

THE BASICS: LAWS AND LAWYERS

MATERIALS

- 1) Enough “The Basic” handouts for each student (attached at the end of the lesson so you can print your own or available in the PICC).
- 2) 4-5 “Celebrity Image Packets” – enough for several small groups (attached at the end of the lesson so you can print your own or available in the PICC)
- 3) Re-useable white board, markers, eraser – if you want one (provided in the PICC).

TAKEAWAYS

- Students will be able to state what StreetLaw is, what the purpose of StreetLaw is and what expectations we have of them and they should have of us.
- Students will have thought about the reasons we have various laws.
- Students will be able to understand the basics of attorney-client confidentiality/privilege.
- Students will be able to understand the significance of non-verbal communication, and what is appropriate for court.

QUICK INTRO

(Time Check: 2 minutes)

Tell the class: Your names, that you’re **law students** from Stanford Law School, and you’re there to teach a StreetLaw class.

- Some of them might already know what StreetLaw is, but tell them you’ll explain more in a bit.
- For now, you’re going to jump right in to your first activity.

ACTIVITY 1: LAWS ON A DESERTED ISLAND

(Time Check: 15-20 minutes)

Summary for Teachers: In this activity, the students will pretend they have landed on a deserted island and have the opportunity to design laws to govern a new civilization. The objective is to help the students begin to think about why we need laws, what problems laws can help solve, and what factors go into the development of a useful law. They will also think about how laws can solve problems in their own communities.

Teaching tip – You may find that this exercise (in groups and/or class discussion) becomes all about one law or type of law (property laws, drug laws, or even something like laws governing trash-talking). If this happens, try to pivot and ask the students what sort of other laws they might want.

Teaching tip – You may also have a group/class that becomes very in favor of having no laws (or harmful laws). Encourage such groups to think out the consequences of their decisions, not only for themselves, but also for their loved ones on the island or even their children in future generations.

Exercise:

- Tell the class: You and all of your classmates have just crash-landed on a deserted island. There is no hope of rescue; you will have to start a new civilization there. You have plenty of food, raw materials, and a warm climate.
 - *Teaching Tip* – The more creative the set up and the more details the students have, the more responses you may get. Try not to be boring. Some things that have worked well in the past, include: a crash-landed plane (like *Lost*), a grounded cruise ship, etc. Be creative!
- Tell the class: As a group, you have decided that you must have some ground rules so everyone knows what is expected of them. You also only want to have **five laws** so that everybody will be able to remember and follow them.
- Tell the class: In groups, you will come up with the laws you will live by on your island – and no law can be passed without an explanation for why it’s necessary.
- **Break into groups:** Usually splitting the class into two groups is sufficient. Aim for no more than 8-9 youth per group, but smaller groups are fine.
 - Things to ask your group if they’re quiet (examples):
 - Why would [blank] law help?
 - What should the punishment be for breaking it?
 - Does it apply to all sorts of people equally? Kids vs. adults? Known criminals?

→ At the halfway point (6-7 minutes), ask the students to also identify a problem that currently exists within their community (outside Juvenile Hall) and then to make laws for the deserted island that would prevent that problem from happening.

→ Think: unemployment, drug addiction, no health care, pollution, etc.

- **Come back together, have groups share** one or two of their favorite laws and the reasons for those laws. Also ask them about their preventative laws, and how such laws might differ from ones they see in their communities now.

→ **Discussion:**

- Discuss why we have rules and laws and what makes them fair/effective/good for society.
- At some point during the discussion, pick one of the laws the students created that they agreed was fair and ask if it would still be fair if the penalty for breaking it was only given to one group of people (those with curly hair, green eyes, etc). The idea here is for the students to differentiate between a law that might be facially neutral but enforced in a bias manner. This can be a useful discussion to point back to in future lessons when students feel something about the law is unfair.
- Consider ending this activity by asking: Should the people on the island be able to change the laws if they want? Who should be able to change them?

**ACTIVITY 2:
INTRO TO STREETLAW & ATTORNEY-CLIENT PRIVILEGE
(Time Check: 12 minutes)**

Thank the students for their participation and their ideas, and tell them that this is the sort of activity they're going to be doing each week with you for the next couple of months.

There are 4 purposes of these StreetLaw classes:

- (1) Learn what the law is;
- (2) Learn what your rights are under the law;
- (3) Make informed judgments about your behavior based on the law;
- (4) Share your beliefs about the law and the legal system (including police, lawyers, courts, juvenile hall, and jail) in a safe classroom environment.

What we will talk about over the course of the quarter:

- The system—how it works and how to handle it—cops, lawyers, and you.
- The laws you need to know—search & seizure, strikes, gang law, underage sex and more.
- Your rights and how to keep them—even under pressure
- Leaving the past behind—how to seal your record & map out your future.

What we expect from them:

- **They will follow all classroom rules while we are there.**
- They will be respectful toward everyone else in the classroom
- They will share their thoughts when they feel comfortable doing so.
- They will say what they honestly believe and not what they think anyone else wants them to say.

What the students can expect from us:

- We will listen to what they have to say and take their opinions seriously.
- If we do not know the answer to a question, we will look it up and get back to them the following week.
- **VERY IMPORTANT:** We are law students, not lawyers, and we **cannot** give legal advice.

- This means we cannot talk about an **individual's** case, but we can talk about **hypothetical** problems as we talk about law more generally.



One very important rule for StreetLaw:



*The students **CANNOT** tell us anything about any legal case they might be involved in. If they have questions about something, they **MUST** use hypothetical situations.*

Explain that: That means that if I want to talk about a legal situation or question, I am going to say “What if someone did [blank]...” or “Say my cousin does [blank]...” or “If a friend of mine did [blank]...”

Tell them: We will make no assumptions that they are talking about themselves, and that way we hope they will get involved and ask questions whenever they have them.

→ Attorney-Client Privilege/Confidentiality Lecture/Discussion

- **Transition:**
 - Tell the class: Part of the reason you can't tell us about your own cases is because that could break the confidentiality between you and your lawyer.
 - *Teaching Tip – Ask* the students to define “confidential” (e.g. attorney must keep the conversation secret)
 - [N.B. The other part of the reason is that we don't want to be involved in unauthorized practice of law...but no need to go into that with the students.]
- Tell the class: You might also hear people talk about something called the “attorney-client privilege.” This is similar: it's a court rule¹ about confidentiality between lawyers and their clients.”²

¹ California Evidence Code § 954.

² **N.B.:** The distinction between confidentiality in general and the a-c privilege is not very important to your students' interests, and is probably beyond their understanding within the time constraints we have to explain it. So you know, though, a-c privilege is an evidentiary rule about what a person can refuse to disclose in court; confidentiality is an ethical rule about the professional responsibilities of lawyers. Don't go into any of that in your

- Ask if anyone knows why client confidentiality is important.
 - If students have trouble with this one, ask them a few follow-up questions, such as:
 1. What does confidentiality protect a person from?
 2. Does knowing that a communication will be confidential make a person feel more comfortable, or let them say things they wouldn't otherwise say?
 3. Why do communications with a lawyer get this special protection?
 4. Is there a special need when a person is talking to a lawyer that they are able to talk without holding back?
 5. Can a lawyer do their best job when their client hasn't told them everything?
 6. How does this rule affect a person's chance of getting a fair trial?
- Segue from answers into explanation of basics.

→ BASICS OF CONFIDENTIALITY/PRIVILEGE:

- “In general, what you tell your attorney will stay between you and your lawyer – not even a judge can force you and your lawyer to tell what the two of you have talked about.”
 - (1) An attorney cannot tell the court or anyone else what her client tells her about the crime.³
 - (2) The client does not have to tell the court or the prosecutor what he or she discussed⁴ with the lawyer about the crime.⁵

▪ Requirements & Exceptions: Scenarios

REQUIREMENTS

- **No one else can be present for the communication (only lawyer and client).**⁶

classes. But you should know that in this section, we are sort of melding the concepts for ease of presentation and understanding.

³ California Evidence Code §§ 954-55; Cal. Rules of Prof'l Conduct, Rule 3-100 (2006), see *infra* note 10.

⁴ **N.B.**: Again, the differences between a-c privilege and confidentiality are glossed over here. With respect to the ethical rule, the information a client tells an attorney is confidential. But with respect to the evidentiary rule, only the communication—not the information itself—is privileged. See

<http://www.californiadiscovery.findlaw.com/attorney-client.htm#PURPOSE>, citing *Greyhound v. Superior Court*, 56 Cal.2d 355, 397 (1961) (“While the privilege fully covers communications as such, it does not extend to subject matter otherwise unprivileged merely because that subject matter has been communicated to the attorney”). This distinction is difficult for everyone – even law students. If there's confusion (or lots of questions), just stick to the simple explanation that someone's conversations with his attorney are confidential – and remind the students that they can always ask their attorney (before they say anything!) whether what they say is going to be private/confidential.

⁵ California Evidence Code § 954.

- NOTE: Exceptions are a parent/guardian with a juvenile, and other people that work in the lawyer's office.⁷
- **SCENARIOS:**
 - Q: In the courtroom hallway, in a loud voice, with other people around, I tell my lawyer that the gun was mine.
 - A: Not confidential, (because I could not expect privacy in those circumstances).
 - Q: I talk to a law student who works for my attorney.
 - A: Confidential.
 - Q: I talk to my attorney's secretary.
 - A: Confidential.
 - Q: I tell my lawyer that I was there when the crime was committed and that this is confidential. When I tell him, my sister is in the room.
 - A: Not confidential.
- **Client must intend for the information to be confidential.**⁸
 - **SCENARIOS**
 - Q: I tell my attorney something, and tell him that I want him to go tell it to a bunch of reporters.
 - A: Not confidential.

EXCEPTIONS

- **Attorney cannot hide physical evidence.**⁹
 - **SCENARIOS**
 - Q: I show my attorney a gun that I say is mine and is the murder weapon. I ask him to hide it.
 - A: Attorney cannot take the gun. If attorney reasonably thinks disclosure to authorities is

⁶ <http://www.californiadiscovery.findlaw.com/attorney-client.htm#CONSTRUCTION>. No confidentiality if communication is overheard because knowingly made in presence of unrelated 3rd party (see California Evidence Code § 912 regarding voluntary disclosure to 3rd party); *People v. Poulin*, 27 Cal.App.3d 54 (1972) (bailiff present); *People v. Cox*, 263 Cal.App.2d 176,188 (1968) (police matron present); *People v. Castiel*, 153 Cal.App.2d 653, 659 (1957) (court reporter present).

⁷ *De Los Santos v. Superior Court*, 27 Cal.3d 677 (1980) (guardian ad litem); *City & County of San Francisco v. Superior Court*, 37 Cal.2d 227 p.236 (1951) (“any form of agency,” client's or attorney's agent, interpreter, messenger).

⁸ *People v. Dubrin*, 232 Cal.App.2d 674, 680 (1965) (“A communication made by a client to his attorney, made with the intent that the communication be conveyed to another, is not privileged.” (citing *Solon v. Lichtenstein*, 39 Cal.2d 74)).

⁹ *People v. Meredith*, 29 Cal.3d 682 (1981) (“[W]e cannot extend the attorney-client privilege so far that it renders evidence immune from discovery and admission merely because the defense seizes it first.”).

necessary to prevent death or great bodily harm to some individual, attorney may break privilege. But if attorney thinks I'm just going to hide the gun, he cannot break privilege. Even in the former case, however, what I said about the gun (e.g. "murder weapon") should still be confidential, because that information is irrelevant to the protection of others.

- **Attorney may tell court if client is going to hurt himself or herself or someone else.**¹⁰
 - Point out to students that this is different from the other exceptions to the rule—in this situation, the lawyer doesn't *have* to tell, but she *may* if she thinks the client really might need help to avoid being a danger to himself.
- **Privilege is waived if client tries to get advice on committing a future crime.**¹¹
 - *Teaching Tip* – The word "waive" can be difficult to understand. Don't necessarily assume your students know what it means.
- **Privilege is waived if the client later tells the information to somebody else.**¹²

- **SCENARIOS**

¹⁰ Cal. Rules of Prof'l Conduct, Rule 3-100 (2006):

Rule 3-100. Confidential Information of a Client

(A) A member shall not reveal information protected from disclosure by Business and Professions Code section 6068, subdivision (e)(1) without the informed consent of the client, or as provided in paragraph (B) of this rule.

(B) A member may, but is not required to, reveal confidential information relating to the representation of a client to the extent that the member reasonably believes the disclosure is necessary to prevent a criminal act that the member reasonably believes is likely to result in death of, or substantial bodily harm to, an individual.

(C) Before revealing confidential information to prevent a criminal act as provided in paragraph (B), a member shall, if reasonable under the circumstances:

(1) make a good faith effort to persuade the client: (i) not to commit or to continue the criminal act or (ii) to pursue a course of conduct that will prevent the threatened death or substantial bodily harm; or do both (i) and (ii); and

(2) inform the client, at an appropriate time, of the member's ability or decision to reveal information as provided in paragraph (B).

(D) In revealing confidential information as provided in paragraph (B), the member's disclosure must be no more than is necessary to prevent the criminal act, given the information known to the member at the time of the disclosure.

(E) A member who does not reveal information permitted by paragraph (B) does not violate this rule.

¹¹ *People v. Clark*, 50 Cal.3d 583 (1990) (privilege is waived where communication was made to obtain assistance, enable, or aid in commission or furtherance of crime; but not waived for communication of intent to commit crime); *Nowell v. Superior Court* (1963), 223 Cal.App.2d 652 (mere allegations of fraud, etc, insufficient; require prima facie showing of client purpose & intent).

¹² *People v. Dubrin* (1965), 232 Cal.App.2d 674, 680 ("A communication made by a client to his attorney, made with the intent that the communication be conveyed to another, is not privileged.") (citing *Solon v. Lichtenstein*, 39 Cal.2d 74).

- Q: I told my lawyer that I hid my drugs under my mattress. I later told my friend that I hid my drugs under my mattress.
 - A: Not confidential.
- A question that might come up: What happens if I confess to my attorney?
 - If I tell my lawyer that I committed any crime, he or she cannot tell anyone (as long as we follow the requirements above).
 - **But**...if I confess to my attorney that I committed the crime I am on trial for, he or she cannot ask me questions on the stand that he or she knows I will answer by lying. Lying on the witness stand is called perjury, which is a serious crime. My lawyer will also get in lots of trouble – including possibly losing his/her job and/or license to be a lawyer.

Defense lawyers differ about whether they will ask their client if the client actually committed the crime or not.

Remind Students: If you are ever unsure whether what you are saying to your lawyer is going to be confidential, you need to ask your lawyer *before* you say it. Remember that the purpose of confidentiality is to help the client. Without it, a client might not tell the attorney all the details of the case. But the more the attorney knows, the better prepared she can be to help her client.

ACTIVITY 3: COMMUNICATING WITHOUT WORDS (Time Check: 12 minutes)

Introduction for students: Communicating isn't just about words, and it isn't just with your attorney. It's also about how I present myself to the world. And in court, it's about how I present myself to a judge or jury. I communicate who I am through my clothes, my hair, my jewelry, and even how I stand and sit. So it's important to pay extra attention to what I am communicating when I deal with the legal system – the clothes that make a guy cool on the street might not communicate the right message when he goes into a courtroom. It's the same for your attorney or for us as law students when we appear in court.

Ask: Do you think the cops treat people differently if they wear a suit and tie? What about if someone is carrying a briefcase instead of a backpack?

Dressing for Court:

Ask: What else about one's appearance can change a scenario? Can someone wear something that would make the cops, prosecutor, or even a judge treat him worse?

- e.g., gang tattoos, crazy hair, baggy clothing, etc.
- NOTE: Be careful of gang stuff here – if this turns into a game of who-can-come-up-with-more-ways-to-show-gang-signs, end the discussion and move on.

Ask: Is it fair that people get judged on things like clothes and hair?

→ Ask: Then why does it happen?

- Stereotypes
- Assumptions
- Etc.

Teaching Tip – The questions above might lead into a very active and productive discussion, or they might fall flat. Use your judgment about how quickly to move through them to the material below.

Ask: With this in mind, what do you think people should do if they have to go to court?

→ Get suggestions for what people might want to wear to court, and what they might not want to wear.

- *Teaching Tip* – If the discussion isn't popping, prompt students with questions about good and bad things: e.g. Is a suit a good idea? How about a pot-leaf necklace? What about tattoos? Cover them up?
- For girls, consider discussing modesty, if you (and they) are comfortable with it: e.g. Should Lindsay Lohan wear the shortest skirt she's got? How could that affect the way she is perceived?

- *Teaching Tip* – A whiteboard might come in handy during this part of the discussion.

Divide the class into small groups (Alternatively you can stay together with one group if you are short on time). At least one teacher should be with each group. Each group needs a celebrity image packet.

In small groups, discuss the celebrity images: First the picture of the celebrity looking like a mess (i.e. casual), and then the picture of the celebrity going to court. For each picture, ask the group what that person is communicating through the way he/she is dressed. Ask them what they might think about each person based only on the way he/she is dressed.

- *Teaching Tip* – Consider covering the right side of the page so the students will focus on the “street” pictures first.

Tell the class they’ve made some good points about how someone should present themselves in court. Now we’re going to turn to how to ACT in Court.

- ***Somewhere along the way, the students might very well bring up the following issues (and if they don’t, you should):***
 - Not everyone can afford a suit.
 - Sometimes people are locked up and have to wear a uniform to court.
 - Sometimes people are picked up off the street and have to wear to court whatever they were wearing when they got arrested.
- These are all good points, of course.
 - The point here is not that everyone has to have a suit for court.
 - The point is that appearances matter.
 - But appearances are not just about clothes.
 - Facial expressions, demeanor, how people sit, how they stand – all these things affect how people are viewed by others (e.g. judges and prosecutors).
 - Tell them the next activity will demonstrate this
 - So even if I can’t control how I’m dressed, I can still always control how I act. It’s amazing how much just sitting up straight can help sometimes.

Acting in Court:

Important Teaching Tip – With this, and any activity during your time teaching StreetLaw, feel free to tweak or change the activity to fit your unique classroom dynamic. If you have a small group, perhaps have the teachers act out the roles and the students act as a jury (or vice versa). If your group has two particularly talkative students, have them act the scenario out so that you can solicit reaction from the rest of the (more quiet) students who don’t typically talk. If you think students might be offended if you portray the “disrespectful” client, be sure to have a student do so (as the lesson suggests), etc.

Tell the class: It's not just about what you wear, it's about how you hold yourself. It's the same for an attorney who is trying to win your case – they need to present themselves in the best way possible to win their client's case.

Ask for 2-4 volunteers: While one teacher leads the following discussion have the others prep the volunteers for the activity below. Ask one student to portray a disengaged or disrespectful client and another to portray a polished, prepared attorney. Have an additional two students (or the same two, if your group is small) portray the opposite—an engaged, serious client and a sloppy, unprepared attorney (who forgets his clients name, stumbles through his argument, etc.).

- Alternatively, you can have teacher portray the attorneys as necessary.

Tell the class: We have just talked about stereotypes with clothing. What types of stereotypes do you think exist of defendants in Court? (i.e., not listening, slouched posture, annoyed looks, etc.) What about of attorneys for those clients?

- ➔ Based on experience, you should have no trouble soliciting responses with the second one. But if you do, suggest the following:
 - Do attorneys sometimes seem too busy to focus on a particular client?
 - Can they seem unprepared? Confused? Not to care about their client?

Emphasize: That usually these are just like normal stereotypes – of both clients and attorneys – and are wrong. But they can make a difference in how a judge, the prosecution, or a jury perceives them. Thus, in the same way an attorney must do all they can to put their best effort on for their client, a client must also do the best they can to help *themselves* by acting respectful and serious in Court.

Activity: Have the majority of the class act as a jury in a fake “closing argument” of a minute or less.

- ➔ You can decide a fake “crime” for the lesson. But be sensitive to your students’ reactions since you won’t know why they are in Juvenile Hall. Best to stick with something smaller like trespass or graffiti, etc.

After each of the two (or three, if you have time) closing arguments ask the jury how the client or attorney’s behavior impacted them. Did they believe him/her more or less? Feel more or less sympathy? Etc.

- In the first scene, have one student portray a client that sits up straight, makes eye contact, looks serious and is listening, takes notes, etc. By contrast, have the attorney forget the client’s name, pause or forget what he or she is saying, and use slang or other informal speech.
- In the second scene reverse the roles. Have the client slouch, not pay attention, play with her hair, sigh loudly, look angry, frown, or smirk, etc. Have the attorney make eye contact, speak slowly and clearly, and sound passionate.
- If you have time for a third scene, have both the client and attorney act professional.

Come back together: Discuss what these scenes demonstrated about how body language and signals one sends in court can make an impression. Emphasize again that clothing is not the only thing your students have control over!

CONCLUSION
(Time Check: 2 minutes)

1. Thank the students for their good insights and participation.
2. Summarize the Activities:
 - a. This week, we talked about what sort of laws we would want, why we have laws, and what makes a good law.
 - b. We also talked about how people should talk to their lawyers, and what they should tell them.

StanfordStreetLaw

THE BASICS: LAW AND LAWYERS

ATTORNEY-CLIENT CONFIDENTIALITY / PRIVILEGE

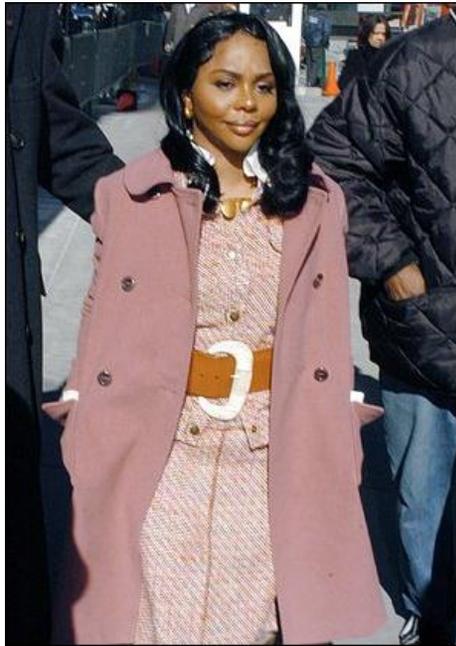
- Whatever a person tells his attorney about his case is *private and confidential*.
 - This means that, in general, the attorney *can't tell anyone* without the client's consent – even a judge in court.
- *Exceptions*: (these 2 things are not secret)
 - (1) asking for advice or help with a future crime;
 - (2) threatening to hurt yourself or someone else.
- *Only applies to clients and their lawyers* (or people who work for their lawyers).
 - Parents, other family members, friends, teachers, social workers, school counselors, and probation officers *do not have this confidentiality privilege* and *may be required to testify* in court.

A CLIENT'S RESPONSIBILITIES TO HIS/HER LAWYER

A lawyer needs a few things from her clients to represent them effectively. In order for the lawyer to do her job, a client *must*:

- Tell the lawyer the truth.
- Respect the advice of the lawyer.
- Follow all conditions imposed by the court—in other words, do whatever the judge says (in by curfew, going to school, not getting arrested, etc).
- Show up for all appointments.
- Keep in regular contact with the lawyer.
- Help the lawyer in the investigation (by doing things like providing names of witnesses, leads, and other helpful information).
- Not discuss the case with anyone without asking the lawyer.
- Carry the lawyer's business card at all times.

Eminem



Lil' Kim



R. Kelly

Lindsay Lohan

