s and yet it was not until the 1960s that the people received the benefits of these laws. Be sure to get the point across that many of the people who were supposed to receive these benefits were no longer alive to enjoy them.
3. At this point explain to the students that they will be using their parents, grandparents, uncles, aunts, etc. to help them do a research project. The project requires students to interview people who lived during the 1960s. They will find out what life was like in the U.S. and how it changed once the 1964 Civil Rights Act was passed.
4. Post the papers from the previous day on the board to refresh their memory as to the problems which African Americans were facing.

5. Give the students Handouts #2 and #3. Have the students review the main points of change which the Civil Rights Act brought about. Then go over the handout on oral interviews.
6. Students will work to generate at least 15 questions that they could ask family and friends. Be sure to explain that the questions should help them to better understand what was going on at the time.
7. Peer edit the questions. The small groups should evaluate the questions and give suggestions for improvement.
8. Students should find a partner to conduct a mock interview with. Practice asking questions and taking notes. Once both people have had a chance to interview go over the notes to make sure that they are accurate.
9. The students will now conduct an oral interview with a person who can remember the years before 1964. They are to ask their questions and record their information. You might want to allow them to use a tape recorder for the interview. Be sure to mention that they need to ask their subject if a taped interview is acceptable.
10. Once the student has interviewed at least two people (the more people the better), they are to write a summary of what life was like in the U.S. before and after the 1964 Civil Rights Act. Be sure to tell the students that this summary should be in proper essay form with paragraphs, introduction, conclusion, etc.
11. To make sure that the students are being honest with their interviews you might require a personal signature from the interview subjects.
12. As a wrap up have the students read their summaries to small groups in the class and discuss some of the interesting things which were said to them.

Note: If you live in an area where there is an African American population strongly encourage the students to interview them. Some areas of the U.S. will have more difficulty with this than others based upon demographics.

BIBLIOGRAPHY: Walen, Charles and Barbara. *The Longest Debate: A Legislative History of the 1964 Civil Rights Act.* Washington D.C.: Seven Locks Press, 1985.

Handout #1 - Scenarios for Skits

1. The date is November 2 and it is time to vote. You and your friends are excited about being able to go and have a say in the government. When you arrive at the polls you are told that you will have to pay a poll tax and pass a literacy test in order to vote. When you ask why the whites do not have to do this you are told that their grandfathers were eligible to vote on January 1, 1867 and that means that they do not have to pay or take the test. (Note, only whites had been eligible to vote on this date.) This seems very unfair to you since some of you do not even know who your grandfathers were; you were sold off as slaves at very young ages. The only way around paying the

poll tax and taking the literacy test seems to be available only to the whites who had grandfathers voting in 1867. Create a skit to depict the problem you are facing with trying to vote. Include in your skit a description of the rights which you think the Constitution guarantees to you.

2. When you go to the polls you are told that you have to pay a poll tax. You know that this is just another excuse the whites have created to keep you out of government. The tax is quite a lot of money and you are only a sharecropper who constantly owes money to the land owner. You are certain that every time you take your crops in to be sold you are cheated out of money. However, you cannot prove the cheating. The end result of your hard work is that you are constantly in debt. Coming up with enough money to feed your family is a problem and voting seems to be an impossibility since food comes before principles. Create a skit to depict the problem you are facing with trying to vote. Include in your skit a description of the rights which you think the Constitution guarantees to you.

3. In order to vote you have to pass a test to prove that you can read and write. However, when you were of school age you were in the cotton fields planting, tending, and picking cotton. You are intelligent and know quite a bit about politics because you listen to others talk. Since the end of the Civil War you have convinced a friend of yours to teach you to read and write. You can now read names and a few simple words. Your problem is that you want to vote in the upcoming election but everyone has to pass a literacy test before she/he can vote. You are afraid that the test will be too hard for you. You also know that the white people who give the test make sure that blacks get harder tests than whites. Voting seems to be an unattainable dream. Create a skit to depict the problem you are facing with trying to vote. Include in your skit a description of the rights which you think the Constitution guarantees to you.

4. One of the people in your group is Homer Plessy. He is an African American who refused to leave a railroad car which was reserved for whites only. Having separate facilities for blacks and whites was common in the late 1800s and early-mid 1900s. Mr. Plessy is arguing that his 14th Amendment right to "equal protection under the law" is violated when he has to sit in a different railroad car. However, in 1896 when the Supreme Court decided on this case (*Plessy v. Ferguson*) they said that it was legal to segregate, or separate, the races as long as the facilities for both were equal. You and your friends are afraid of how far this "separation" will go and you are concerned that the facilities will not be "equal". Create a skit to depict the problems you and your friends are facing with segregation. Include in your skit a description of the rights which you think the Constitution guarantees to you.

5. The members of your group are seniors in high school. You are looking to enroll in college for the following year. However, there are only a limited number of colleges that will accept your applications because you are black. You decide to try and beat the system and prove a point by submitting your applications to the colleges you want to attend. You receive responses to the applications and all are denials of admission. Since you did not list your ethnic background you are interested as to why you have been denied admission to the schools. After talking with the office of admissions of various schools you find that you have been denied access to the schools because you did not take two years of a foreign language, second year chemistry, and calculus. It is obvious to them that you did not prepare to go to college and that there are many more applicants who are much more qualified than you. You are furious with this information. Your

school never has, and most likely never will, offer these classes. In addition, when you ask to enroll in these classes at the "white" school you are denied. Create a skit to depict the problems you and your friends are facing with segregation. Include in your skit a description of the rights which you think the Constitution guarantees to you.

6. Jamie, one of the people in your group, has recently graduated from college and is looking for a job. There is a position open for a journalist in the city's biggest newspaper and Jamie decides to apply for the job since she/he has a journalism major and it would be a good starting position. The application is received and responded to positively. Since their application did not ask about race Jamie wonders how the paper will respond to the possibility of having a black journalist on staff. When she/he walks in for the interview the personnel director gets a strange look on his face. Instead of being asked about experience and qualifications in news the interviewer asks if she/he has ever worked nights before. The personnel director does not even look at Jamie's portfolio of work. When he is finished asking about health, personal strength, and ability to get along with others he offers a job to Jamie as the night custodian. It is obvious that she/he was not even considered for the journalist position. When confronted on the matter the personnel director says "that is the job available, take it or leave it." Five days later a new journalist is introduced in the city paper. The article states that he was hired one day after your interview. It is obvious that this person received the job which Jamie applied for and was not given a chance to receive. Create a skit to depict the problems you are facing with job discrimination. Include in your skit a description of the rights which you think the Constitution guarantees to you.

7. Your family has recently decided to move away from the inner city and experience the American dream of owning a home in the suburbs. Your family researches different areas where the community seems healthy, quiet, and peaceful. The idea of getting a new home is exciting to all of your family. You set out to look at homes with the realtor. Soon you realize that all of the homes which the realtor is showing you are in low income, run down sections of the city. A point is made to tell the realtor that you are not interested in this type of community and that you have enough money to pay for a nicer home. The realtor takes you to another section of the city but it is not much better than the first. At this point you tell the realtor that you would like to go to the "Summerhaven" subdivision and look at what is available there. The realtor says "Summerhaven is not an area where you should consider living. No one wants you there and I'm certain that you do not want to move where no one wants you." It is obvious at this point that you will not be shown the types of homes which you are interested in because your family is black. Create a skit to depict the problems you are facing with discrimination. Include in your skit a description of the rights which you think the Constitution guarantees to you.

Handout #2 - 1964 Civil Rights Act Summary

Voting Rights: Denial of the right to vote based upon race, color, religion, or national origin is prohibited. A commission is established to investigate voting fraud.

Segregation: Discrimination on the basis of race, color, religion or national origin in restaurants, hotels, motels, gas stations, auditoriums, lunch counters, etc. is prohibited. Private clubs remained exempt. Public operated facilities, such as parks, may not be segregated.

Public Education: Public schools must plan and implement desegregation programs.

Federal Finance: Discrimination based on color, race, or national origin is not permitted with any federally financed program.

Employment: Businesses with 25 or more employees can not discriminate on the base of race, color, religion, sex, or national origin. An Equal Opportunity Commission was established to investigate discriminatory employment practices.

* Adapted from The Longest Debate: A Legislative History of the 1964 Civil Rights Act.

Handout #3 - Oral Interview Suggestions

1. When conducting an interview be sure that you receive permission from the subject. Fully explain what the project is about and what the information will be used for.
2. If you do not write quickly you might want to bring along a tape recorder. It is easy to miss little details of an interview when you are trying to write everything down. If you choose to use a tape recorder, be sure your subject does not object to being recorded.
3. Prepare your questions in advance. Be thorough about your topic and think through all of the different angles from which you want to approach the topic.
4. Find a variety of subjects. The more perspectives you have about a topic, the more rounded and accurate your end product will be. Be careful not to make generalizations about the entire country based upon a regional sampling.
5. Be courteous. Remember to thank your subject for his or her help.
6. Make sure that you accurately record the information. No one likes to be misquoted.
7. Practice your interview with a friend before your actual interview.

Suggested questions:

- What is your name?
- Where were you living in the 1960s?
- How old were you when the 1964 Civil Rights Act was passed?
- Were you involved in or affected by any protests during this time? Were any of them related to the Civil Rights Act?
- Did you ever see or experience discrimination against minorities prior to 1964? If so, please explain.
- Have you seen or experienced Discrimination since 1964? If so, please explain.
- Do you remember the 1964 Civil Rights Act? Please explain what you remember.
- Why do you think it took so long for things to change to occur?

Develop further questions based upon the 1964 Civil Rights Act.

* * * * *

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FIRST AMENDMENT – DISCUSSION GUIDE - FREE SPEECH

FIRST AMENDMENT: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

It’s been years since the Supreme Court said that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate”, yet school districts, parents and students still struggle with freedom of speech issues, especially in school settings. Lawyers in Classrooms can help students openly discuss freedom of speech, from T-shirts to the Internet.

What kinds of speech or expression are protected and are the protections extended to the school setting?

What kinds of speech are not protected?

Can the government put any limits upon a person's freedom of expression? Can the school?

Do public school students have the same First Amendment rights as adults?

Do First Amendment rights differ in public and private schools?

What Kinds Of Speech Or Expression Are Protected? The First Amendment protects both pure speech and symbolic speech. "Pure speech" is that which is spoken or written. "Symbolic speech" involves expression through symbols. Flag-waving, for example, is symbolic speech. So is flag-burning.

What Kinds Of Speech Are Not Protected? Freedom of speech is not absolute. A person does not have a right to scream "Fire!" in a crowded theater when there is no fire, because such an utterance presents a clear and present danger to those in the theater. The First Amendment provides some protection to statements of falsehood or ridicule, but defamation, which includes both libel and slander (take a moment to explain what these are), is not protected by the Constitution. Speech may be protected by the First Amendment even if someone in the audience is offended by the speech. Speech which is so offensive that it constitutes obscenity, however, is not protected. The speech might not be protected by the Constitution if the listeners are a captive audience forced to listen.

Do Public School Students Have The Same First Amendment Rights As Adults? No, they do not. Students' rights are more limited. The school has the right and the duty to teach discipline, civility, good manners, and respect for the rights of others. Students who speak whenever and wherever they want may interfere with the school's functions. Even so, students do have the right to their own views and they may express those views as long as there is no interference with school work or the rights of others. Fear of a possible disturbance ordinarily is not enough to justify prohibiting a student from expressing his or her personal views. Discuss school uniforms and freedom of expression.

Has The United States Supreme Court Ever Ruled On Public School Students' Rights? Yes. *Tinker v. Des Moines Independent Community School Dist.* (1969).

Three public school pupils were suspended for wearing black armbands to protest the government's policy in Vietnam. The Supreme Court ruled that, even though the armbands were symbols, they were "speech" within the meaning of the First Amendment. The Court noted that students do not lose all of their First Amendment rights once they step onto school grounds. The wearing of the armbands, said the Court, was a silent, passive expression of opinion with no accompanying disorder or disturbance. A student's speech may be prohibited if it would materially and substantially interfere with the requirements of appropriate school discipline, or if it would interfere with the rights of others.

Bethel School Dist. v. Fraser (1986). Intending to be amusing, a student used sexual innuendo when nominating a fellow student for a post in student government. The Supreme Court upheld the school's discipline of the speaker. The Court characterized the speech as vulgar, plainly offensive, indecent and lewd. The Court said that the school has the right to regulate the manner of public discourse; in other words, the school has the right to discipline a student for making a speech inappropriate to a government nomination. The Court also noted that the speech was made at a student assembly where students were not permitted to leave; they were a captive audience.

Hazelwood School Dist. v. Kuhlmeier (1988). Students wrote articles for the school newspaper about student pregnancy and the effects of divorce upon students. The principal objected to the stories and they were withheld from publication. The Supreme Court, noting that the rights of public school students are not coextensive with the rights of adults, concluded that there was no violation of the First Amendment. The school newspaper was an educational tool, not a forum for public expression the Court said. The Court also ruled that the school has the right to exercise editorial control over style and content, just as publishers of adult newspapers exercise editorial control over their publications. Compare to freedom of the press or regular media.

The above is based on CRADLE lesson plan 71514A, "For the Record"
Originally created by Cynthia Edwards-Jamieson, Knoxville Community School District,
Knoxville, Iowa and Daniel J. Hanson, Attorney, Clive, Iowa

You may also want to bring up:

- *Morse v. Frederick*, 551 U.S. ____ (2007). On June 25, 2007, a divided United States Supreme Court upheld the suspension of an Alaska high school student who refused to lower a banner that read "BONG HiTS 4 JESUS" while attending a school-sponsored event. The Olympic Torch Relay passed through Juneau, Alaska on January 24, 2002 on its way to the winter games in Salt Lake City. The torchbearers were to proceed along a street in front of Juneau-Douglas High School while school was in session. Principal Morse allowed the students and staff to participate in the Torch Relay as a school event or trip. Students lined up on either side of the street under the supervision of administrators and teachers. As the Torch Relay and news camera crews passed, Frederick, a JDHS student, and several friends unfurled the 14-foot banner, which was readable by students on the opposite side of the street. Morse crossed the street and demanded that the banner be taken down. Everyone but

Frederick complied. Morse confiscated the banner and later suspended Frederick for 10 days because she believed the banner encouraged illegal drug use in violation of school policy. The Court concluded that a principal may, consistent with the 1st Amendment, restrict student speech at a school event when that speech is reasonably viewed as promoting illegal drug use. (ISBA Education Law Newsletter, excerpted text written by Phil Milsk, Illinois attorney)

- You might also want to take the time to discuss free speech when it crosses a line and becomes bullying. The Internet provides abundant opportunities for some students to tease, harass, bully and cyber-smear others, such misuse of the superhighway has led to tragic results, as in the case of the 13 year-old Minnesota girl who killed herself due to harassment over the Internet. This is a virtually uncharted area of the law and can provide a framework to help protect students' rights and their safety.
- Discuss threats made against teachers and classmates. Are threats protected by the First Amendment? What if a school assignment, like a written term paper, contains a threat?
- Visit www.aclu.org as a guide

Courtroom Drama: Should T.V. Cameras be Allowed?

Developed by Vada Armistead, Sulphur High School, Sulphur, Louisiana
Cradle Lesson Plan No. 71594B

INTRODUCTION: What happens when a courtroom becomes the stage for a production that will be viewed by millions in a television audience? This activity is designed to have students consider whether television camera videoing of criminal court/trial proceedings impacts the outcome reached. Students will evaluate and discuss the effect of cameras filming live courtroom activity on the parties to the action, the witnesses, the jurors, the attorneys, and the judge. This exercise will enable each student to determine whether videotaping trial proceedings for public viewing interferes with the right to a fair trial.

GOALS/OBJECTIVES: As a result of this lesson, the students will:

1. Identify well-known criminal cases where videoing has been allowed and discuss possible effects on the proceedings.
2. Analyze several cases and develop pros and cons of the public's right to view court proceedings.
3. Develop an understanding of the issue of fairness in courtroom proceedings versus the public's right to know.

GRADE LEVEL/SUBJECT: This lesson is designed for grades 9 through 12. Subject: Law Studies; American Government/Civics

TIME REQUIRED: Five or more class periods.

MATERIALS:

1. Handout #1; copies of the First, Sixth, and Fourteenth Amendments to the U.S. Constitution.
2. Handout #2; questions for students designed to introduce lesson.

3. Handout #3; forms to be used during group session to record information relating to cases previously viewed by students.
4. Videotaped criminal trial proceedings that have previously aired on television.
5. Handout #4; forms to be used during the viewing of videotaped proceedings to record observations made by students.
6. Handout #5; critical thinking questions to be completed by students for use in the preparation of the essay to be written at the conclusion of this lesson.
7. Videotaped views of attorneys/analysts on the issue of whether broadcasting trial proceedings interferes with the fair trial process.
8. Handout #6; list of pros and cons of videoing courtroom procedures compiled through research of various sources by this teacher.

PROCEDURE - (Day 1) - Distribute and have students read copies of the First, Sixth, and Fourteenth Amendments to the United States Constitution. Pass out Handout #2 and allow students time to jot down answers and comments to introductory questions. Discuss answers and encourage students to participate and comment, making sure to give all students a chance to express their thoughts and opinions. Explain overall goals and objectives of this lesson. Divide the class into small groups and have students list and discuss specific criminal cases they have viewed on television. As best they can remember, have them relate the following: the nature of each trial, parties to the action, verdict by the judge or jury; extent of public interest in the trial; demeanor or behavior of prosecutor, defendant, counsel for defense, judge, and witnesses. Have students use Handout #3 to record this information.

PROCEDURE - (Days 2 and 3) - Show portions of trials that have aired previously on television. (For this lesson I used videoed portions of the Pamela Smart, Robert Chambers, Menendez brothers, O.J. Simpson, and Court T.V. trials. This lesson plan would best be enhanced by using taped material that is current to the time the lesson is taught.) As each trial is aired, students, using Handout #4, are to make notes on various aspects of the trial that appear to be influenced by the cameras to some extent. After each viewing, allow class members to discuss the trial and share their feelings about the impact of the television cameras. At the conclusion of this taped viewing, distribute Handout #5 to be completed outside of class. The responses students make to these questions will be incorporated into an essay they will write at the conclusion of this lesson.

PROCEDURE - (Day 4) - Have students review and discuss taped opinions of attorneys or analysts relating to the fairness of televised proceedings that are currently available. (For this lesson I used comments by Al Johnson, Alan Dershowitz, and David Lewis, attorneys; Justice John A. K. Bradley; and Edwin Diamond, media critic, from the American Justice series, which duplication and use is permitted through December of 1995. Material current to the teaching of this lesson would best enhance its effectiveness.) Distribute Handout #6 and discuss the pros and cons of videoing trial proceedings that are listed on the handout.

PROCEDURE - (Day 5) - The activities for the final day of this lesson begin with the teacher debriefing and summarizing. Students will then spend the remainder of the class period composing an essay that develops their opinion as to how our legal system should balance the fair trial issue with providing televised trial coverage to the public.

DEBRIEFING: Briefly review the advantages and disadvantages of videoing criminal trials. Ask the students to consider the following regarding videoed courtroom proceedings: How would you feel if you were the judge or a jury member? How would you feel if you were testifying as a witness to the matter? How would you feel if you were prosecuting the defendant or defending the one accused? How would you feel if you had to defend yourself?

EVALUATION: Evaluation of student participation and understanding should be continuous throughout this lesson. The teacher should make an effort to include all students in the discussions to assess understanding and involvement in the work. Written comments from each group could be used to determine how the group is progressing.

Students are required to keep all daily exercises and notes in an organized form in order that this material might be referred to when preparing the essay at the conclusion of this lesson.

TIPS FOR THE TEACHER: The amount of time needed for this lesson might vary depending upon the length of discussion time allowed by the teacher for each of the exercises.

An outside resource person (attorney or judge) could be invited to speak to the class to discuss his or her feelings and possible experiences with trial videoing and the impact on the verdict.

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HANDOUT #1 - UNITED STATES CONSTITUTION

FIRST AMENDMENT - Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

SIXTH AMENDMENT - 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.

FOURTEENTH AMENDMENT - All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

HANDOUT #2 - The Sixth Amendment to the Constitution states that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial.

1. In your opinion, what is meant by "public trial" as it relates to the Sixth Amendment?
2. Do you believe the "public's right to know" requires the videoing of courtroom procedures for public viewing? Explain your response. Do you feel videoing court proceedings provides an advantage to either the prosecutor or defense? Is either side placed at a disadvantage? Explain your position.

HANDOUT #3

1. Nature of trial:
2. Parties to action:
3. Verdict by judge/jury:
4. Extent of public interest:
5. Demeanor/behavior of: (any specific information that can be remembered about any party to this action, the judge, attorneys, witnesses or jury)

Prosecutor:

Defendant:

Counsel for defendant:

Witness:

HANDOUT #4 - NAME OF TRIAL/WHO IS ON TRIAL?

My observations of

JUDGE

JURY

PROSECUTOR

DEFENDANT

COUNSEL FOR DEFENDANT

SPECTATORS IN ROOM

WITNESS Name:

WITNESS Name:

HANDOUT #5 - Complete the following and support your responses:

1. Should the trial judge be allowed to use his discretion in determining what is best to insure the defendant's right to a fair trial?
2. Should any participant in the proceedings be allowed to make the decision to exclude cameras from the courtroom?
3. Should any participant be allowed to make the decision to exclude cameras during his or her testimony?
4. Should a witness have to reveal intimate details of embarrassing or traumatic experiences before a T.V. audience? Would this in any way affect the accuracy of the testimony?
5. Should the court close proceedings to the media to protect the welfare of a minor?
6. Should the court close proceedings to the media when people are testifying as police informants?

HANDOUT #6 - ACCORDING TO MY SOURCES

The United States Constitution guarantees a public trial for criminal defendants. Since our country's founding, news media has attended and reported on trial proceedings. Communication technology has developed from a reporter's written description, to artists' sketches, to still and movie cameras, and finally to sophisticated portable video cameras.

The United States Supreme Court has held that the First and Fourteenth Amendments to the Constitution protect the right of the press and the public to attend criminal trial proceedings. The First Amendment serves to ensure that individuals can effectively participate in and contribute to our republican form of government. Generally, closed proceedings are rare and only used when the need for such limitations outweighs the value of openness. The First Amendment, however, does not make the media's right to obtain information greater than the right granted the general public. There are no constitutional provisions that would guarantee a right to televised trial proceedings.

The Pros of Videoing

- For many people television has become an important, if not the only, source of information. Legal issues are frequently discussed on television news coverage.
- Viewing court proceedings on television gives the public a more accurate view of our criminal justice system by showing what happens at a trial and why. Viewing actual trials will bring a more accurate perspective to the trial process, its procedures and values, and a means to educate and explain our justice system to many who do not understand it.
- Having access to criminal trials enhances the public's confidence in the fairness of our justice system. The public is often leery of what it does not know.
- The right to view criminal trials permits the general public the opportunity to participate and to serve as a check upon the judicial process.
- Microphones and television cameras are encountered daily in banks, stores, apartment buildings, etc.
- Acts committed by criminals often provoke public outcry and outrage and the feeling of a need to retaliate. By opening these trials to the public through television, some of this hostility might be calmed by demonstrating that justice is being served. Because television is so entrenched in the American way of life, it cannot be reasonably maintained that cameras will distort the demeanor and behavior of trial participants.
- Broadcasting and televising court proceedings aids in the public's right to information,

especially considering the limitations of time and resources most people have to observe the operations of our government first hand.

- Televised proceedings could be used to demonstrate to the public that protest and defense can be carried out objectively by legal means.
- Attorneys have the opportunity to see themselves at work. They can evaluate and criticize their own work and performance and perfect their skills in questioning witnesses, making objections, and addressing the jury.
- The judge trying the case has control of the courtroom. He or she can set guidelines so that media coverage is unobtrusive and does not interfere with the correctness and dignity of the proceedings.
- With the public watching, the judge is less likely to resort to partiality, and this scrutiny acts as a constant reminder that the public is, in effect, continually putting our judicial system on trial.

The Cons of Videoing:

- Jurors cannot help but feel the pressures of knowing that friends and neighbors have their eyes upon them.
- Televising a trial may prejudice the defendant by affecting his or her disposition and testimony. Knowing that closeups of his or her expressions and gestures will be aired may alter the defendant's ability to concentrate on the trial itself.
- Knowing that the trial is being televised could diminish the jury's attentiveness. Jurors might be influenced by what they think to be public opinion.
- Some witnesses might be demoralized and frightened, some cocky, and some may tend to overstate facts; memories may falter, and the accuracy of statements may be affected.
- Witnesses may be distracted, embarrassed, self-conscious, anxious, or may feel the desire to "star."
- The defendant's right to effective counsel might be influenced because not only may broadcasting distract the attorneys, but it may also tempt lawyers to perform or play to the public audience.
- Coverage of trial proceedings will often be incomplete. The public, then, would get a crippled image of the trial through bits and pieces of information.
- Judges may see televised proceedings as a way to give grandiose performances.
- Camera coverage may intensify the concerns of a witness about his personal safety, thus discouraging the witness from giving free and complete testimony.
- Testimony might be altered to conform to widely held beliefs. Televising a trial might make a witness an unwilling celebrity. Potential witnesses in future televised trials may be reluctant to come forward after viewing videoed trial proceedings.
- The media can in the future, as it has in the past, be cruel in forming hasty judgments.
- If a person stands trial in a televised setting, he might always be labeled as one who was tried, and others who watched the proceedings might feel they would have returned a different verdict.

Illinois Governor Rod Blagojevich - Where is he now? Where will he be going?

In December 2008, Governor Blagojevich was arrested by United States law enforcement officers on several charges of political corruption. Shortly thereafter, impeachment proceedings were

begun in the Illinois House of Representatives. The first problem facing the House was to determine what would be the grounds for impeachment. The Illinois Constitution does not define the grounds of impeachment. The impeachment process found in the United States Constitution states that impeachment may be for “high crimes and misdemeanors.” While this does not provide much guidance, it is more guidance than provided for in the Illinois Constitution. The Illinois legislature eventually determined that in addition to the charges of political corruption, the governor had taken several actions which were an abuse of authority. In developing the impeachment process for Governor Blagojevich the legislature was able to use the example of the impeachment and trial of President Bill Clinton. In 1998, President Clinton was impeached but not convicted by the U.S. Senate.

Early in January 2009, articles of impeachment were written and approved by a special committee of the Illinois House. The governor had an attorney who was present and allowed to testify during the proceeding. By mid January the House of Representatives voted to impeach the governor. Shortly thereafter, the trial of the governor began in the Senate. The governor was represented but chose not to present evidence. He did make a closing statement at the end of the proceeding. On January 29, 2009 the Senate by a unanimous vote convicted the governor and removed him from office. Later that same day, the Lieutenant Governor Patrick Quinn was sworn in as governor. Although the impeachment and removal of the governor was an embarrassing event in Illinois history, the constitutional process of impeachment worked effectively.

Impeachment is a procedure that allows the legislature to remove from office government officials who engage in wrongful behavior. First, the House of Representatives must find that there are grounds for impeachment and pass articles of impeachment by a majority vote. At this point in the process the individual is said to be impeached, but the individual is not removed from office until the Senate votes to convict. The Senate conducts a trial of the impeached official with the Chief Justice of the Supreme Court presiding. If the Senate by a two-thirds majority votes to convict, the official is removed from office. The United States Constitution contains a similar impeachment process.

The impeachment process is very difficult and cumbersome to use. Prior to the impeachment of Governor Rod Blagojevich, it was used only one other time. A judge in the 1830’s was impeached, but the Senate did not convict. The Constitution now provides for a Judicial Inquiry Board and a Courts Commission to discipline and remove judges from office if necessary. This has proven to be a more practical way of dealing with wrong doing in the judicial branch of government.

The Legislative Article of the Constitution, Section 14 describes the process of impeaching members of the executive or judicial branches. It provides as follows:

SECTION 14. IMPEACHMENT

The House of Representatives has the sole power to conduct legislative investigations to determine the existence of cause for impeachment and, by the vote of a majority of the members elected, to impeach Executive and Judicial officers. Impeachments shall be tried by the Senate. When sitting for that purpose, Senators shall be upon oath, or affirmation, to do justice according to law. If the Governor is tried, the Chief Justice of the Supreme Court shall preside. No person shall be convicted without the concurrence of two-thirds of the Senators elected. Judgment shall not extend

beyond removal from office and disqualification to hold any public office of this State. An impeached officer, whether convicted or acquitted, shall be liable to prosecution, trial, judgment and punishment according to law.

WHAT'S THE STATUS?

During the summer of 2010, a lengthy trial was held on the corruption charges against Blagojevich in the Federal District Court in Chicago. The jury reached a verdict of guilty on one count of lying to federal agents but a mistrial was declared on the other 23 counts. The jury was unable to reach a verdict on these counts. One juror concluded that there was not enough evidence to convict resulting in a hung juror. A unanimous decision is required to convict. The prosecutor has requested a retrial and Blagojevich has started the process of appealing the conviction on the one count. A new trial date will be set early in 2011.

Also, a method of recalling a governor was approved by the voters in the 2010 election. The Constitution was amended to provide for a recall election if a petition is circulated that has a sufficient number of signatures and has the approval of at least 30 legislators. Before a petition may be circulated at least 20 members of the House and 10 Senators must support the petition. At least 10 Republican and 10 Democrats from the House and 5 Republican and 5 Democratic Senators must endorse the petition. If the number of legislators is achieved a petition containing the signatures of 15% of the number of voters in the prior election of the governor must be obtained. The signatures must include at least 100 signatures from 25 different counties.

If a sufficient number of signatures is obtained the Board of Elections will hold a recall election. If a majority of voters support the recall the governor is removed and the Lt. Governor shall become governor until an election can be held for a replacement governor.

The process of recalling the governor is very complex and may be so difficult that it may never be used. The recall provision is only for the governor.

Presidential Impeachments: Which two Presidents have been impeached?

(**Bill Clinton** (1993-2001), the 42nd President, was the second President to be impeached. In 1998 Clinton was impeached by the U.S. House of Representatives but acquitted by the Senate. **Andrew Johnson** was impeached by the U.S. House of Representatives in 1868; he was also later acquitted by the Senate.)

Portions of the above were excerpted from Understanding the Illinois Constitution. Frank Kopecky and Mary Sherman Harris, 2010 Edition

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