



"Free to Make a Difference"





Welcome

Dear Law Day Participant:

The Pennsylvania Bar Association, in conjunction with the Pennsylvania Bar Foundation, is pleased to present the sixth annual *K-12 Law Day Lesson Plan Guide*. This unique resource is designed to provide judges, lawyers, educators and students of all ages with exciting and informational lesson plans, as well as links to other civic learning organizations and materials from around the country. The PBA hopes you will find this guide very valuable in your activities.

The theme for this year's celebration is "Free to Make a Difference." As Americans, we are free to speak, free to think, free to be...free. We live in a democracy that is governed by our Constitution. Democracy in America works best when it has the informed participation of every citizen. By voting, going to school, volunteering and working, we all make our democracy come to life.

The PBA welcomes the opportunity to support our democracy in partnership with the First Lady of Pennsylvania, Third Circuit Court of Appeals Judge Marjorie O. Rendell, and the National Constitution Center in Philadelphia by promoting civic learning across the commonwealth through a program called PennCORD (Pennsylvania Coalition for Representative Democracy). PennCORD works with many partners to persuade public officials, educators and civic leaders to strengthen our schools' historic mission of educating for democracy and providing resources so that all Americans have the best possible civic learning experience. You can learn more about the PBA and PennCORD by visiting our Web site at www.pabar.org.

Through Law Day, we have the unique opportunity to teach children what being an American citizen is all about. This lesson plan guide is filled with lessons that get to the heart of our country's democracy. If there is a topic you wish to teach that is not in the guide, visit the PBA Web site for dozens of archived lessons from past Law Day and I Signed the Constitution celebrations. The lessons may be found at www.pabar.org/educationprograms.shtml. If you decide to create a new lesson or even just tweak one of ours, let us know. We enjoy featuring the work of others in our materials (see Civic Learning Support Organizations).

I thank you for your participation in the program and for your willingness to make a difference in the lives of Pennsylvania's young people.

Sincerely,

Michael H. Reed
President
Pennsylvania Bar Association



Pennsylvania's Law Day 2005 Celebration is funded by the Pennsylvania Bar Foundation.

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Getting Started: Judges & Lawyers

A Few Notes About Visiting a Classroom

These ideas come from a variety of sources and are meant to help a presenter feel comfortable when heading into a classroom.

Everyone knows the “Three R’s.” The civic learning presenter needs to know the “Five W’s: Who? What? Where? When? and Why?”

Who?

Who refers to your audience. Are you visiting an elementary, middle or high school class? Is the school public, private or parochial? How many students are in the class? Are you presenting before more than one class? Is there anything special about the students, teacher or school that you should know before making your presentation? It would be helpful for you to talk with the classroom teacher prior to the presentation to answer these questions. Most teachers will appreciate your efforts to work with them on your program.

What?

What refers to the content of your civic learning presentation. Are you focusing on a specific topic, or are you giving a general overview of the law? If you have been asked to cover a specific content area, please feel free to use the lessons provided in this guide or to contact any of the civic learning providers listed in this guide for additional lessons (see Civic Learning Support Organizations). If you are going to develop your own materials, please see the lesson planning suggestions provided in this guide (see Lesson Planning Ideas).

The following are some useful content and delivery tips to help you get started:

- ◆ Be prepared and have a plan that covers the time allotted. Build into your plan the capacity to deviate from it if circumstances, or questions from students, dictate that a change is needed.
- ◆ Whatever you cover, be prepared for wide-ranging questions from the students. Answer the questions as best you can and be cautious - some students will try to draw you into making a judgment about an action of a parent, teacher, school administrator or local law/justice official.
- ◆ Always try to present both sides of an issue and use the old teacher’s trick of turning the question back on the student who asked it.
- ◆ Be prepared for students to share their personal experiences (or their parents’ experiences) with the law. Always try to respect their points of view while encouraging them to expand on those perspectives.
- ◆ Try to focus your presentation on the students by actively involving them. Remember...lecturing is the least effective means of teaching (see *Glasser’s Percentages of What Students Learn* in the Lesson Planning Ideas section). Think back to times when you were excited about learning and model your lessons on those memories.
- ◆ Finally, try not to promise the students anything that you will be unable to deliver in the future. If you say you will get back to the class with the answer to a question, make sure you do. If you promise to visit later in the year, make sure that visit takes place.

Getting Started: Judges & Lawyers (continued)

Where? Where refers to directions within the school to the classroom. The often overlooked part of knowing where you are going is determining what the school's rules are for visitors. Do you have to report to the main office? Must you have a pass to walk in the building? Even if you have visited the same school for many years, the problems with school violence have led many schools to tighten visitor controls.

You also will need directions for moving both yourself and the students around in the classroom. When working with students, try not to get yourself locked into one place. There are many different ways to direct students around the classroom and some of the best ways are detailed in the included lesson plans. The easiest and best way to involve students more completely in a lesson is by dividing the large group into smaller groups of four to six students. Ask the teacher if the students already have cooperative learning groups established. You can utilize those groupings for any small group work you wish to do during your presentation.

When? When refers to the time of your session - both beginning and ending times. Schools run the gamut with regard to scheduling: some schools have 42-minute periods, while others have 90-minute periods. Make every effort to follow the schedule the school sets up for you. In addition, try to get to your class a few minutes early to observe the students entering the classroom. This will give you some hints about the class and also will create anticipation among the students. End the class on time, too. The students will need to move on to their next class. A good way to make sure you end on time is to ask someone (a student, the teacher) to give you a five-minute warning that the class is close to ending.

Why? Why refers to the purpose of your presentation. Why are you making this presentation? Why is this class having you visit? Knowing these answers will help you to plan your presentation effectively. You may be making a one-time Law Day presentation that is not connected to anything else. On the other hand, you may be expected to provide the background on a project that the class is undertaking. Whatever the reason, recognize and respect the opportunity you have to make a difference in that school.

Getting Started: Educators



This lesson plan guide is designed to help you, and judges/lawyers, introduce civic learning lessons into the classroom with ease. The lessons are fun, informative and easy-to-use, and appropriate handouts have been included.

All of the lesson plans have been linked to Pennsylvania's Academic Standards for Civics and Government. The lessons also meet many of the other standards, especially in social studies. The Academic Standards for Civics and Government, which became final upon their publication in the Pennsylvania Bulletin on Jan. 11, 2003, describe what students should know and be able to do in four areas:

- 5.1. Principles and Documents of Government
- 5.2. Rights and Responsibilities of Citizenship
- 5.3. How Government Works
- 5.4. How International Relationships Function

"The Pennsylvania Constitution of 1790 was the basis for the Free Public School Act of 1834, which is the underpinning of today's system of schools operating throughout the commonwealth. Schools were created to educate children to be useful citizens, loyal to the principles upon which our republic was founded and aware of their duties as citizens to maintain those ideals. Today, social studies education continues the mission of promoting citizenship." - *Pa. Dept. of Education Web site*. Visit www.pde.state.pa.us/social_studies to learn more about the standards.

In addition, this lesson plan guide offers you the unique opportunity to invite local judges and lawyers into your classroom to help with teaching the lessons. As you know, students often respond well to outside people who share with them their knowledge and experience in certain subject areas, such as the law. Do not, however, feel restricted only to use these lessons during the Law Day celebration. This guide was created to be a year-long civics and government teaching tool for educators across Pennsylvania. Please also feel free to contact the civic learning organizations listed in this guide for additional civic learning resources (see Civic Learning Support Organizations).

Lesson Planning Ideas

There is probably a civic learning lesson for any topic on which you might like to present. There are a variety of lessons found in past PBA Law Day and I Signed the Constitution booklets, which are posted in the Public Education area of the PBA Web site at www.pabar.org/educationprograms.shtml. If you decide to create a new lesson – or even just tweak one of ours – let us know. Send your lesson planning ideas, as well as news of your presentation efforts, to the PBA (see Civic Learning Support Organizations). The PBA likes to feature the work of Pennsylvania lawyers, judges and educators. In fact, some of the lessons in this guide originally were developed by educators, lawyers and judges for classroom visits. For additional civic learning lessons, contact one of the other organizations listed on the Civic Learning Support Organizations page.

If you decide to create your own lesson, the following overview provides a time-tested model for creating an original lesson.

Glaser's Percentages of What Students Learn¹

Students Remember:

- 10% of what they read
- 20% of what they hear
- 30% of what they see
- 50% of what they see and hear
- 70% of what they discuss with others
- 80% of what they experience personally (that involve feelings)
- 95% of what they teach someone else

As such, do not distribute a lot of handouts and then lecture. Whenever possible, try to involve the students in interactive learning activities. Conducting a mock trial with the students will teach them much more about how courts operate than a lecture on the structure of the courts. Role-playing a police stop is a far better way to teach about police powers than reading the opinion in *Terry v. Ohio*.

What Are the Essential Elements of a Good Civic Learning Lesson?

The lesson should:

- ◆ develop substantive knowledge about a legal/constitutional concept that is of interest to young people;
- ◆ present a balanced view of the topic as well as the legal system;
- ◆ develop a wide range of cognitive and affective behaviors, as well as critical thinking skills;
- ◆ stress interactive learning processes such as small-group activities;
- ◆ provide a debriefing procedure that leads participants to evaluate their own learning; and
- ◆ relate to students' daily lives and be appropriate to the students' ages and levels of understanding.

Lesson Planning Ideas (continued)

What Are the Steps of a Good Civic Learning Lesson?

1. Start with a warm-up — something to get the students ready for your presentation. Some examples are provided in the lesson materials.
2. Have at least one activity during the main lesson other than you talking (see the ideas below). You might want to use a number of different activities during the class (for example — start by asking a question, then move on to a role-play or simulation, have the students brainstorm some ideas, ask them to visualize a scene, read a passage from a case and close with a survey you provide).
3. End with a wrap-up, something that brings closure to the presentation. You might simply ask them to reflect on the lesson. If the teacher thinks a homework assignment is a good idea, give the students an assignment such as this: “Here's the address of your senator - write the senator and explain how you feel about _____ matter.”

ACTIVITIES THAT HELP STUDENTS ATTACH MEANINGS TO LEARNING EXPERIENCES²

- ◆ **Writing Logs/Diaries** — Students document reactions to events and interpret what happened.
- ◆ **Naming Themes** — Students think of a personal lesson that was learned and try to derive an abstract meaning from the experience. The question, “What does it remind you of?” encourages students to find themes.
- ◆ **Imagining** — Students imagine “What if?” or create alternative outcomes.
- ◆ **Evaluate** — Students rate or rank an experience in relationship to other similar experiences they may have had.
- ◆ **Role-Playing** — Students express their understanding of problems by acting out their interpretations of the elements of the experience (mini-mock trials are great for presentations).
- ◆ **Drawing** — Students identify major themes or issues and draw pictures identifying the meaning derived from the experience.
- ◆ **Comparing** — Students relate reading or taking a field trip to another similar experience. This helps them identify features they consider relevant.
- ◆ **Concept Mapping** — Students visualize and draw the relationships among concepts with a series of links or chains.

¹ William Glasser. *Control Theory in the Classroom*. Harper & Row: NY, 1986. *Reality Therapy: A New Approach to Psychiatry*. Harper & Row, NY: 1965.

² James Roth. “Enhancing Understanding Through Debriefing.” *Educational Leadership*. October: 1987. pp. 24-27.

Classroom Warm-Up Exercises



If I Had a Hammer...

- ◆ **Grade Levels:** K-12
- ◆ **Academic Standards:** Various Academic Standards for Civics and Government are covered in this lesson.
- ◆ This lesson grew out of an exercise conducted by Scranton area Assistant U.S. Attorney and PBA Young Lawyers Division Chair-elect Jennifer J. Clark during one of her many classroom visits. Credit also goes to Montgomery County District Justice Juanita Price for a lesson she developed when she was a law student.



Walk into the classroom holding a hammer and ask the students what the hammer has to do with the law. Some things you may hear or suggest are:

- ◆ Sale of hammer (contract law)
- ◆ Suit for defective manufacture that led to injury when head of hammer fell off and struck passerby (tort law)
- ◆ Is a hammer a weapon under Act 26, and if a student brought a hammer to school, would it lead to his or her suspension? (school law)

Ask a student for a shoe and then ask how the shoe connects to the law. One elementary class discussed school rules about keeping your shoes on while in school. That idea led to a discussion of the differences and similarities between rules and laws. On the elementary level, the concept of a national constitution may be hard to grasp. Starting with something more familiar — school and classroom rules — often makes it easier for students to appreciate the larger concepts.

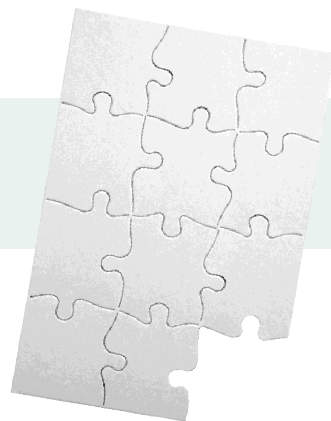
This lesson is a variation on the many “Mindwalk” lessons available on the PBA Web site from past lesson plan booklets — www.pabar.org/lawdayinformation.shtml.

Classroom Warm-Up Exercises (continued)

Pundles

- ◆ **Grade Levels:** K-12
- ◆ **Academic Standards:** Various Academic Standards for Civics and Government are covered by words and phrases used in this exercise.

Pundles are configurations of letters, lines and symbols that “spell out” familiar words and phrases. Write each pundle on the board and ask the students to figure them out.



MAN
BOARD

(man over board)

STAND
I

(I understand)

LE
VEL

(split level)

J
YOU U ME
S
T

(just between you & me)

CYCLE
CYCLE
CYCLE

(tricycle)

HE'S/HIMSELF

(he's beside himself)

K-12 Lesson Plans

Constitutional Truths

- ◆ **Grade Levels:** K-12
- ◆ **Academic Standards:** Various Academic Standards for Civics and Government are met by this lesson depending upon which “truths” are discussed. The lesson focuses heavily on Academic Standards for Civics and Government 5.1.

Materials: You will need copies of the U.S. Constitution for students to review. Many schools have copies available. If you need copies, contact your representative to the U.S. Congress. He/She should have pocket copies available. You also could contact the National Constitution Center, which gives away small U.S. Constitutions as part of its “I Signed the Constitution” program. (see Civic Learning Support Organizations)

Write on the board or announce to the class, “We hold these truths to be self-evident.” Ask the students if they know where those words are found. Once you establish the words as the opening of the Declaration of Independence, ask the students if they know how that document relates to the U.S. Constitution. Listen to the students' ideas and then explain that the first document, the Declaration of Independence, was a document of revolution, of breaking away from a government. The second document, the U.S. Constitution, was written to create a new government. It was the document that institutionalized those self-evident truths. Ask the students to look for all of the “truths” they can find in the U.S. Constitution and list as many as they can in three to five minutes.

A class at North Allegheny High School found the following truths:

- ◆ The president is commander-in-chief, but Congress has the power to declare war.
- ◆ If you are arrested for a crime, you have the right to have a lawyer help defend you.
- ◆ Members of the U.S. Senate must run for election every six years, but judges whose positions are established by Article III of the U.S. Constitution serve as long as they demonstrate “good behavior.”
- ◆ You may vote if you are 18 and a citizen.
- ◆ The U.S. Supreme Court sits as a trial court for cases affecting ambassadors, other public ministers and consuls, and those in which a state is a party.

What truths will your group find?

Lesson Plans (continued)

Make a Difference in Your World with Future/Creative Problem Solving

- ◆ **Grade Levels:** K-5
- ◆ **Academic Standards:** Academic Standards for Civics and Government 5.2 Rights and Responsibilities of Citizenship; Reading, Writing, Speaking, Listening; 1.2 Learning to Read Critically; 1.3 Reading, Analyzing and Interpreting Literature; and 1.6 Speaking and Listening
- ◆ This lesson highlights how young people are free to make a difference by resolving conflicts in positive ways. The lesson was created by Anne Spector, a longtime contributor to Pennsylvania Bar Association educational outreach efforts and a recently retired educator from the Cheltenham School District. The lesson is easily adapted for older students by utilizing more mature literature. However, teachers who have used this lesson have found that older students enjoyed learning the process through stories they might read to younger children.

Through this lesson, students will learn to use the problem solving process as a way to make a difference in their own world.

Materials:

- ◆ One copy of *The Big Orange Splot* by Daniel Manus Pinkwater (or use the summary provided if no copies of the book are available)
- ◆ Chart Paper
- ◆ Markers
- ◆ A chart of the steps for Future/Creative Problem Solving

Directions:

1. Choose a piece of childrens' literature in which one character makes a difference that impacts on an entire group/ community. (Visit the PBA Web site at www.pabar.org for a list of literature suggestions. Please share the stories you have used with david.trevaskis@pabar.org.)
2. Read the story to the class.
3. Ask the class to think about the following big question:
In what way(s) did _____
(name of character) make a difference in his/her community?
In *The Big Orange Splot* the main character is Mr. Plumbean.
4. Write a scenario from the story or from a similar situation that has occurred in the children's classroom or school community.

Summary of The Big Orange Splot

Mr. Plumbean lives in a neighborhood where everyone's home looks the same. One day, a seagull drops a bucket of orange paint on Mr. Plumbean's house. His neighbors ask him to repaint his house, and he does, but adds lots of colors that make his house different from the others. Mr. Plumbean's neighbors find the change in his house disturbing and ask him to change it back to the way it was. But, each change Mr. Plumbean makes only adds to the uniqueness of his home. Over time, Mr. Plumbean's neighbors come to talk to him and, one by one, they start to change the way their homes look. By the end of the story, everyone's home is uniquely their own.

Sample Scenario from The Big Orange Splot

It is the year 2005 in the town of Look-the-Same, a small community in which the law has always been that all homes have to look alike on the outside. The community of Look-the-Same is becoming concerned that all of the people in the town no longer want their homes to look exactly the same. One resident actually changed the way the outside of his house looked. He also began to encourage others to do the same. Some people from the town heard what was happening and were afraid. They wanted to do things the way they had always been done. A serious conflict was brewing in Look-the-Same.

You are future/creative problem solvers. In what way(s) might you help the people of Look-the-Same resolve their conflict?

Lesson Plans (continued)

Future/Creative Problem Solving Steps

Step 1: Working as a whole group, ask students to say what they think the problem is that has to be solved. Have students suggest several problems and then have the entire class decide on the problem for creative attack.

Sample problems:

- Should an individual be able to go against the wishes of the group?
- If Look-the-Same has houses that look different from each other, will the community be harmed?
- How can you control the way the town looks if everyone changes their home as they wish?

Step 2: Have the class brainstorm all of the ideas they have to solve the problem. Write their ideas on the chart paper.

Step 3: Develop four standards (criteria) to use to pick the best idea/solution.

Sample Standards/Criteria:

- Which idea would appeal to the most number of people from the town of Look-the-Same?
- Which idea would be able to be put into effect the quickest?
- Which idea would last the longest?
- Which idea would make the most difference for the people of Look-the-Same?
- Which idea would cost the least amount of money?

Step 4: Count the number of solutions the children have brainstormed. Have them evaluate each of the solutions according to the standards/criteria. If there are ten ideas, have them assign each idea a score for each standard/criteria from one to 10. Then add up the four numbers for each idea. The idea with the highest score is the best idea.

Step 5: Identify the best idea and have each student draw a picture of what Look-the-Same would look like with the solution selected by the students.

Step 6: Have the students share with each other, and then ask a follow-up big question: In what way(s) did your ideas make a difference for the people of the town of Look-the-Same?

Step 7: Ask the students to reflect on the problem solving approach they used in resolving the conflict in the scenario. Ask them to think about a problem they have had at school or elsewhere, and ask them to consider how they might have used (or might use in the future) the same problem solving approach with their problem.

Lesson Plans (continued)

Where Do Our Freedoms Come From? A Look at the Pennsylvania and United States Constitutions

- ◆ **Grade Levels:** 4-12
- ◆ **Academic Standards:** Civics and Government 5.1D and 5.1E
- ◆ This lesson was developed by LEAP-Kids (see Civic Learning Support Organizations).

This lesson shows students that they are free to make a difference in our world due to the rights and freedoms they enjoy as both Pennsylvanians and Americans. Through this exercise, students will learn about their rights and freedoms under the two constitutions that govern Pennsylvania - the Pennsylvania Constitution and the United States Constitution. This is a great introduction to comparing and contrasting the two documents. A sample lesson on comparing state and federal court systems is also featured on the Pennsylvania Bar Association Web site at www.pabar.org.

Materials:

- ◆ Students will need copies of the United States and Pennsylvania Constitutions. Many class texts have the United States Constitution in them, but individual copies often can be obtained for free by contacting your federal legislators in the United States Congress. If you need help finding your United States Representative or Senators, visit www.senate.gov or www.house.gov.
- ◆ Few students in Pennsylvania schools have individual copies of the Pennsylvania Constitution available to them (another great reason to teach this lesson). Free copies of the Pennsylvania Constitution are available through your state legislators in the Pennsylvania General Assembly. Visit www.legis.state.pa.us to identify and contact your state representative and/or state senator. You also can view the Pennsylvania Constitution online at http://sites.state.pa.us/PA_Constitution.html.

Procedure:

Begin the class by asking the question: "Where do we get our rights and freedoms from?" Teachers using this lesson report answers such as, "the government," "the Declaration of Independence" and "the constitution." Once a student mentions the constitution, ask "which one?" Explore with the class the concept of state and federal government and explain that the rights and freedoms the students enjoy come from both constitutions. Tell the class that no state constitution can give fewer rights than the United States Constitution gives to all Americans. But, explain that in certain areas, the Pennsylvania Constitution gives Pennsylvanians greater rights than those enjoyed by citizens in the rest of the nation. Distribute the two constitutions to each student in the class. Ask how many have ever read the United States Constitution. Ask how many have ever read the Pennsylvania Constitution. Answers will vary, but it is rare to find many students who have read both before this lesson.

Now distribute the "Rights and Freedoms Student Handout." It goes from A-Z with different rights and freedoms that are found in both, only one or neither of the two documents. You can have the students work individually or in groups. Once the students have finished, you can have the class quickly provide answers (i.e. Both, U.S., PA or Neither) and then go through the questions one by one to have the students check their initial answers by examining the documents more closely.

There are a number of follow-up exercises that can be done with this lesson. One is to make a list of all of the responsibilities that accompany all of the rights and freedoms listed. Another is to ask the students to identify rights and freedoms that are not found in either document that they think should be in the documents. You may want to share with the students with your own thoughts about the two constitutions and how important both documents are in the lives of Pennsylvanians.

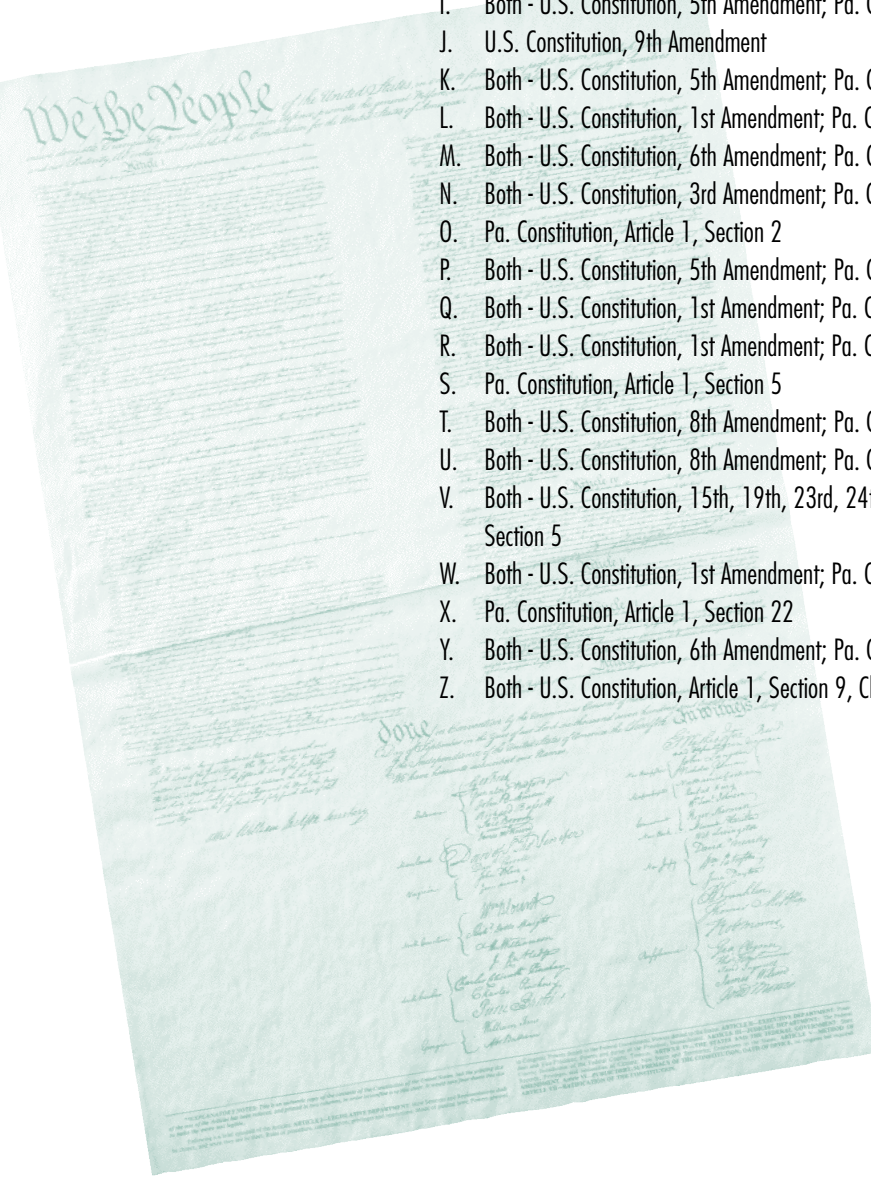
Rights and Freedoms Student Handout

Review the rights and responsibilities listed below. Decide if you think each one comes from the Pennsylvania Constitution, the United States Constitution, both documents or neither. Write your answers in the provided space.

- | | |
|--|---|
| _____ A) Protection against unreasonable search and seizure | _____ N) Protection against the quartering of troops |
| _____ B) Right to bear arms | _____ O) Right to alter, reform or abolish government |
| _____ C) Freedom of the press | _____ P) Freedom from double jeopardy |
| _____ D) Freedom of religious exercise | _____ Q) Right to petition the government for redress of grievances |
| _____ E) Right to clean air and pure water | _____ R) Freedom of assembly |
| _____ F) Equal rights under the law for men and women | _____ S) Right to free elections |
| _____ G) Right to a lawyer | _____ T) Right to bail |
| _____ H) Right to privacy | _____ U) Protection against cruel and unusual punishment |
| _____ I) Right against self-incrimination | _____ V) Right to vote |
| _____ J) Rights not listed still preserved for the people | _____ W) Freedom from government establishment of religion |
| _____ K) Government must compensate you for taking your property | _____ X) Protection against a standing army |
| _____ L) Freedom of speech | _____ Y) Right to a speedy trial |
| _____ M) Trial by jury | _____ Z) Right of writ of habeas corpus |

Answers for student handout:

- A. Both - U.S. Constitution, 4th Amendment; Pa. Constitution, Article 1, Section 8
- B. Both - U.S. Constitution, 2nd Amendment; Pa. Constitution, Article 1, Section 21
- C. Both - U.S. Constitution, 1st Amendment; Pa. Constitution, Article 1, Section 7
- D. Both - U.S. Constitution, 41st Amendment; Pa. Constitution, Article 1, Sections 3&4
- E. PA Constitution, Article 1, Section 27
- F. PA Constitution, Article 1, Section 28
- G. Both - U.S. Constitution, 6th Amendment; Pa. Constitution, Article 1, Section 9
- H. Neither - Not specifically cited in either document
- I. Both - U.S. Constitution, 5th Amendment; Pa. Constitution, Article 1, Section 9
- J. U.S. Constitution, 9th Amendment
- K. Both - U.S. Constitution, 5th Amendment; Pa. Constitution, Article 1, Section 10
- L. Both - U.S. Constitution, 1st Amendment; Pa. Constitution, Article 1, Section 7
- M. Both - U.S. Constitution, 6th Amendment; Pa. Constitution, Article 1, Section 6
- N. Both - U.S. Constitution, 3rd Amendment; Pa. Constitution, Article 1, Section 23
- O. Pa. Constitution, Article 1, Section 2
- P. Both - U.S. Constitution, 5th Amendment; Pa. Constitution, Article 1, Section 10
- Q. Both - U.S. Constitution, 1st Amendment; Pa. Constitution, Article 1, Section 20
- R. Both - U.S. Constitution, 1st Amendment; Pa. Constitution, Article 1, Section 20
- S. Pa. Constitution, Article 1, Section 5
- T. Both - U.S. Constitution, 8th Amendment; Pa. Constitution, Article 1, Sections 13&14
- U. Both - U.S. Constitution, 8th Amendment; Pa. Constitution, Article 1, Section 13
- V. Both - U.S. Constitution, 15th, 19th, 23rd, 24th and 26th Amendments; Pa. Constitution, Article 1, Section 5
- W. Both - U.S. Constitution, 1st Amendment; Pa. Constitution, Article 1, Section 3
- X. Pa. Constitution, Article 1, Section 22
- Y. Both - U.S. Constitution, 6th Amendment; Pa. Constitution, Article 1, Section 9
- Z. Both - U.S. Constitution, Article 1, Section 9, Clause 2; Pa. Constitution, Article 1, Section 14



Lesson Plans (continued)

Mock School Board Hearing

- ◆ **Grade Levels:** 6-12
- ◆ **Academic Standards:** Academic Standards for Civics and Government 5.1A, 5.2C and 5.3D
- ◆ This lesson was provided by The Office of the Speaker John M. Perzel, Pennsylvania House of Representatives. Speaker Perzel taught this lesson in the North Allegheny School District during Pennsylvania's "Legislators Go Back to School Month" that occurs annually in September.

The purpose of this lesson is to show students that they can make a difference by being active in local government. The lesson explores the important role played by local governmental units, such as school boards, in making a difference in the community. The lesson also highlights the process by which competing interests are given a voice and underscores the difficult decisions our elected officials must make.

Directions:

Divide students into four groups to conduct this mock school district budget negotiation session. One group of students will represent the school board and will be responsible for allocating five million dollars in discretionary funds to the following school committees — athletics, building and grounds, and curriculum and instruction. The other three groups each will represent one of these committees. Distribute the included handout to each of the three committee groups and allocate five-10 minutes for the committees to prepare their cases. The school board group should review its handout. A spokesperson for each group then should present arguments to the school board, which will deliberate and issue a final decision.

The student speakers for each committee will have no more than five minutes to present the committee's arguments as to why his/her group should receive a certain portion (all or some) of the funds. Each committee needs to develop and present its rationale for why one committee should get more funding than the other groups if such a request is made to the school board. School board members will be able to ask questions of the committee presenting for another five minutes or more, so that each group will present for a total of 10 minutes. If time needs to be adjusted to accommodate the class period, please ensure that each group gets an equal amount of time before the school board. Any member of the committee presenting may answer a question posed by the school board.

After the students in the three committee groups have presented their cases to the school board, each of the school board members should explain their individual positions with regard to the spending decision. If there is time, the school board then will discuss the various individual decisions and see if it can come to a consensus as to the final allocation of funds.



School Board & Committees Student Handout

ATHLETIC COMMITTEE

The Athletic Committee oversees funding for all sports-related activities in the district and is responsible for allocating and securing funds for sports uniforms and equipment as well as tournaments and camps.

Factors for this committee to consider in making its case for the extra five million dollars:

- ◆ There is a demand for a new sports team at the school.
- ◆ Those soccer uniforms are looking a bit shabby - is it time for new ones?
- ◆ Look at those baseballs - they have got to be 10 years old. Are new, top-of-the-line balls needed?
- ◆ Should the school host a basketball tournament this year? No money was given for one in the past.

BUILDING AND GROUNDS COMMITTEE

The Building and Grounds Committee plays an important role in the beautification of the school campus. It is responsible for securing funds for equipment, such as mowers and plows, as well as securing funds for new classrooms and additions to current structures.

Factors for this committee to consider in making its case for the extra five million dollars:

- ◆ Does the district have adequate, working equipment to keep the lawns mowed and the grounds looking clean and presentable?
- ◆ Remember last winter - that snow plow was looking a bit rusty. Is a new one needed?
- ◆ The library is bursting at the seams - does it need to be expanded?
- ◆ Do buildings have adequate security measures in place? Do any buildings need to be replaced or renovated for safety reasons?

CURRICULUM AND INSTRUCTION COMMITTEE

Kids are in school to learn, right? That is why the Curriculum and Instruction Committee is so important - members need to make their case why more funding is needed for academic projects and items that directly help students learn.

Factors for this committee to consider in making its case for the extra five million dollars:

- ◆ Does the computer lab have the most recent technology and programs?
- ◆ Are the textbooks current and in good shape, or are new ones needed?
- ◆ Are teachers getting the training they need to stay current on various subjects?
- ◆ Should more funding be directed to professional development?
- ◆ Are there enough supplies for students (pens, pencils and paper)? If not, students may need to bring in ALL of their own materials. Can this money be used to help offset material needs?

DUTIES OF THE SCHOOL BOARD

The final decision is in the hands of the School Board members. They make the final decision on how the extra five million dollars will be spent.

Factors for the board to consider in making their final decision:

- ◆ What are the most important responsibilities of a school board?
- ◆ What are the district's top priorities for the next five years?
- ◆ What can they pay for now, and what can they put off until next year or beyond?
- ◆ What are the implications of their decisions?
- ◆ Do they limit themselves to the extra five million dollars or do they borrow money or raise taxes to make all committees happy?

Lesson Plans (continued)

How Do We Solve Ethical Dilemmas?

- ◆ **Grade Levels:** 9-12
- ◆ **Academic Standards:** Academic Standards for Civics and Government 5.1C, 5.2A and 5.2F
- ◆ This lesson is from a curriculum developed for Champions of Caring, a service learning program that celebrates the differences young people have made and are making in our society.

The lesson helps young people explore the difficulties in making ethical choices. If changing the world were as simple as developing a sense of shared values and carrying them out, this lesson probably would not be necessary. Our values are often in conflict with the world around us, and our values are often in conflict with one another. These circumstances present us with genuine ethical dilemmas. In relationships with friends, our loyalty often can be compromised by our commitment to honesty. In politics, the value of equality often conflicts with the value of liberty or freedom. The military draft emphasizes equality, while the all-volunteer military emphasizes liberty or freedom. Learning how to confront those ethical dilemmas and make good choices are important steps for students.

The Goals of This Activity Are...

- ◆ to introduce students to the concept of ethical dilemmas (right vs. right)
- ◆ to help students develop strategies in resolving ethical dilemmas

The Objectives of This Activity Are...

- ◆ to understand the complexities of ethical decision making
- ◆ to understand several perspectives on how to resolve ethical dilemmas
- ◆ to discuss a genuine ethical dilemma
- ◆ to analyze several approaches to ethical decision making
- ◆ to talk to someone about an ethical dilemma they have faced

Directions:

The lesson begins with a poetry reading that highlights the purposes of the lesson using the classic poetry of Robert Frost. In the “Looking Back” part of the lesson, ask students to explore their personal history for an ethical dilemma they have faced. The final question in this section is a great reflection question for the end of the lesson or for use as a homework assignment. The presenter might wish to use situations from his or her own life to illuminate this concept and help the students define “ethical” as “doing what is right.” In the “Looking Forward” part of the lesson, divide students into pairs or small groups to explore the process each used to make tough decisions. Volunteers should be solicited to share their experiences with the larger group.

The Aristotle quote sets up the analysis of the hypothetical ethical dilemmas contained in the Sample Character Dilemmas student handout. You may wish to have students work through the handout individually or in small groups and then report out to the larger group. Given class size and time frame, you may want to assign certain conflicts to particular individuals or groups thus allowing students to cover the entire handout in a shorter period of time.

If students ask you what is the “correct” answer, remind them of the Robert Frost poem and note that whatever choices they make have consequences attached. Your role in teaching this lesson is not to tell them the “answer,” but to explore the process by which individuals make ethical decisions. You can end the class with examples of historical and current figures who made tough decisions using their own processes.

Looking Back/Looking Forward Student Handout



The Road Not Taken

Two roads diverged in a yellow wood,
And sorry I could not travel both
And be one traveler, long I stood
And looked down one as far as I could
To where it bent in the undergrowth;

Then took the other, as just as fair,
And having perhaps the better claim,
Because it was grassy and wanted wear;
Though as for that the passing there
Had worn them really about the same,
And both that morning equally lay
In leaves no step had trodden black.
Oh, I kept the first for another day!
Yet knowing how way leads on to way,
I doubted if I should ever come back.

I shall be telling this with a sigh
Somewhere ages and ages hence:
Two roads diverged in a wood, and I –
I took the one less traveled by,
And that has made all the difference.
— Robert Frost

Looking Back

- ◆ Describe an ethical dilemma you have confronted.
- ◆ What were the ethical values you had to consider? What did you do?
- ◆ In light of today's lesson, would you have done the same thing or would you have acted differently? Why or why not?

Looking Forward

- ◆ Ask a fellow student to describe a difficult choice he/she had to make. What ethical issues were involved? What did the student decide?
- ◆ Ask the same student to describe the decision making process he/she used to resolve the ethical dilemma.
- ◆ Compare and contrast that process with the way you go about making ethical choices.

EXCERPT FROM BOOK II
Aristotle's *Nicomachean Ethics*

“Virtue, then, being of two kinds, intellectual and moral, intellectual virtue in the main owes both its birth and its growth to teaching (for which requires experience and time), while moral virtue comes about as a result of habit, whence also its name ethlike is one that is formed by a slight variation from the word *ethos* (habit). From that it is also plain that none of the moral virtues arises in us by nature; for nothing that exists by nature can form a habit contrary to nature.”

Sample Character Dilemmas Student Handout

SAMPLE CHARACTER DILEMMAS

1. Your best friend has committed a crime. The reward for finding the criminal is a large sum of money. Do you turn your friend in?
2. Someone you love has been diagnosed with a fatal disease. The person is in pain and wants to die. Family members will not take this person off of the machines. One night, when you're alone with the patient, he/she begs you to "pull the plug." What do you do? Why?
3. You have just won three million dollars in the lottery. A day later you find out that someone you love is dying from cancer and needs two million dollars for equipment and an operation. What do you do?
4. Your best friend has a bad drug problem. He/she has been doing drugs for several weeks and, even though you have tried to discourage it, the habit persists. Your friend is looking weak, cutting school and not eating. He/she recently stole money to support the habit. You have promised that you would not tell your friend's parents or the authorities. What do you do?
5. Your parents divorced when you were in high school and both parents remarried. You are about to be married, but only have a small sum of money to pay for the wedding. One parent offers to pay for the entire wedding on the condition that the other parent cannot attend. Do you accept the offer?
6. Your fiancé has served time in jail for armed robbery and attempted manslaughter. You are to be married when he/she is released next week. However, you are told there will be no marriage unless you help your fiancé hold up a bank. You are really in love and want to be married. What do you do?
7. You discover that your wonderful one-year-old child is not yours because of a mix-up at the hospital. Would you want to exchange the child to try to correct the mistake? Why or why not?
8. If the person you were engaged to marry had an accident and became paralyzed, would you go through with the marriage? Why or why not?
9. You are out at the movies with a bunch of friends. They start to tease and belittle another friend. Do you step in? Why or why not?
10. Would you be willing to give up all television and movies for the next year if it meant 100,000 starving children would not go hungry?
11. You are in an expensive restaurant and the bill arrives. You notice that you were not charged for one of the meals. What do you do?
12. You are given one million dollars to donate to any charity anonymously. To which one would you donate?
13. If you had to choose between being extremely intelligent and unattractive or extremely attractive and unintelligent, which would you choose? Why?

Lesson Plans (continued)

The Role of Courts in Balancing Liberties and Safety

- ◆ **Grade Levels:** 10-12
- ◆ **Academic Standards:** Civics and Government 5.1E, 5.1L, 5.2C, 5.2E, 5.3G and 5.3H
- ◆ This lesson was modified from lesson materials produced by the Administrative Office of the United States Courts. The PBA thanks Rebecca Fanning of that office for her support in facilitating the use of these materials and LEAP-Kids for adapting the materials for this guide. Please visit www.uscourts.gov for a list of online educational resources. New materials that will be available both online and by CD-ROM are on the PBA Web site at www.pabar.org as well as on the federal courts site. A sample lesson on comparing state and federal court systems is also featured on the PBA Web site. Many federal judges on all three district courts in Pennsylvania and on the Third Circuit have opened their courtrooms to classes to conduct this and other mock appellate arguments or mock trials.

Materials: (provided)

Case Overview; Facts of the Case; Class Discussion Activities; Procedure Cards; Moot Court Simulation; Debriefing Questions; Diagram

The purpose of this lesson is to show how we are free to make a difference by taking a case to court. This lesson also shows the interplay in the federal system between state and federal courts and allows students to explore their feelings and beliefs about the balance between individual liberties and safety.

The lesson can be taught in many ways. If there is time for a series of classes, all of the materials for a mock appellate argument are provided. Teachers using this lesson have divided their classes into three groups for the mock appellate argument - one group representing Michigan, one group representing Sitz and the third group serving as the Supreme Court. Before beginning the mock appellate argument, the entire class should review the procedure followed in this case by going over the cards provided that outline the procedure. Many teachers used the included diagram of the court process to visually highlight the way the case moved through the state and federal courts.

If you don't have time for a full mock appellate argument, the materials can be presented to the class for the purpose of discussing a range of issues that are listed on the Class Discussion Activities sheet.



Lesson Plans (continued)

CLASS DISCUSSION ACTIVITIES

- ◆ Have all students serve as attorneys and read the “Facts of the Case” handout and discuss it as a class. You may choose to divide the class into groups (i.e. appellants and respondents), and have each group develop a strategy for presenting its case. Distribute the other handouts to the groups. Students may be asked to present their best arguments for and against their positions to the class.
- ◆ Have all students serve as justices on the Supreme Court. In preparation for hearing this case, ask the students prepare a list of questions that they would want to ask the lawyers who are arguing for and against the sobriety checkpoints.
- ◆ Debate about the need of the courts to balance liberties and safety. The following are some questions that may serve as classroom discussion starters:
 - What were the competing interests in this case? What was the state of Michigan's rationale for taking the course of action that it did? What rights did the drivers who initiated this lawsuit allege that Michigan violated by taking the course of action that it did? When do the rights of the individual outweigh the collective rights of the many? Do they ever? Give some examples.
 - Do you agree with the U.S. Supreme Court? Why or why not? How would you rule if you were a justice on the U.S. Supreme Court? If you were a judge on the Michigan Supreme Court? Why?
 - Would your decision be any different if the state of Michigan had enacted roadblocks not to try to prevent drunk driving, but to try to find illegal drugs? (See how the U.S. Supreme Court ruled on this issue in *City of Indianapolis v. Edmond*, 531 U.S. 32 (2000)).¹ What if the federal government allowed random roadblocks to search for illegal immigrants near the border (See how the U.S. Supreme Court ruled on this issue in *United States v. Martinez-Fuerte*, 428 U.S. 543).² What do you think is the proper balance between liberties and safety in these cases?
 - What is the role of the federal courts in balancing liberty and safety when these two interests collide? Can you think of any cases/situations where the courts are being called upon to perform this balancing test at the present.

Case Overview Student Handout

Michigan Department of Police v. Sitz
496 U.S. 444

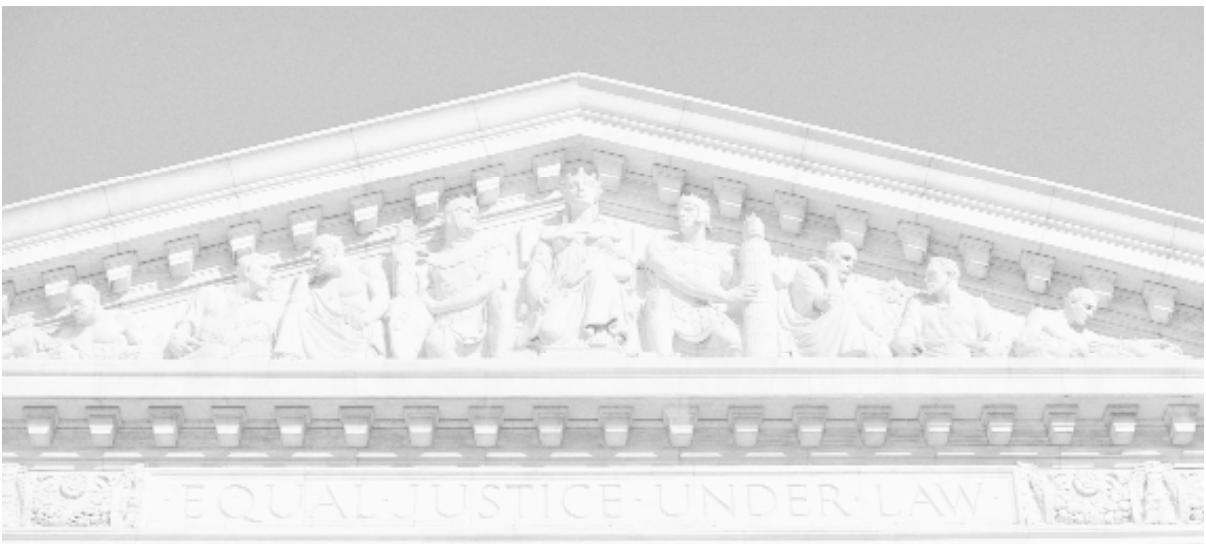
Sitz v. Michigan Department of Police
193 Mich. App 690

Introduction

This exercise provides an actual case that demonstrates the courts' role in balancing liberties and safety. It also serves as a basis for noting the types of cases that state and federal courts handle, as well as the differences, similarities and interactions between the two systems. *Michigan v. Sitz* shows, among other things, how a case involving a state legal issue can make its way into the federal court system. In addition, the case demonstrates that while the U.S. Supreme Court is the final arbiter of the U.S. Constitution, state supreme courts are the final arbiters of their respective state constitutions. As the facts of the case are presented, the following points should be noted:

Key Concepts

- ◆ Sobriety checkpoints are a tool used by law enforcement agencies to address driving under the influence (DUI) and driving while intoxicated (DWI).
- ◆ Both DUI and DWI are state crimes that are tried in and punished by state courts.
- ◆ The Fourth Amendment to the U.S. Constitution prohibits "unreasonable searches and seizures."
- ◆ Through judicial interpretation of the 14th Amendment to the U.S. Constitution, most of the provisions of the Bill of Rights have become incorporated (or made applicable) to the states.
- ◆ The state courts can interpret the U.S. Constitution subject to final review by the U.S. Supreme Court.
- ◆ Federal courts cannot interpret state constitutions or state law.
- ◆ This case went before both the U.S. Supreme Court and the Michigan Supreme Court.
- ◆ Federal constitutional law provides a minimum, or floor, for individual rights that state courts may not go below. It does not provide a maximum, or ceiling, that state courts may not go above.



Facts of the Case Student Handout

Michigan Department of Police v. Sitz

Two separate cases are involved in this case study, however both have the same parties, issues and set of facts. The first case is *Michigan Department of Police v. Sitz*, which was a civil (not criminal) class action suit. It arose when the Michigan Department of Police began using random sobriety checkpoints on state roads in an attempt to crack down on drinking and driving. Litigation was initiated by a group of licensed drivers who alleged that such checkpoints violated the Fourth Amendment's prohibition against "unreasonable searches and seizures." Michigan resident Rick Sitz was the named party in the class action suit who sought to stop the use of sobriety checkpoints by the state police on state roads. The trial court ruled in favor of the drivers. The Michigan Court of Appeals affirmed the trial court's decision.

The Michigan Department of Police then appealed to the Michigan Supreme Court. When the Michigan Supreme Court refused to hear the case, the police petitioned the U.S. Supreme Court for a writ of certiorari to review the Michigan Court of Appeal's interpretation of the Fourth Amendment. The U.S. Supreme Court granted the police department's request and agreed to hear the case. Since the U.S. Supreme Court acknowledged that the sobriety checkpoints did constitute a "seizure" within the meaning of the Fourth Amendment, the only question for the court to resolve was whether or not the "seizure" was "unreasonable."

Writing for the majority, Chief Justice Rehnquist stated that "...the State's interests in preventing drunken driving, the extent to which this system can reasonably be said to advance that interest, and the degree of intrusion upon the individual motorists who are briefly stopped, weighs in favor of the state program." The U.S. Supreme Court concluded that the Michigan Court of Appeals erred in saying that the sobriety checkpoints violated the Fourth Amendment. The court reversed the decision of the lower court and remanded (sent back) the case to the Michigan Court of Appeals with instructions to act in a manner consistent with the U.S. Supreme Court's opinion.

Sitz v. Michigan Department of Police

After losing in the federal courts, the licensed drivers of Michigan continued to pursue their suit in the Michigan state court system. This time, they alleged that the sobriety checkpoints violated Article I, Section 11, of the Michigan Constitution, which also prohibited "unreasonable searches and seizures." On remand from the U.S. Supreme Court, the Michigan Court of Appeals recognized that while the checkpoints did not violate the Fourth Amendment to the U.S. Constitution, it agreed with the drivers and held that the checkpoints did violate the state constitution. When the case came before the Michigan Supreme Court, it affirmed the Michigan Court of Appeals decision saying that "...Constitutional liberties include the right to travel, and automobiles generally may not be searched absent probable cause. In this case, the state police erected sobriety checkpoints along state highways, at which all vehicles were required to stop. While stopped, the drivers were briefly inspected by officers for signs of intoxication, and permitted to resume their travels if no signs were detected. This warrantless, suspicionless stop of vehicles for the purposes of criminal investigation violated the Michigan Constitution."

Furthermore, the court tried to reconcile its decision with the U.S. Supreme Court in this case by stating that federal constitutional law provides a floor in state court litigation and while "...state judges must not adopt state constitutional rules that fall below this floor; courts may, however, appeal to the relevant state constitution to establish a higher 'ceiling' of rights for individuals." In other words, the Michigan Supreme Court found that the Michigan Constitution provided a higher "ceiling" for individual rights than the U.S. Constitution did.

Procedure Cards Student Handout

Card 1

This case arose when the Michigan Department of Police began using random sobriety checkpoints on state roads in an attempt to crack down on drinking and driving. Litigation was initiated by a group of licensed drivers.

Card 2

The drivers alleged that such checkpoints violated the Fourth Amendment's prohibition against "unreasonable searches and seizures." Rick Sitz was the named party in the class action suit who sought to stop the use of sobriety checkpoints by the state police on state roads. The trial court ruled in favor of the drivers and the Michigan State Police appealed.

Card 3

On appeal, the Michigan Court of Appeals affirmed the trial court's decision. The Michigan Department of State Police appealed to the Michigan Supreme Court.

Card 4

The Michigan Supreme Court refused to hear the case. The police petitioned the U.S. Supreme Court for a writ of certiorari to review the Michigan Court of Appeal's interpretation of the Fourth Amendment.

Card 5

The U.S. Supreme Court granted the police department's request and agreed to hear the case. Since the U.S. Supreme Court acknowledged that the sobriety checkpoints did constitute a "seizure" within the meaning of the Fourth Amendment, the only question for the court to resolve was whether or not the "seizure" was "unreasonable." By a vote of 6-3, it ruled in favor of the Michigan State Police and concluded that the sobriety checkpoints did not violate the Fourth Amendment.

Card 6

Writing the opinion of the court, Chief Justice Rehnquist stated that "...the State's interests in preventing drunken driving, the extent to which this system can reasonably be said to advance that interest, and the degree of intrusion upon the individual motorists who are briefly stopped, weighs in favor of this program." The U.S. Supreme Court reversed the decision of the Michigan Court of Appeals and remanded the case to it for further proceedings consistent with its opinion.

Card 7

After losing in the federal courts, the licensed drivers of Michigan continued to pursue their suit in the Michigan state court system. This time, they alleged that the sobriety checkpoints violated Article I, Section 11, of the Michigan Constitution prohibition against "unreasonable searches and seizures." On remand from the U.S. Supreme Court, the Michigan Court of Appeals recognized that while the checkpoints did not violate the Fourth Amendment to the U.S. Constitution, they did violate Michigan's Constitution. The Michigan State Police appealed to the Michigan Supreme Court.

Card 8

The Michigan Supreme Court agreed to hear the case. When the case came before the court, it affirmed the Michigan Court of Appeals' decision. In its opinion, the Michigan Supreme Court stated that "...Constitutional liberties include the right to travel, and automobiles generally may not be searched absent probable cause. In this case, the state police erected sobriety checkpoints along state highways, at which all vehicles were required to stop. While stopped, the drivers were briefly inspected by officers for signs of intoxication, and permitted to resume their travels if no signs were detected. This warrantless, suspicionless stop of vehicles for the purposes of criminal investigation violated the Michigan Constitution."

Moot Court Simulation Student Handout

MOOT COURT SIMULATION

Sitz v. Michigan

Points to consider as foundation for oral arguments:

The following are possible foundational points for the students and volunteer attorneys to consider when preparing their cases for the moot court simulation. These points are based upon the reasoning that Chief Justice Rehnquist used in writing the opinion of the court as well as the reasoning that Justices Brennan and Stevens used in writing their respective dissenting opinions. These points are by no means exhaustive, and, since this simulation is a critical thinking exercise, students, teachers and the volunteer attorneys are encouraged to expand upon and refine them.

Appellant: The Michigan Department of State Police

- 1) The Fourth Amendment does not prohibit all searches and seizures, just those which are “unreasonable.” While a Fourth Amendment “seizure” occurs when a vehicle is pulled over at a sobriety checkpoint, the amendment is not violated if the actions of the police are not “unreasonable.” (Rehnquist, C.J., Opinion of the Court).
- 2) The state has a legitimate interest in taking measures to prevent drunk driving. According to one statistic, “drunk drivers cause an annual death toll of over 25,000...and in the same time span cause nearly one million personal injuries and more than five billion dollars in property damage.” (Rehnquist, C.J., Opinion of the Court).
- 3) The U.S. Supreme Court recognized a state's legitimate interest in combating drunk driving in *Brown v. Texas*. In this case, the court ruled that actions taken by police to reduce drunk driving are permitted when such actions are effective and they minimize the level of intrusion on a person's privacy. (Rehnquist, C.J., Opinion of the Court).
- 4) In *United States v. Martinez-Fuerte*, the court held that the U.S. government's interest in preventing illegal immigrants from entering the country justified law enforcement officials' practice of conducting random suspicionless stops of vehicles near the Mexican border. (Rehnquist, C.J., Opinion of the Court).
- 5) The only issue in this case is the reasonableness of the sobriety checkpoints. The court is not being asked to determine the unreasonable treatment of any persons who were detained pursuant to the being stopped at these checkpoints. (Rehnquist, C.J., Opinion of the Court).
- 6) Sobriety checkpoints are selected and conducted pursuant to established guidelines. The average vehicle was delayed at the checkpoint for about 25 seconds. (Rehnquist, C.J., Opinion of the Court).

Respondents: Rick Sitz and the Licensed Drivers of Michigan

- 1) Sobriety checkpoints are usually carried out at night. (Stevens, J., Dissenting Opinion).
- 2) In *Delaware v. Prouse*, the U.S. Supreme Court declared unconstitutional random stops made by Delaware highway patrol officers attempting to apprehend unlicensed and unsafe drivers. (Rehnquist, C.J., Opinion of the Court).
- 3) Even if a person is not driving under the influence, being forced to undergo a sobriety checkpoint can be a source of embarrassment. Sobriety checkpoints also can lead to confrontations with the police that would not have occurred but for the stop. They additionally may lead to other constitutional violations such as questioning persons for no other reason than that they appear “suspicious” to the officer conducting the stop. (Stevens, J., Dissenting Opinion).

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- 4) Only two drivers out of the 126 vehicles that were stopped at a particular sobriety checkpoint in Michigan were arrested for driving under the influence. (Rehnquist, C.J., Opinion of the Court).
 - 5) *United States v. Martinez-Fuerte* was the only Supreme Court case upholding random suspicionless stops of vehicles, and the court stated that there were very specific/limited reasons for why it ruled the way that it did. (Brennan, J., Dissenting Opinion).
 - 6) Police officers conducting sobriety checkpoints are given a wide-range of discretion in administering stops - i.e. it is up to their individual judgments, and not a set of objective factors, to determine what an "intoxicated" person looks like. (Brennan, J., Dissenting Opinion).

DEBRIEFING OF CLASS

SITZ V. MICHIGAN U.S. SUPREME COURT DECISION

By a vote of 6-3, the U.S. Supreme Court ruled in favor of the Michigan State Police and concluded that the sobriety checkpoints did not violate the Fourth Amendment. Writing the opinion of the court, Chief Justice Rehnquist was aware of the need present in this case to balance liberties and safety. Explaining the court's reasoning, he stated that "...the State's interests in preventing drunken driving, the extent to which this system can reasonably be said to advance that interest, and the degree of intrusion upon the individual motorists who are briefly stopped, weighs in favor of this program." In other words, the court concluded that the sobriety checkpoints enacted by the State of Michigan to provide for the safety of those who drive on its roads outweighed the liberty interest of drivers on Michigan roads to be free from the suspicionless stops.

What Happened Next?

The Supreme Court's decision was not the end of the case. After the court ruled that the sobriety checkpoints did not violate the U.S. Constitution, Rick Sitz and others pursued a case in the Michigan courts to determine if the checkpoints violated the Michigan Constitution's prohibitions against "unreasonable searches and seizures." Both the Michigan Court of Appeals and the Michigan Supreme Court concluded that they did.

While the federal courts are the final arbiters of the U.S. Constitution, the state courts are the final arbiters of their respective state constitutions. Consequently, state constitutions sometimes provide individuals with more rights than the U.S. Constitution. As the Michigan Supreme Court noted, although federal constitutional law provides a floor in state court litigation and "...state judges must not adopt state constitutional rules which fall below this floor; courts may, however, appeal to the relevant state constitution to establish a higher 'ceiling' of rights for individuals."

Lesson Plans (continued)

Debriefing Questions

The following are examples of some questions that may be asked:

1. Describe the structure of the Michigan court system as it appeared in this case. How much does it represent a typical state court system? How different is the Pennsylvania court system?

The Michigan Court system has a trial level court, an intermediate appellate court called the Michigan Court of Appeals and the state's highest court called the Michigan Supreme Court. The Michigan Supreme Court has discretionary review, which means that it decides which cases to hear. This state court system is similar to many throughout the country. No courts of limited jurisdiction were mentioned in this case. Pennsylvania has a trial level called the Court of Common Pleas, two intermediate appellate courts (Superior and Commonwealth) with specific jurisdictions and our highest court, the Pennsylvania Supreme Court.

2. Why was the U.S. Supreme Court able to hear this case?

The drivers who brought this case alleged that it violated their Fourth Amendment right against “unreasonable searches and seizures.” The Fourteenth Amendment to the U.S. Constitution incorporated (applies) the Fourth Amendment's protections to the states. Since the state court interpreted the Fourth Amendment of the federal constitution, it subjected itself to review by the U.S. Supreme Court.

3. How could the same issue be raised again in a state court if the U.S. Supreme Court had already ruled on it? In saying that the sobriety checkpoints violated the Michigan Constitution, did the Michigan Supreme Court overrule the U.S. Supreme Court? Can this be done?

Although the facts of the case had not changed, the legal arguments that the parties presented did as *Sitz* took a different approach to the legal arguments before the Michigan Supreme Court. When the case came before the U.S. Supreme Court, the drivers argued that the sobriety checkpoints violated the Fourth Amendment to the U.S. Constitution. When the court said there was no constitutional violation, the drivers challenged the action in state court. This time, they alleged violation of Michigan's Constitution, which also prohibited “unreasonable search and seizures.”

The Michigan Supreme Court ultimately concluded that the sobriety checkpoints did violate the Michigan Constitution. Since the Michigan Supreme Court was solely interpreting the state's constitution, it did not overrule the U.S. Supreme Court. When the U.S. Supreme Court has spoken on an issue of federal constitutional law, statute, treaty, etc., a state court cannot overrule it. In fact, if the U.S. Supreme Court has spoken on a constitutional issue, only a constitutional amendment or subsequent decisions of the court can change it. If it has spoken on a statute, an act of Congress may be sufficient to change it.

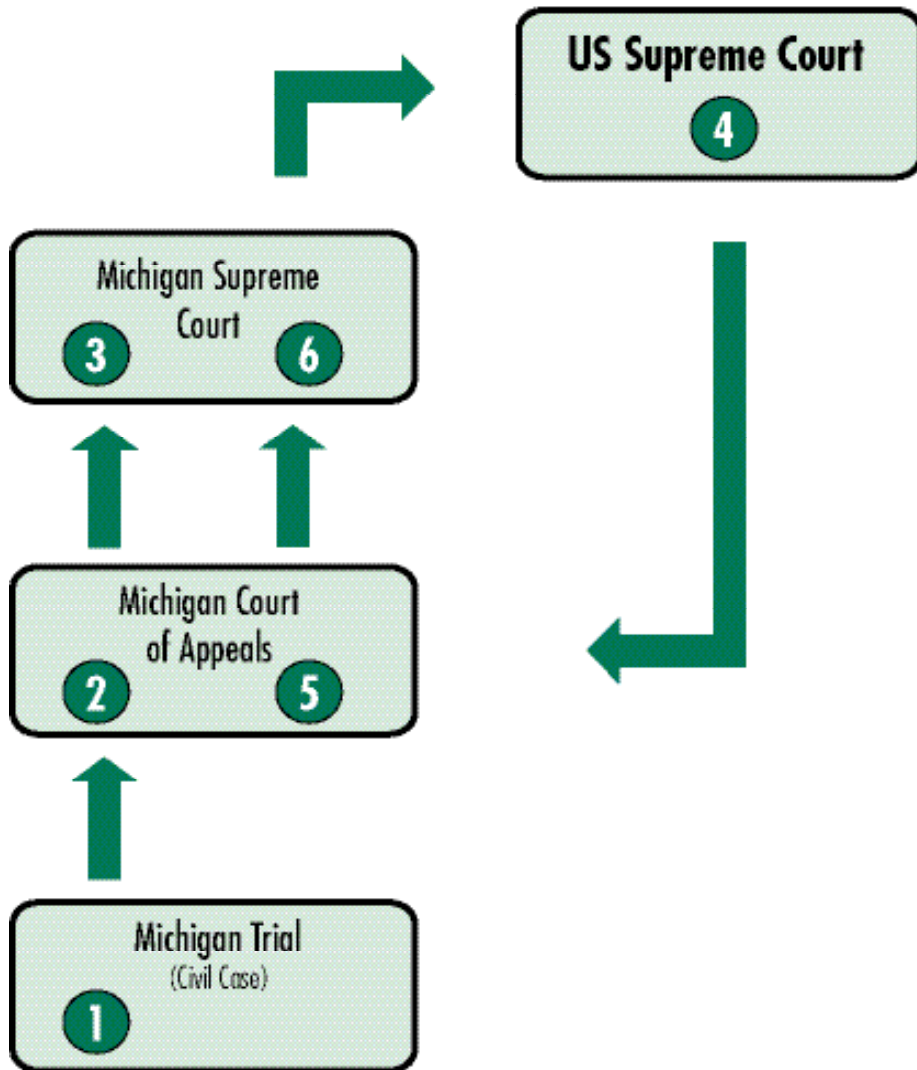
4. What does this case say about the American judicial system?

This case is an example of how the federal and state court systems interact with each other. Both the federal constitution and the state constitution of Michigan came into play. The case showed how the federal courts are the final arbiters of federal law; the U.S. Supreme Court being the ultimate arbiter. However, it also showed how the state courts have significant powers when dealing with matters reserved to them — i.e. state constitutional law. The case shows that federal courts often provide a floor for citizens rights that state courts may not go below. It also shows how state courts can, and do, raise the ceiling for some of these rights.

Case History Student Handout

Case History

Michigan Department of Police v. Sitz
Sitz v. Michigan Department of Police



Classroom Wrap-Up Exercises

Mail It In!

- **Grade Levels:** K-12
- **Special Tip:** You can do this exercise orally with children who are too young to write or have an adult write down the answers for the students.
- **Materials:** To do this fully, bring in stamped postcards for the class.

Tell the students at the beginning of the class that they will have a chance to write a postcard at the end of the class about what they learned during the class. Perhaps the postcards can be written later in the day after the lesson. Telling students that they will be writing to someone about what they will learn in the class often helps focus the lesson.

Reserve the last few minutes of the class for this review. Ask the students if they learned anything today that they would like to share with a friend or family member. Get a few answers orally and then distribute the postcards. Tell students to write down what they learned and to address the card to the person of their choice. You can collect the cards and review them before mailing.

A variation on this exercise is to have the students send the postcards to someone you/they decide should get the postcards. Perhaps each student would send a postcard to Pennsylvania's First Lady, Third U.S. Circuit Court of Appeals Judge Marjorie O. Rendell, who has been speaking out across the commonwealth on the importance of civics education. They might address the cards to President Bush or to the school principal.



Classroom Wrap-Up Exercises (continued)

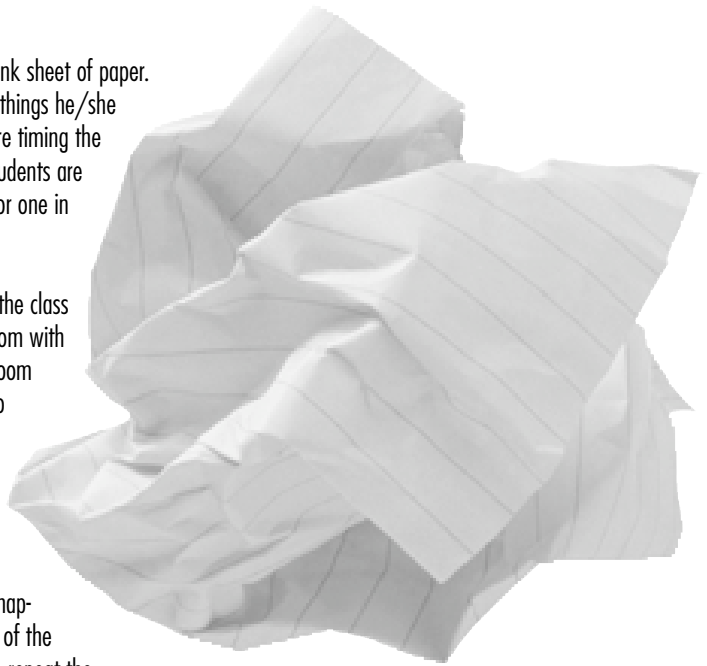
Snow Balls in May

- **Grade Levels:** K-12
- **Special Tip:** Make sure students know to stop on your command, and make sure the class can handle this type of activity before trying it.

Have each student write his/her name on the top of a blank sheet of paper. Then, for one minute, have each student write all of the things he/she learned from the lesson you just completed. Since you are timing the exercise instead of asking for a certain number of items, all students are on equal ground — whether they can write down five items or one in the time allotted.

When the minute is up, tell the students to stop writing. Split the class in half and tell half of the students to go to one side of the room with their papers and the other half to go to the other side of the room with their papers. After the room is divided, tell the students to bunch their papers into balls. Now explain to them that they are going to have a snowball fight with the paper balls. Say “go” and let them fly. After a few rounds of the balls flying back and forth, yell stop and have students each pick up a ball and return to their seats. The students should open up the paper (make sure no one has his/her own — if that happens, arrange a quick trade) and ask each student to write all of the things he/she learned from the lesson in 45 seconds. You can repeat the process a few more times, but the final step is to have the papers returned to their original authors.

This exercise can be used as a review earlier in a lesson, too.



Civic Learning Support Organizations

Civic learning support organizations are great resources for schools, judges and lawyers interested in introducing civics and government into the classroom. Please feel free to contact any of the organizations listed below.

For more organizations, visit the PBA's civic learning Web site at www.pabar.org/educationprograms.shtml.

Pennsylvania Bar Association

Jennifer Branstetter, Communications Coordinator

100 South Street, P.O. Box 186

Harrisburg, Pa. 17108-0186

Phone: 1-800-932-0311, Ext. 2216 — Fax: (717) 238-2342

E-mail: jennifer.branstetter@pabar.org

Web site: www.pabar.org/educationprograms.shtml

The Pennsylvania Bar Association's civic learning programs are designed to help Pennsylvania schools lay a foundation for teaching civics and government in the classroom. The PBA partners with the Pennsylvania Department of Education, National Constitution Center, county bar associations, judges and lawyers to accomplish this goal. The cornerstone civic learning projects include, I Signed the Constitution, Project PEACE, Law Day, Mock Trial and Stepping Out. To learn more about these programs, visit the PBA's K-12 Civic Learning area on the PBA Web site. Lesson plans from past Law Day and I Signed the Constitution guides also are available on the Web site.

LEAP-Kids (Law, Education & Peace for Children)

David Trevaskis, Director

P.O. Box 428, 6 Royal Avenue

Glenside, Pa. 19038-0428

Phone: (215) 885-1610 — Fax: (215) 885-1036

E-mail: david@leap-kids.com

Web site: www.leap-kids.com

LEAP-Kids is the successor organization to the statewide law-related and civic education program formerly housed at Temple-LEAP. LEAP-Kids develops innovative educational programs aimed at empowering young people through civic learning study. Civic learning is a unique blend of substance and strategy. Students receive substantive information about laws, the legal system and their rights and responsibilities through strategies that promote cooperative learning, critical thinking and positive interaction between young people and adults. LEAP-Kids conducts a wide variety of teacher trainings and also produces general and Pennsylvania-specific curricula related to civics and government.

LRE Support Organizations (continued)

Champions of Caring

P.O. Box 388

Villanova, Pa. 19085

Phone: (610) 527-1934 — Fax: (610) 527-3828

E-mail: Information@championsofcaring.org

Web site: www.championsofcaring.org

Champions of Caring is a not-for-profit 501(c)(3) organization that recognizes, celebrates and honors students who have committed themselves to service and promotes them as role models and heroes of our time.

Youth for Justice Initiative

Features Five National Partners: Street Law Inc.; Center for Civic Education; Constitutional Rights Foundation; Phi Alpha Delta; American Bar Association

Web site: www.youthforjustice.org

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) of the U.S. Department of Justice sponsored a research and development program that established the potential of civic learning in reducing delinquent behavior. In 1983, the OJJDP established the National Training and Dissemination Program (NTDP) to institutionalize high-quality civic learning delinquency prevention programs in public and private schools, kindergarten through grade 12, throughout the nation. In 1994, NTDP became Youth for Justice, a national civic learning program coordinated by five national partners working in cooperation with a network of affiliated state programs (visit the Youth for Justice Web site to learn more about the partners and the state programs). Over one million students participate in Youth for Justice programs annually. With support from OJJDP, Youth for Justice's five national partners and state programs offer an array of civic learning programs and activities for young people in their schools and communities, working closely with legal, education, government and community groups to initiate and strengthen civic learning programs.

National Constitution Center

Stephanie McKissic, Director of Education & Pa. Coordinator for We The People

525 Arch Street, Independence Mall

Philadelphia, Pa. 19106

Phone: (866) 917-1787, Ext. 6645

E-mail: smckissic@constitutioncenter.org

Web site: www.constitutioncenter.org

The NCC was established by Congress through the Constitution Heritage Act as an independent, nonpartisan, nonprofit organization. It is designed to increase awareness and understanding of the U.S. Constitution, its history and its relevance to our daily lives so that all of us will better understand and exercise our rights and responsibilities. The NCC Web site contains a teacher resource area with lesson plans and curriculum ideas for the classroom. The NCC also serves as the Pennsylvania center for We the People. The We the People curriculum on the Constitution and the Bill of Rights, created by the Center for Civic Education (listed below), is used across the nation in every congressional district. It complements the regular school curriculum by providing upper elementary grades, middle school and high school students with a course of instruction on the history and principles of democracy in the United States. Every teacher in Pennsylvania can receive a free class set of books on the Constitution through this program by contacting the NCC.



Notes



Notes



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Front cover artwork: First Place Winner, Pennsylvania Bar Association's
"Free to Make a Difference" Poster Contest
Annie Grisafi, Sixth Grade
Epiphany of Our Lord, Plymouth Meeting, PA