Wade Edwards High School Mock Trial Program: A Guide for Teacher Coaches

The goal of the Wade Edwards High School Mock Trial Competition is to give students an understanding of the law and help develop their public speaking, critical thinking and team work skills. Feedback over our 15 year history tells us that students feel this program greatly enhances their confidence, sharpens important life skills and is a memorable and fun time!

The following are designed to help Teachers and Team Leaders coach a Mock Trial team. This document is not a substitute for reading the Competition Rules booklet but offers a detailed overview of the competition and best practices associated with leading a mock trial team. For additional support please contact the Public Education Coordinator at the North Carolina Academy of Trial Lawyers at 919-832-1413 or visit http://www.ncatl.org (click on Public Resources and follow links to the Mock Trial Program website).

How attorneys in your community get involved as Presiding Judges, Scoring Jurors, & Attorney Advisors

Presiding Judges:	Scoring Jurors:	Attorney Advisors:
☐ Takes on Role of Trial Judge. ☐ Rules on Motions, Objections. ☐ Designates Best Witness and Attorney Awards for round (their designation is not based on ballot points). ☐ Offers critique at end of trial.	☐ Members of the jury. ☐ Scores students on their presentation. ☐ Completes scoring sheet (ballot). Sample found in Competition Rules Book. ☐ Offers critique. ☐ Does NOT offer verdict.	☐ Meets with a team 3 hr/wk in months prior to competition ☐ Arranges visit to courthouse before competition ☐ Trains team on procedure
At Regionals, all teams compete in a morning and afternoon round. The 2 top placing teams compete in a third round to identify a regional winner.		

At all competition rounds, the Presiding Judge for the round serves as the "referee" of the trial. The Presiding Judge's job is to see that the trial runs smoothly, on time, and that the students abide by the Mock Trial Simplified Rules of Evidence and Procedure and the Rules of the Competition. The Presiding Judge rules on objections. The Presiding Judge will fill out the form during jury deliberations designating the Best Attorney and Best Witness for the round. The Presiding Judge will also participate in offering a critique of the students at the end of the trial.

Scoring Jurors are seated in the jury box, serving as mock jurors. Scoring Jurors will complete a scoring form (ballot). Scoring Jurors are NOT scoring the students on the merits of the case they are presenting, but, instead, they are scoring them on presentation. They are judging how well the students demonstrate good presentation skills, critical thinking ability, teamwork, how they handle objections – all issues that are performance based.

Attorney Advisors are volunteers who offer to share time with a student team to help prepare that team for competition. They work directly with a teacher coach to achieve this. Many teacher coaches have local contacts and arrange for an attorney to support their team. If that's not possible, however, the State Coordinator at the NC Academy of Trial Lawyers will place your team with a local attorney advisor.

Your Role as Teacher Coach

- Competition officials will see you as the main contact person for your team.
- Help identify and select students for the program, and would work with the attorney advisor in preparing those students for competition.
- Submit your team's roster, making sure that all of the students are named on the roster. Handle issues surrounding the payment of the team registration fee; and your team's transportation to the competition(s).
- If you do not have an attorney advisor, let the State Coordinator at the NC Academy of Trial Lawyers know and we will match you with an attorney in your area.

Team Structure

Teams consist of a minimum of 7 students and a maximum of 8 students.

The 7-8 students have 13 roles to fill:

7 roles when playing prosecution:	6 roles when playing defense:
3 attorneys, 3 witnesses, 1 bailiff	3 attorneys, 3 witnesses

- ☐ All teams will play each side at least once during competition.
- ☐ All 3 witnesses per side need to be called. All witnesses are gender neutral.
- ☐ The 3 attorneys per side need to share roles evenly. Example: The attorney who provides the opening statement can not provide the close argument during that round.
- ☐ A student attorney who conducts a direct exam of a witness is the only person who may object to the opposing attorney's questions during cross examination.
- ☐ Most students per team will have to play two roles (but they are limited to only 1 role per side)

Teams will consist of a minimum of 7 students and a maximum of 8 students. A student cannot have more than one role per round. There are 3 attorneys and 3 witness roles for each side. All witnesses must be called during the trial. The team playing the prosecution provides the court bailiff.

Roles need to be evenly divided (Example: an attorney who makes opening statements, can not close for his/her team.) A student attorney cannot conduct more than one cross or direct. The attorney who conducts the direct exam of a witness is the only person who may object to the opposing attorney's questions during cross.

If you do not follow the rule and the other team objects, then your team will get a zero for that phase of the trial. For example, if John conducts both the opening and closing, then your opponent can object during the closing and your team will receive a zero from all three judges for the closing argument.

Structure of our Mock Trial Competition

- ☐ Prosecution/Plaintiff presents opening statements & closing arguments first.
- ☐ Prosecution/Plaintiff rebuttal
- ☐ Time limits are set.
- ☐ Clock stops for objections.
- ☐ Role of bailiff.

In the mock trials the prosecution or plaintiff will present their opening statement first. The prosecution or plaintiff will also present their closing argument first. The prosecution or plaintiff is allowed to reserve no more than half of their allotted closing time for rebuttal at the end of the trial. Their rebuttal should be limited to the scope of the defense's closing statement.

The student bailiff serves as official timekeeper for the trial round. During the trial, he/she will flash time cards and will let the Presiding Judge know when time is up. (Program Administrators will provide the time cards). The bailiff should also hold the time cards so the student participants can see the time cards as well.

Students are under the strict time limitations in this competition. The competition time limits are: 4 minutes per side for opening, 20 minutes per side for direct examinations, 15 minutes per side for cross-examinations and 4 minutes per side for closing argument. Time cannot be transferred to another "section" of the trial, but it is important to know that time does stop for objections.

Re-direct examinations and re-cross examinations are allowed so long as they follow Rule 611 of the Simplified Rules of Evidence. Re-direct examinations are limited to the scope of what was covered in cross. Re-cross examinations are limited to the scope of what was covered in re-direct.

Key Rules

Students are limited to the case materials.

- ☐ Witnesses are bound by facts of their statements. Notes are discouraged.
- ☐ Stipulations are considered admitted into evidence – no reading of stipulations into the record is allowed.
- ☐ All students, including witnesses, are NOT allowed to wear costumes or enlarge the provided 8.5"x11" exhibits
- ☐ Attorneys are permitted to move around the courtroom during opening statements and closing arguments only. See Rule 4.16 for more details.

It is important to note that students are restricted to the case materials provided to them by competition officials. A team is never rewarded for going outside the scope of the competition or the case materials. In fact, if a team goes outside the mock trial universe, points will be deducted from their score for that phase of the trial.

Another important rule to remember is that witnesses are bound by the facts contained in their witness statements. Use of notes by the witnesses on the

witness stand is discouraged. Stipulations are considered admitted into evidence. No reading of stipulations into the record will be allowed.

Students are not permitted to wear costumes or to enlarge exhibits for use during the trial. Students are permitted to move about the court room (within the bar) during opening statements and closing arguments only. Otherwise students are to stand at their desks during direct and cross-examinations and when making objections.

Motions

Prohibited motions:

- ☐ NO voir dire of witnesses.
- ☐ NO motions in limine.

- ☐ Bench conferences are allowed but should be held from counsel table so scoring judges can hear student arguments.

Pursuant to Rule 4.8, motions in mock trial are prohibited. There will be no voir dire of witnesses, there will be no motions in limine, and there is no exclusion of any witnesses from the courtroom during a trial.

Bench conferences are allowed, but for educational and scoring purposes, they should be held from counsel table so that scoring judges can hear the student arguments and take that into account in their scoring.

Objections (4.18) and Introduction of Exhibits (4.19)

Presiding Judges will allow a response to each objection because it is part of the best overall presentation decision. Student attorneys will tend to quote rule numbers and will be very specific about why an objection applies or does not apply. Remember that the clock is stopped for objections.

Students are to use normal courtroom decorum and they should rise any time they address the court or the scoring jury. As outlined in Rule 2.3, students can extrapolate during trial, however all extrapolations from the facts of the case must be fair and neutral and not affect the outcome of the case. Unfair extrapolations are those that do impact the outcome of the case.

Under rule 2.3 student attorneys are not to ask questions calling for information outside the case materials or requesting an unfair extrapolation. If a witness is asked information not contained in the witness' statement, the answer must be consistent with the statement and may not materially affect the witness' testimony or any substantive issue of the case.

Scoring

- ☐ A sample ballot can be found at the back of your Competition Rules book.
- ☐ The ballot's scoring guide provides guidance on what jurors will be looking for.
- ☐ All aspects/presentations associated with the trial are scored.

A sample ballot can be found at the back of your Competition Rules book. In reviewing the ballot, you will note that all aspects of the trial are scored. Opening statements, as well as the performance of each witness, and each direct and cross-examination, and closing arguments are scored.

Understanding the Basics of a Trial: A General Guide

The Burden of Proof

To guarantee that the trial process is fair to everyone involved, certain legal principles govern the way parties present their evidence and the way the judge or jury considers the evidence and make a decision. In a civil case, the plaintiff has the burden of proof. Plaintiffs must convince the judge or jury that these facts are correct "by a preponderance of the evidence". Some refer to this as meaning that 51% or more of the evidence supports the plaintiff's side.

In a criminal case, the burden of proof is considered to be much stricter, because the defendant may go to prison. Therefore, the prosecutor must convince the judge or jury "beyond a reasonable doubt" that the accused committed the crime. Some state that "beyond a reasonable doubt' means that the trier of fact (jury) must be at least 95% sure that the prosecutor is correct.

The Defense

As described above, the complaining or accusing parties usually have the burden of proving their particular versions of the facts. The job of the defense team is to present evidence which prevents the plaintiff or prosecutor from meeting the burden of proof. Defense evidence should explain, disprove or discredit the evidence presented by the other party. The defense can weaken the plaintiff's case by presenting an alternative explanation for the incident.

Preparation for Trial

It is the attorney's job to work out a strategy for the trial. Attorneys are responsible for collecting all of the evidence that supports their side of the case they are representing and for deciding how to present that evidence at the trial.

Before the trial, witnesses might make "affidavits" which are written statements of the facts, made voluntarily and sworn to. Witnesses might also be required to give a "deposition" which is testimony given out of court. At a deposition, attorneys for both sides are present to question the witness, while a stenographer records the testimony for later use in court. Before the trial, attorneys must spend time preparing for what they will actually say and do at each step in the trial.

Note re Mock Trial Program: All admissible pieces of evidence and witness statements are included in competition materials. No outside research is allowed.

Steps in A Trial

(Note: wherever the word "plaintiff' appears below, substitute "prosecutor" in a criminal case)

A number of events occur during a trial, and most happen according to a particular sequence, outlined below.
Note re Mock Trial Program: The competition's sequence follows the standard trial process, however, our competition does not involve the reading of jury instructions, or the issuance of verdicts.

1. Judge enters and takes the Bench 2. Bailiff calls the case and swears in witnesses 3. Plaintiff makes an opening statement 4. Defense makes an opening statement	5. Plaintiff presents case: a. Calls first witness and conducts direct exam b. Defense cross exams witness c. Steps a & b are completed for 2 remaining Plaintiff witnesses 6. Plaintiff rests case	7. Defense presents case: (same manner as P, with P cross examining witnesses) 8. Defense rests 9. Plaintiff makes closing arguments 10. Defense makes closing argument 11. P can offer rebuttal if time was allotted 12. Jury instructions read 13. Verdict/decision read 14. Order given OR 15. Sentence (if guilty in criminal trial).

The Witness Examination Process: A General Guide.

(*Refer to the Mock Trial rules for competition specific information.)

Opening Statements:

The opening statement is the introduction to the case, the very first time the attorneys for each side get to tell the judge and jury about what happened to their clients. The first impression is very important; it "paints a picture" of the case that will be presented for each side. Opening statements should include: 1) a summary of the facts according to each party; 2) a summary of the evidence that will be presented at the trial; and 3) a statement regarding what the party hopes to get out of the trial. A test of a good opening statement is this: If the jurors heard the opening statement and nothing else, would they understand what the case is about and would they want to decide in your favor?

Style Points

a. Plaintiff's Attorney: Since this attorney speaks first, it is very important the plaintiff's opening statement to include a good summary of the facts, presented in a light most favorable to the plaintiff. If the opening statement presents a very convincing picture of the plaintiff's case, the defense team will have a much harder time changing the minds of the judge and jury.

b. Defense Attorney: The defense team always has the task of showing that the plaintiff's version of the facts is not correct. In preparing an opening statement, the defense attorney will have to guess how much detail and what kind of emphasis the plaintiff's attorney will make in the plaintiff's opening statement. The defense attorney should be ready to make adjustment in his or her prepared statement while the plaintiff's attorney speaks. The defense attorney should highlight the facts that are in dispute, and emphasize the kinds of evidence that defense will present to show that the plaintiff is wrong.

c. Both Attorneys should practice making eye-to-eye contact with the judge while speaking.

Direct Examinations:

Form of questions: Witnesses may not be asked leading questions by the attorney who calls them. A leading question is one that suggests to the witness the answer desired by the examiner and often suggests a "yes" or "no" answer. Direct questions are usually phrased to evoke a more substantive answer. That being said, witnesses should not be allowed to give long, uncontrolled responses to direct questions.

1) Examples
   Mr. Bryant, when did you first meet Jill?
   Mr. Bryant, how long have you been employed by the factory?
   Directing your attention to Saturday, October 25, could you please tell the court what you observed?
2) Examples

Mr. Hayes, isn't it true that you dislike Manuel Garcia?
You were not in the building that day, were you?
Mr. Haves, didn't you see Jack put the money into the briefcase?

Refreshing a witnesses recollection: If during direct examination, a witness cannot recall a statement that s/he made in an earlier affidavit or event pretrial notes, the attorney may help the witness to remember. The attorney must first make and identify the statement as an exhibit and show the other side a copy. However, the statement need not actually be admitted into evidence in this situation.

Example: A witness sees a purse-snatching, offers to testify and gives a statement of events to the attorney. At trial, the witness has trouble remembering the events s/he saw. The attorney may help the witness remember by showing him/her the statement.

Cross-Examinations (questioning the other side's witnesses):

Form of questions: Attorneys should ask leading questions when cross-examining the opponent's witnesses (i.e., questions should be phrased to evoke a "yes" or "no" answer, rather than a narrative one).

1) Examples:
Ms. Bryant, you considered marrying George Hayes, didn't you?
Isn't it true that you are hard of hearing, Ms. Sanchez?
Mr. Yazzi, don't you generally prefer to avoid loud, crowded taverns?

What questions may be asked: Cross-examination is not limited and may cover the subject matter of the direct examination, matters affecting the credibility of the witness and additional matters, otherwise admissible, that were not covered on direct examination.

Impeachment: On cross-examination, the attorney may want to show that the witness should not be believed. This is called impeaching the witness. It can be achieved by asking the witness questions about the following:

1) Prior bad conduct that makes her/his credibility (trustworthiness) seem doubtful and shows that the witness should not be believed;

Example: "isn't it true that you have had your credit cards revoked for failure to pay your bills"" or "Isn't it true that you often exaggerate events?"

2) Prior criminal convictions of the witness, if within the past ten years for a felony or a crime involving moral turpitude, and the court determines that the value of this evidence outweighs the prejudicial affect;

Example: "Isn't it true that you were recently convicted of armed robbery?"

3) Prior statements made by the witness that contradict her/his testimony at trial and point out the inconsistencies in her/his story

Example: Bill Jones testifies at trial that Joe's car was traveling 90mph. The opposing attorney asks, "isn't it a fact that before this trial you gave a statement to the police saying that Joe's car was only traveling 50 mph?"

4) Bias or prejudice of the witness, that is, showing that the witness has reason to favor or disfavor one side of the case

Example: Ms. Young is the mother of the defendant. The prosecuting attorney points this out and asks, "Ms. Young, you don't want to see your son go to jail, do you?"

5) Accuracy of her/his sensory perceptions, which is the witness' ability to see, hear or smell, or the accuracy of the witness' memory.

Example: Ms. Block testifies that she saw Sam, who was a block away, take a bag of marijuana from his briefcase and hand it to Joe. On cross-examination, the attorney asks Ms Black, "Isn't it a fact that you didn't have your glasses on when you claim to have seen Sam and Joe?"

Redirect Examination:

If the witness' credibility or reputation for the truthfulness has been attacked on cross examination, the attorney whose witness has been damaged may wish to ask a few more questions. These questions should be limited to the damage the attorney thinks was done by the opposing attorney on cross-examination, and should be phrased so as to try to save or "rehabilitate" the witness' credibility. (See Rule 611d)

Hearsay Evidence:

Any out of court statement that is offered to prove the truth of the matter asserted (contents of the statement) is hearsay. These statements are generally inadmissible in a trial. There are, however, several exceptions to the hearsay rule, and it is important to know and understand them. Please see Mock Trial Rule 801 for more information.

Hearsay Examples (the following statements are hearsay and are not admissible):

--Joe is being tried for murdering Henry. The witness may not testify,

"Ellen was there, and she told me that Joe killed Henry."

--In a civil trial arising from an automobile accident, a witness may not testify, "I heard a bystander say that Joe ran the red light."

Opinion Testimony:

As a general rule, witnesses may not give opinions, but experts who have special knowledge or qualifications may. An expert must first be qualified by the attorney who calls him or her. This means that before an expert may be asked and may give an opinion, the questioning attorney must bring out the expert's qualifications and experience. All witnesses may give opinions about what they saw or heard at a particular time, if such opinions are relevant to the facts at issue and are helpful in explaining their stories. A witness may not, however, testify to any matter of which s/he has no personal knowledge.

Examples:
The witness may say, "Roy had slurred speech; he staggered and smelled of alcohol." The witness may not add, "Roy was incapable of driving a car."

A psychiatrist could testify that, "Roy has severe eating problems," but only after the attorney had qualified the psychiatrist as an expert in eating disorders. The attorney must demonstrate that the psychiatrist is an expert in this field by asking a series of questions about her/his education and experience in that particular field.

The witness works with the defendant but has never been to the defendant's home or seen the defendant with her/his children. The witness may not testify that the defendant has a bad relationship with her/his children or that s/he is a bad parent, because the witness has no personal knowledge of this.

Objections:

Objections can be made whenever an attorney or witness has violated rules of evidence. The attorney wishing to object should stand up and do so at the time of the violation; that is, the objection should be made as soon as the improper question is asked by the other attorney and before the witness answers, whenever possible.

When an objection is made, the judge will ask the objection attorney the reason for the objection. Then the judge will turn to the attorney who asked the question and give her/him a chance to explain why the objection should not be accepted (sustained) by the judge. The judge will then rule on the objection, deciding whether an attorney's question or witness'

answer must be disregarded ("objection sustained"), or whether to allow the question or answer to remain on the trial record ("objection overruled").

The following are some standard mock trial objections:

1. Relevance
   "Objection, Your Honor. This testimony is not relevant to the facts of this case."
2. Leading question on direct examination
   "Objection, Your Honor. Counsel is leading the witness."
3. Improper character testimony
   "Objection, Your Honor. Character is not an issue here."
4. Hearsay
   "Objection, Your Honor. Counsel's question (or the witness' answer) is based on hearsay." (If the witness has already given a hearsay answer, the attorney should also say, "and I ask that the statement be stricken from the record."
5. Opinion testimony
   "Objection, Your Honor. Counsel is asking the witness to give an opinion."
6. Lack of personal knowledge
   "Objection, Your Honor. The witness has no personal knowledge to answer the question."

Closing Arguments:

Lawsuits are usually won during the course of the trial, not at the conclusion. They are won be witnesses, exhibits and the manner in which the attorney paces, spaces, and handles them. Sometimes, however, lawsuits have been lost by fumbling, stumbling, and incoherent closing arguments. This is not intended to minimize the importance of closing arguments, but rather to emphasize its proper position as a summation of the evidence and a relation of that evidence to the issues in the case. The purpose of the closing argument is to convince the trier of fact (judge or jury) that the evidence presented is sufficient to win the case for whichever side the attorney is representing.

Style Points:
a. Plaintiff's Attorney: Remember, the plaintiff has the burden of proving the facts in a civil case by a preponderance of the evidence. Therefore, the plaintiff's summary of the favorable evidence presented is extremely important. Be sure to avoid claiming evidence that was not, in fact, presented; similarly, do not emphasize evidence that the defense successfully attacked, except to give a firm response to such an attack. Cite the law clearly and correctly and make a clear argument regarding how the law requires the judge or jury to rule in the plaintiff's favor.

b. Defense Attorney: Summarize all of the evidence presented to weaken the plaintiff's case. Emphasize the inability of the plaintiff to meet the burden of proof, and stress that such inability must clearly lead to a decision in favor of the defendant.

What to Include:
a. A summary of the evidence presented that is favorable to the presenting attorney's side;
b. A summary of the case;
c. A legal argument showing how the law requires the judge or jury to interpret the facts, and why that law requires them to rule in favor of the side for which the attorney is arguing) an "argument" telling the judge or jury why all of the evidence dictates a decision in your favor i.e., tell what the verdict should be and why).
d. New information may NOT be introduced in the closing argument.

Glossary of Legal Terms

Acquittal A finding of "not guilty," certifying the innocence of a person charged with a crime.
Adversary system The trial methods used in the U.S. and some other countries, based on the belief that the trust can best be determined by giving opposing parties full opportunity to present and establish their evidence, and to test by cross-examination, the evidence presented by their adversaries, under established rules of procedure before an impartial judge and/or jury.
Alternative dispute resolution Processes that people can use to help resolve conflicts rather than going to court. Common ADR methods include mediation, arbitration, and negotiation.
Amicus curiae A friend of the court; one not a party to a case who volunteers to offer information on a point of law or some other aspect of the case to assist the court in deciding a matter before it.
Appeal A request by the losing party in a lawsuit that the judgment be reviewed by a higher court.
Appellant The party who initiates an appeal. Sometimes called a petitioner.
Appellate court A court having jurisdiction to hear appeals and review a trial court's decision.
Appellee The party against whom an appeal is taken, sometimes called a respondent.
Bar The whole body of lawyers. The "case at bar" is the case being considered.
Brief A written argument prepared by counsel to file in court setting forth both facts and law in support of a case.
Burden of proof In the law of evidence, the necessity or duty of affirmatively proving a fact or facts in dispute on an issue raised between the parties in a lawsuit. The responsibility of proving a point-the burden of proof-is not the same as the **standard of proof.** "Burden of proof" deals with which side must establish a point or points; "standard of proof" indicates the degree to which the point must be proven. For example, in a civil case, the burden of proof rests with the plaintiff, who must establish his or her case by such standards of proof as "a preponderance of evidence" or "clear and convincing evidence."

Case law Law based on previous decisions of appellate courts, particularly the

Supreme Court.
Certiorari "To make sure." A request for certiorari is an appeal, which the higher court is not required to grant. If it does, then it agrees to hear the case, and a writ of certiorari is issued commanding officials of inferior courts to convey the record of the case to the higher court.
Civil case A case involving disputes between two or more people, between people and companies, or between people and government agencies.
Common law The term generally refers to the "judge-made law" (case law or decision law). The common law originated in England in the rulings of judges based on tradition and custom. These rulings became the law common to the land. Common law is distinguished from statutes (laws enacted by legislatures).
Complaint The first legal document filed in a civil lawsuit. It includes a statement of the wrong or harm done to the plaintiff by the defendant and a request for a specific remedy from the court. A complaint in a criminal case is a sworn statement regarding the defendant's actions that constitute a crime.
Criminal case A case brought by the government, through a prosecutor, against a person thought to have broken the law. (Criminal law is a broad field of the law involving action taken by the state against a person accused of committing a crime.)
Crime An act, or failure to act, forbidden by law and designated a crime in the statutes.
Decision The judgment reached or given by a court of law.
Decree An order of the court. A **final** decree is one which fully and finally disposes of the litigation; an **interlocutory** decree is one that often disposes of only part of a lawsuit.
Defendant In a civil case, the person being sued. In a criminal case, the person being charged with a crime.
Dispute A conflict of claims or rights for which a legal suit may be brought.
Dissent The disagreement of one or more judges with the decision of the majority.
Due process of law Law in its regular administration through the courts of justice; the guarantee of due process requires that every person be protected by a fair trial; i.e., the right to an impartial judge and jury, the right to present evidence on one's own behalf, the right to confront one's accuser, the right to be represented by counsel, etc.

Legislative history Background of action by a legislature, including testimony

Enjoin To issue an injunction, i.e., to issue a court order prohibiting an act.

Equal protection of the law The guarantee in the Fourteenth Amendment to the U.S. Constitution that all persons be treated equally by the law. Court decisions have established that this guarantee requires that courts be open to all persons on the same conditions, with like rules of evidence and modes of procedure; that persons be subject to no restriction in the acquisition of property, the enjoyment of personal liberty, and the pursuit of happiness, which do not generally affect others; that persons are liable to no other or greater burdens than such laid upon others; and that no different or greater punishment is enforced against them for a violation of the laws.

Federalism or federal system As applied to the United States, a division of powers between the federal or U.S. government and the governments of the fifty states. The states have powers of their own, such as power to create a public school system. The federal government has powers such as the control over coinage and the regulating of foreign trade. Both have concurrent powers in such areas as taxation and public health and welfare.

Felony A most serious crime with penalties of imprisonment ranging from a year and a day to life, or, in some states, punishable by death.

Finding Formal conclusion by a judge or regulatory agency on issues of fact; also a conclusion by a jury regarding a fact.

Grand jury A jury of inquiry that hears evidence and, if satisfied that there is a probable cause that a crime was committed, presents an indictment. A petit jury is the jury in a criminal trial that decides the guilt or innocence of the accused.

Grievance A legal dispute.

Grounds The basis or foundation for some action; legal reasons for filing a lawsuit.

Homicide The killing of one person by another.

Impartial Objective; provision of the Sixth Amendment to the U.S. Constitution requiring the judge or a jury not to favor one party over another or to prejudge the merits of the case.

Indictment A formal charge or accusation of criminal action.

Injunction A court order prohibiting a threatened or continuing act.

Judicial review The power of the Supreme Court to declare an act of Congress unconstitutional. *Marberry v. Madison* is the classic case of judicial review.

before committees, written reports, and debates on the legislation.
<u>Litigation</u> The process of resolving a dispute over legal rights in court.
<u>Misdemeanor</u> Less serious crime; A **gross misdemeanor** is a less serious class of crime; A **petty misdemeanor** is a minor offense for which one may be fined.
<u>Moot</u> A moot case or a moot point is one not subject to judicial determination because it involves an abstract question or a pretended controversy that has not yet actually arisen or has already passed. Mootness usually refers to a court's refusal to consider a case because the issue involved has been resolved prior to the court's decision, leaving nothing that would be affected by the court's decision.
<u>Motion</u> An application for a rule or order, made to a court or judge.
<u>Opinion</u> A written statement of a judge setting forth the reasons for a decision and explaining his or her interpretation of the law applicable to the case. A **majority** opinion represents the views of more than half of the judges who participated in the case. A **plurality** opinion represents the view of the greatest number of judges, but less than half of those who hears the case. For example, suppose nine judges hear a case and decide it by a five-to-four vote. If all five agree in their reasons for the decision and join in an opinion stating those reasons, it would be a majority opinion. However, if three of the five agree on the reasoning and the other two agree with the decision, but not with the reasoning, the opinion of the three would be a plurality opinion. A **dissenting** opinion is one that disagrees with the decision of the majority. A **concurring** opinion agrees with the decision of the majority, but differs from the reasoning of the majority opinion.
<u>Ordinance</u> The laws passed by city government.
<u>Overrule</u> To overturn; as, for example, when a court of appeals decides that a previous decision in a different case, by that court or a lower court, was incorrect. After a case has been overruled, it can no longer be referred to as a precedent.
<u>Perjury</u> Lying under oath.
<u>Plaintiff</u> The complaining party to litigation; one who initiates the court action.
<u>Precedent</u> A prior judicial decision that serves as an example or rule to authorize or justify another.
<u>Prosecutor</u> A public officer who conducts criminal proceedings on behalf of the people (i.e., the government's attorney in a criminal case).

<u>Public defender</u> A public officer who provides Constitutionally guaranteed defense for those who are accused of criminal offenses but cannot afford to hire an attorney.
<u>Ratification</u> The process of approving an amendment to the U.S. Constitution,

which is spelled out in Article 5 of that document.
Relief Deliverance from oppression, wrong, or injustice; a general designation of the assistance, redress, or benefit that a plaintiff seeks at the hands of the court.
Remand To send back to a lower court, a higher court can remand a case to a lower court with instructions to carry out certain orders.
Remedy Legal or judicial means by which a right or privilege is enforced or the violation of a right or privilege is prevented, redressed, or compensated.
Reverse To overturn the ruling of a lower court.
Standard of proof The level of evidence necessary to prevail in a legal case. It varies depending on the nature of the case. The standard is "**beyond reasonable doubt**" (the jury has a higher degree of certainty about the defendant's guilt, although need not be 100% convinced) in criminal cases, and "**preponderance of the evidence**" or "**clear and convincing evidence**" in most civil cases.
Statutory law Law enacted by the legislative branch of government, as distinguished from **case law** or **common law**. A statute is an act of the legislature declaring, commanding, or prohibiting something. Regulation refers to rules made by government agencies that carry out the intent of a statute.
Stay To stop or hold off. To stay a judgment is to prevent it from being enforced.
Subpoena A process that requires a person to appear as a witness and give testimony in court.
Supreme Court The highest court of most states; the highest court of the United States. The U.S. Supreme Court is made up of a chief justice and eight associate justices appointed by the president. Supreme Court decisions must be followed by lower courts in similar cases. However, the Supreme Court itself need not abide by its earlier decisions if it becomes convinced that circumstances demand a new approach. After a major decision by the Supreme Court, legislatures often revise laws to bring them into accord with the Constitution as interpreted by the decision.
Supremacy clause Article 6, clause 2 of the Constitution, which declares the federal Constitution and laws to be binding over the state constitutions and laws.
Trier of fact The judge or jury when deciding the events that actually happened as proven in a trial. A **court trial** is a type of trial where the judge is the trier of fact as well as law. A **jury trial** is a type of trial where the jury is the trier of fact.
Voir dire The process of selecting a jury.