

## Handout 1: Crime and Justice Poem

What do you think of when you hear the words *crime* and *justice*?

Use the prompts in Part 1 to write your thoughts about crime and justice. Look at the examples if you need ideas. Then work with members of your group to combine your responses and create a group poem. Write your poem in Part 2.

### Part 1: Your Thoughts About Crime and Justice

Crime is \_\_\_\_\_

I feel safe when \_\_\_\_\_

The police and the community \_\_\_\_\_

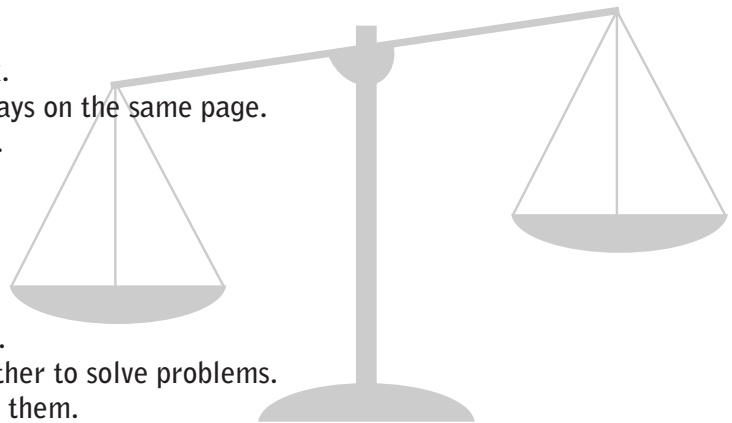
Lawbreakers \_\_\_\_\_

Justice is \_\_\_\_\_

*Examples:*

Crime is all around me.  
I feel safe when my friends have my back.  
The police and the community aren't always on the same page.  
Lawbreakers will take what they can get.  
Justice is getting even.

Crime is somebody breaking the rules.  
I feel safe when I can trust my neighbors.  
The police and the community work together to solve problems.  
Lawbreakers should get what's coming to them.  
Justice is fairness and equality.



### Part 2: A Crime and Justice Poem

Write your group's poem here:


## Handout 2: Overview of the Criminal Justice System

### Substantive Criminal Law

All societies have rules of behavior and impose consequences on people who break those rules. *Substantive criminal law* refers to legal definitions of behavior that we find particularly offensive and punish through different types of sanctions, including fines, probation, imprisonment, and, in some U.S. states, death.

Both the federal and state government have established *codes of law*—lists of prohibited actions and behaviors created by a federal or state legislature. These codes include a description of the offense and (usually) consequences for committing it. Names for these codes vary from state to state, and may include *penal codes* (a set of criminal laws) as well as vehicle, health, and welfare codes.

In the United States, we have both federal and state criminal justice systems. Federal crimes are defined in the United States Code, which comprises federal statutes passed by Congress. Each of the 50 states also has its own set of criminal laws or penal codes, which are passed, amended, or repealed by state legislatures.



How does society decide what actions and behaviors are *criminal*?

### Changing Definitions of Crime

As cultures change and political environments shift, ideas about what behavior is criminal can also change. Legislatures can choose to criminalize behavior that was once legal or to decriminalize behavior that was once illegal. For example, until the early 20th century, the use of narcotics such as cocaine and morphine was legal, and these drugs were sold in pharmacies. Several states have since decriminalized the use of marijuana for medical purposes.

There are also some constitutional limits on what government can define as *criminal*. Until the 1960s, it was a crime in some states to marry someone of a different race. These laws and others like it were part of a system of racial segregation, known as *Jim Crow*, that utilized criminal laws to maintain the political and economic oppression of African Americans. In 1967, the Supreme Court overturned the criminal conviction of an interracial couple who moved to Virginia after getting married, declaring that the law denied them equal protection.

Criminal laws also change as a result of civic action and advocacy. For example, some Americans during the 1980s and 1990s advocated for “tough on crime” measures that greatly lengthened prison sentences. Others have advocated for measures to address the root causes of crime, such as poverty, especially in communities of color and low-income neighborhoods.

## Types of Crime

In general, there are three classifications of crime:

1. **Felonies** are crimes punishable by imprisonment for more than one year in prison. Examples are murder, sexual battery, burglary, and grand theft.
2. **Misdemeanors** are crimes punishable by imprisonment for up to one year. Examples are petty theft, simple battery, prostitution, and trespassing.
3. Some **traffic law violations**, such as driving under the influence of drugs or alcohol and reckless driving, are treated as criminal matters.

So how does the criminal justice system actually work?

## Criminal Procedure

Once Congress or a state legislature creates or amends a criminal law, it falls to federal, state, and local law enforcement agencies to enforce it. *Criminal procedure* refers to the process of enforcing criminal laws and the legal protections we afford the accused, known as *due process of law*. While many different government agencies and professionals are involved with criminal procedure, the system can generally be divided into four major components.

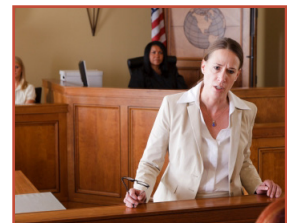
### Law Enforcement



Law enforcement agencies at the federal, state, and local levels are responsible for ensuring compliance with criminal laws within their *jurisdiction* (the territorial range of their authority). After the shooting of Congresswoman Gabrielle Gifford and others in Tucson, Arizona, in January 2011, the suspect was charged in federal court for some of the victims and in state court for others. For most of the victims, Jared Loughner was charged with murder under Arizona's penal code. However, he was also charged in federal court under a federal statute that makes it a crime to kill or attempt to kill a federal official.

### Prosecution

When the government believes there is "probable cause" to believe a suspect has committed a crime, it can proceed with its prosecution. The *prosecutor* is an attorney who tries cases for the government and represents "the people," and whose job it is to prove in court that the *defendant*, the person charged with the crime, is guilty. During the criminal process, suspects have the right to be represented by an attorney and to have an attorney provided for them if they cannot afford one.



## The Judiciary

The government brings criminal cases in federal or state courts, known generally as the *judiciary*, or the judicial branch of government. The main role of the judiciary is to *adjudicate* (officially decide who is right or correct) criminal cases through trials. At trial, the prosecutor has the burden of proving its case “beyond a reasonable doubt” to the jury. If found guilty, the defendant is *convicted* and sentenced by the judge. If found not guilty, the defendant is *acquitted*.



## Corrections

Once the defendant is convicted by the jury at trial (or pleads guilty to the charges—often in exchange for a reduced sentence), it is the role of corrections to administer the sentence issued by the courts. Sentences may include fines, restitution to victims, *probation* (supervised release to the community), *incarceration* (imprisonment in the county jail or state or federal prison), and, in some states, the death penalty.

## Questions

1. What is *crime*? Who defines what constitutes a crime?
2. What are some goals of the criminal justice system?
3. In your own words, what is the difference between substantive criminal law and criminal procedure?
4. What is an example of a substantive rule? What is an example of a procedural rule?

## Handout 3: Unit 3 Overview

---

*How does a society define what is criminal? What happens after a person is accused of committing a crime? Is the criminal justice process always fair? How can we protect people who are accused of crimes while ensuring public safety?*

*In this unit, you will respond to a fictional case of homicide that has occurred at a school. You and your classmates will play the role of professionals working in a legal team to build a case for either the state or for the defense by analyzing evidence, witness statements, and relevant criminal laws. During the process, you will also explore issues of equity and justice and think critically about how the U.S. criminal justice system can be improved. Your work in this unit will be based on the following questions:*

- *How are crimes defined?*
- *What are the goals of the criminal justice system?*
- *What shapes public perceptions of the criminal justice system?*
- *How does the ideal of ensuring equal justice for all compare with the experiences of those in the criminal justice system?*
- *What are the roles of professionals and youth in promoting public safety and ensuring justice for victims and the accused?*

### Understandings

- Crimes are defined in a collection of written laws that represent a society's prevailing views about wrongdoing and justice.
- The criminal system seeks to promote public safety and to hold people accountable for criminal wrongdoing while also protecting the constitutional rights of the accused.
- Perceptions of the criminal justice system may be shaped by personal experience, the media, data, and differing approaches to justice.
- The ideals and legal safeguards of the criminal justice system are not always applied, accessed, and interpreted consistently.
- Professionals in law, law enforcement, and advocacy, as well as youth, may play vital roles in promoting justice and ensuring that criminal laws are enforced equitably and fairly.

### Unit Project

For the unit project, you will respond to an alleged homicide that has occurred at a school. You will be assigned a legal role on either a prosecution team (the District Attorney's office) or a defense team (a private criminal defense firm). You will learn the facts of the case by reviewing and analyzing evidence from police reports, arrest warrants, and witness interviews. You'll analyze relevant criminal laws and use your understanding of law and the facts of the case to build a theory of what happened. You'll decide

what, if any, charges the suspect(s) should face. You'll participate in plea negotiations with the opposing counsel and in an arraignment of the defendant. At the end of the project, you'll critically examine data on the death penalty and incarceration in the United States, and consider the extent to which you and your classmates were able to ensure that justice was served.

## In This Unit You Will . . .

**Become familiar with the steps and processes of the criminal justice system.** Explore the extent to which the criminal justice process protects the rights of the accused and the rights of victims.

**Learn about the purposes and components of criminal laws.** Identify relevant facts in criminal cases and identify possible charges and defenses for accused criminals. Examine statistical data and consider the impact of criminal laws on individuals and communities.

**Analyze the purposes and goals of punishment and sentencing.** Identify different sentencing goals and the extent to which specific forms of punishment achieve those goals. Critically explore the rate and impact of incarceration on society in the U.S.

**Understand the components of and the skills needed to conduct an arraignment and plea negotiations.** Learn how to construct a *theory of the case*—a set of logical inferences used by lawyers to explain what happened in a case and to argue for or against a specific criminal charge. Use analytical and negotiation skills to prepare for plea bargaining and for a felony arraignment.

**Analyze how the traditional criminal justice system promotes or impedes justice.** Determine the degree to which justice has been served in specific criminal cases. Reflect on how, if at all, the criminal justice system can or should be reformed.

## Career Portfolio

You will create or complete the following items to keep in your Career Portfolio:

- Theory of the case
- Arraignment Planner
- Plea Negotiation Planner
- Plea Negotiations Memo
- People and Careers Profiles
- Unit exam
- Journals (4)

## Vocabulary Used in This Unit

**Affirmative defense:** A legal argument claiming that a defendant was justified in committing the crime or should not be held responsible.

**Alibi defense:** A legal argument claiming that a defendant did not commit the crime being charged.

**Burden of proof:** The legal responsibility to prove that an accusation of wrongdoing is true.

**Capital punishment:** The penalty of execution for the commission of a crime; also called the *death penalty*.

**Crime:** An act (or failure to act) that violates a state or federal criminal law.

**Codes of law:** Lists of prohibited actions and behaviors created by a federal or state legislature. These lists include a description of the offense and (usually) consequences for committing it. Names for these codes vary from state to state and may include penal codes (which list criminal acts) as well as vehicle, health, and welfare codes.

**Criminal justice process:** The sequence of steps that may take place after a person is suspected of committing a criminal offense.

**Criminal justice system:** The components of local, state, and federal government that respond to crime: law enforcement (police), the courts, and the correctional authorities.

**Criminal procedure:** The process of enforcing criminal laws and the legal protections we afford the accused.

**Disparity:** Difference, lack of equality.

**Due process of law:** Legal protections provided for the accused.

**Felony:** A serious crime with a more severe punishment than that administered for a misdemeanor; examples of felonies include murder, rape, and kidnapping.

**Homicide:** The deliberate killing of a human being by another human being. Killing someone in self-defense or during war is considered *justifiable homicide*.

**Incarceration:** In criminal law, confinement in a state institution, such as jail or prison.

**Misdemeanor:** A crime that is perceived as less serious in the eyes of the state, and usually receives a lesser punishment than a felony. Examples of misdemeanors are wiretapping, disorderly conduct, and resisting arrest.

**Negotiation:** Discussion between two or more parties about an issue. People with different interests negotiate as a way of making decisions, agreements, or plans.

**Plea bargain:** A negotiation where the defendant pleads guilty in exchange for a less serious charge or sentence, without going to trial.

**Reform:** Improvement or change to a system, law, policy, or practice.

**Sentencing:** Process during which a decision is made by the court (a judge or a jury) about which punishment to impose after a defendant has been found guilty.

**Substantive criminal law:** Legal definitions of behavior that we find particularly offensive and punish through different types of sanctions, including fines, probation, imprisonment, and, in some U.S. states, death.

**Theory of the case:** A set of logical inferences that explains what happened in a criminal case in a way that benefits either the defendant or the state.

## Unit 1 Journal Assignments

---

Respond to these journal questions as assigned.

### Journal 1

How do you define *justice*?

After a crime occurs, what do you think justice would look like for the victims? What would it look like for the accused? For the community?

### Journal 2

What do you think is the most important purpose of sentencing in the criminal justice system? Should sentencing decisions be based on the needs of the community, the offender, or the victim? Explain.

### Journal 3

More than 90 percent of criminal cases in the United States are resolved through a *plea bargain*, in which the accused pleads guilty and gives up his or her right to a trial by jury. Do you think this system serves or undermines the interests of justice? Why?

### Journal 4

Think about the careers you learned about in this unit. If you pursue a career in law, law enforcement, or advocacy, which role do you think would most empower you to shape the criminal justice process? Why?



## Handout 4: Unit 3 Assessment Checklist

Use this checklist to note the criteria on which you will be assessed during the unit. Refer to Part C: Theory of the Case, Part D: Arraignment and Plea Negotiation , and Part E: Plea Negotiations Memo to help you plan and assess your unit project. Make sure that you include all the requirements. Your teacher will use this checklist to help evaluate your work.

Requirements	Percentage of Total Grade	Comments
<b>A. Class Discussions and Participation</b>	%	
Student demonstrates a willingness to share his or her thinking with others.	%	
Student listens to and considers the ideas of others.	%	
Student's attendance, completion of assignments, and engagement with class activities demonstrate a commitment to achieving group goals.	%	
<b>Total</b>	%	
<b>B. Journals</b>	%	
Responses answer all components of the question asked.	%	
Responses are complete with no missing entries.	%	
Responses illustrate concepts and ideas addressed in class.	%	
Responses demonstrate reflection and application of ideas to real-world situations and challenges.	%	
<b>Total</b>	%	

Requirements	Percentage of Total Grade	Comments
<b>C. Theory of the Case</b>	%	
Tells a clear and logical story that is based on evidence.	%	
Addresses each bulleted question in <b>Handout 21: Creating a Theory of the Case</b> .	%	
Shows evidence of prior preparation (i.e., organization, proofreading).	%	
Demonstrates creative reasoning in interpreting the facts of the case.	%	
Is persuasive and engaging.	%	
<b>Total</b>	%	
<b>D. Arraignment and Plea Negotiation</b>	%	
The timeline includes all relevant evidence from the case file.	%	
Arrest Planner: <ul style="list-style-type: none"> <li>• Entries are complete.</li> <li>• Charges, defenses, and sentences are supported with relevant evidence from the case file.</li> </ul>	%	
Plea Negotiation Planner: <ul style="list-style-type: none"> <li>• Entries are complete.</li> <li>• Strengths and weaknesses of each side's case are assessed.</li> <li>• Evidence from the case file is used to support the proposed negotiation strategy.</li> <li>• Reasoning is thoughtful and clearly outlined.</li> </ul>	%	
<b>Total</b>	%	

Requirements	Percentage of Total Grade	Comments
<b>E. Plea Negotiations Memo</b>	%	
Describes the results of the plea negotiations and the reasons the teams reached this outcome.	%	
Presents persuasive arguments on the benefits of the plea negotiation outcome for either the defendant or the state.	%	
Demonstrates both an understanding of the plea bargaining process and a thoughtful perspective on the meaning of <i>justice</i> .	%	
<b>Total</b>	%	
<b>F. Unit Exam</b>	%	
Student responses demonstrate:		
<ul style="list-style-type: none"> <li>An accurate understanding of vocabulary and course content</li> </ul>	%	
<ul style="list-style-type: none"> <li>The ability to apply course content to new ideas and questions</li> </ul>	%	
<b>Total</b>	%	

## Handout 5: Criminal Justice Process Timeline

---

Here are the steps of the criminal process. While there are some variations in these steps in different states, this sequence is most commonly used in federal and state court systems.

### Crime

Law enforcement officers observe criminal activity or are notified of criminal activity by an alleged victim and/or a witness or witnesses. Sometimes a suspect is apprehended at the scene of the crime, but other times further investigation is needed before a suspect can be arrested and taken into custody.

### Investigation

Law enforcement officers investigate the crime, collecting physical evidence, interviewing witnesses, and/or interrogating suspects.

### Arrest

Law enforcement officers arrest the suspect(s) and take the suspect(s) into custody.

*Arrest* is the process by which law enforcement officers take a suspect into custody. The Fourth Amendment to the Constitution requires police to have *probable cause* (sufficient reason to believe that a person has committed a crime) before arresting a suspect. To arrest a suspect in a home or an office, police need to obtain an arrest warrant from a magistrate or judge that is supported by probable cause. To arrest a suspect on the street, police do not generally need to obtain a warrant, but they still need to have probable cause.

### Charges

After an arrest, law enforcement agencies present information about the case to the prosecutor (the government attorney who decides whether formal charges will be filed in court). The charges include specific statements of the crimes the suspect is accused of committing.

### Initial Appearance

The *initial appearance* is sometimes called a *preliminary hearing* or *bail hearing*.

A suspect charged with a crime must be brought before a judge without unnecessary delay. The judge informs the suspect of the charges and determines whether there is probable cause for the suspect to be detained. Typically, a *defense attorney* (a lawyer who represents those accused of a crime) is assigned at the initial appearance. If the suspect cannot afford legal counsel, the suspect is assigned a *public defender* (a lawyer who is paid by the state to provide criminal legal services to the poor).

At the initial appearance, the judge usually decides whether the suspect can be released until the trial date, or whether the suspect needs to provide *bail* (a monetary payment to the court that is returned when the suspect appears for trial).

## Criminal Justice Process Timeline (continued)

### Grand Jury

A *grand jury* is a group of people selected to decide whether criminal cases involving felonies (serious crimes punishable by a sentence of at least one year in prison) should go to trial. The grand jury reviews the evidence presented by the prosecutor. If a majority of the grand jury members believe there is enough evidence to go to trial, they submit an *indictment* (a written statement of the key facts of the case).

For less serious felonies and *misdemeanors* (crimes punishable by a sentence of less than one year in prison), there is generally no need for a grand jury to indict. Instead, the prosecutor presents the judge with an *information* (a formal written statement outlining the case).

### Arraignment

After an indictment or information has been filed with the court, the court schedules an *arraignment* (a special court proceeding in which the judge informs the accused of the charges and of his or her constitutional rights). At the arraignment, the accused responds by pleading either guilty or not guilty to the charges.

### Plea Negotiations

At various stages in the criminal justice process, the prosecutor and defense attorney engage in *plea bargaining*, a negotiation in which the government offers to drop some or all of the charges against the *defendant* (the person accused of the crime) in exchange for the defendant pleading guilty to a lesser charge and/or helping the government build a criminal case against others.

Before a court accepts a guilty plea, the judge must hold a *plea colloquy*, a formal conversation in which the defendant acknowledges that he or she is *waiving* (giving up) the right to a trial by jury and other constitutional rights.

### Trial

The Sixth Amendment to the U.S. Constitution protects an individual's right to a speedy and public trial by an impartial jury. A *trial* is an examination of the facts of a case in a court of law. Trials may take place in criminal or civil courts and may be heard by a judge and jury (called a *jury trial*) or a judge alone (called a *bench trial*). During the trial, the government has to prove the defendant's guilt beyond a reasonable doubt. In order to issue a guilty verdict, the jury must believe that each element in the criminal charges has been proven by the prosecution.

### Verdict

A *verdict* is a decision made by a jury or judge after a trial as to whether a suspect is guilty or not guilty of criminal charges. After the trial, the jury meets in secret to discuss the case and decide whether to *convict* (find the defendant guilty) or *acquit* (find the defendant not guilty). In criminal cases, juries usually have 12 members. In most states, the jury must vote unanimously to render a verdict. If the jurors do not all agree, the result is called a *hung jury*, which results in a *mistrial* (a trial that is not considered valid).

## Criminal Justice Process Timeline (continued)

### Sentencing

If the jury issues a verdict of guilty, the next step for the court is to determine the defendant's *sentence*, or punishment. The process during which this decision is made is called *sentencing*. In most states, the judge chooses the sentence, but in some situations the decision is made by the jury.

Sentencing choices include the following:

- *Fines*: Money paid to the government
- *Restitution*: Money paid to the victim (for example, to pay for medical costs, repair damaged property, or replace stolen property)
- *Incarceration*: Confinement in jail or prison
- *Probation*: Release to the community, but under special conditions

A majority of U.S. states and the federal government also allow for the *death penalty* (a sentence of execution) for certain crimes, such as first-degree murder, when special circumstances exist. (The death penalty is also called *capital punishment*.)

### Appeal

*Appeal* is the process through which a defendant who has been found guilty can request a higher court to review the lower court's decision. A defendant who is found guilty can appeal the conviction (the act or process of finding a person guilty of a crime, usually in court) in a court of appeals. If the defendant is found not guilty, the prosecutor cannot appeal the decision because this would place the defendant in *double jeopardy* (being tried twice for the same offense), which is not allowed by the Constitution. Some grounds for appeal in a criminal case include legal error, juror misconduct, and ineffective assistance of counsel.

### Parole

Under parole, a person convicted of a crime who is serving time in prison may be released before serving the full sentence as long as the person complies with special conditions. Requests for parole are reviewed by a parole board.

## Handout 6: Unit 3 Project Description

---

*A confrontation between a teacher and a student . . . a knife covered in blood and fingerprints . . . a friend who may or may not be telling the truth . . .*

*This is just some of the evidence you will need to consider in a case of suspected homicide. For the unit project, you will work on a legal team responsible for prosecuting or defending a suspect in a suspicious death. Acting as lawyers for the District Attorney's office or members of a criminal defense firm, you will piece together the facts and prepare for an arraignment. Along the way, you will need to decide what facts are important, conduct negotiations with opposing counsel, and use your knowledge of the law to make a strong argument for the plea you think is most appropriate. During and after this process, you will analyze statistical data and issues around capital punishment and incarceration, and consider how the outcomes of criminal cases can affect communities and society.*

### **Step 1: Read your case file and identify relevant information.**

You'll be assigned a role on a legal team for either the prosecution or the defense of a suspect involved in the case. Read the documents in your case file, which include police reports, arrest warrants, phone records, witness interviews, and client interviews. Analyze and select relevant evidence from the case file. Create a timeline of the facts in the case in order to organize the evidence and make logical inferences about what happened.

### **Step 2: Determine the most appropriate charges and defenses.**

Learn about relevant criminal laws and determine which criminal charges are supported by the facts of the case. Compare how and why different criminal defenses are used, and identify possible defenses for the charges in the case. Discuss the purpose and goals of punishment and sentencing, and identify possible sentences for each charge.

### **Step 3: Prepare a theory of the case.**

Prepare a *theory of the case*, a set of logical inferences that explains the facts of the case in a way that benefits either the defendant or the state. You'll use the theory of the case to make a persuasive argument for or against specific criminal charges.

### Step 4: Prepare for and conduct plea negotiations and arraignments.

Decide what plea would be most advantageous for your team's case. Discuss and plan negotiation strategies for achieving your desired plea. Conduct negotiations with opposing counsel. After a plea agreement has been reached, write a memo to your client or the District Attorney's office persuading them to accept the plea agreement. Conduct a felony arraignment, in which the charges are officially announced.

### Step 5: Consider the fates of the defendants.

Discuss the punishment and sentence that each defendant might receive. Reflect on how different types of punishment help to promote or impede justice. Consider what you have learned about the criminal justice process and which steps seem most important to justice being served. Discuss whether there are any aspects of the criminal justice system that could be reformed to make it more just.

### Step 6: Reflect on your work in this unit.

Write responses to the following questions:

- Did your initial opinion about the outcome of the homicide case change over the course of the unit? If so, how? How did preparing arguments advance your thinking about the criminal justice system?
- Think about the arguments presented by the opposing counsel. Which of their arguments were most convincing or persuasive? How did their work contribute to a just outcome in the case?
- Which steps in the criminal justice process seem most important to justice being served? Why?
- Did your thoughts about the unit framing questions and unit understandings change at all over the course of the unit? Why or why not?
- What questions did this unit raise for you? What additional information would you like to know?



## Handout 7: You're On the Case

---

### Project Overview

---

In the Criminal Law case, the body of Jamie Solomon, a recent high school dropout, is found in a classroom at his former high school. The main suspect is Sam Freeman, a math teacher at the school who was allegedly involved in test tampering—which Solomon had threatened to expose. Another suspect, Lee Parker, the chairman of the math department, may have served as an accomplice to the murder, either before or after the fact.

### Legal Teams

---

Your job is to serve on a legal team responsible for either prosecuting or defending Freeman or Parker. Your teacher will assign you a role on one of these four teams:

- **Team A:** District Attorney's office prosecuting Sam Freeman  
This team includes the District Attorney, Assistant District Attorneys, and paralegals.
- **Team B:** Private defense firm defending Sam Freeman  
This team includes the law firm partner, associates, and paralegals.
- **Team C:** District Attorney's office prosecuting Lee Parker  
This team includes the District Attorney, Assistant District Attorneys, and paralegals.
- **Team D:** Private defense firm defending Lee Parker  
This team includes the law firm partner, associates, and paralegals.

### Case Files

---

Each legal team will receive a case file that includes several documents. One file is the Sunnyside Police Department Report which contains the following:

- Incident Report
- Supplemental Report
- Witness Statement Form
- Coroner's Report
- Diagram of Crime Scene

The following documents are related to Samuel Freeman:

- Probable Cause Declaration for Samuel Freeman
- Telephone Records from Samuel Freeman's Phone Company

The following documents are related to Lee Parker:

- Probable Cause Declaration for Lee Parker
- Search Warrant and Affidavit for Lee Parker's Residence

- Telephone Records from Search of Lee Parker's Residence
- Computer Forensics Report

The case files for Team B and Team D (defense teams for Freeman and Parker) also include notes from interviews with the team's client (Freeman or Parker).

## Roles and Responsibilities

---

Each team is responsible for completing a number of written documents and oral presentations.

### Written Documents

- Timeline of facts of the case
- Arraignment Planner (identifies possible charges, defenses, and sentences for the defendant)
- Written theory of the case
- Plea Negotiation Planner

In addition to your team documents, you will write a memo to either the team's client or the District Attorney, persuading him or her to accept the plea agreement.

### Oral Presentations

- Plea negotiation
- Felony arraignment

## Team Members' Responsibilities

While each legal team will collaborate on team documents and prepare for plea negotiations and the arraignment, each member of a team has a specific role with distinct responsibilities.

## Prosecution Teams (Teams A and C)

### District Attorney

The District Attorney (DA) represents a county, city, or state government in the prosecution of alleged criminals. Responsibilities include reviewing facts and evidence in order to decide whether to proceed with the prosecution, and leading the team of prosecutors who present evidence against the accused to a grand jury for indictment and to a judge and jury during trial.

As the DA for your team, you are responsible for the following:

- Taking the lead in writing and finalizing the theory of the case
- Presenting the plea negotiation
- Facilitating at least one team meeting

### Assistant District Attorney

Assistant District Attorneys (ADAs) work for the DA to represent the government and prosecute individuals accused of a crime. Responsibilities include interviewing witnesses, performing legal research, negotiating pleas, and trying cases.

As an ADA for your team, you are responsible for the following:

- Taking the lead in writing and completing the Arraignment Planner
- Presenting the arguments at the arraignment
- Facilitating at least one team meeting

### Paralegal, DA's Office

A paralegal at a DA's office assists lawyers who represent a county, city, or state government in prosecuting alleged criminals. Paralegals conduct research on laws and legal codes, investigate the facts of a case, and prepare and maintain case documents for the attorneys. Paralegals might also direct and coordinate activities of law office employees.

As a paralegal for your team, you are responsible for the following:

- Taking the lead in writing the timeline of relevant facts of the case
- Taking the lead in writing and completing the Plea Negotiation Planner
- Organizing and maintaining team documents, including the case files
- Facilitating at least one team meeting

## Defense Teams (Teams B and D)

### Partner, Criminal Defense Firm

A partner at a criminal defense firm is a lawyer in a private practice who represents individuals accused of a crime. Responsibilities might include leading a team of lawyers in gathering and analyzing evidence, negotiating pleas, examining and cross-examining witnesses, and defending the client to a judge and jury.

As the lead partner for your team, you are responsible for the following:

- Taking the lead in writing and finalizing the theory of the case
- Presenting the plea negotiation
- Facilitating at least one team meeting

### Associate, Criminal Defense Firm

An associate in a criminal defense firm takes direction from the firm's partner to work on the defense of a person accused of a crime. Responsibilities might include interviewing clients and witnesses to gather facts about the case, preparing the case, negotiating pleas, and examining and cross-examining witnesses during trial.

As an associate for your team, you are responsible for the following:

- Taking the lead in writing and completing the Arraignment Planner
- Presenting the arguments at the arraignment
- Facilitating at least one team meeting

### Paralegal, Criminal Defense Firm

A paralegal at a private practice criminal defense firm assists lawyers who represent an individual accused of a crime. Paralegals conduct research on laws and legal codes, investigate the facts of a case, and prepare and maintain case documents for the lawyers. Paralegals might also direct and coordinate activities of law office employees.

As a paralegal for your team, you are responsible for the following:

- Taking the lead in writing the timeline of relevant facts of the case
- Organizing and maintaining team documents, including the case files
- Facilitating at least one team meeting

### Responsibilities of All Team Members

In addition to the specific responsibilities of your assigned role, all members of each team are responsible for the following:

- Reading all assigned documents, including case file documents
- Participating in all team meetings
- Sharing ideas and feedback in order to contribute to the development of the team's written documents and presentations

### Questions

- What are the most interesting aspects of this case?
- What information will you need to find to make sure that justice is achieved?
- What do you think you would enjoy most about working on a legal team?
- What is your role on the legal team? What specific responsibilities do you have that will help ensure that justice is served?

## Handout 8: Guidelines for Effective Facilitation

---

To keep your team focused and organized, each member of your legal team will facilitate at least one of your team's meetings. The following guidelines can help you be an effective facilitator:

- **Have an agenda.** Write a few items that your team needs to discuss or accomplish during the meeting. At the beginning of the meeting, share the agenda with the team and ask whether there are other items to add. If possible, set time limits for each agenda item, so that your team doesn't get stuck on one topic.
- **Assign roles.** You may want to delegate roles for other members during the meeting, such as recorder (the person who takes notes on the discussion) and timekeeper.
- **Review the previous meeting and current goals.** Briefly review what was accomplished at the last meeting and help your teammates understand what needs to be accomplished during this meeting.
- **Ask questions.** The goal of the facilitator is to help guide the team in making good decisions. Ask open-ended questions, such as:
  - What possible crimes could this person be charged with?
  - What evidence supports these charges?
- **Encourage equal participation.** Ask for everyone's input. If one person's ideas dominate, be proactive and ask other team members for their ideas and opinions. Ask quieter members if they have anything to add.
- **Listen actively.** Listen to what teammates say and periodically summarize ideas so the entire team understands what has been discussed and any decisions that have been made.
- **Keep the team on track.** Refocus the team to keep team members on topic when side discussions and other irrelevant issues come up.
- **Review and plan ahead.** Conclude the meeting by summarizing the main points of the discussion and the decisions made by the team. Note agenda items for the next meeting and thank everyone for their participation.

## Handout 9: The Case Files

---

### 9.1 Sunnyside Police Department Report

- a. Incident Report
- b. Supplemental Report
- c. Witness Statement Form
- d. Coroner's Report
- e. Diagram of Crime Scene

### 9.2 Probable Cause Declaration for Samuel Freeman

### 9.3 Probable Cause Declaration for Lee Parker

### 9.4 Telephone Records from Samuel Freeman's Phone Company

### 9.5 Search Warrant and Affidavit for Lee Parker's Residence

### 9.6 Telephone Records from Search of Lee Parker's Residence

### 9.7 Computer Forensics Report

## Case File 9.1: Sunnyside Police Department Report

### 1.a. INCIDENT REPORT

<b>LOCATION</b>	Crime/Classification HOMICIDE	Name of Unit / Team HOMICIDE/MISSING PERSONS			Name of Employee DET. JUAN MARTINEZ	
	Day of Week/Date/Time of Occurrence MONDAY, SEPTEMBER 20			File No. 10-768015		
	Address/Location of Occurrence SUNNYSIDE HIGH SCHOOL 1234 SCHOOL ST.			City SUNNYSIDE	Zip 90123	
<b>VICTIM / WITNESS # 1</b>	Check all that apply: <input type="checkbox"/> PERSON REPORTING INCIDENT <input checked="" type="checkbox"/> VICTIM <input type="checkbox"/> WITNESS <input type="checkbox"/> MISSING PERSON <input type="checkbox"/> SUSPECT <input type="checkbox"/> OTHER: _____					
	Last Name SOLOMON		First Name JAMES		Middle Name HENRY	Maiden Name/Alias/AKA JAMIE
	Sex M	Race CAUC.	Age 17	Date of Birth 4/12	Driver's License #	
	Weight 175	Height 5' 8"	Hair Color DK BROWN		Eye Color BROWN	
	Further Description (Scars, Tattoos, Mannerisms, Clothing, etc.) n/a					
	Home Address 55 UTOPIA STREET		City SUNNYSIDE	State CA	Zip 90123	Telephone 908-555-1865 (cell)
	Employer/School		City	State	Zip	Telephone
	Check all that apply: <input type="checkbox"/> PERSON REPORTING INCIDENT <input type="checkbox"/> VICTIM <input type="checkbox"/> WITNESS <input type="checkbox"/> MISSING PERSON <input type="checkbox"/> SUSPECT <input type="checkbox"/> OTHER: _____					
Last Name		First Name		Middle Name	Maiden Name/Alias/AKA	
Sex	Race	Age	Date of Birth	Driver's License #		
Weight	Height	Hair Color		Eye Color		
Further Description (Scars, Tattoos, Mannerisms, Clothing, etc.)						
Home Address		City	State	Zip	Telephone	
Employer/School		City	State	Zip	Telephone	
<b>VEHICLE</b>	Vehicle belonging to: <input type="checkbox"/> VICTIM <input type="checkbox"/> SUSPECT		License Plate No.		State	
	Make	Model		Body Style	Color	

## INCIDENT REPORT, page 2

	Status of Vehicle: <input type="checkbox"/> Left at Scene <input type="checkbox"/> Impounded	Registered Owner Name (Last, First)	Registered Owner Address, City, State, Zip		
	Towed or Released to?		Who has keys?		
EVIDENCE	Evidence? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Description of Evidence: KNIFE, BLOOD SAMPLES (INCLUDING BLOOD AND SKIN TISSUE FOUND UNDERNEATH THE VICTIM'S NAILS), PHOTOGRAPHS OF THE CRIME SCENE, OTHER TRACE EVIDENCE.			
	NARRATIVE	<p><b>BRIEF SYNOPSIS OF INCIDENT:</b></p> <p>ON SEPTEMBER 20, THE BODY OF A DECEASED CAUCASIAN MALE WAS DISCOVERED IN ROOM 42 AT SUNNYSIDE H.S. THE VICTIM WAS DISCOVERED AT 15:22 BY SCHOOL CUSTODIAN FRANK MURPHY WHILE DOING HIS END-OF-DAY CLEANING. MURPHY REPORTED THE BODY TO SCHOOL RESOURCE OFFICER TAYLOR MACKINNON, WHO ARRIVED AT THE CLASSROOM AT 15:25 AND IMMEDIATELY CALLED FOR BACKUP FROM THE SUNNYSIDE POLICE DEPT. MACKINNON TOOK STEPS TO SECURE THE AREA AS A CRIME SCENE AND PLACED THE SCHOOL IN LOCKDOWN MODE.</p> <p>WHEN I ARRIVED AT THE CRIME SCENE AT 15:33, I OBSERVED THE VICTIM LYING FACE UP IN A POOL OF BLOOD. HE HAD A LARGE KNIFE WOUND TO THE CHEST, THE APPARENT CAUSE OF DEATH. A HUNTING KNIFE WITH A 5½-INCH BLADE WAS FOUND TWO FEET FROM THE VICTIM, ALSO COVERED IN BLOOD. THE ROOM APPEARED TO BE IN DISARRAY. STUDENT CHAIRS WERE KNOCKED OUT OF THEIR ORDERED ROWS, POSSIBLY AS A RESULT OF A PHYSICAL STRUGGLE BETWEEN THE VICTIM AND THE PERPETRATOR. THE VICTIM LAY FLAT ON THE GROUND WITH HIS RIGHT ARM RESTING AT HIS SIDE AND HIS LEFT ARM ABOVE HIS HEAD. UPON CLOSER EXAMINATION, HIS WRISTS APPEARED SLIGHTLY BRUISED, POSSIBLY THE RESULT OF A PHYSICAL STRUGGLE FOR THE KNIFE. AT APPROX. 15:55, CRIME SCENE INVESTIGATORS ARRIVED. THEY TOOK PHOTOS OF THE ROOM, COLLECTED BLOOD SAMPLES FROM THE VICTIM AND FROM THE FLOOR, AND COLLECTED OTHER TRACE EVIDENCE FOUND ON THE VICTIM.</p> <p>I INTERVIEWED SRO MACKINNON. THE CLASSROOM WHERE THE VICTIM WAS FOUND IS NOT CURRENTLY IN USE FOR CLASSES. IT IS LOCATED BETWEEN A MATH CLASSROOM (USED BY MATH TEACHER SAMUEL FREEMAN) AND THE MATH DEPT. OFFICE (OCCUPIED BY LEE PARKER, THE MATH DEPT. HEAD). ALL THREE ROOMS ARE CONNECTED BY LOCKED INTERIOR DOORS. ACCORDING TO MACKINNON, BOTH THE OUTER DOOR (TO THE HALLWAY) AND THE INNER DOORS (TO THE ADJACENT ROOMS) SHOULD BE LOCKED AT ALL TIMES. MS. MACKINNON STATED THAT PERSONNEL WITH MASTER KEYS COULD UNLOCK THESE DOORS, AS WELL AS MR. PARKER AND MR. FREEMAN, WHO HAVE KEYS TO BOTH THE INTERIOR AND EXTERIOR DOORS. MACKINNON PROVIDED ME WITH A LIST OF PEOPLE WITH THE MASTER KEY, WHICH INCLUDES PRINCIPAL JAMES ROSS, ASST. PRINCIPAL SUSAN FRENCH, AND THREE MEMBERS OF THE CUSTODIAL STAFF: FRANK MURPHY, ALISON GOYETTE, AND JOHN RAYMOND. ACCORDING TO ROSS, HE WAS IN A MEETING OF THE SENIOR STAFF FROM 15:00 TO 15:45 WHEN HE WAS NOTIFIED OF THE BODY VIA WALKIE-TALKIE. PRESENT AT THE MEETING WERE ROSS, FRENCH, AND ALL DEPT. CHAIRS. ALL OTHER PERSONNEL IN THE BUILDING WERE ACCOUNTED FOR EXCEPT MR. FREEMAN, WHO WAS NOT PRESENT IN THE BUILDING WHEN IT WENT INTO LOCKDOWN MODE.</p>			
Reporting Officer DET. JUAN MARTINEZ		Date 9/20	Approving Supervisor JAMES HOLDER	Date 9/20	Page 2 of 2



## 1.b. Supplemental Report

### SUPPLEMENTAL REPORT

DATE OF INCIDENT: SEPTEMBER 20 FILE: 10-768015  
 CRIME: MURDER ACTION: NONE  
 VIC: JAMIE SOLOMON  
 DEF: \_\_\_\_\_  
 SUSP: SAM FREEMAN

#### NARRATIVE

ON SEPTEMBER 21, I CONDUCTED AN INTERVIEW WITH REBECCA TREADWELL REGARDING THE DEATH OF JAMIE SOLOMON. MS. TREADWELL IS A 17-YEAR-OLD JUNIOR AT SUNNSYSIDE HIGH SCHOOL AND WAS A CLOSE FRIEND AND NEIGHBOR OF JAMIE SOLOMON. MS. TREADWELL DECIDED TO COME FORWARD BECAUSE SHE BELIEVES SHE HAS INFORMATION THAT COULD HELP THE POLICE IN THEIR INVESTIGATION.

ON SEPTEMBER 19, THE NIGHT BEFORE SOLOMON WAS KILLED, MS. TREADWELL MET WITH SOLOMON AT HER HOUSE. SOLOMON TOLD HER THAT HE BELIEVED SAM FREEMAN AND LEE PARKER HAD MANIPULATED THE SCHOOL'S STATEWIDE MATH EXAMS IN ORDER TO IMPROVE THE SCHOOL'S PASSAGE RATE. MS. TREADWELL STATED THAT SOLOMON SAID HE WANTED TO EXPOSE FREEMAN AND PARKER AND ANYONE ELSE INVOLVED. MS. TREADWELL STATED THAT SOLOMON DISCOVERED THE ALLEGED CHEATING UPON LEARNING THAT HE HAD PASSED THE MATH PORTION OF THE CAHSEE, WHICH HE'D TAKEN IN THE SPRING BEFORE DROPPING OUT OF SCHOOL. SOLOMON TOLD MS. TREADWELL THAT IT WAS NOT POSSIBLE FOR HIM TO HAVE PASSED THE EXAM. SOLOMON TOLD MS. TREADWELL THAT HE HAD CALLED SAM FREEMAN EARLIER THAT NIGHT AND ARRANGED TO MEET HIM AT THE SCHOOL THE NEXT DAY. MS. TREADWELL STATED THAT SOLOMON WANTED TO GIVE FREEMAN A CHANCE TO EXPLAIN HIS ACTIONS AND MAYBE TRY TO "GET SOMETHING OUT OF IT." MS. TREADWELL FURTHER STATED THAT SOLOMON WAS VERY NERVOUS ABOUT THE SCHEDULED MEETING. MS. TREADWELL CLAIMS THAT SOLOMON ALSO SENT AN E-MAIL TO LEE PARKER ACCUSING HIM OF BEING INVOLVED, BUT THAT PARKER SENT AN E-MAIL RESPONSE DENYING THE ALLEGATION OF CHEATING AND THREATENING SOLOMON.

ON SEPTEMBER 20, MS. TREADWELL STATED THAT SHE OVERHEARD AN ARGUMENT BETWEEN SAM FREEMAN AND LEE PARKER THAT TOOK PLACE IN THE MATH DEPARTMENT OFFICE AROUND 11:45. MS. TREADWELL STATED THAT SHE HEARD LEE PARKER TELL FREEMAN, "YOU CREATED THIS MESS. NOW YOU NEED TO TAKE CARE OF IT!" AFTER THIS DISCUSSION, MS. TREADWELL DESCRIBED MEETING MR. SOLOMON AFTER SEVENTH PERIOD (AT APPROX. 14:15) IN THE HALLWAY NEAR HER LOCKER. SHE SAYS SHE TOLD SOLOMON ABOUT THE CONVERSATION AND WARNED HIM TO BE CAREFUL. MS. TREADWELL STATES THAT SOLOMON TOLD HER NOT TO WORRY, SAYING, "I'M AN ADULT, AND I CAN TAKE CARE OF MYSELF."

MS. TREADWELL HAS PREPARED A WITNESS STATEMENT, WHICH IS ATTACHED TO THIS REPORT.

PREPARED BY: DET. JUAN MARTINEZ  
 APPROVED: CAPT. JAMES HOLDER  
 ASSIGNED: DET. JUAN MARTINEZ  
 DATE: SEPT. 22

## 1.c. SUNNYSIDE POLICE DEPARTMENT: WITNESS STATEMENT FORM

DATE OF INCIDENT: September 20 TIME OF INCIDENT: 3:00 P.M.  
 LOCATION OF INCIDENT: Sunnyside High School  
 FULL NAME: Rebecca Treadwell DATE OF BIRTH: 8/5  
 HOME ADDRESS: 34 Utopia Ave. #5, Sunnyside, CA 90123  
 PHONE: 908-555-0233 WORK/SCHOOL: Sunnyside High School

**Read Carefully:** I am making this statement voluntarily and without threat or coercion. All statements made in this Witness Statement Form are true and correct to the best of my knowledge. I understand that this statement may be used in a preliminary hearing. If I make a false statement that I do not believe is true, I will be subject to criminal penalty.

*On the night of September 19, I hung out with my best friend Jamie Solomon, who told me he discovered this huge cheating scam at our school. He figured it out when he found out he had passed the CAHSEE math test last spring. He said there was no way he could have passed because he made no effort to get any of the questions right. He said he blew off the exam because he already knew he was going to drop out of school that summer, and that he made a picture with the answer bubbles and left lots of them blank. He told me he thought that our math teacher Mr. Freeman was involved and possibly also Mr. Parker, the head of the math department.*

*Jamie said he called Mr. Freeman to ask him how he could have passed. Mr. Freeman told him he didn't want to talk about it over the phone and asked him to meet him at school the next day. Jamie also e-mailed Mr. Parker asking if he knew anything about it. Jamie told me that Mr. Parker wrote him back a threatening e-mail, saying Jamie didn't know what he was talking about and should think before he made accusations that could ruin people's lives.*

*Jamie told me he was planning to confront both Mr. Freeman and Mr. Parker the next day at school, and that maybe he could get something worthwhile out of it—I wasn't sure what that meant. Jamie told me he was really nervous about coming in because he knew if he went public this could cost both men their jobs. But he said he wasn't afraid because he was going with his best friend "Blade." That was his nickname for the knife he carried around for protection. But Jamie would never use the knife unless he was attacked first. He was not a violent person. He started carrying the knife for protection last year after he was jumped in our neighborhood, but I don't think he has ever even threatened anybody with it.*

I have read this statement consisting of 1 page(s) and the facts contained therein are true and correct.

*Rebecca Treadwell*

Signature of Person Giving Statement

*Juan Martinez*

Signature of Witness to the Statement

## 1.d. CORONER'S REPORT

12	<h2 style="margin: 0;">Autopsy Report</h2> <p style="margin: 0;">I performed an autopsy on the body of  <b>SOLOMON, JAMES</b></p> <p style="margin: 0;">at the Department of the Coroner, Sunnyside, California on SEP. 20, 2010 @ 21:30 HOURS</p>	<p>No. <b>2010-000078</b></p> <p><b>SOLOMON, JAMES</b></p> <p>Page: 1 of 2</p>
----	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------

<p><b>From the anatomic findings and pertinent history ascribe the death to:</b></p> <p>(A) Cardiac arrhythmia</p>
<p><b>Due to, or as a consequence of</b></p> <p>(B) Exsanguination</p>
<p><b>Due to, or as a consequence of</b></p> <p>(C) Traumatic injury to right coronary artery</p>

<p><b>Anatomical Summary:</b></p> <ol style="list-style-type: none"> <li>1. 17 year-old male, previously in good health, found in unused classroom of Sunnyside High School.</li> <li>2. Normal body habitus. Height: 5' 8" Weight: 162 pounds.</li> <li>3. Traumatic contusion on left thorax.</li> <li>4. Jagged laceration of the central coronary artery and overlying skin, measuring 3.4 cm in length.</li> <li>5. Diminished blood volume evident in cardiac chambers.</li> </ol>
<p><b>Circumstances:</b></p> <p>See Investigators' Reports</p>
<p><b>External Examination:</b></p> <p>The body is identified by toe tag, and is that of an unembalmed, refrigerated Caucasian male, apparently in his late teens. The body weighs 162 pounds and measures 5' 8" (68 inches). Hair color is dark brown, otherwise unremarkable. Eye color is brown; otherwise unremarkable. Rigor mortis is absent. There is a 3.4 cm scar on the lower-mid thorax.</p>
<p><b>Evidence of External Traumatic Injury:</b></p> <p>There is evidence of traumatic injury consisting of jagged laceration of central coronary artery and overlying skin measuring 3.3 cm in length, oriented from top to bottom. There is also evidence of severe hematoma in the abdominal/chest cavity and evidence of bruising and minor contusions on right wrist.</p>
<p><b>Clothing:</b></p> <p>Blue jeans and cotton t-shirt were removed for the purpose of this examination and placed in the custody of Detective Juan Martinez of the Sunnyside Police Department.</p>
<p><b>Primary Incision:</b></p> <p>Standard Y incision and standard coronal incision are used to enter the body cavities. No foreign bodies were found on the mouth or upper airway trachea.</p>
<p><b>Evidence of External Injuries:</b></p> <p>Left thorax shows evidence of local contusion with blood collection in the upper abdominal/chest cavity.</p>

12	<h2 style="margin: 0;">Autopsy Report</h2> <p style="margin: 0;">I performed an autopsy on the body of  <b>SOLOMON, JAMES</b></p> <p style="margin: 0;">at the Department of the Coroner, Sunnyside, California on SEP. 20, 2010 @ 21:30 HOURS</p>	<p style="margin: 0;">No. <b>2010-000078</b> <b>SOLOMON, JAMES</b></p> <p style="margin: 0;">Page: 2 of 2</p>
----	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------

<p><b>Respiratory System:</b> The lungs are somewhat reduced in weight, consistent with decreased blood volume. There is no evidence of abnormal secretions. The pleura are smooth and intact. Pulmonary vasculature is within normal limits.</p>
<p><b>Gastrointestinal System:</b> The esophagus, stomach, small intestine, large intestine, and rectum are entirely normal. Stomach contents will be reported separately.</p>
<p><b>Urinary System:</b> Kidney and urinary tract are entirely normal.</p>
<p><b>Hematolymphatic System:</b> Lymph nodes are entirely normal.</p>
<p><b>Endocrine System:</b> Thyroid, adrenals, and pancreas appear to be within normal limits.</p>
<p><b>Central Nervous System:</b> Neuropathology report to follow.</p>
<p><b>Toxicology:</b> Toxicology report to follow.</p>
<p><b>Photography:</b> SPD crime scene photos showing anterior aspect of the body, including close up images of thorax and wrists.</p>
<p><b>Radiology:</b> Full body x-rays</p>
<p><b>Opinion:</b> Time of death was between 14:30 and 15:10 hours on September 20, 2010. The immediate cause of death appears to be exsanguinations, which likely caused a cardiac arrhythmia. The exsanguination was likely caused by laceration of the right coronary artery and overlying skin.</p>

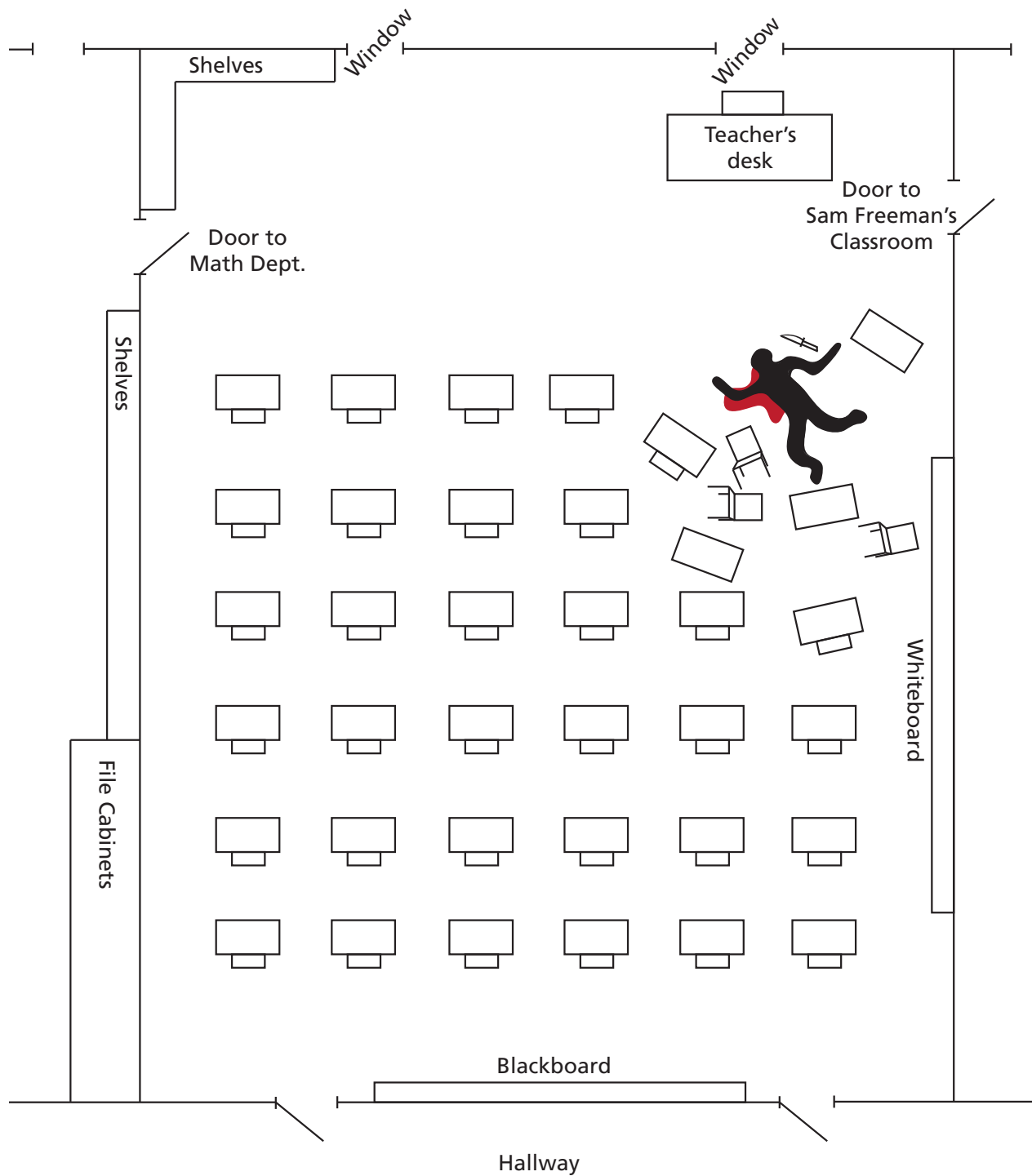
*Sandra N. Girard*

Sandra N. Girard, M.D.  
Pathologist  
Office of the Coroner  
Sunnyside County

*9/21/10*

September 21, 2010

### 1.e: Diagram of Crime Scene



## Case File 9.2: Probable Cause Declaration for Samuel Freeman

<b>SUNNYSIDE SUPERIOR COURT / COUNTY OF SUNNYSIDE PROBABLE CAUSE DECLARATION</b>	
Location Booked: SUNNYSIDE POLICE DEPARTMENT	Booking No. 10-137654
Arrestee/Suspect (Last, First, Middle) FREEMAN, SAMUEL	DOB: 11/22
Arrestee/Suspect Residential Address: 362 HIGHLAND AVENUE	Location of Occurrence SUNNYSIDE HIGH SCHOOL
Booking Charge(s): MURDER	<input type="checkbox"/> Misdemeanor <input checked="" type="checkbox"/> Felony
Date/Time of Arrest: SEPT. 22. 9:00	48 Hour Expiration Date and Time SEPT. 24. 9:00
Arresting Agency/Division: HOMICIDE	Arresting Officer(s): DET. JUAN MARTINEZ
Supervisor(s) Approving: CAPT. JAMES HOLDER	Date/Time: 9.22. 11:30
Facts establishing elements of offense(s)/violation(s). Information identifying/ connecting arrestee/suspect by name with the violations listed.	
<p>THE STATE HAS PROBABLE CAUSE TO BELIEVE THAT THE SUSPECT MURDERED JAMES SOLOMON. FIRST, THE VICTIM WAS KILLED INTENTIONALLY. JAMES SOLOMON WAS FOUND DEAD AT SUNNYSIDE HIGH SCHOOL AT 15:22 ON SEPTEMBER 20. ACCORDING TO A REPORT OF THE COUNTY CORONER'S OFFICE, THE VICTIM DIED AS A RESULT OF A FATAL STAB WOUND TO THE CHEST CAUSED BY A 5½ HALF INCH KNIFE. THE LACERATION AND BLOOD SPLATTERS FOUND ON THE VICTIM AND ADJACENT AREAS ARE CONSISTENT WITH AN INTENTIONAL STABBING. SECOND, THE VICTIM WAS KILLED BY THE SUSPECT. ANALYSIS OF FINGERPRINT AND DNA EVIDENCE FOUND ON THE VICTIM AND THE MURDER WEAPON INDICATE THAT THE SUSPECT, A TEACHER AT SUNNYSIDE HIGH SCHOOL, WAS THE ONLY PERSON PRESENT WHEN THE VICTIM WAS STABBED. DURING A CUSTODIAL INTERROGATION, THE SUSPECT ADMITTED THAT HE STABBED THE VICTIM, BUT CLAIMED THAT THE VICTIM ATTACKED HIM WITH THE KNIFE AND HE ACTED IN SELF-DEFENSE. HE CLAIMS THE STABBING OCCURRED ACCIDENTALLY DURING A STRUGGLE FOR THE KNIFE. HOWEVER, THIS CLAIM IS CONTRADICTED BY CONCLUSIONS OF THE CORONER AND CRIMINAL INVESTIGATORS.</p>	
<input checked="" type="checkbox"/> Facts continued on next page	

## Case File 9.2: PCD for Samuel Freeman, Page 2

ADDITIONALLY, AN EYEWITNESS STATEMENT BY REBECCA TREADWELL, A STUDENT AT SUNNYSIDE HIGH SCHOOL, PROVIDES FURTHER EVIDENCE THAT THE SUSPECT'S ACTIONS WERE INTENTIONAL. ACCORDING TO MS. TREADWELL, THE VICTIM HAD THREATENED TO EXPOSE THE SUSPECT'S ROLE IN A SCHEME TO FRAUDULENTLY BOOST THE SCHOOL'S TEST RESULTS ON A STATEWIDE MATH EXAM.

See attached incident report incorporated herein by reference.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on

SEPT. 22

11:30 AM

in the County of Sunnyside.

(date)

(time)

  
\_\_\_\_\_  
(Signature)

JUAN MARTINEZ

(Print Name)

### Telephone Determination ONLY

On \_\_\_\_\_, I was placed under oath and read the contents of the foregoing, including the contents of any attached reports or declaration, verbatim to the Honorable \_\_\_\_\_.

The Judicial Officer advised me that there  
( ) IS ( ) IS NOT probable cause to believe this arrestee has committed a crime.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Sunnyside County, California, on

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

### Probable Cause Determination

On the basis of either reports reviewed and/or officer's declaration I hereby determine that there

( X ) IS ( ) IS NOT probable cause to believe this arrestee has committed a crime.

9/22  
(Judicial Officer's Signature) (Date)

September 22 3:10 PM

(Block Stamp)

## Case File 9.3: Probable Cause Declaration for Lee Parker

<b>SUNNYSIDE SUPERIOR COURT / COUNTY OF SUNNYSIDE PROBABLE CAUSE DECLARATION</b>	
Location Booked: SUNNYSIDE POLICE DEPARTMENT	Booking No. 10-137672
Arrestee/Suspect (Last, First, Middle) PARKER, LEE	DOB: 2/18
Arrestee/Suspect Residential Address: 1505 ASHMONT AVENUE	Location of Occurrence SUNNYSIDE HIGH SCHOOL
Booking Charge(s): ACCESSORY AFTER THE FACT - § 32	<input type="checkbox"/> Misdemeanor <input checked="" type="checkbox"/> Felony
Date/Time of Arrest: SEPT. 28. 19:00	48 Hour Expiration Date and Time SEPT. 30. 19:00
Arresting Agency/Division: HOMICIDE DIVISION	Arresting Officer(s): DET. JUAN MARTINEZ
Supervisor(s) Approving: CAPT. JAMES HOLDER	Date/Time: SEPT 28. 21:00
Facts establishing elements of offense(s)/violation(s). Information identifying/ connecting arrestee/suspect by name with the violations listed.	
<p>THE STATE HAS PROBABLE CAUSE TO BELIEVE THAT THE SUSPECT WAS AN ACCESSORY AFTER THE FACT TO MURDER.</p> <p>FIRST, THE STATE HAS PROBABLE CAUSE TO BELIEVE SAM FREEMAN MURDERED JAMES SOLOMON ON SEPTEMBER 20.</p> <p>SECOND, THE SUSPECT KNEW SAM FREEMAN HAD COMMITTED MURDER. ACCORDING TO A WITNESS STATEMENT BY REBECCA TREADWELL, THE VICTIM HAD THREATENED TO EXPOSE BOTH THE SUSPECT'S AND SAM FREEMAN'S INVOLVEMENT IN A SCHEME TO FRAUDULENTLY BOOST TEST RESULTS ON A STATEWIDE MATH EXAM. PRIOR TO THE MURDER, MS. TREADWELL OBSERVED THE SUSPECT AND MR. FREEMAN DISCUSSING HOW TO HANDLE "THE SITUATION" WITH JAMIE SOLOMON. PHONE RECORDS INDICATE THE SUSPECT SPOKE TO FREEMAN ON THE PHONE AFTER RECEIVING A THREATENING E-MAIL FROM THE VICTIM AND ALSO ON THE EVENING OF THE MURDER.</p> <p>THIRD, AFTER THE MURDER WAS COMMITTED, THE SUSPECT AIDED SAM FREEMAN IN HIS ATTEMPTS TO CONCEAL HIS CRIME. A COMPUTER FORENSIC REPORT FROM A SEARCH OF THE SUSPECT'S COMPUTER INDICATES THAT ON THE EVENING OF THE MURDER, THE SUSPECT CONDUCTED WEB SEARCHES FOR INFORMATION PERTAINING TO EXTRADITION, CALIFORNIA HOMICIDE LAW,</p>	
<input checked="" type="checkbox"/> Facts continued on next page	



## Case File 9.3: PCD for Lee Parker, Page 2 of 2

AND THE DEATH PENALTY. THIS OCCURRED AFTER MR. FREEMAN MADE FALSE STATEMENTS TO THE POLICE ABOUT HIS ROLE IN THE MURDER AND MAY HAVE BEEN PLANNING TO ESCAPE FROM THE UNITED STATES.

See attached incident report incorporated herein by reference.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on


SEPTEMBER 28

(date)

21:00

(time)

in the County of Sunnyside.

  
\_\_\_\_\_  
(Signature)

JUAN MARTINEZ

(Print Name)

### Telephone Determination ONLY

On \_\_\_\_\_, I was placed under oath and read the contents of the foregoing, including the contents of any attached reports or declaration, verbatim to the Honorable \_\_\_\_\_.

The Judicial Officer advised me that there  
( ) IS ( ) IS NOT probable cause to believe this arrestee has committed a crime.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Sunnyside County, California, on

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

### Probable Cause Determination

On the basis of either reports reviewed and/or officer's declaration I hereby determine that there

( X ) IS ( ) IS NOT probable cause to believe this arrestee has committed a crime.

  
\_\_\_\_\_  
(Judicial Officer's Signature)      9/29  
(Date)

September 29 9:05 AM  
(Block Stamp)      (Time)

## Case File 9.4: Telephone Records from Samuel Freeman's Phone Company

CALTEL Mobile Phone Service Provider  
Account Summary

Account Holder: Samuel Freeman  
Account Number: CT 87209-2814  
Phone Number: 908-555-2888



**Billing Period: Sept. 13 - Oct. 10**

Date	Start Time	End Time	Type of Activity	Phone Number
9.13	7:45:04	7:55:53	Outgoing Call	908-555-2102
9.13	15:14:57	--	Text Message Rec'd	908-555-4327
9.13	15:15:33	15:40:25	Outgoing Call	908-555-3034
9.13	15:41:00	16:12:46	Outgoing Call	908-555-3339
9.14	15:20:56	--	Text Message Sent	908-555-6060
9.14	15:21:09	--	Text Message Rec'd	908-555-6060
9.14	15:22:37	--	Text Message Sent	908-555-6060
9.15	11:27:27	11:42:21	Outgoing Call	908-555-3034
9.15	17:09:16	-	Missed Call	908-555-1883
9.15	17:09:32	17:43:58	Incoming Call	908-555-1883
9.16	19:05:01	19:55:30	Outgoing Call	908-555-2102
9.16	20:55:24	--	Text Message Sent	908-555-4327
9.16	20:56:13	--	Text Message Rec'd	908-555-5728
9.17	21:30:87	21:44:11	Outgoing Call	908-555-2102
9.17	21:45:02	22:10:15	Outgoing Call	908-555-7272
9.18	10:16:19	10:17:57	Incoming Call	908-555-9876
9.19	18:08:21	18:12:08	Incoming Call	908-555-1865
9.19	18:12:22	18:41:09	Outgoing Call	908-555-3034
9.19	19:06:56	19:08:23	Outgoing Call	908-555-1865
9.20	15:45:08	--	Dialed Number	908-555-3034
9.20	15:45:43	--	Dialed Number	908-555-3034
9.20	15:45:43	--	Dialed Number	908-555-3034
9.20	16:08:19	16:10:22	Outgoing Call	908-555-3034

## Case File 9.5: Search Warrant and Affidavit for Lee Parker's Residence

**STATE OF CALIFORNIA  
COUNTY OF SUNNYSIDE  
SEARCH WARRANT AND AFFIDAVIT**

**{AFFIDAVIT}**

DETECTIVE JUAN MARTINEZ swears under oath and declares under penalty of perjury that the facts expressed by him in this Search Warrant, Affidavit, and the attached and incorporated statement of probable cause are true and that based thereon he has probable cause to believe and does believe that the property described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the location(s) set forth below. Wherefore, affiant requests that this Search Warrant be issued.

AFFIANT'S SIGNATURE:  AFTER BEING SWORN

REVIEWED BY:  DEPUTY ATTORNEY GENERAL

**{SEARCH WARRANT}**

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF SUNSHINE: proof by affidavit having been made before me by Juan Martinez, that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524, as indicated below by "x"(s) in that it:

- was stolen or embezzled.
- was used as the means of committing a felony.
- is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he/she may have delivered it for the purpose of concealing it.
- tends to show that a felony has been committed or that a particular person has committed a felony.

**YOU ARE THEREFORE COMMANDED TO SEARCH THE PREMISES OF:**

LOCATION:

RESIDENCE OF LEE PARKER  
1234 SUNSET AVE., UNIT 7  
SUNNYSIDE, CA 90123

FOR THE FOLLOWING PROPERTY:

- The subscriber information, usernames and account information for any and all computers assigned the following Internet Protocol Address (IP) 555.434.595.14.
- The billing address, billing and payment records, service address, telephone numbers and any other subscriber information for the accounts described above.
- All stored electronic communications, including email, digital images, and any other files associated with user accounts described in Section 1.

**Case File 9.5: Search Warrant and Affidavit for Lee Parker's Residence (continued)**


All connection logs and records of user activity for each such account, including connection dates and times and disconnect dates and times of the user accounts listed in Section 1.

The court orders that any items seized during the lawful service of this search warrant be disposed in accordance with the law, by the Department of Justice, Office of the Attorney General, Special Crimes Unit, upon adjudication of the case. The officers serving the search warrant are also hereby authorized, without necessity of further court order, to return seized items to any known victim(s) if such items have been photographically documented.

If necessary, searching officers are authorized to employ the use of outside experts, acting under the direct control of the investigating officers, to access and preserve any computer data.

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn as true and subscribed before me this

28th day of September, 20   , at 4:00 PM. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.



Magistrate's Signature

Judge of the Superior Court, County of Sunnyside, State of California

**Case File 9.5: Search Warrant and Affidavit for Lee Parker's Residence (continued)****Affidavit in Support of Search Warrant**

I, Juan Martinez, your affiant, have been a full-time law enforcement officer for more than 15 years. I am currently employed as a homicide detective by the Sunnyside Police Department. I have worked in the homicide division for the last seven years. I have worked on 17 homicide investigations, including 9 in which I was the lead investigator.

I have a BA degree from California State University at San Francisco and a Basis POST certification (Peace Officer Standards and Training) from Yuba College. I also have a POST Specialized Law Enforcement, Advanced Certificate. In the course of my career, I have taken numerous professional development courses in the investigation of homicide and other violent crimes. I have also spoken at several professional conferences on issues of criminal investigation, with particular emphasis on the use of electronic and digital evidence in homicide investigations.

Your affiant was assigned as lead investigator in the homicide investigation relating to the death of Jamie Solomon, a minor, who was found dead at Sunnyside High School on September 19. DNA and trace evidence gathered at the scene of the crime indicate that Sam Freeman intentionally stabbed the victim in the chest. Based on this evidence, Mr. Freeman has been arrested and charged with murder in the first degree.

Based on a statement made by Rebecca Treadwell (attached herewith), we have reason to believe that Lee Parker was an accomplice to this murder and/or an accessory after the fact. According to Ms. Treadwell, the victim threatened to expose Lee Parker for his role in manipulating state test scores. Phone records we have obtained indicate that Mr. Parker was in close communication with Sam Freeman the night before the victim was killed. According to Ms. Treadwell's statement, Mr. Parker communicated with the victim by e-mail. A search of the victim's laptop confirmed that an e-mail was sent from a computer registered to one Lee Parker with the IP Address 555.434.595.14.

We believe a search of Mr. Parker's computer will provide further evidence that Lee Parker was in communication with both the victim and the defendant, Sam Freeman.

**I request a search warrant be issued for the following location(s):**

RESIDENCE OF LEE PARKER  
1234 SUNSET AVE., UNIT 7  
SUNNYSIDE, CA 90123

For the following property:

- All laptop or desktop computers found on the premises
- All stored electronic communications, including email, digital images, and any other files found on the computer equipment described above
- Any connection logs and records of user activity on September 19
- Any billing or payment records connected with telephone service for Lee Parker

## Case File 9.6: Telephone Records from Search of Lee Parker's Residence

CALTEL Mobile Phone Service Provider  
Account Summary

Account Holder: Lee Parker  
Account Number: CT 84902-0031  
Phone Number: 908-555-3034



**Billing Period: Sept. 13 - Oct. 10**

Date	Start Time	End Time	Type of Activity	Phone Number
9.13	7:45:04	7:55:53	Outgoing Call	800-555-9000
9.13	15:14:57	--	Outgoing Call	800-555-9000
9.13	15:15:33	15:40:25	Incoming Call	908-555-2888
9.13	15:41:00	16:12:46	Outgoing Call	908-555-3145
9.14	15:20:56	--	Text Message Sent	908-555-3145
9.14	15:21:09	--	Incoming Call	908-555-3145
9.14	15:22:37	--	Text Message Sent	908-555-8989
9.15	11:27:27	11:42:21	Incoming Call	908-555-2888
9.15	17:09:16	-	Missed Call	908-555-8989
9.15	17:09:32	17:43:58	Incoming Call	908-555-8989
9.16	19:05:01	19:55:30	Outgoing Call	888-555-1234
9.16	20:55:24	--	Text Message Sent	908-555-3145
9.16	20:56:13	--	Text Message Rec'd	908-555-3145
9.17	21:30:87	21:44:11	Outgoing Call	908-555-3145
9.17	21:45:02	22:10:15	Outgoing Call	908-555-3145
9.18	10:16:19	10:17:57	Incoming Call	908-555-3145
9.19	18:08:21	18:12:08	Incoming Call	908-555-8743
9.19	18:12:22	18:41:09	Incoming Call	908-555-2888
9.19	19:06:56	19:08:23	Outgoing Call	908-555-6521
9.20	15:45:08	--	Missed Call	908-555-2888
9.20	15:45:43	--	Missed Call	908-555-2888
9.20	15:45:43	--	Missed Call	908-555-2888
9.20	16:08:19	16:10:22	Incoming Call	908-555-2888

## Case File 9.7: Computer Forensics Report

**CASE AGENT:**

Det. Juan Martinez  
Sunnyside Police Department  
Homicide Division  
908-555-1234

**COMPUTER FORENSICS EXAMINER:**

Det. Dawn G. Gavin  
Sunnyside Police Department  
Computer Forensics Squad  
908-555-4321

**Seizure Notes:**

Detective Juan Martinez of the Sunnyside Police Department submitted a Toshiba Satellite 7200 laptop computer (serial number HGD6549YHG) and power cord to the Computer Forensics Lab for examination. Det. Martinez advised that this item belonged to Lee Parker and had been seized pursuant to a search warrant issued by Superior Court Judge James L. Medley. Det. Martinez advised that these items belong to a suspect of this investigation and that he was seeking a search warrant to examine the contents of the device. Later that evening, Det. Martinez obtained a search warrant for the device, which he produced in hard copy.

**Summary of Findings:**

The Internet History for the profile "Lee" was extracted via Net Analysis. All Internet History files were saved to Evidence\Internet\_History\Lee\_Parker\_Laptop\Lee\_profile for viewing using Excel.

Det. Martinez requested all searches conducted on this computer from 12:00 to 24:00 on September 20.

During that time frame, several searches were conducted by the Internet Profile "Lee" on the search engine www.google.com. These searches included the following search terms:

1. "Countries with no extradition treaty with U.S."
2. "Death penalty law California"
3. "Capital punishment in California"

Additionally, the following Web pages were visited:

1. [http://wiki.answers.com/Q/Which\\_countries\\_have\\_no\\_extradition\\_treaties\\_with\\_the\\_United\\_States](http://wiki.answers.com/Q/Which_countries_have_no_extradition_treaties_with_the_United_States)
2. [http://en.wikipedia.org/wiki/Capital\\_punishment\\_in\\_California](http://en.wikipedia.org/wiki/Capital_punishment_in_California)

Det. Martinez also requested we search for any outgoing e-mails from this IP address sent to jSoloMan@gmail.com. I was able to find the following e-mail sent to this address:

**Case File 9.7: Computer Forensics Report (continued)****Electronic mail recovered from IP Address 129.6.13.XX**

**From:** Lee Parker [lparker@yahoo.com]  
**Sent:** Sunday, September 19 9:21 PM  
**To:** Jamie Solomon [jSoloMan@gmail.com]  
**Subject:** RE: I Know What You Did Last Spring!

---

You have no idea who you're messing with! You're getting yourself into a whole mess of trouble. I do NOT take threats lightly, even idle ones like yours.

This is not the last you will hear of this!

LP

---

**From:** Jamie Solomon [jSoloMan@gmail.com]  
**Sent:** Sunday, September 19 8:33 PM  
**To:** Lee Parker [lparker@yahoo.com]  
**Subject:** I Know What You Did Last Spring!

---

Mr. Parker,

I want to talk to you about something very serious. I have reason to believe that you are involved with a major scam to change student test scores. At first I thought Mr. Freeman did it on his own, but now I have reason to believe you were involved too!

I want to meet with you tomorrow after school to discuss this situation.

Jamie S.



## Handout 10: Defense Team B: Client Interview of Samuel Freeman

---

### Notes from Client Interview with Sam Freeman

**IMPORTANT: THIS DOCUMENT IS CONFIDENTIAL AND MAY ALSO BE PRIVILEGED  
OR OTHERWISE PROTECTED**

Attorney: How did you know Jamie Solomon?

Freeman: Jamie was a student in my math class last year.

Attorney: Can you describe your relationship with him?

Freeman: I liked Jamie a lot, but we definitely had our moments. I felt he was given no boundaries at school and was a victim of years of low expectations. Jamie really struggled in my class, primarily because he was frequently absent from school and he fell behind in his work. When he did show up in class, he did not understand what was going on and would be off task and highly disruptive. I thought this was really unfair to the students who wanted to work and do well.

Attorney: Did you have any conflicts with him?

Freeman: Other teachers tended to go out of their way to avoid any confrontation, but I thought he needed to see that his actions had real consequences. That is why I was strict with him. On two occasions, I wrote Jamie up in incident reports and these led to two out-of-school suspensions. After his two suspensions, he started coming to my class less and less. I was really worried about him and feared he would drop out of school.

Attorney: Did he drop out of school?

Freeman: Yes. Over the summer break I heard from a colleague that Jamie had dropped out of school and would not be returning in the fall.

Attorney: When did you next hear from Jamie Solomon?

Freeman: I received a call on my cell phone from Jamie on Sunday, September 19. I had given him my number when he was in my class. Jamie said he had run into a friend from school who told him everyone in his math class had passed the CAHSEE that spring. He said this was impossible because he hadn't even tried to answer the questions correctly. He had filled out his bubble sheet answer key by making a picture. He said the only way he could have passed was if I had changed his answers before turning the answer key in to the state.

Attorney: Why was he telling you this?

Freeman: He said I had broken the law and threatened to expose me if I did not pay him \$1,000 in cash.

**Defense Team B: Client Interview of Samuel Freeman (continued)**

Attorney: Was there any truth to what he was saying?

Freeman: Well, some of what he said was true, but he did not have all the facts. Last spring, I worked closely with my friend Lee Parker, chairman of the math department, on administration of the math portion of the CAHSEE. After the exam was proctored, we were in the math department office looking over the students' bubble sheets before placing them in the sealed envelope used to send the answers to the state. Lee told me to look over my students' exams to make sure that students hadn't made any inadvertent mistakes, for example, accidentally missing a question and answering all the subsequent questions incorrectly.

Attorney: Was that unusual?

Freeman: Well, I don't think that sort of thing is allowed, but I honestly didn't think it was such a bad idea. But then I saw Lee using an answer key he had created to change students' incorrect answers. I was shocked by what I saw.

Attorney: What did you do?

Freeman: Sadly, I didn't speak up. I should have said something, but I was afraid to. Lee is my boss, not to mention a close friend and colleague. I just didn't want to make waves. When the test results were announced, the school had shown a tremendous improvement from the previous year, which Lee attributed to extra math tutoring provided to students who needed help. I was disgusted, but everyone, including students, parents, teachers, and administrators, was so excited about the test results, I didn't have the courage to expose the cheating.

Attorney: What did you tell Jamie when he threatened to expose the cheating?

Freeman: When Jamie called me, I was totally shocked. I was trying to put the whole exam situation behind me. I didn't want to think about it and suddenly Jamie was threatening to expose the whole thing. In some ways it was a relief. I thought to myself, it is time for me to go public with this even if it meant my job and my relationship with Lee. I didn't say much at that time to Jamie, because I wanted to find out what Lee thought we should do.

Attorney: Did you tell anyone else about your conversation with Jamie?

Freeman: I called Lee to tell him about my conversation with Jamie. Lee told me to invite Jamie to the school to talk things over. So I called Jamie back and asked him to meet me in my classroom after school the following day.

Attorney: Why did you want to meet with him?

Freeman: I just wanted to explain what really happened. I wanted him to know I was on his side and that the real person to blame was Lee Parker. I thought we could work together to expose him. I guess I still wanted to see myself as the good guy and not the bad guy here.

**Defense Team B: Client Interview of Samuel Freeman (continued)**

Attorney: What happened the next day?

Freeman: The next day, I was free during the last period of the school day and was in the room adjacent to mine, organizing some books and student folders, which I store there. At around 3 p.m., several minutes after the school day ended, Jamie walked into the room. I asked him to sit down, but he refused to. He demanded that I give him \$1,000 to keep quiet about the cheating. I said I was not going to pay him and that I wanted to explain to him what happened. He said he knew what happened and was going to report it to whoever would listen if I didn't cooperate.

Attorney: What happened next?

Freeman: I told Jamie that I would not be threatened. I said I was going to report his threats to the police. When I said this, Jamie became very angry and asked if I thought this was all a joke. He then pulled out a large knife and started walking toward me. I demanded that he give me the knife, but he refused. He continued walking toward me, so I then lunged at him and tried to take the knife away from him. We got into a struggle for the knife. I overpowered him, and then we both fell over a student desk. As we fell to the ground, I fell on top of Jamie. When I stood up, I saw the knife had entered Solomon's chest and he was bleeding profusely.

Attorney: What did you do then?

Freeman: I totally panicked. I had no idea what to do. I just stood there in a state of shock. Within a few seconds, he was dead. The knife must have struck his heart. I checked his pulse, and he was dead. It all happened in a few seconds. I was just trying to defend myself. I never intended to kill him.

Attorney: What happened next?

Freeman: I left. I was terrified, and my head wasn't clear. I thought it would look like I had murdered him. When I got home, I called Lee to tell him what happened and ask what I should do. I asked him to come over, which he did. I told Lee I wanted to go to the police and tell them about everything, including the cheating, so the police would understand what happened. Lee became very angry and threatened me. He said there was no reason to tell the police anything about the cheating. Lee said I should just say that Jamie was angry because I got him into trouble and caused him to drop out of school. Lee said he would deny any involvement in the cheating and blame it all on me. Then he calmed down and said maybe I should head somewhere the law couldn't reach me until things cooled down a little bit. I said I had no idea where I would even go. He told me he would help me find somewhere overseas I could flee, but in the meantime, not to tell anyone what had happened and to remember who my friends were. Then he left my apartment. As you can see, I didn't flee—and here I am trying to tell my side of the story. I was just protecting myself against an angry student, and things got out of hand.

## Handout 11: Defense Team D: Client Interview of Lee Parker

---

***IMPORTANT: THIS DOCUMENT IS CONFIDENTIAL AND MAY ALSO BE PRIVILEGED  
OR OTHERWISE PROTECTED***

Attorney: How do you know Sam Freeman?

Parker: I have known Sam for just over eight years, since he first started teaching at our school through the teacher training program.

Attorney: Can you describe your relationship with him?

Parker: We have a very good relationship. I am the head of the math department, so I am Sam's supervisor. We are also good friends and get along well.

Attorney: Did you know Jamie Solomon?

Parker: I didn't know him very well because he was never in my class. But I knew who he was and heard about him from other teachers. I heard he was very bright but just not focused on school.

Attorney: When did you first learn about Jamie's death?

Parker: When the school was placed in lockdown mode right after they found his body.

Attorney: At the time, did you know why Jamie Solomon was at the school?

Parker: Well, I had an idea. I received a phone call the night before from Sam Freeman. He told me he had just received a threatening phone call from Jamie Solomon. He said Jamie threatened to expose him for helping him cheat on the CAHSEE, California's high school exit examination. Jamie was demanding \$1,000 to keep quiet.

Attorney: Did he follow your advice?

Parker: Unfortunately, he didn't. When Jamie was found dead at the school the next day, I immediately thought something had gone horribly wrong. I was worried that Sam had ignored my advice and taken matters into his own hands.

Attorney: When was the next time you spoke to Freeman?

Parker: Sam called me that afternoon in a panic. He said he had to see me right away and asked if I could come over to his apartment. My instincts were to not get involved, but he sounded so upset I felt like I had to help him out. I drove over to his apartment at around 5 p.m. that night. When I arrived, Sam looked terrible. I asked him what happened.

**Defense Team D: Client Interview of Lee Parker (continued)**

Attorney: What did he say?

Parker: He said he had called Jamie back after we got off the phone and asked Jamie to meet him at the school the next afternoon. Sam thought he could talk some sense into him and explain the very serious consequences of his actions.

Attorney: What happened next?

Parker: Sam told me that Jamie asked him if he had the money. Sam said he was not going to pay him and that he was going to report Jamie's threats to the police. Sam said Jamie became very angry and said this was not a joke. According to Sam, Jamie then took out a knife from his coat and started walking toward Sam. Sam demanded that he hand over the knife so they could talk things out. When Jamie refused to give him the knife, Sam lunged at him and tried to take the knife away. During a struggle for the knife, Sam overpowered Jamie and the two of them fell over a student desk. As they fell to the ground, the knife entered Jamie's chest.

When I told Sam I didn't really understand how someone could be stabbed by accident, Sam asked me to act it all out with him in slow motion, so I could see what happened. I played Jamie and Sam played himself. We used a big wooden spoon from the kitchen to serve as the knife. I held the spoon in my right hand and pointed it toward Sam and began walking toward him. Sam grabbed my right wrist with his left hand, and I grabbed Sam's right hand with my left hand. Sam turned the spoon away from himself and toward me. He then pushed me backward into the kitchen table, and we both fell to the floor together. Sam fell on top of me and the weight of his body thrust the spoon toward my chest.

Sam told me that at that point, he could see the knife had gone through Jamie's chest and that Jamie was bleeding heavily. Sam said he was in a state of shock. He said it all happened in a few seconds and that he was trying to defend himself. He said he was just trying to take the knife away from Jamie and that he did not intend to kill him. After doing the re-enactment, that story made more sense to me.

Attorney: How did you react to this story?

Parker: I asked Sam why he didn't report what happened to the police. Sam said he just panicked. He thought it would look like he killed Jamie and that he would have no witnesses to verify his version of what happened. He said he regretted fleeing from the scene, but that he couldn't go backward.

Attorney: Did you say anything else to him?

Parker: I urged him to turn himself in immediately. He said something about fleeing to a country that wouldn't extradite him because he was scared of getting the death penalty. I told him that was crazy and that if he was acting in self-defense, he had nothing to worry about.

**Defense Team D: Client Interview of Lee Parker (continued)**

Attorney: How did he respond to your advice?

Parker: Sam urged me not to say anything to the police. When I told him I couldn't do that, Sam threatened to tell the police that I made him change results on the CAHSEE and that I should be investigated.

Attorney: What was he talking about?

Parker: I have no idea. These were the desperate words of a desperate man. Why would I jeopardize my entire career to help a few students cheat on a math exam? I want these kids to succeed, and cheating wouldn't help them one bit. When I said I was going to cooperate fully with the police, Sam became very angry. He got up in my face and grabbed me by my shirt. He said, "Just keep quiet. If you tell the police anything, you're going to be in a world of pain."

Attorney: Did you believe he would have followed through on this threat?

Parker: Not the normal Sam I'd known for years. But Sam was not in his right mind. He was watching his whole life fall apart before his very eyes. At that moment, I honestly think he was capable of anything. I was truly afraid of him at that moment.

Attorney: So what did you do?

Parker: I got out of there as soon as I could. I was determined to cooperate fully with the police, which is exactly what I did.

Attorney: Why did you search the Web for information about extradition treaties?

Parker: While I was at Sam's place, he mentioned the idea of fleeing the country to avoid prosecution. I told him he was talking crazy. He said something about going to a country that didn't have the death penalty and that wouldn't extradite people to the United States if they are charged with a capital crime. I had never heard of such a thing and wanted to find out if it was true so I could let Sam know it wouldn't work. I was still hoping to convince Sam to turn himself in.

## Handout 12: Case File Document Analysis

Read your assigned document(s) and complete this document analysis. Be ready to share the key facts of your document with your legal team.

1. What type of document is it?
2. Where did the document come from (what is the source)?
3. What kinds of information does the document contain? Is the information factual, inferential, or both? List the key facts and inferences.

Facts	Inferences	Notes

4. What questions about the case does this document raise for you? What else would you like to know?

NAME \_\_\_\_\_

DATE \_\_\_\_\_

# Handout 13: Timeline

Date	Time	Description of Event

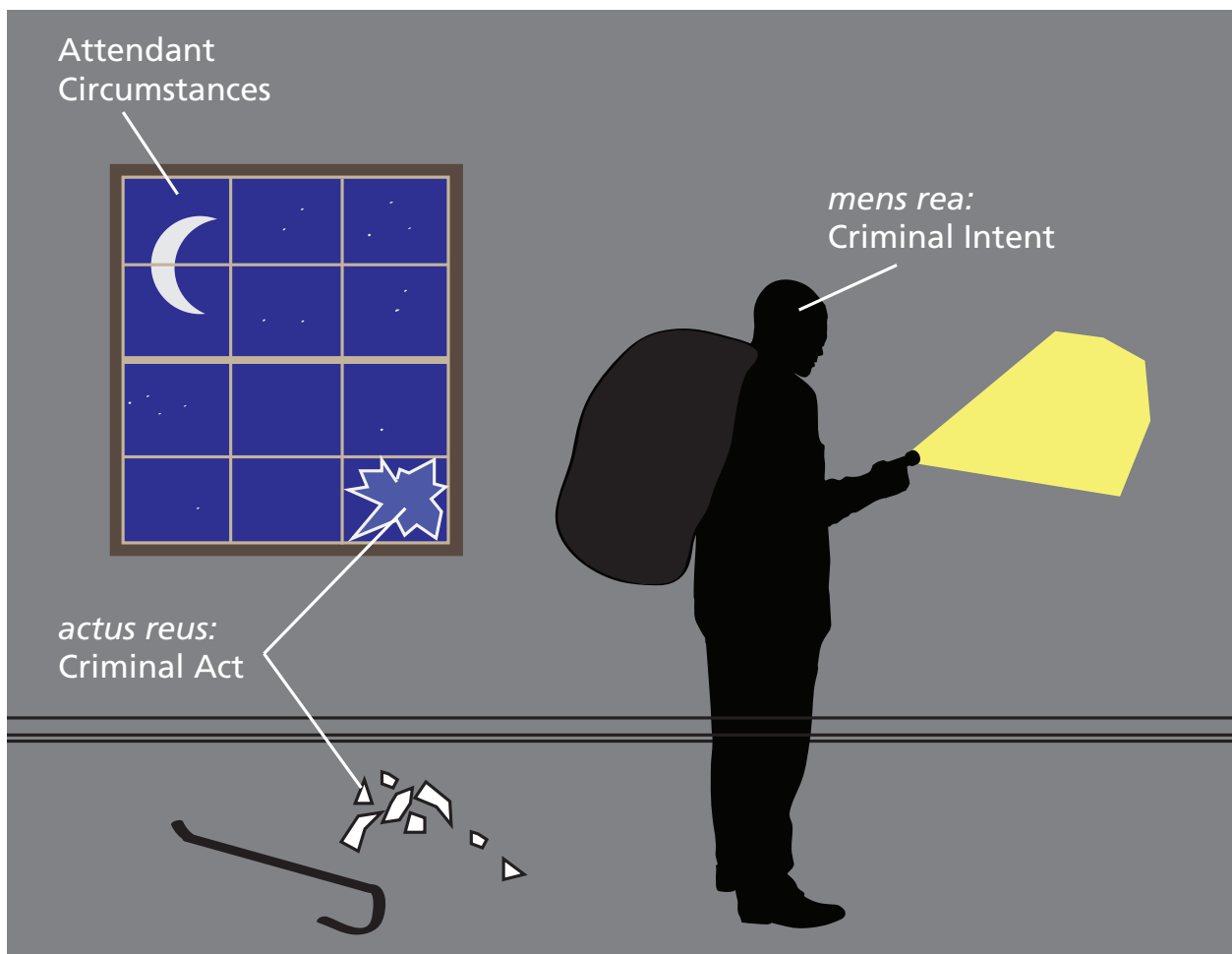


## Handout 14: Applying Elements of Criminal Law

The legal definition of each crime can be broken down into three different types of elements:

- An act (referred to as *actus reus*)
- A required state of mind (referred to as *mens rea*)
- Attendant circumstances—specific factors required by *some* criminal statutes

Most crimes are defined not only by the actual act that is committed, but also by the *criminal intent*. Some crimes, such as statutory rape, are known as *strict liability* crimes, because they do not require any criminal intent.



### Example:

The traditional, common-law definition of *burglary* was the “breaking and entering of the *dwelling of another at night* with the intent to commit a felony therein.” The requirements that the crime occur in a *dwelling of another* and *at night* are attendant circumstances. Modern penal codes have removed these attendant circumstances, so that the crime is not limited to burglaries of dwelling homes at night.

## Applying Facts to the Law

---

Read the description of one of the laws that follows. For that law:

- Break down the definition into different elements
- Label each element as an *act* or a *state of mind*

Next, read the scenario that follows the law. Determine whether the scenario meets the elements of the criminal law. If it doesn't, identify whether the *actus reus* is missing and/or the *mens rea* is missing.

### Examples of California Criminal Laws

#### 1. California Penal Code Section 484(a)

Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him or her, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor, or real or personal property, or who causes or procures others to report falsely of his or her wealth or mercantile character and, by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money or property, or obtains the labor or service of another, is guilty of theft.

**Scenario:** Johanna walks out of a store without realizing that a product she did not pay for has fallen into her bag.

#### 2. California Penal Code § [Section] 67

Every person who gives or offers any bribe to any executive officer in this state, with intent to influence him in respect to any act, decision, vote, opinion, or other proceeding as such officer, is punishable by imprisonment . . . and is disqualified from holding any office in this state.

**Scenario:** Andrea has heard that the official Joe Merrick is corrupt. She and her husband agree to pay Joe \$500 in cash in exchange for Joe dropping criminal charges against their son. Andrea visits Joe in his office and pleads with him to drop the charges, but then decides not to give him the bribe because she is afraid of getting caught.

#### 3. Cal Pen. Code § 186.22

Any person who actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished by imprisonment . . .

**Scenario:** Jack asks Carl to drive Jack and two of Jack's friends to the store. Carl does not realize that the three men are in a gang together. While Carl waits in the car, Jack and his friends rob the store at gunpoint. Carl, unaware of the robbery, then drives away from the store with the three men inside the car.

#### 4. California Penal Code § 451

A person is guilty of arson when he or she willfully and maliciously sets fire to or burns or causes to be burned, or who aids, counsels, or procures the burning of, any structure, forest land, or property.

**Scenario:** Erica falls asleep in her store one evening while smoking a cigarette. The lit cigarette falls on the carpet, which causes a fire that burns the store to the ground.

#### 5. California Penal Code § 594

Every person who maliciously commits any of the following acts with respect to any real or personal property not his or her own, in cases other than those specified by state law, is guilty of vandalism:

- (1) Defaces with graffiti or other inscribed material
- (2) Damages
- (3) Destroys

**Scenario:** Ben is a graffiti artist. He "tags" his graffiti name BeLo with permanent markers and spray cans on buildings and billboards throughout the city.

## Handout 15:

# The Law of Homicide

---

As a member of the legal team, your task is to identify the required elements of each homicide law, including both acts and states of mind. You will need this information to decide what charge, if any, is most appropriate in the case of Sam Freeman.

### What Is Homicide?

*Homicide* is the killing of a human being by another person. Homicide can be lawful or unlawful. If a person kills with a legally valid excuse or justification, the killing is lawful and he or she has not committed a crime. If there is no legally valid excuse or justification, the killing is unlawful.

Homicide is usually classified as one of two types of crime: *murder* or *manslaughter*.

The circumstances—how the act was committed (*actus reus*) and the state of mind of the person who committed the act (*mens rea*)—determine which charge is applied.

### Murder

*First-degree murder* is willful, deliberate, and premeditated killing:

- **Willful:** The defendant acted willfully if s/he intended to kill.
- **Deliberate:** The defendant acted deliberately if s/he carefully weighed the considerations for and against his or her choice and, knowing the consequences, decided to kill.
- **Premeditated:** The defendant acted with premeditation if s/he planned the killing before completing the act that caused death.

The length of time the person spends considering whether to kill does not alone determine whether the killing is deliberate and premeditated. The amount of time required for deliberation and premeditation may vary from person to person and according to the circumstances. A decision to kill made rashly, impulsively, or without careful consideration is not deliberate and premeditated. On the other hand, a cold, calculated decision to kill can be reached quickly. The test is the extent of the reflection, not the length of time.

*Second-degree murder* is the intentional killing of another person without the elements of premeditation and deliberation.

### Manslaughter

*Voluntary manslaughter* is an intentional killing committed *in the heat of passion*, when a person is emotionally agitated.

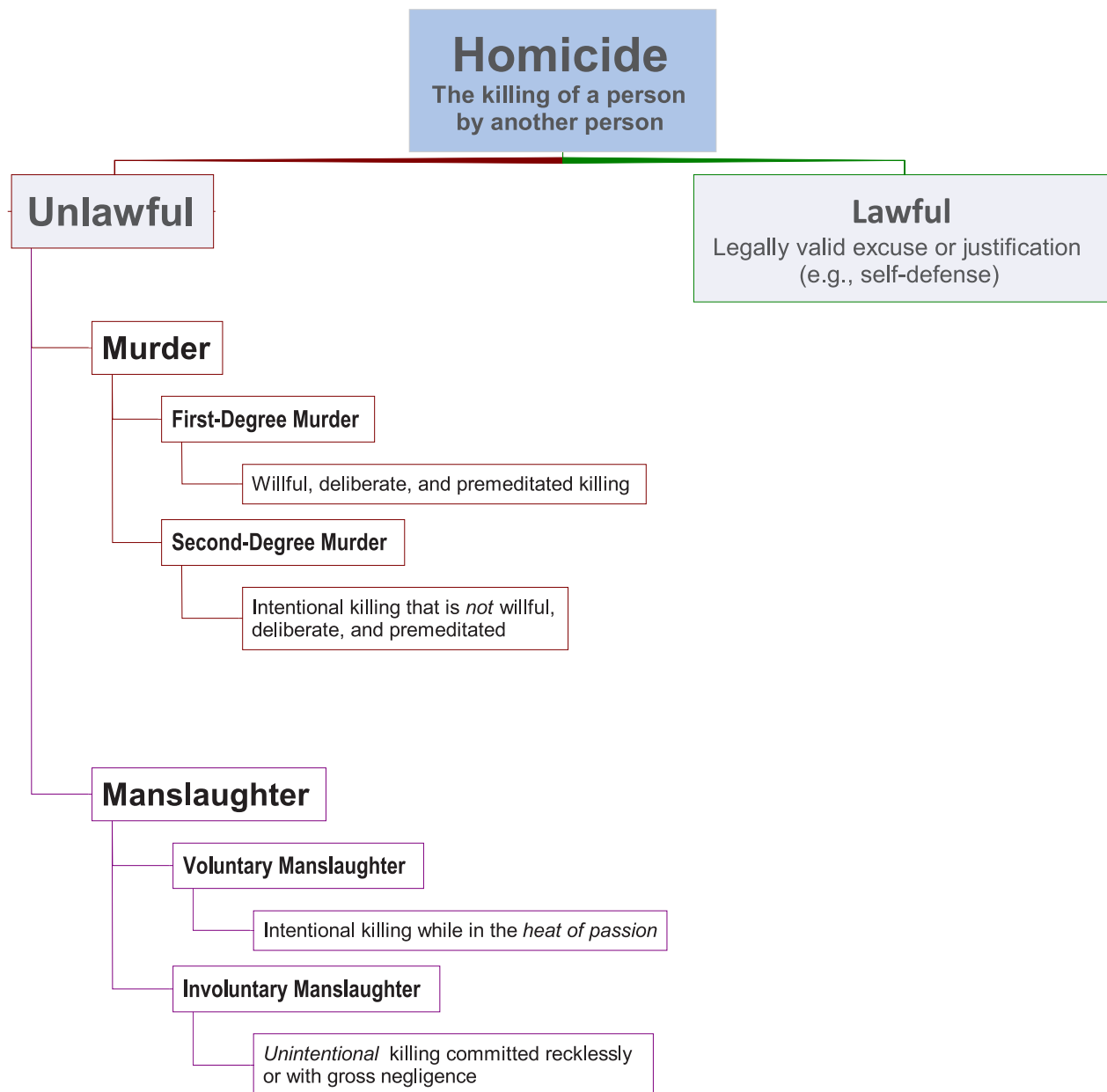
*Involuntary manslaughter* is an unintentional killing committed recklessly, with gross negligence, or while the person is committing a misdemeanor (a less serious crime). Some states have additional forms of involuntary manslaughter, such as *vehicular homicide*, which is an unintentional death caused by the driver of a car.

## Additional Considerations

### Transferred Intent Doctrine

*Transferred intent* means that if a perpetrator plans to kill one person but accidentally kills someone else instead, the perpetrator can be found guilty of murder. This doctrine is also explained as “intent follows the bullet.” For example, if a person fires a weapon at an intended victim and that bullet bounces off a wall and kills someone else, the person can be charged with murder, even if he or she wasn’t aware the actual victim existed.

## Homicide Laws at a Glance



## Handout 16:

# The Law of Accomplice Liability

As a member of the legal team, your task is to identify the required elements of *accomplice liability* law, including both acts and states of mind. You will use this information to decide whether Lee Parker can and should be charged as an accomplice in the Criminal Law case.

Types of crime included under accomplice liability include the following:

- Aiding and abetting
- Accessory after the fact
- Obstruction of justice

### Aiding and Abetting

An *accomplice* is someone who helps a person commit a crime. The person who actually commits the crime is called a *principal*. If you assist the principal, you're an accomplice. In some states, including California, the penal code refers to the actions of an accomplice—for example, supplying weapons or supplies, acting as a lookout, or driving a getaway car—as *aiding and abetting*. In general, an accomplice has the same criminal liability as the principal and can be punished as severely if convicted.

#### California Penal Code Section 31

All persons concerned in the commission of a crime . . . whether they directly commit the act constituting the offense, or aid and abet in its commission, or, not being present, have advised and encouraged its commission . . . are principals in any crime so committed.

According to California courts that have interpreted this statute, *aiding* refers to some conduct (*actus reus*) by the accomplice, such as assistance, promotion, encouragement, or instigation of criminal action; and *abetting* refers to a criminal state of mind (*mens rea*), which requires that the accomplice had both knowledge of the principal's unlawful purpose and the intent to further that unlawful purpose.

A defendant charged as an accomplice may be found guilty if both of the following are true:

1. The defendant knew of the criminal purpose of the person who committed the crime  
AND:
2. The defendant intended to, and did in fact, aid, facilitate, promote, encourage, or instigate the commission of the crime or participate in a criminal conspiracy to commit the crime.

An accomplice does not need to be present when the crime is committed. On the other hand, being present at the scene of a crime does not make a person an accomplice, even if the person knows that a crime will be committed or is being committed and does nothing to stop it. A person who lacks criminal intent but who pretends to join in a crime for the purpose of detecting or prosecuting those who commit that crime is not an accomplice.

## Accessory After the Fact

California also imposes criminal liability for knowingly providing assistance to someone after that person has committed a crime. Such a person is referred to as an *accessory after the fact*.

### California Penal Code Section 32

Every person who, after a felony has been committed, harbors, conceals or aids a principal in such felony, with the intent that said principal may avoid or escape from arrest, trial, conviction or punishment, having knowledge that said principal has committed such felony or has been charged with such felony or convicted thereof, is an accessory to such felony.

A defendant charged as an accessory may be found guilty if the following four elements are all proven beyond a reasonable doubt:

1. Another person (called the *principal*) committed a felony
2. The defendant knew that the principal had committed a felony or that the principal had been charged with or convicted of a felony
3. After the felony was committed, the defendant either harbored, concealed, or aided the principal  
AND:
4. The defendant acted with the intent of helping the principal avoid or escape arrest, trial, conviction, or punishment

## Conspiracy to Obstruct Justice

*Obstruction of justice* refers to several different crimes that involve interfering with the administration of justice or the workings of government. Examples of obstruction of justice include tampering with evidence, intimidating witnesses, or otherwise interfering with a criminal investigation. There are a variety of state and federal laws that deal with obstruction of justice.

In California, there is no general crime of obstruction of justice. However, California law does define the crime of "conspiracy to obstruct justice." In criminal law, *conspiracy* refers to an agreement between two or more people to commit a crime.

### California Penal Code Section 182

Section 182(a)(5) makes it a crime for two or more persons to conspire "to pervert or obstruct justice, or the due administration of the laws."

## Handout 17:

# What Homicide Crimes Could Be Charged?

---

Suppose that you are a prosecutor in California. Read each of the following scenarios, all of which take place in California. Decide which crime(s) you could charge and whom you could charge with the crime(s). Use the information on **Handout 15: The Law of Homicide** to help you make your decisions.

**Scenario 1:** Andrew is married to Betty but is in love with Cindy. He wants to inherit Betty's money and marry Cindy. Andrew hires a hit man, David, to kill Betty. The next week, David shoots and kills Betty.

**Scenario 2:** When Andrew calls Cindy to tell her what he has done, Cindy threatens to report him to the police. That evening, Andrew goes to Cindy's house, hoping to persuade her not to turn him in, but Cindy refuses, saying that he's not the person she thought he was. She tries to leave the house, and they get into a physical fight. During the fight, Andrew overpowers Cindy and strangles her.

**Scenario 3:** Andrew is worried that Cindy told her co-worker Erica that he had killed his wife Betty. He secretly places poison in Erica's kitchen cupboard in a jar labeled *Flour*. Erica bakes a cake with the poisoned flour, which she then feeds to her husband, Frank, and her young son, Gerry. The cake makes Frank seriously ill and kills Gerry.

**Scenario 4:** While Frank is in the hospital, Erica begins having a secret affair with Howard. Frank returns home from the hospital earlier than expected and discovers Erica and Howard. Frank goes into a violent rage and shoots Erica dead. Howard runs out of the house.

**Scenario 5:** That night, Frank breaks into Howard's house with the intent to scare Howard and steal some of his belongings. Howard's 90-year-old grandmother sees Frank sneaking around the house, has a heart attack, and dies.



## Handout 18:

# What Accomplice Liability Crimes Could Be Charged?

---

Suppose that you are a prosecutor in California. Read each of the following scenarios, all of which take place in California, and decide which crime(s) you could charge Alison with. Use the information on **Handout 16: The Law of Accomplice Liability** to help you make your decisions.

**Scenario 1:** Carl is married to Brandy but is having an affair with Alison. He wants to inherit Brandy's money and marry Alison. Without Alison's knowledge, Carl poisons and kills Brandy. When Carl tells Alison what he has done, Alison and Carl flee from the state to evade the police.

**Scenario 2:** Carl is married to Brandy but is having an affair with Alison. Alison encourages Carl to poison his wife in order to inherit her money. Carl then poisons his wife and is arrested for murder. He tells the police that Alison came up with the idea and encouraged him to do it.

**Scenario 3:** Carl is married to Brandy but is having an affair with Alison. Alison encourages Carl to poison his wife in order to inherit her money. Carl tells Alison that she is crazy and that he would never commit murder. Several weeks later, Carl and Brandy get into a huge fight. In the heat of the moment, Carl strangles Brandy to death.

**Scenario 4:** While committing an armed robbery, Joe is shot in the leg by a store clerk and flees to his girlfriend's house. He tells Alison, his girlfriend, that he accidentally shot himself in the leg while shooting at cans in his backyard. Alison helps nurse Joe back to good health.

**Scenario 5:** While committing an armed robbery, Joe is shot in the leg by a store clerk and flees to his girlfriend's house. He tells Alison, his girlfriend, what happened. Alison helps nurse Joe back to good health and disposes of his bloody clothing. She also agrees to tell the police that Joe was at her house the entire night. When a detective comes to her house to investigate, she tells the detective that Joe was home with her all evening.

# Handout 19: Arraignment Planner

Defendant: \_\_\_\_\_ Legal Team: \_\_\_\_\_

Possible Charge	Evidence Supporting	Sources of Evidence	Possible Defenses	Possible Sentences

## Handout 20: Sample Theories of the Rydell Case

---

Read the two different theories of the case involving James Rydell and Christopher Garver. Which theory is more convincing? Why?

Think about the techniques used to create a strong theory of the case, and discuss the questions at the end of this handout with a partner.

### Theory of the Case—Defense Team for James Rydell

Every person has the right to protect themselves. This is especially true when you are also protecting your home and your loved ones. James Rydell was acting lawfully and in self-defense when he stabbed a drunk, aggressive, threatening intruder, Christopher Garver.

The facts show that Garver spent the morning and afternoon drinking. Garver then illegally entered Mr. Rydell's home, making threats to Mr. Rydell and his girlfriend, Kay Banning. Mr. Rydell repeatedly asked Garver to leave, but had no success reasoning with someone who was deeply intoxicated. Because Garver is substantially larger than Mr. Rydell, both in height and weight, Mr. Rydell knew he would never be able to physically force Garver to leave. After Garver attacked Ms. Banning, Mr. Rydell used the only means available to him, a kitchen knife, to defend his loved one and himself, as he is entitled to do under the law. Any one of us would do the same if an illegal intruder tried to kill someone we love in our home. Ms. Banning called 911 immediately after Garver was stabbed, showing that both she and Mr. Rydell had no intention of causing Garver's death; their only intention was to stop his relentless, drunken attack.

Mr. Rydell acted legally and justifiably in self-defense. We are all entitled to the right to protect ourselves in our own homes.

### Theory of the Case—Prosecution Team (the State)

The use of deadly force is never acceptable when other alternatives are available. The law does not allow a person to kill another person simply because that person has entered their home. While the law does allow us to protect ourselves from intruders actively breaking in, this was not the case when James Rydell stabbed Christopher Garver to death.

Mr. Garver was certainly drunk, but not too drunk to knock on Mr. Rydell's front door before entering. This clearly shows that Mr. Garver's actions were no more illegal than those of any of us who have entered a friend's home when they didn't immediately come to the door. Mr. Garver was obnoxious, hostile, and inappropriate—but these are not reasons that justify his murder. Mr. Rydell's life was never in danger, and he had no reason to believe his girlfriend's life was in danger, either. Mr. Rydell deliberately went to his kitchen and returned with a knife. If Mr. Rydell's intent was to threaten or scare Mr. Garver into leaving, why would he conceal the knife from view?

The facts show that Mr. Rydell knowingly and intentionally stabbed Mr. Garver in the neck, intending to cause his death, in the heat of an argument. These are the required elements for second-degree murder. This murder clearly would not have been justified if it had taken place outside the home. The fact that the murder took place in Mr. Rydell's living room does not excuse his taking of a human life.

### Discussion Questions

1. What facts about the case are emphasized in the defense's theory of the case?
2. What facts are left out of the defense's theory of the case?
3. What facts are emphasized in the prosecution's theory of the case?
4. What facts are left out of the prosecution's theory of the case?
5. Which theory of the case was most convincing? Why?
6. What writing techniques were used to persuade you that each theory was accurate?

## Handout 21: Creating a Theory of the Case

*Cases can be tried without a theory or a plan. Every day . . . cases are being tried by lawyers who have given limited. . . thought as to how they are going to get to the end of the trial. . . . Developing a cohesive and viable theory of the case requires you to scrutinize the facts of the case and to evaluate them in the context of an overall plan. It demands that you become focused as you prepare. This focus will carry you as you try the actual case. When, as often happens, something unexpected develops at trial, your theory will give you a framework in which to evaluate it.*

—From *Chapter 2: Developing the Theory of the Case and Other Strategies*  
by Christopher S. Skinner, Esq.

You're going to construct a theory of the case for the unit project. You'll tell a story that explains the facts of the case in a way that benefits either the defendant or the state. You'll use your well-constructed theory of the case in order to make convincing arguments about whether the defendant should be charged with a crime.

Your theory of the case should:

- Tell a logical story
- Be based on evidence (you're not making up a story to convince a jury; you are emphasizing particular facts of the story!)
- Be brief and clearly stated
- Be persuasive

To help you create a theory of the case, use the information in your case file documents, your timeline, and your Arraignment Planner to answer the six "Theory of the Case" questions, writing your answers on a separate sheet of paper.

Exchange your answers with a teammate. Read your partner's responses and do the following:

- Highlight the words and phrases used that make the theory of the case strong, convincing, and persuasive.
- Note any answers that are inaccurate or not based on evidence.
- Note any facts that you want to de-emphasize in the story.

### "Theory of the Case" Questions

1. *What* happened?
2. *Who* did what? To whom or to what was the action done?
3. *When* and *where* did it happen?
4. *How* did it happen?
5. *Why* did it happen? (For example, what prior events occurred that made this happen?)
6. *What else* probably happened *after* this happened?

## Handout 22: Criminal Defenses

---

A criminal defendant is not required to raise a defense because the government has the *burden of proof*, or the legal responsibility to prove that an accusation of wrongdoing is true. However, a defendant has the right to raise a legal defense in court, which can negate some element or elements of the alleged crime. There are two main types of defenses: an *alibi defense* and an *affirmative defense*.

### Alibi Defenses

An *alibi defense* is a legal argument claiming that a defendant did not commit the crime being charged. This defense says, in effect, "I am not guilty because I didn't commit the crime."

For example, a defendant may argue that the victim or a witness identified the wrong person.

### Affirmative Defenses

An *affirmative defense* is a legal argument claiming that the defendant was justified in committing the crime or should not be held responsible. This defense may sound something like, "I committed the crime, but I was insane at the time," or ". . . I acted in self-defense," or ". . . I had no choice." Affirmative defenses can take many forms, several of which are described below.

#### Self-Defense

People have the right to defend themselves against the use of unlawful force. Criminal defendants can claim that they acted in self-defense if they took reasonable steps to defend themselves against unlawful force by the victim. However, one cannot use *deadly force* in self-defense unless one is threatened with deadly force. Also, defendants cannot claim to have acted in self-defense if they were the initial aggressor.

#### Defense of Others

A person may use reasonable force to defend another person in circumstances similar to those in which the person may use force to defend him- or herself.

#### Defense of Property

A person has the right to use limited force to defend his or her property, but the force must be reasonable under the circumstances. Deadly force is never legally justified solely for the defense of property.

## Criminal Defenses (continued)

### Duress

A defendant can claim duress if the defendant commits a criminal act because of the threat of the use of force or other harm (serious bodily harm, non-serious bodily harm, or even property damage) against him- or herself.

---

**Note:** *Duress* is a mental state, rather than a physical force on the body. The threat against the defendant must affect his or her state of mind at the time he or she commits an unlawful act.

---

For example, John tells Lee that if Lee does not shoot whomever John instructs him to shoot, John will kill Lee. Lee can claim duress.

### Prevention of Crime

Law enforcement officials may claim this defense, which allows them to violate the law if they do so reasonably.

For example, a police officer may speed through a stoplight to chase a fleeing convict if the police officer's action is reasonable under the circumstances.

### Necessity

Defendants can claim necessity when they have been forced to commit a criminal act in order to prevent some greater harm. Four requirements must be present for a necessity defense:

1. The harm sought to be avoided must be greater than the harm committed.
2. No other alternative must have been available.
3. The danger must have been imminent or immediate.
4. The situation was not caused by the defendant.

For example, George breaks into a convenience store to get bottles of water for his three children after a tornado destroys his house. George can claim necessity.

### Entrapment

Entrapment may be used as a defense when a law enforcement official has induced the defendant to commit a crime. Most courts use the *predisposition test* to determine whether entrapment occurred, which requires the defendant to show that the government initiated the crime and provoked or caused the defendant to participate.

### Intoxication

Voluntary intoxication does not generally excuse any criminal conduct that follows. Intoxication can be a good defense only if it is involuntarily achieved.



## Criminal Defenses (continued)

### Insanity

A defendant who can prove that he or she was suffering from a mental disease or illness such that the defendant could not tell the difference between right and wrong at the time the defendant committed a criminal act may be entitled to a verdict of “not guilty by reason of insanity.” In almost all states, a defendant who claims the insanity defense and is exonerated cannot be set free, but rather is likely to be committed to a mental institution.

### Diminished Capacity

The diminished capacity defense can be used when a defendant who is not insane argues that he or she suffers from a mental impairment that makes the defendant unable to formulate the required intent for a particular offense. Judges most often allow this defense in homicide cases, usually when the defendant is charged with first-degree murder but seeks to reduce the charge to second-degree murder.

## Handout 23: Applying Affirmative Defenses

---

Think about the affirmative defense your teacher assigned to you and your partner. Read the following scenarios. With your partner, identify the scenario that best applies to your affirmative defense.

### Scenario

1. **Albert** is a long-haul truck driver for a shipping company. He is approached by his colleague Joe, who asks him to deliver a package during his next haul from Los Angeles to Chicago. When Albert asks what the package contains, Joe tells him it contains 10 pounds of marijuana. Albert agrees to transport the package in exchange for \$5,000. Albert hides the package in his truck and heads for Chicago. After Albert crosses the border from California into Nevada, he is pulled over by federal agents, who search the truck and find the marijuana. The agents arrest Albert for possession of narcotics with intent to transport across state lines, a federal offense. Joe is an undercover agent with the U.S. Drug Enforcement Administration.

Albert could claim \_\_\_\_\_

2. **Betsy** is a police officer. While out on patrol in a marked law enforcement vehicle, she observes a man snatch an elderly woman's purse and run down the street. Betsy puts on her siren and pursues the suspect. While in pursuit, Betsy drives through several red lights. An elderly pedestrian in the crosswalk, while trying to avoid getting hit by Betsy's vehicle, falls and breaks her hip. The pedestrian wants to press charges against Betsy for reckless driving and violating the traffic laws.

Betsy could claim \_\_\_\_\_

3. **Carl** is an accountant for a large corporation. One day, he discovers that his supervisor, Henry, has been embezzling company funds. When Carl privately confronts Henry, Henry threatens to seriously injure Carl if he reveals the fraud. Carl remains silent and takes subsequent steps to keep the fraud from being discovered. However, investigators discover the fraud and charge both Carl and Henry with embezzlement.

Carl could claim \_\_\_\_\_

4. **Diane** goes out with friends after work one evening. Diane has one glass of wine. While at the bar, Joe sneaks a narcotic into Diane's wineglass when she is not looking. Diane tells her friends she is not feeling well and leaves right away to go home. While driving home, Diane falls asleep at the wheel and causes a major accident. She is charged with a DWI (driving while intoxicated).

Diane could claim \_\_\_\_\_

5. **Emmet** owns a large piece of land in a rural area. While walking on his property, he observes his neighbor Brandon trespassing on his land. He yells, "Get off my land!" When Brandon refuses to leave, Emmet fires a shot from his gun in Brandon's general direction and tells Brandon that he has 10 seconds to leave the property. Brandon leaves but reports the shooting to the police, who arrest Emmet for committing assault.

Emmet could claim \_\_\_\_\_

6. **Francesca** is trained in martial arts. While walking through a parking lot, she observes Freddie verbally and physically abusing Sandra. Francesca asks Freddie what is going on, and Freddie tells her to mind her own business. When Francesca sees Freddie about to hit Sandra again, Francesca grabs Freddie from behind and throws him to the ground. Sandra runs away and flags down a passing police car. When the police arrive, they observe Francesca and Freddie fighting and arrest them both for assault and battery.

Francesca could claim \_\_\_\_\_

7. **Greg** has been diagnosed with severe mental illness by a licensed psychiatrist. He has been treated for many years with both therapy and psycho-pharmaceuticals. One week, Greg stops taking his medication, causing him to enter a highly delusional state. While in this state, he strangles his best friend to death. When asked about what happened, he says he believed his friend was possessed by evil spirits and that he was helping to scare the spirits out of him.

Greg could claim \_\_\_\_\_

8. **Hillary** is a working mom with three young children. When a major hurricane comes through her town, her house is completely flooded and she loses electricity. Rescue crews are overwhelmed, so Hillary takes matters into her own hands. She breaks into a grocery store down the street and takes diapers and canned goods that can be eaten without being cooked. After the storm passes, Hillary is charged with burglary.

Hillary could claim \_\_\_\_\_

9. **Ivan** owns a jewelry store. One night before closing, an armed robber enters the store and demands that Ivan fill a bag with jewelry. The robber says if Ivan doesn't do as instructed, the robber will shoot him dead and fill the bag himself. As Ivan reaches behind the counter for a diamond necklace, he grabs a gun he keeps for security and shoots the robber in the chest, killing him. Ivan is charged with murder.

Ivan could claim \_\_\_\_\_

10. **James** is a veteran of the Iraq War and suffers from post-traumatic stress disorder (PTSD). After getting into an argument during a pickup football game, James becomes enraged and fatally shoots another player. James tells investigators that at the time he felt like he was back in Iraq on a combat mission.

James could claim \_\_\_\_\_

## Handout 24: Law of Self-Defense

---

Read Part 1: Overview of Self-Defense, then work with a partner to decide whether self-defense applies in each scenario in Part 2.

### Part 1: Overview of Self-Defense

---

A commonly used affirmative defense to murder is self-defense. People have the right to defend themselves against the use of unlawful force.

The following requirements *must* be met for self-defense to be valid:

1. The defendant must have been resisting present or *imminent unlawful force*. *Imminent* means likely to occur at any moment.
2. The defendant must have used only the amount of force that was *reasonably necessary* to defend him- or herself. In other words, the defendant cannot use excessive force.
3. The defendant may not have used *deadly force* unless the danger the defendant faced was also deadly force. For example, you can't respond to a person hitting you in the face (non-deadly force) by shooting that person (deadly force).
4. The defendant must not have been the original aggressor.

Some states, including California, impose what is known as a *duty to retreat* in cases involving the use of deadly force. The defendant must show that he or she was not in a position to have safely retreated from the attacker. However, there is no duty to retreat in one's home.

### Self-Defense in California

**Section 197 of the California Penal Code** states that homicide is justifiable when the person is resisting someone else's attempt to commit murder.

Courts have interpreted this statute as having two key requirements:

1. The defendant must have had an actual, honest belief in the need to defend against imminent harm, *and*
2. That belief must be *objectively reasonable*. In other words, a hypothetical "reasonable person" in the defendant's position would also have had to believe that he or she had a need to defend against imminent harm.

**Imperfect self-defense** means that a defendant has an *actual belief* in the need to defend him- or herself, but that belief was not reasonable. In such cases, the defendant cannot be convicted of murder, but can be found guilty of voluntary manslaughter.

## Part 2: Analyze Scenarios

---

Is self-defense a valid defense in each of the following scenarios? Why or why not?

**Scenario 1:** Arnold threatens to kill Barry. The next day, Barry waits for Arnold to come out of his house and shoots Arnold dead. Barry is charged with murder.

**Scenario 2:** After getting into an argument, Carl attempts to strike Miguel with his fist. Miguel deflects the punch and punches Carl, who falls to the ground. Carl and Miguel are both charged with assault and battery.

**Scenario 3:** After getting into an argument, Eric attempts to strike Frank with his fist. Frank deflects the punch and then hits Eric over the head with a bottle, causing him serious injury. Eric and Frank are both charged with assault and battery.

**Scenario 4:** After getting into an argument, Gerald starts to punch Hank in the face. While getting hit in the face, Hank takes out a gun and shoots Gerald in the stomach. Gerald survives, but is seriously injured. Hank is charged with attempted murder.

**Scenario 5:** Iris attempts to rob Janice at knifepoint. Janice tries to flee, and Iris lunges at her with the knife. Janice manages to wrestle the knife away from Iris and stabs her in the hip.

**Scenario 6:** Alicia attempts to rob Ying at gunpoint. Ying manages to wrestle the gun from Alicia, who begins to flee. Ying then shoots Alicia in the leg and calls the police.

## Handout 25: Law of Duress

---

Read Part 1: Overview of Duress, then work with a partner to decide whether duress applies in each scenario in Part 2.

### Part 1: Overview of Duress

---

*Duress* is an affirmative defense to a crime in which the defendant claims to have been compelled to commit the crime by another person.

Duress exists when the defendant commits a crime due to a (1) *reasonable fear* of (2) *imminent harm* that would cause (3) *death or serious bodily injury* to him- or herself or others.

#### Reasonable Fear

The defendant must have had a *reasonable* belief that the defendant's or someone else's life would be in immediate danger if the defendant refused to commit the crime. Not only must the defendant have believed it, but also any "reasonable person" in the defendant's position must have believed in immediate danger.

#### Imminent Harm

The threat of harm faced by the defendant must be *imminent*—about to happen. A threat of future harm is not sufficient. The danger must have been immediate.

#### Death or Serious Bodily Injury

The harm threatened against the defendant must have been death or serious bodily injury. Less serious harms are not reason enough to claim duress.

#### Burden of Proof

Once a defendant claims the defense of duress, the government bears the burden of proving at trial that the defendant did *not* act under duress.

#### Additional Considerations

Under California law, duress is *not* a valid defense to crimes punishable by death. A claim of duress cannot be used to reduce a charge of murder to manslaughter.



## Part 2: Analyze Scenarios

---

Would the defense of duress apply to each of the following scenarios? Why or why not?

**Scenario 1:** Ann tells Bill she won't go out with him unless he beats up her ex-boyfriend Carl. Bill attacks Carl and is arrested for assault and battery.

**Scenario 2:** Dimitri convinces his friend Eric to rob a convenience store with him. The two have known each other for many years but Eric is afraid of Dimitri, who is much stronger than him. Dimitri often threatens Eric and occasionally punches him in the arm to "show him who is boss." Eric claims he feared Dimitri would hit him if he didn't help Dimitri rob the store.

**Scenario 3:** After robbing a bank, Freddie jumps into Greg's car and, pointing a gun at Greg, orders him to quickly drive away. Greg was an innocent bystander who happened to be stopped at a red light when Freddie came out of the bank. Greg drives recklessly to evade police who are in pursuit. Greg is charged with aiding and abetting and with reckless driving.

**Scenario 4:** Hillary threatens to tell Iris’s boyfriend that Iris cheated on him when he returns from an out-of-town trip. Hillary says she won’t tell him if Iris steals an expensive dress from a local store for Hillary. Iris’s boyfriend has a history of committing domestic violence, so Iris goes ahead and steals the dress.

**Scenario 5:** Jack brags to his co-worker Karl that he has stolen several hundred dollars from their company. Karl says he doesn’t think that was very cool. Jack replies, “Well, you better not tell anyone or else I’ll have to kill you!” and then laughs and walks away. During a police investigation into the matter, Karl tells the police he knows nothing about the theft. He is then charged with willfully misleading a police officer during a criminal investigation.

**Scenario 6:** Larry brags to his co-worker Marie that he has stolen several hundred dollars from their company. During an investigation into the matter, police ask to speak to Marie. Before her meeting, Larry pulls her aside and says, “If you tell them anything, you will not make it out of here in one piece. If they bust me, I’ll know it was you because you’re the only person I told.” Marie tells the police she knows nothing about any property theft. She is then charged with willfully misleading a police officer during a criminal investigation.

## Handout 26: Purposes of Sentencing

---

What purposes are served by punishing a person who commits a crime? What goals should be considered when sentencing a person who has been convicted of a crime?

Read about the purposes of different types of punishment. Choose one or two purposes that you think should be prioritized when sentencing criminals. Be prepared to defend your choices.

### Deterrence

Punishment should prevent people from committing subsequent crimes by making people fear the consequences of their actions. Punishment should be harsh so that criminals who have been punished are afraid to repeat a crime for fear of being punished again.

### Incapacitation

Punishment should focus on keeping the community safe by making it impossible for the wrongdoer to commit another crime.

### Reparation

When a crime has occurred, the wrongdoer should repair the harm that was done by making it up to the victim or the community, through either goods or services (for example, by paying a fine, replacing something that was taken, or performing community service).

### Rehabilitation

Offenders should receive help and training to change their behavior in order to become productive members of society (for example, offering services to prisoners, such as college courses, on-the-job training and apprenticeships, counseling, and drug and alcohol treatment).

### Retribution

Society has a moral obligation to punish a defendant who deserves punishment. A person guilty of a crime should experience a level of pain and suffering comparable to that experienced by the victim.

## Handout 27: Sentencing Law in California

How do judges and juries decide what sentence should be given to a person who has been convicted of a crime? In California, judges and juries have a set of guidelines that help them answer this question.

The chart shows the range of time, from shortest to longest, for which a person may be sentenced if found guilty of different crimes. Work with your team to identify which sentencing guidelines might apply to the defendant in your case.

### Facts About Determinate Sentencing

Most convicted felons in California are sent to state prison for a set period of time established by the state's **Determinate Sentencing Law**. Under this system, there are three possible prison sentences for each felony offense, called low-term, middle-term, and high-term. Before this system was created in 1977, California used *indeterminate* sentencing, which provided a wide range of possible sentences instead of exact or determined sentences.

### Sample Sentencing Guidelines in California

Penal Code	Crime	Terms (in months)		
		Low-term	Middle-term	High-term
192(a)	Voluntary manslaughter	36	72	132
192(b)	Involuntary manslaughter	24	36	48
212.5(a)	Robbery first degree	36	48	72
245(a)(2)	Assault with firearm	24	36	48
245(c)	Assault with a deadly weapon other than firearm	36	48	60
461(1)	Burglary first degree	24	48	72
653f(a)	Soliciting commission of crime not murder	16	24	36
653f(b)	Soliciting murder	36	72	108

## Sentencing Law in California (continued)

### Additional Guidelines

#### First-Degree Murder

The sentence for first-degree murder is 25 years to life in prison. However, under certain circumstances, a defendant can receive a sentence of life in prison or the death penalty.

- If the jury finds the murder was a hate crime committed based on the victim's race, religion, gender, disability, sexual orientation, or nationality, the defendant can be sentenced to life in prison without the possibility of parole.
- The death penalty can be imposed if one or more aggravating factors are proven beyond a reasonable doubt. These include the murder of a law enforcement officer or judge, murder committed after lying in wait for the victim, and murder committed using a bomb.

**Aggravating circumstances** are factors that increase the seriousness of a crime and give the judge reason to increase the sentence. For example, a previous history of violence might be considered an aggravating circumstance.

#### Second-Degree Murder

Second-degree murder is punishable by imprisonment for 15 years to life. The sentence may increase to the following:

- Life in prison, if the defendant previously served a sentence for a murder conviction
- 20 years to life, if the victim was killed by a firearm shot from a vehicle
- 25 years to life, if the victim was a peace officer

#### Aiding and Abetting

Under California Penal Code § 31, a person who "aids or abets" in the commission of a crime is a *principal* and therefore criminally liable for the crime.

For example, a person who knows of the criminal purpose of a person who commits murder and intentionally aids in the commission of the murder is also liable for murder and can face the same sentence as a person convicted of committing the murder.

#### Accessory After the Fact

**Mitigating circumstances** are factors that lessen the severity of the crime and give the judge reason to reduce the sentence. For example, showing remorse might be considered a mitigating circumstance for some crimes.

Under California Penal Code § 32, an "accessory" is defined as anyone who, after a felony has been committed, harbors, conceals or aids a principal in committing a felony, with the intent to help the principal escape from arrest, trial, conviction or punishment. Penal Code § 33 states that "an accessory is punishable by a fine not exceeding \$5,000, or by imprisonment for up to one year, or both."

#### Conspiracy to Obstruct Justice

The sentence for conspiracy to obstruct justice is imprisonment for up to one year in county jail or state prison and/or by a fine not exceeding \$10,000.

## Handout 28: Arguments For and Against Capital Punishment

Your teacher will provide you with research sources about capital punishment. Read or listen to the information in the sources. Use this chart to take notes on the arguments presented for and against the death penalty.

### Pro-Death Penalty

SOURCE	What arguments are presented in favor of capital punishment?	What values or beliefs guide these arguments? What evidence is used to support the arguments?	Do you find these arguments persuasive? Why or why not?

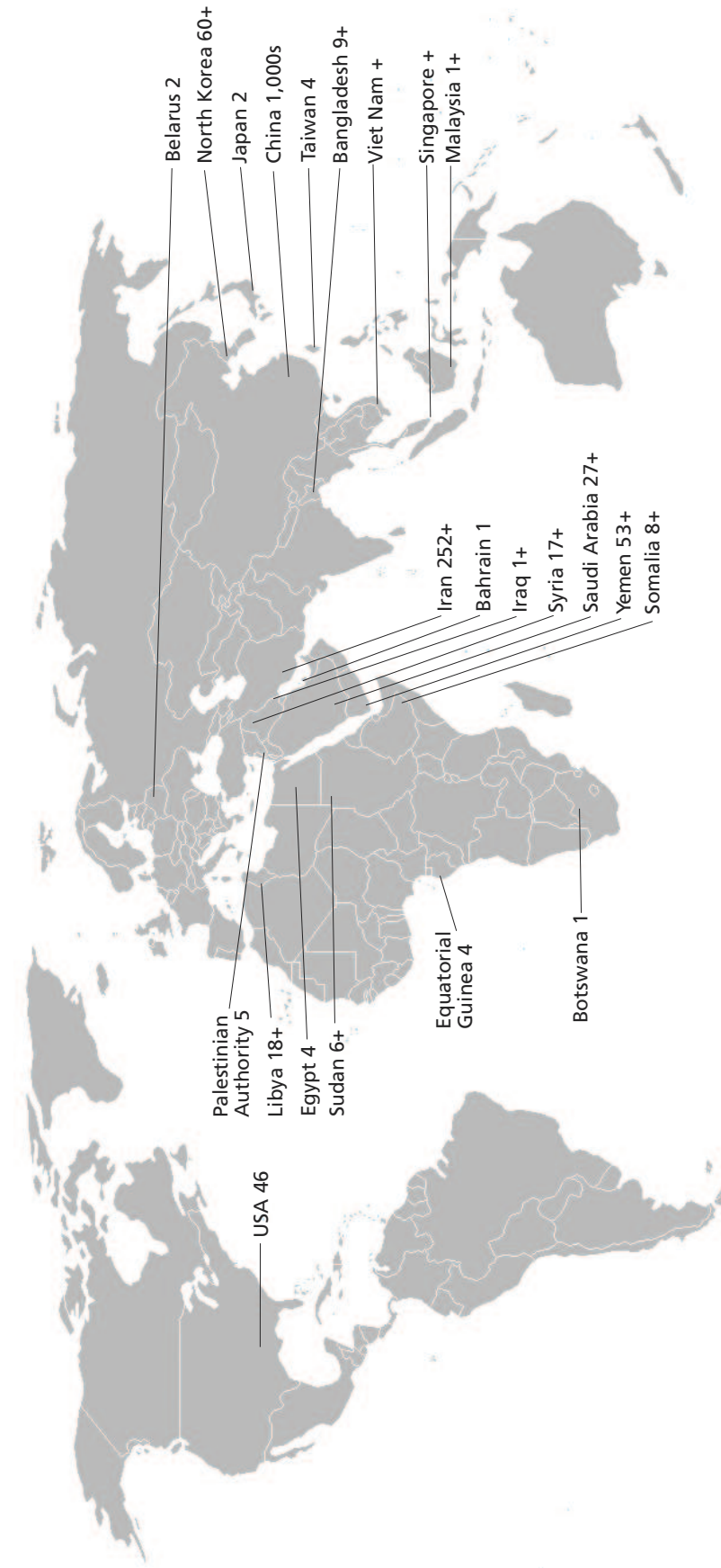
## Anti-Death Penalty

SOURCE	What arguments are presented against capital punishment?	What values or beliefs guide these arguments? What evidence is used to support the arguments?	Do you find these arguments persuasive? Why or why not?

## Handout 29: Capital Punishment Fact Sheet

Capital punishment is not practiced in all countries, and its use varies from state to state in the United States. As of 2011, relatively few democratic or developed countries in the world impose the death penalty. Review the facts about capital punishment and be prepared to discuss the questions that follow.

### EXECUTIONS IN 2010



+ indicates that the figure Amnesty International has calculated is a minimum. Where + is not preceded by a number, it indicates that there were executions (at least more than one) but that it was not possible to specify a figure.

Source: Amnesty International, March 2011



## States Without Death Penalty

Alaska  
Hawaii  
Iowa  
Maine  
Massachusetts  
Michigan  
Minnesota  
New Jersey  
New Mexico  
New York  
North Dakota  
Rhode Island  
Vermont  
Washington, D.C.  
West Virginia  
Wisconsin

\*15 plus Washington, D.C.  
which is a district, not a state.

## Approximate Number of Death Row Inmates per State

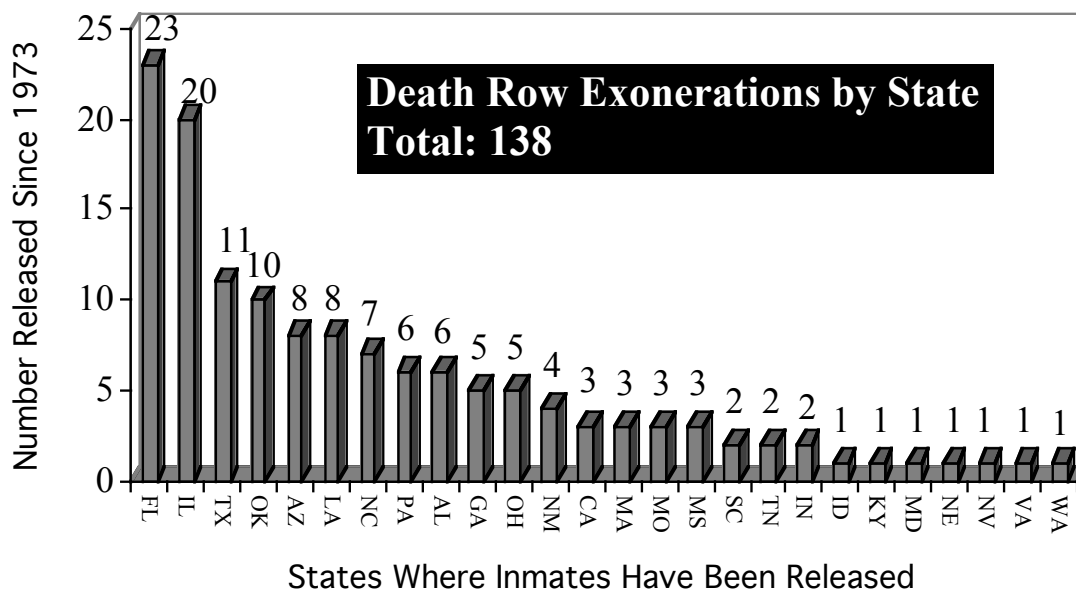
(January 1, 2011)

AI	206	KY	36	OR	34
AZ	138	LA	86	PA	219
AR	43	MD	5	SC	63
CA	721	MS	60	SD	3
CO	4	MO	50	TN	87
CT	10	MT	2	TX	321
DE	20	NE	14	UT	9
FL	398	NH	1	VA	11
GA	103	NV	81	WA	9
ID	16	NM	2	WY	1
IL	16	NC	165	U.S. Gov't.	61
IN	14	OH	159	Military	6
KS	9	OK	77		

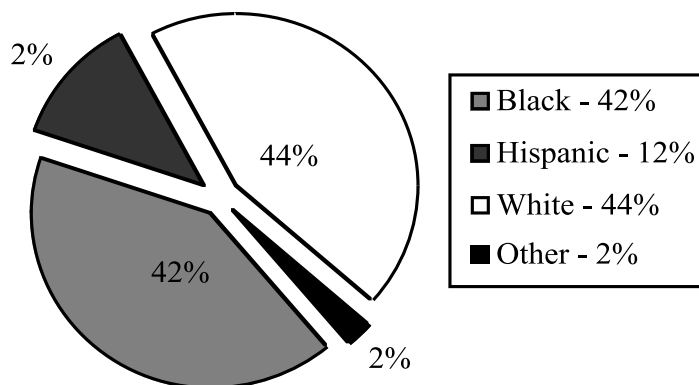
**TOTAL: 3,251**

Source: NAACP LDF "Death Row, U.S.A."

When added, the total number of death row inmates by state is slightly higher than the given total because some prisoners are sentenced to death in more than one state.



### Race of Death Row Inmates



Source: Death Penalty Information Center. Updated January 1, 2011.

### Questions for Discussion

1. Which countries had the highest and lowest numbers of executions in 2010? How does the United States compare to other countries in the world in numbers of executions? Why do you think this is the case?
2. Which state had the highest number of exonerations from death row? The lowest? Would this data be effective in supporting or opposing the use of the death penalty? Explain.
3. Which states had the highest number of death row inmates? The lowest? What are some possible explanations for the differences between states?
4. What data do you find most interesting or surprising? Why?

## Handout 30:

# Special Circumstances for Consideration of Capital Punishment

---

This description of California's death penalty guidelines lists the aggravating factors that must exist in order for the death penalty to be considered as a sentencing option. Decide whether any of these factors apply to your unit project.

### California's Death Penalty Guidelines

The California penal code provides for possible capital punishment in the following situations:

- (1) A murder was especially cruel or involved torture
- (2) A murder was committed during a robbery, kidnapping, gang activity, or drug dealing
- (3) A murder was committed from a car (e.g., a drive-by shooting)
- (4) The defendant committed or attempted to commit more than one murder
- (5) The defendant killed the victim while "lying in wait" (meaning, the defendant planned a surprise attack on the victim)
- (6) The murder was committed for money (in other words, by a "hit man")
- (7) The murder was committed to avoid or prevent arrest, to effect an escape, or to conceal the commission of a crime
- (8) The defendant has been convicted of a prior murder or a felony involving violence
- (9) The victim was a government employee (such as a police officer, firefighter, judge, defense attorney, or prosecutor) killed in the course of his or her duties
- (11) The victim was a witness, potential witness, or family member of a witness in a criminal or civil proceeding killed for revenge or to prevent the witness from appearing in court
- (12) The victim was killed because of his or her race, color, religion, nationality, or country of origin

Source: ©2010 Adapted from Death Penalty Information Center, *Aggravating Factors for Capital Punishment by State*.

## Handout 31: Plea Bargaining

---

### Overview

---

While the U.S. Constitution protects the right to a trial by jury in criminal cases, most cases—more than 90 percent—never go to trial. Almost 95% of all felony convictions are the result of a **plea bargain** between the prosecutor and the defendant. Plea bargaining can happen at any time during the criminal process until the jury reaches its verdict. Lawyers have an ethical and legal obligation to fully disclose all required information to opposing counsel in a timely manner.

During plea bargaining, the prosecutor and the defendant negotiate a resolution to the case. In exchange for pleading guilty to a particular charge and waiving the right to a jury trial, the defendant generally receives a shorter sentence. Plea deals sometimes also include an agreement by the defendant to testify against others involved in criminal activity.

When the two sides reach a plea agreement, the agreement is stated on the record before the judge. Before issuing the sentence, the judge asks the defendant a series of questions to assure that s/he has pleaded guilty freely and voluntarily, understands s/he is waiving due process rights, and also understands all the legal consequences of pleading guilty. If the judge is satisfied with the plea agreement, the judge then issues the sentence. If the judge rejects the agreement, the defendant can withdraw the guilty plea and proceed to trial.

### Critique of Plea Bargaining

Plea bargaining is a controversial aspect of the U.S. criminal justice system. Many believe that the widespread use of plea bargaining undermines the right to a trial by jury and the principle that one is innocent until proven guilty. This is especially problematic for defendants who believe they are innocent but agree to plead guilty to avoid the risk of being found guilty if their case goes to trial. The Supreme Court has held that plea agreements in such cases are not unconstitutional. Some argue that “tough on crime” laws, which expose convicted felons to longer prison sentences, place increasing pressure on defendants to enter a plea agreement.

Additionally, some argue that there are racial disparities in plea bargaining outcomes. Two studies conducted in the 1990s indicated that white defendants did better in plea bargains than blacks and Latinos, and had their charges reduced more frequently.

Other people argue that plea bargaining can promote justice if the process is reformed to involve judges more. Otherwise, they argue, the prosecutors who agree to the plea bargain end up having more control over the fate of the accused than jurors and judges, who are supposed to be impartial.

## Plea Bargaining Scenario

---

Read the plea bargaining scenario, and decide how you would advise Dave if you were his lawyer. Decide whether you would have him plead guilty to any of the charges, and why.

### The Facts

While watching his son's high school football game from the bleachers, Dave persistently taunts Victor, whose son is playing for the opposing team. After Dave's son makes a big play, Dave gets into Victor's face. Victor grabs Dave by his coat and threatens to push him off the side of the bleachers. The two struggle for a moment, and Dave pushes Victor off the side of the bleachers. Victor falls about 12 feet and hits his head on a paved pathway below. When paramedics arrive, they take Victor to a local hospital, where he is given five stitches and treated for a mild concussion. Meanwhile, a police officer at the game places Dave under arrest for aggravated battery.

After the arraignment, Dave's attorney discusses the case with the Assistant District Attorney who is prosecuting the case. Dave's attorney argues that the charges should be dropped because Dave was acting in self-defense. According to his client and several witnesses, Victor was the initial aggressor and also threatened to push Dave off the bleachers. The ADA says he feels the self-defense argument is weak and, given the severity of Victor's injuries, he is not willing to drop the charges. However, he is willing to lower the charge from *aggravated battery* to *simple battery* if Dave is willing to plead guilty. He would recommend a sentence of 6 months in county jail and 1 year of informal probation.

### Relevant Law

If convicted of *simple battery* under California Penal Code § 242 (Section 242), Dave could face one or more of the following sentences:

1. Informal probation for up to three years
2. Up to six months in the county jail
3. A fine of up to \$2,000
4. Community service

If convicted of *aggravated battery* under California Penal Code § 243(d) for causing "serious bodily injury," Dave could face one or more of the following:

1. Formal probation
2. Two, 3, or 4 years in state prison
3. A possible strike on his record for purposes of California's "three strikes" law

If found guilty of aggravated battery at trial, Dave would likely receive the low-term sentence of two years because he does not have a prior criminal record. Finally, simple battery is a "lesser included offense," meaning the jury could find Dave guilty of simple battery if they conclude he did not cause "serious bodily injury."

## Handout 32(A): Plea Negotiation Planner: Team A: Prosecuting Samuel Freeman

### Part 1: Identifying Strengths and Weaknesses for Your Case

Use the evidence in your arraignment planner to complete the table. What are the strengths of your case for each charge listed in the table? List them in the "Strengths" column. For example, is there a piece of evidence that opposing counsel will have a difficult time addressing? Is there a strong emotional argument that works in your favor?

Now imagine that you are working for the defense. What arguments would you make against each charge? List them in the "Weaknesses" column. For example, is one of your witnesses not very credible? Are you missing evidence for one of the required elements?

Charge	Strengths	Weaknesses
First-Degree Murder		
Second-Degree Murder		
Voluntary Manslaughter		
Involuntary Manslaughter		
<b>Acting in Self-defense: case dropped*</b>		

\*This is not a charge, but the burden of showing the required elements of self-defense falls on the defense team.

# Plea Negotiation Planner: Team A: Prosecuting Samuel Freeman

---

## Part 2: Negotiation Strategy

---

Looking at the Strengths and Weaknesses columns, for which charge can you make the strongest case? Identify the charge your team wants to achieve during plea negotiation.

Identify the minimum and maximum possible sentences for that charge.

What motivations would the prosecution and Freeman's defense team have to agree to this plea? List two.

In addition to the charge you want to achieve, identify the least desirable outcome that your team is willing to agree to.

## Handout 32(B): Plea Negotiation Planner Team B: Defending Samuel Freeman

### Part 1: Identifying Strengths and Weaknesses for Your Case

Use the evidence in your arraignment planner to complete the table. What are the strongest arguments you can make against each charge? List them in the “Strengths” column. For example, is there a piece of evidence that opposing counsel will have a difficult time addressing? Is there a strong emotional argument that works in your favor?

Now imagine that you are working for the prosecution. What are the strongest arguments you could make in support of each charge? List them in the “Weaknesses” column. For example, is one of your witnesses not very credible? Are you missing evidence for one of the required elements?

Charge	Strengths	Weaknesses
First-Degree Murder		
Second-Degree Murder		
Voluntary Manslaughter		
Involuntary Manslaughter		
Acting in Self-defense: case dropped*		

\*This is not a charge, but the burden of showing the required elements of self-defense falls on the defense team.



# Plea Negotiation Planner: Team B: Defending Samuel Freeman

---

## Part 2: Negotiation Strategy

---

Looking at the Strengths and Weaknesses columns, what is the lowest possible charge you think the prosecution should make? Or do you think you could get the prosecution to drop the case based on the evidence Freeman acted in self-defense? Identify the charge your team wants to achieve during plea negotiation.

Identify the minimum and maximum possible sentences for that charge.

What motivations would the prosecution and Freeman's defense team have to agree to this plea?  
List two.

In addition to the charge you want to achieve, identify the least desirable outcome that your team is willing to agree to.

## Handout 32(C): Plea Negotiation Planner Team C: Prosecuting Lee Parker

### Part 1: Identifying Strengths and Weaknesses for Your Case

Use the evidence in your arraignment planner to complete the table. What are the strengths of your case for each charge? List them in the "Strengths" column. For example, is there a piece of evidence that opposing counsel will have a difficult time addressing? Is there a strong emotional argument that works in your favor?

Now imagine that you are working for the defense. What arguments would you make against each charge? List them in the "Weaknesses" column. For example, is one of your witnesses not very credible? Are you missing evidence for one of the required elements?

Charge	Strengths	Weaknesses
Aiding and Abetting		
Accessory		
Obstruction of Justice		
<b>Acting Under Duress: case dropped*</b>		

\*This is not a charge, but the burden of showing the required elements of duress falls on the defense team.

# Plea Negotiation Planner: Team C: Prosecuting Lee Parker

---

## Part 2: Negotiation Strategy

---

Looking at the Strengths and Weaknesses columns, for which charge can you make the strongest case? Identify the charge your team wants to achieve during plea negotiation.

Identify the minimum and maximum possible sentences for that charge.

What motivations would Parker's defense team have to agree to this plea? List two.

In addition to the charge you want to achieve, identify the least desirable outcome that your team is willing to agree to.

## Handout 32(D): Plea Negotiation Planner Team D: Defending Lee Parker

### Part 1: Identifying Strengths and Weaknesses for Your Case

Use the evidence in your arraignment planner to complete the table. What are the strongest arguments you can make against each charge? List them in the "Strengths" column. For example, is there a piece of evidence that opposing counsel will have a difficult time addressing? Is there a strong emotional argument that works in your favor?

Now imagine that you are working for the prosecution. What are the strongest arguments you could make in support of each charge? List them in the "Weaknesses" column. For example, is one of your witnesses not very credible? Are you missing evidence for one of the required elements?

Charge	Strengths	Weaknesses
Aiding and Abetting		
Accessory		
Obstruction of Justice		
Acting Under Duress: case dropped*		

\*This is not a charge, but the burden of showing the required elements of duress falls on the defense team.

# Plea Negotiation Planner: Team D: Defending Lee Parker

---

## Part 2: Negotiation Strategy

---

Looking at the Strengths and Weaknesses columns, what is the lowest possible charge you think the prosecution should make? Or do you think you could get the prosecution to drop the case based on the evidence Parker acted under duress? Identify the charge your team wants to achieve during plea negotiation.

Identify the minimum and maximum possible sentences for that charge.

What motivations would the prosecution and Parker's defense team have to agree to this plea? List two.

In addition to the charge you want to achieve, identify the least desirable outcome that your team is willing to agree to.

## Handout 33:

# Guidelines for Effective Negotiations

---

## What Are Negotiations?

---

**Negotiations** are discussions between two or more parties about an issue. People with different interests negotiate as a way of making decisions, agreements, or plans.

When you negotiate, you state your **position**, which is what you're asking for, or the standpoint that you choose to take on a given issue. For example, imagine you are negotiating with your parents about your curfew. Your position might be that you want to stay out until 11:00 p.m. Your parents' position might be that they want you home at 9:00 p.m. When people adhere very strongly to their positions, it can be difficult to make decisions or resolve a conflict. Understanding the interests that underlie people's positions is a key to successful negotiations. Your **interest** is the reason for your position, and it's what you need to get out of the negotiation in order to be satisfied with the result. For example, your interest in staying out late may be to see a concert that you've wanted to see for months. Your parents' interest in having you home early might be to ensure you get a good night's sleep because you have an important appointment early in the morning.

## Possible Outcomes

---

When two people want the same thing and only one person can get it, it often results in a win-lose situation. This can happen when two people reach for the last piece of pie in the cafeteria or two people arrive at a ticket counter to find that there is only one ticket left.

When neither party gets what they want, it's a lose-lose situation. For example, in the curfew scenario, a lose-lose result might be if you're not allowed to go to the concert, but you stay up so late in your room that you get no sleep and miss your morning appointment.

At the end of a successful negotiation, the parties will have come to an agreement about the issue in question. A win-win negotiation is when the parties find a solution that is acceptable to everyone, and each party leaves with a feeling that at least in some way, they've won. For example, in the curfew scenario, the solution might be meeting in the middle and coming home at 10 p.m., or it might mean being allowed to stay out late for the concert, but agreeing to reschedule the morning appointment for another day and going to sleep early the night before the appointment.

## Negotiation Strategies

---

The following strategies will help you conduct successful negotiations.

### Before You Begin the Negotiation

Know what your goals and interests are, and which interests need to be met for the negotiation to be successful.

Know what your initial position is. For example, when plea bargaining, your interest might be to get your client as little jail time as possible, while your initial position is to plead guilty to the obstruction of justice charge if the prosecution drops the aiding and abetting charge.

Do your research ahead of time and be prepared. When plea bargaining, know what all the possible charges and sentences are, so you know what your different negotiation options are.

Don't narrow your negotiation to one issue. Develop as many negotiable deal points as you can.

Try to determine ahead of time the goals and interests of your counterpart. Recognize that the other party's interests are different from yours, and keep in mind that the goal of the negotiation is a win-win outcome.

Know what your bottom line is and be ready to walk away if you can't get it.

### During the Negotiation

**Use active listening** and other communication skills to understand the other party's underlying interests.

**Ask questions.** Use open-ended questions to help clarify the other party's interests, gain specific information about what the other party wants, and check understanding about an issue or position.

**Be respectful.** Recognize the other party's interests and try to work together to achieve a win-win outcome. Asking questions, rather than making demands, will make the other party feel respected and more willing to negotiate with you.

**Think creatively** about ways to add value for all parties in the negotiation, and carefully consider others' suggestions to determine whether they satisfy your interests.

**Be willing to compromise** if necessary.

**Know what you are willing to give up** in order to get your interests met in a negotiation, and if you can't get your interests met, walk away from the negotiation.

## Handout 34: Plea Negotiation Instructions

---

Use the following guidelines to conduct negotiations with opposing counsel.

### Negotiation Rules

---

- There will be three rounds of negotiations.
- Each round is exactly four minutes long.
- During each round, one attorney from each team is allowed to speak to one attorney from the other team. Everyone else on the team can observe.
- After Rounds 1 and 2, teams will have three minutes to regroup and discuss strategies for the next round.
- You may choose to have the same attorney speak for each round or you can rotate.
- During Round 3, the teams should agree to the charge(s) that the defendant will plead guilty to.
- At any point, a team may walk away from the bargaining process. If teams do not reach an agreement, the arraignment will proceed with the prosecution stating the selected charge and the defense pleading not guilty.

### Negotiation Recommendations

---

- Use Round 1 to gather information about the opposing team's position and interests, and to clarify your own team's position and interests. Try to ask more questions in Round 1, rather than making statements or demands. Use Rounds 2 and 3 to try to achieve your goals and finalize the agreement.
- Try to reach an agreement. While teams may walk away from the negotiation process at any time, keep in mind the consequences of not agreeing to a plea and going to trial instead. For example, for defense teams, are you risking the possibility that your client will serve a lengthy prison term? For prosecution teams, if you select a more serious charge, are you risking the possibility that the defendant will be found not guilty and serve no time at all?



## Handout 35: Felony Arraignment Script 1 (Plea Agreement)

Bailiff: All rise! The court is now in session. The Honorable Judge \_\_\_\_\_  
\_\_\_\_\_ presiding. All those having business before this honorable court  
are admonished to draw near, give their attention, and they shall be heard.

Judge: In the matter of the People of the State of California v. \_\_\_\_\_.  
Counsel, please state your appearances.

Are you [Mr./Ms.] [name of defendant]? What is your full true name?

Prosecuting Attorney: [Introduces him/herself]

Defense Counsel: [Introduces him/herself]

Defendant: [Defendant states his/her name.]

Judge: [Mr./Ms.] [name of defendant], if at any time during these proceedings there is  
anything that you do not understand or which confuses you, please stop me so that  
either the court or your attorney can clarify it or explain it to you.

I understand that there is a change of plea in this matter. Is that correct?

Prosecuting Attorney: Yes, your Honor.

Judge: [Mr./Ms.] [name of prosecutor], will you please state the terms of the proposed  
sentence. What are your reasons for this recommendation?

Prosecuting Attorney: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Judge: [Mr./Ms.] [name of defense counsel], do you concur in the terms of the plea as  
stated?

**Felony Arraignment Script 1 (continued)**

Defense Counsel: [Answers]

Judge: [Mr./Ms.] [name of defendant], do you understand what these attorneys have said? Is that what you are prepared to do?

Defendant: [Answers]

Judge: Before I take your plea and issue a sentence, you must also understand and agree to give up certain constitutional and statutory rights.

You have the right to a jury trial.

At your trial, you have a right to see and hear the witnesses against you testify under oath and, through your attorney, to question those witnesses.

You have the right to remain silent and not incriminate yourself.

You have the right to present a defense, that is, to testify in your own behalf, to present evidence and witnesses, and to use the court's subpoena power to bring evidence and witnesses before the court for your defense.

You have the right to a preliminary hearing to determine if there is probable cause to believe that a felony has been committed and that you are the person who committed the crime.

At a preliminary hearing, you have the same rights I just explained to you, except the right to have the matter heard by a jury.

By pleading guilty to these charges, you are giving up all these rights. In fact, you are incriminating yourself by pleading guilty to these charges. Do you understand that?

Defendant: [Answers]

Judge: [Mr./Ms.] [name of defendant], have you discussed all these rights, including your right to a trial by jury, your right to confront and cross-examine witnesses, and your right against self-incrimination, with your attorney? Have you discussed your case and defense of your case with your attorney?

Defendant: [Answers]

Judge: [Mr./Ms.] [name of defendant], do you understand each of these rights that I have explained to you? Do you have any questions?

Defendant: [Answers]

**Felony Arraignment Script 1 (continued)**

Judge: With full knowledge and understanding of each of these rights, do you freely and voluntarily waive and give up all these rights?

Defendant: [Answers]

Judge: Counsel, do you join in those waivers?

Defense Counsel: [Answers]

Judge: Do the People join?

Prosecuting Attorney: [Answers]

Judge: *[Mr./Ms.] [name of defendant]*, before I take your plea, you must understand the potential consequences.

The potential prison sentence for the offense(s) is [give low, middle, high terms].

---



---



---



---



---

Do you understand that you may serve up to \_\_\_\_\_ years in prison?

Defendant: [Answers]

Judge: If you are not a citizen of the United States, you should assume that your plea will result in your deportation, exclusion from admission to the United States, and denial of naturalization under the laws of the United States. Do you understand that?

Defendant: [Answers]

Judge: *[Mr./Ms.] [name of prosecutor]*, please state the factual basis for the plea.

### Felony Arraignment Script 1 (continued)

Prosecuting Attorney: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Judge: [Mr./Ms.] [name of defense counsel], do you accept the factual basis as stated?

Defense Counsel: [Answers]

Judge: Have you told your attorney all the facts and circumstances that are known to you about your case?

Defendant: [Answers]

Judge: Other than what has been stated here in open court, has anyone made you any other promises in connection with penalty or punishment or anything else in order to convince you to plead guilty?

Defendant: [Answers]

Judge: Have you or anyone else been threatened in any way to convince you to plead guilty?

Defendant: [Answers]

Judge: Are you under any medications, or have you recently consumed any drugs or alcohol?

Defendant: [Answers]

Judge: Before entering your plea, do you have any questions about what you are doing today?

Defendant: [Answers]

Judge: [Mr./Ms.] [name of defense counsel], do you believe that you have had enough time to discuss this case with your client? Have you discussed [his/her] rights, defenses, and the possible consequences of [his/her] plea with [him/her]? Are you satisfied your client understands these things?

Defense Counsel: [Answers]

**Felony Arraignment Script 1 (continued)**

Judge: [Mr./Ms.] [name of defendant], are you prepared to enter your plea?

Defendant: [Answers]

Judge: [Mr./Ms.] [name of defendant], you are charged in the complaint with a [felony/misdemeanor] violation of section \_\_\_\_\_ of the California Penal Code, in which it is alleged that you [read substantive allegation of the complaint] \_\_\_\_\_

---



---



---



---



---



---



---



---



---



---

To that charge, what is your plea?

Defendant: [Answers]

Judge: The court finds that the defendant has expressly, knowingly, understandingly, and intelligently waived [his/her] statutory and constitutional rights. The court further finds that the plea was freely and voluntarily made with an understanding of the nature of the charges pending as well as the consequences of the plea. The court finds there is a factual basis for the plea. The court accepts the plea and finds the defendant guilty.

(Source: California Judges Benchguide 91: Felony Arraignment and Pleas. (2008).

## Handout 36: Felony Arraignment Script 2 (No Plea Agreement)

Bailiff: All rise! The court is now in session. The Honorable Judge \_\_\_\_\_  
\_\_\_\_\_ presiding. All those having business before this honorable court  
are admonished to draw near, give their attention, and they shall be heard.

Judge: In the matter of the People of the State of California v. \_\_\_\_\_.  
Counsel, please state your appearances.

Are you [*Mr./Ms.*] [*name of defendant*]? What is your full true name?

Prosecuting  
Attorney: [Introduces him/herself]

Defense  
Counsel: [Introduces him/herself]

Defendant: [Defendant states his/her name.]

Judge: [*Mr./Ms.*] [*name of defendant*], if at any time during these proceedings there is  
anything that you do not understand or which confuses you, please stop me so that  
either the court or your attorney can clarify it or explain it to you.

[*Mr./Ms.*] [*name of prosecutor*], will you please state the charges that have been  
made against the defendant in this case.

Prosecuting  
Attorney: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Judge: It is my understanding that the defendant is planning to plead not guilty to the  
charges brought by the People. Before I take your plea, I must ensure that you  
understand your constitutional and statutory rights.  
You have a right to be represented by counsel at this arraignment. If you cannot  
afford an attorney, one will be provided for you at the state's expense.

Have you retained counsel to represent you in this matter?

**Felony Arraignment Script 2 (continued)**

Defendant: [Answers]

Judge: You have the right to a preliminary hearing within ten court days after the arraignment or entry of a plea.

You have the right to a speedy trial. Your case must be brought to trial within sixty days of the arraignment on an indictment or information. Failure to meet these statutory time periods may result in the dismissal of your case. However, you may waive this right, in which case the court may set a trial date beyond these prescribed limits.

You have the right to a trial by jury.

At your trial, you have the right to compel the attendance of witnesses to testify on your behalf.

You have the right, through your attorney, to confront and cross-examine witnesses who testify against you.

You have the right to remain silent and not incriminate yourself. This means you cannot be compelled to take the witness stand.

You have the right to present a defense, that is, to testify in your own behalf, to present evidence and witnesses, and to use the court's subpoena power to bring evidence and witnesses before the court for your defense.

You have the right to a preliminary hearing to determine if there is probable cause to believe that a felony has been committed and that you are the person who committed the crime.

At a preliminary hearing, you have the same rights I just explained to you, except the right to have the matter heard by a jury.

Do you understand these rights?

Defendant: [Answers]

Judge: [Mr./Ms.] [name of defendant], have you discussed all these rights, including your right to a trial by jury, your right to confront and cross-examine witnesses, and your right against self-incrimination, with your attorney? Have you discussed your case and defense of your case with your attorney?

Defendant: [Answers]

Judge: [Mr./Ms.] [name of defendant], do you understand each of these rights that I have explained to you? Do you have any questions?

**Felony Arraignment Script 2 (continued)**

Defendant: [Answers]

Judge: Before entering your plea, do you have any questions about what you are doing today?

Defendant: [Answers]

Judge: *[Mr./Ms.] [name of defense counsel]*, do you believe that you have had enough time to discuss this case with your client? Have you discussed *[his/her]* rights, defenses, and the possible consequences of *[his/her]* plea with *[him/her]*? Are you satisfied your client understands these things?

Defense Counsel: [Answers]

Judge: *[Mr./Ms.] [name of defense counsel]*, are you prepared to enter your plea?

Defendant: [Answers]

Judge: *[Mr./Ms.] [name of defendant]*, you are charged in the complaint with a [felony/misdemeanor] violation of section \_\_\_\_\_ of the California Penal Code, in which it is alleged that you [read substantive allegation of the complaint] \_\_\_\_\_

---



---



---



---



---

To that charge, what is your plea?

Defendant: [Answers]

Judge: The court finds that the plea was freely and voluntarily made with an understanding of the nature of the charges pending as well as the consequences of the plea. The court finds there is a factual basis for the plea. The court accepts the defendant's plea of not guilty. We must now schedule a preliminary hearing within the next ten days.

Source: *California Judges Benchguide 91: Felony Arraignment and Pleas*. (2008).



## Handout 37: People and Careers Reflection Questions

---

### Reflection Questions

1. What preparation (school, work, and personal) did this person have for this career?
  
  
  
  
  
  
  
  
  
  
2. What connections do you see between the content and skills that you are learning in this unit and the work this person does? Explain.
  
  
  
  
  
  
  
  
  
  
3. Do you think you would enjoy having this career? Why or why not?
  
  
  
  
  
  
  
  
  
  
4. What questions do you have, or what more do you want to know about this career?

## Handout 38: Viewpoints from Prison

### Viewpoint A

#### Michael McLean: Thoughts When the Cell Door Closes (Excerpt)

The cell door shuts with a bang that echoes throughout my shoebox of a cell. The clanging door feeds my ears an all too familiar sound. With a twist of a key I'm locked in. Yes, I'm in my inmate cage for yet another solitude-filled night. I never know what thoughts will surface when the cell door shuts, but it's fair to say that nine times out of ten nothing out of the ordinary pops into a prisoner's head. It becomes routine, rather familiar. I know I have to be locked in, and often after a long day, I even welcome the closing of the door. In no way do I confuse welcoming the closing of the door with actually liking the cell—absolutely not. It's merely that while I'm in prison, I can't deny the fact that the cell is my pad. Therefore, after contending with various, sometimes hectic, situations during the day, I often welcome the cell, the door's closing.

I'm human, even though I temporarily live in a cage like an animal. (I am not an animal.) As a person, I need rest and time to unwind from the toil of the day and the madness of the Beast. Out there amongst the prison population, it's on guard seven days a week, but once inside my cell, I do experience a feeling of safety and comfort. Even if my perceived comfort is a self-induced illusion. I know that no one can get in without the key; therefore I realize I'm relatively safe. . . .

*From Thoughts When the Cell Door Closes. PEN American Center.*

### Viewpoint B

#### Ernest Rich: Diary Excerpt

May 15, 2008

They don't feed (us) much here at Pamlico. We seldom get meat at breakfast. They don't always serve what is on menu. Eggs and grits. Eggs are not real. Grits are bland. Oatmeal don't taste like oatmeal. They boil it too long to destroy all the vitamins.

They ruin good food. Boil cabbage in water without meat. Carrots are no good. We haven't had bananas in a long time. We are not getting vitamins we need. Some men buy from canteen. But I get no money from home. I am 61 and can't eat a lot of food they serve. Their beef or pork liver mess my stomach up.

I miss homefried potatoes, fried crisp in a cast iron frying pan in lard. I ate fried potatoes at breakfast before I came to prison with eggs and sausage. Strawberry preserves. Tomato soup at breakfast. I'm looking forward to eating real food when I get out. I love tomato juice, grape juice, buttermilk. We never get it in prison. We only get watered down juice. Buttermilk is good for your stomach. The kind of food they serve creates high cholesterol, stomach problems, then the nurse gives you expensive medicine that creates more medical problems.

May 24, 2008

From my window I can see highway, motor homes, motorboats, logging trucks, sometimes farmers are working in field on other side of highway. It is important to me to be able to see the outside world. I've been imprisoned for 22 years. I hope to get out some day. I look forward to hiking in the woods. I may walk on the Appalachian Trail. I need to get away from it all, away from people so I can meditate. Be alone with God.

From Diary Excerpt. PEN American Center/Anne Frank Diary Exchange Project.

## Viewpoint C

### Sue Ellen Allen: Fear

It started in Estrella Jail where the incessant noise, violence, hostility, and indifference overwhelmed me. It is a hellish place for a healthy person. Everyone is in black and white stripes, and the conditions breed anxiety and stress. There are rules you don't even know about, and one hostile officer who is having a bad day can make yours miserable. I was brought up to respect authority and obey the rules, but these girls have no respect for anyone and will "go off" on anybody . . . inmate or guard. There are lock-downs. There is pepper spray. There are brutal searches by the terrifying "men in black." Why? Fights, drugs, who knows? I try to stay in my corner bed and read, read, read so that my mind can escape. The noise continues nightly until well past 3 a.m. and I long for silence. There is no silence. Instead, they yell at each other to be quiet. . . .

Okay. How could I be okay? I had no idea what to expect and no one to ask. I alternated, first shaking and then breaking out in a cold sweat, my heart racing. I later learned that these are panic attacks. I'd never had one before. I'd never seen people treated like this before. Many say they deserve it. Maybe so, but it seems to me if you take a dog and put it in a cage in the backyard, give it really bad food, yell at it all the time and kick it a lot, and then in a year or ten, let it into the house to play with the children, you're going to have a very angry, very confused, very frightened and hostile dog. That may not be a proper psychological analogy, but that was what I saw around me.

From *Fear*. PEN American Center.

## Handout 39: Federal Drug Sentencing Reform

---

Just as human behaviors, crimes, and values continue to change over time, the criminal justice system is constantly evolving. New laws and reform efforts may reflect prevailing views and norms, efforts to achieve equity, or societal desires and needs. The following laws are examples of changes that were made to federal sentencing laws for drug distribution in order to correct what was perceived as an inequity.

Discuss the goals of the 2010 law and whether or not you think it will be effective in promoting justice. Use this example to help you think of other ways the criminal justice system can and should be reformed.

### The Anti-Drug Abuse Act (1986)

Crack cocaine and powder cocaine are different forms of the same drug. A federal law passed in 1986, however, set a 100-1 sentencing disparity between the two forms of the drug. Distribution of five grams of crack cocaine yielded a mandatory minimum sentence of five years in prison, while it took 500 grams of powder cocaine to trigger the same five-year sentence.

This law reflected Congress' view that crack cocaine was a more addictive and dangerous drug than powder cocaine.

### The Fair Sentencing Act (2010)

In the decades since the Anti-Drug Abuse law was passed, research by the U.S. Sentencing Commission suggested that the difference between the effects of the two drugs was exaggerated. In addition, many people argued that the Anti-Drug law was racially biased. A 2006 study found that 82% of those sentenced under federal crack cocaine laws were black, and only 8.8% were white—even though more than two thirds of people who use crack cocaine are white.

Legislation to reduce the disparity had been introduced since the mid-1990s, culminating in the signing of the Fair Sentencing Act in 2010. The major changes enacted by The Fair Sentencing Act include the following:

- Replacing the 100-to-1 sentencing ratio with an 18-to-1 ratio
- Eliminating the five-year mandatory minimum for simple possession of crack cocaine.

### Call for Further Reforms

Some people have called for further reforms to the sentencing laws, including making the law retroactive (right now, people convicted under the old drug law are unable to request a change in their sentence) and a complete elimination of the disparity with a 1:1 sentencing ratio.



4. Break down the following law into its required elements:

Cal. Pen. Code § 451. A person is guilty of arson when he or she willfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels, or procures the burning of, any structure, forest land, or property.

5. Bonus Question: Write a scenario in which one of the required elements of Cal. Pen Code § 451 is missing. Explain which element is missing.

### III. Defenses

6. What is the difference between an alibi defense and an affirmative defense?

7. Describe two affirmative defenses.

#### IV. Plea Bargaining

8. Describe at least one potential advantage of plea bargaining to both defendants and prosecutors.

9. Describe at least one criticism of plea bargaining.

## Part 2.

---

1. Goals of the Criminal Justice System:

a. Describe two different goals of the U.S. criminal justice system.

b. Which of these two goals do you think is more important and should be prioritized in the criminal justice system? Why?

2. Short Essay: What Is "Justice"? (Use evidence from class activities to support your responses.)
- a. How do you define "justice"?
  - b. To what extent do you think the criminal justice system promotes justice?
  - c. Which, if any, aspect of the criminal justice system would you want to change and why?