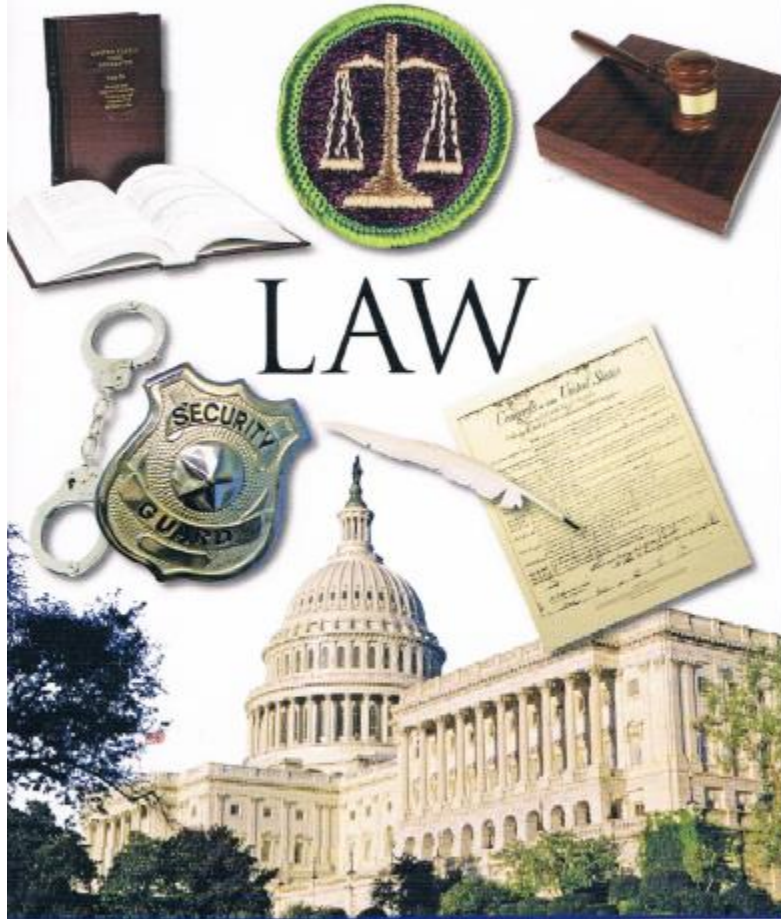


MERIT BADGE SERIES



LAW

## HOW TO USE THIS PAMPHLET

The secret to successfully earning a merit badge is for you to use both the pamphlet and the suggestions of your counselor.

Your counselor can be as important to you as a coach is to an athlete. Use all of the resources your counselor can make available to you. This may be the best chance you will have to learn about this particular subject. Make it count.

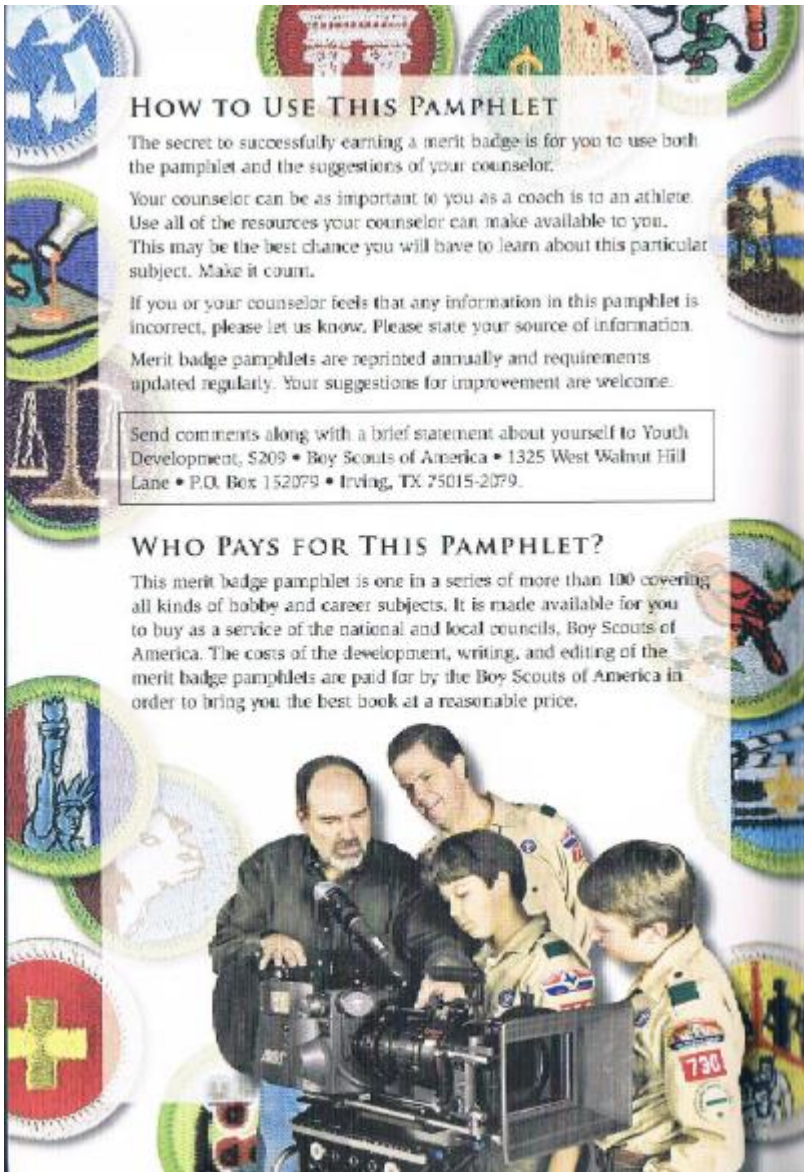
If you or your counselor feels that any information in this pamphlet is incorrect, please let us know. Please state your source of information.

Merit badge pamphlets are reprinted annually and requirements updated regularly. Your suggestions for improvement are welcome.

Send comments along with a brief statement about yourself to Youth Development, S209 • Boy Scouts of America • 1325 West Walnut Hill Lane • P.O. Box 152079 • Irving, TX 75015-2079.

## WHO PAYS FOR THIS PAMPHLET?

This merit badge pamphlet is one in a series of more than 100 covering all kinds of hobby and career subjects. It is made available for you to buy as a service of the national and local councils, Boy Scouts of America. The costs of the development, writing, and editing of the merit badge pamphlets are paid for by the Boy Scouts of America in order to bring you the best book at a reasonable price.



## BOY SCOUTS OF AMERICA MERIT BADGE SERIES

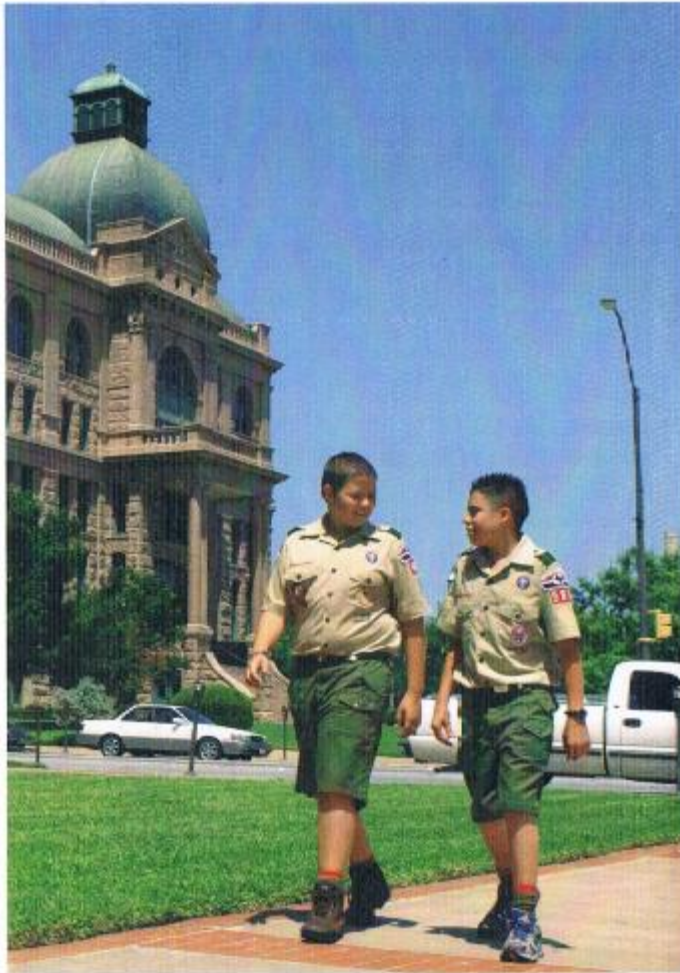
# LAW



BOY SCOUTS OF AMERICA®

## Requirements

1. Define "law." Tell some of its sources. Describe functions it serves.
2. Discuss two of the following:
  - a. Justinian's Code, the Code of Hammurabi, and the Magna Carta
  - b. The development of the jury system
  - c. Two famous trials in history
3. Tell what civil law is; tell what criminal law is. Tell the main differences between them. Give examples of each.
4. Ask five people (not more than one from your immediate family) about the role of law enforcement officers in our society. Discuss their answers with them. Go to a law enforcement officer in your neighborhood and ask about his or her responsibilities and duties. Report your findings.
5. Tell about several laws that were passed to protect the consumer and the seller. Tell about several organizations that provide help to consumers and sellers.
6. Do one of the following:
  - a. Attend a session of a civil or criminal court. Write 250 words or more on what you saw.
  - b. Plan and conduct a mock trial with your troop or school class. After the trial is over, discuss it with the group.
7. Arrange a visit with a lawyer who works for a business, bank, title company, or government agency. Find out his or her duties and responsibilities. Report what you have learned.
8. Explain the requirements for becoming a lawyer in your state. Describe how judges are selected in your state.
9. Make a list of 15 jobs that deal with some aspects of law or legal processes. Tell which you prefer. Why?
10. Tell where a people can go to obtain the help of a lawyer if they are unable to pay for one. Tell what you can do if you can afford a lawyer but do not know of any in your area.
11. Discuss with your counselor the importance in our society of TWO of the following areas of law that have recently emerged and are still developing:
  - a. Environmental law
  - b. Computers and the Internet
  - c. Copyright and the Internet
  - d. Space travel and satellites orbiting Earth



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## What Is Law?

Camporees are great! There's a lot to do: swimming, good fishing, adventure trails, and hiking expeditions. There's the skill-o-rama, where you can see how troops do things like specialty cooking and arts and crafts. And huge arena shows draw audiences in the tens of thousands.

This is the story of some Scouts who met at a camporee and how a bull session there got them interested in law. One of them, named Jeff, a First Class Scout, went on to earn his Law merit badge. How did he do it? Read on to find out.

Jeff is a lot like you. He likes sports. He's got a good record in Scouting. He's pretty good in school—not great maybe, but not bad. He likes to hike and go camping.

One afternoon at the camporee, Jeff was walking around with Raul, an Eagle Scout from another troop. They found a newspaper on a bench, so they sat down to check the sports page. Jeff finished first and glanced at the front page.

"Hey, Raul," Jeff said, "there's a sports story on the front page, too. This headline says, 'Stephens Wins Court Battle.' It must be a story about a tennis match!" He laughed, enjoying his joke.

Raul said, "Ha, ha," and continued reading the sports page.

Jeff read the front-page story, which was about a long trial in a Texas court. "This is a real interesting case. This guy Stephens sued the city for polluting a river with sewage—and won! It's hard to believe one guy could beat city hall."

Raul looked up from the sports pages. "Well," he said, "I guess there are lots of laws that we don't know anything about. And I guess you can get justice," he said uncertainly.

Just then Marcus, a Scout whom Jeff and Raul had met earlier, walked up. "Hey, what are you guys doing?"

Jeff laughed. "We started out reading the sports page. But all of a sudden we are wondering about the law and courts and stuff like that."

"Yeah?" Marcus said. "My Scoutmaster, Mr. Roth, is a lawyer. If you guys aren't doing anything, let's go down to the waterfront and talk to him. He's fishing down there, I think."

The three Scouts found Mr. Roth on the dock with his line in the water and three beautiful trout on a string. "Hi, guys," Mr. Roth said. "Want to try your luck?"

Marcus said: "Not right now, Mr. Roth. This is Jeff and Raul. We wanted to talk to you about law. Jeff and Raul were reading an article in the paper about a trial in Texas. One thing led to another . . . and here we are with some questions."

"Sure. Sit down, guys," Mr. Roth said. He reeled in his line as they plopped down next to him. Jeff began explaining that the story about the Texas trial had raised questions in his mind, "Where does law come from? What is it really?" Jeff asked. Marcus wanted to know what's special about lawyers and how a young person becomes one. Raul wanted to know how law affects his own life.

Law is a system of ideas and actions, a way to help society keep order and stay together.

### Law Is Different Things to Different People

"Whoa, guys!" said Mr. Roth. "One question at a time. Let's start with the first one: What is law? That may sound like an easy question, but there are many ways to define law. Every judge, every lawyer, every police officer—maybe every American—has different ideas of what it is. Law serves many purposes and means different things to different people."



Marcus broke in. "To me, laws are rules. They say what you can do and what you can't do, like going through a red light or stealing. . . ."

"Or hurting someone on purpose," Raul added.

"But laws often help people, too," Mr. Roth said. "Law is much more than just a set of rules."

Some years ago, Mr. Roth recalled, President Lyndon B. Johnson spoke to Scouts at a national Scout jamboree. He told them that the American idea of freedom allows all citizens to speak their view, worship as they want to, and be safe from actions the government has no right to take. "President Johnson also said that the equality of the poorest people and the richest, the rights to enjoy liberty and go as far as your abilities will take you, are all upheld and backed by the U.S. legal system."

Raul said: "I guess that's the way it's supposed to be. But does it always work that way? Sometimes people's legal rights are denied, aren't they?"

"I'm sorry to say the answer is yes," Mr. Roth said. "But good lawyers, concerned judges, and responsible citizens are always trying to improve the system and make justice equal for everybody."

Jeff remembered reading the *Boys' Life* reprint on "Law and Justice." "Even the Greeks and Romans had systems of law," he said. "They took some of their ideas from the ancient Egyptians and Babylonians from thousands of years ago. Who knows, maybe even cavemen had some sort of system of laws."

"Cavemen! Aw, come on!" Marcus scoffed.

"Sure," replied Jeff. "When cavemen formed groups to help or protect each other, they made rules for behavior. The rules worked so everyone was satisfied. They kept the rules, and as time passed it was sort of a custom or tradition to obey the rules. So those could have been the first laws."

"As societies changed, as ways of living changed, laws also changed to meet new needs," said Mr. Roth. "Even today, new laws are needed and being made. That is one of the most important things to remember about law—it changes to develop effective solutions to new problems and new solutions to old problems."



At the 1964 National Scout Jamboree, President Johnson told Scouts that the equality of all people—poor and rich—gives us all the right to enjoy liberty.

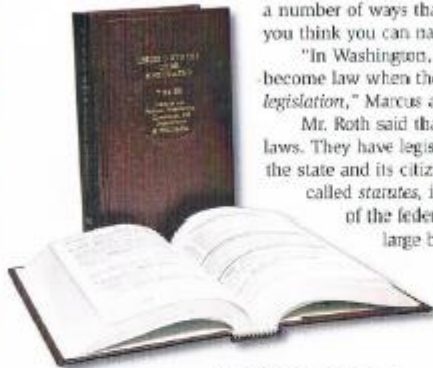
"That must mean lawyers have to keep a sharp lookout for new laws that they didn't learn when they were in school," said Marcus.

"That's absolutely right," Mr. Roth said. "There are a number of ways that new laws are made. Do any of you think you can name some?"

"In Washington, D.C., Congress passes bills that become law when the president signs them. That's called *legislation*," Marcus answered.

Mr. Roth said that was correct. "States also make laws. They have legislatures that make laws concerning the state and its citizens. Anyone can find these laws, called *statutes*, in large statute books. The statutes of the federal government are found in a set of large books called the *United States Code*."

"What gives state legislatures or the U.S. Congress the right to make laws?" asked one of the Scouts.



### Sources of Law

"Our Constitution is the supreme law of the United States. In that amazing document, the powers of Congress to make laws are set forth. It also gives states the power to legislate," Mr. Roth said.

Dig a little further to find the sources of law. Ask lawyers, judges, and your teachers. You will find many sources, such as tribal, customs, statutory (by legislation), constitutional, case, and common law.

During dinner, one of the Scouts brought up another source of law. This Scout recalled learning about the Ten Commandments and the various rules of behavior that developed from what is called *divine law*, or law issued directly from God.

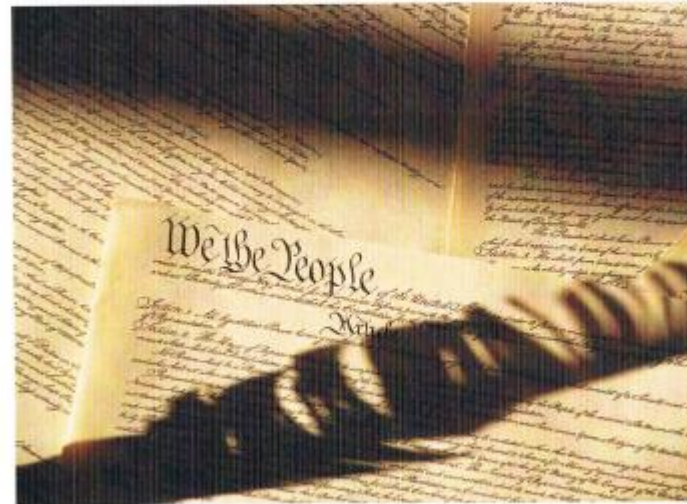
"That's right," said Mr. Roth. "Every religion has some set of rules that are supposed to guide the way people live."

Marcus spoke up: "There are laws that punish a person who kills another person without justification. I guess you could trace the beginning of those laws all the way back to Moses and the Ten Commandments—maybe even further back."

Mr. Roth agreed: "Laws that are said to come from God were made a part of the beliefs and practices of various religions. When people started to write down laws to keep track of them, many religious laws were included."

"As time went on, societies developed laws based on social customs and religious and tribal laws," Mr. Roth said. "The U.S. legal system is a good example of a system that drew upon other systems to become what it is today. American law has its origins in English law, which in turn developed from certain concepts of Roman, Norman, and Germanic laws."

"Every society added something of its own to make the law fit special needs," said Raul.



### The Patterns of Law

"Right," Mr. Roth said. "All the changes, additions, and years of development make the law work in a certain kind of way. Law always follows a pattern in its workings."

"I'm not sure I follow you, Mr. Roth," said Marcus with a puzzled look.

"Let me put it this way," Mr. Roth said. "Law is a way that helps people solve problems and disputes. Laws aren't made or decided just because somebody wants to do it his or her way. Judges, lawyers, and lawmakers follow guidelines—sort of a legal path or trail—to reach their decisions. This established procedure is one big reason why law helps keep order in society. Also, the decisions of a judge and the way a legislature works are usually open to public view. You can watch a courtroom trial and you can go to your state capitol, Washington, D.C., or even your local city or town council to observe how laws are followed or made."

"I'm still not sure what law means to me or my family," said Raul. "You've described what law is, but what does it do for me?"

Mr. Roth laughed. "Law affects all sorts of things concerning you and your family. For instance, a law in your state says that you must go to school when you reach a certain age and stay in school for a certain number of years. At the same time, law requires that your parents provide you with adequate food, clothing, and shelter up to a certain age."

Raul then asked, "Does the law control everything?"

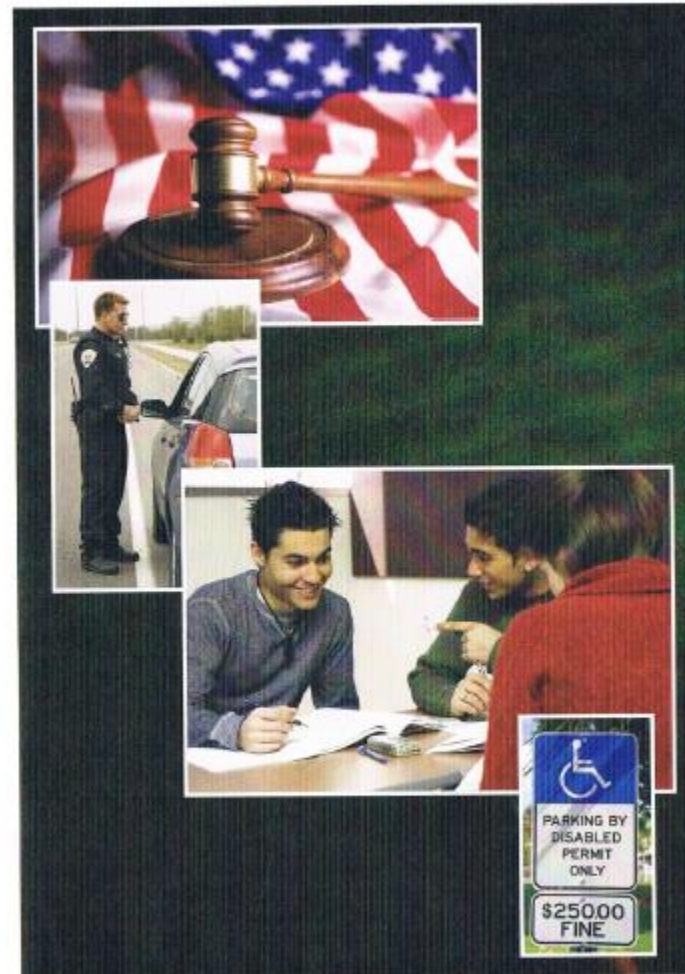
"That's a good question," said Mr. Roth. "Some people think law should control more activities, and other people think law should control fewer."

Mr. Roth told the young men: "There is an old saying that the 'Law favors honor and order . . . life and liberty . . . and justice.' Finding out more about the law, how it works and what it does, is a real adventure. You should talk to your Scoutmaster and earn the Law merit badge."

"I know a lot more now than I did this morning," Jeff said. "You've gotten me interested in finding out as much as I can. When I get home, I'll talk to my Scoutmaster and he'll help me find a merit badge counselor. Maybe someday I'll be a lawyer, too!"



Earning the Law merit badge will give you a good sense of how the law protects the rights of all citizens.







## Great Beginnings: Where Law Comes From

Back home, one of the first things Jeff did was talk to his Scoutmaster about the Law merit badge. His Scoutmaster sent Jeff to the Law merit badge counselor, Mr. Hernandez.

They talked over the requirements and Mr. Hernandez promised to take Jeff to the courthouse to see the law in action. Then he suggested that Jeff start finding out where law comes from. "If you want to know where you are, you should know how you got there," Mr. Hernandez said.

He suggested that Jeff start his research at the public library or his school library to find out about the Code of Hammurabi, Justinian's Code, and the Magna Carta. Then, Mr. Hernandez said, Jeff should come back and tell him how parts of them apply today and show that he understood their main points.

Jeff told his parents at dinner that night: "It's really amazing that thousands of years ago the Babylonian people had written laws. And those laws developed from the law that other people lived under for centuries before that."

Jeff's mother suggested that he read what he'd written down at the library about early codes and the Magna Carta to practice what he would talk about with Mr. Hernandez.

### Early Codes and the Magna Carta

Jeff thought that was a good idea. He gathered his notes after dinner and read them to his parents. "Hammurabi was the king of the first Babylonian Empire. Because he ruled a large region with many kinds of people, he wanted to set up a system of law to apply everywhere in his empire," Jeff explained.

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"The probability that we may fail in the struggle ought not to deter us from the support of a cause we believe to be just."

—*Abraham Lincoln, 16th president of the United States, 1861–1865*

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Even though the Magna Carta helped guarantee the rights for only a small number of free men who were lords, barons, knights, and rich landowners, it marked the beginning of written guarantees of people's rights. At that time most people were still feudal serfs—almost like slaves.

"The Code of Hammurabi regulated trade inside and outside the empire, and recognized private property ownership. It divided the king's subjects into three classes: free citizens with full civil rights, ordinary citizens with fewer rights than free citizens, and slaves."

"The criminal law in the code made much use of the death penalty and often used cruel and drastic methods of punishment. If somebody hit and badly hurt another person, the offender's hand would be cut off!"

Jeff's father nodded. "That part about cutting off a person's hand for stealing or hurting someone reminds me of a Bible verse that talks about an eye for an eye and a tooth for a tooth."

The first thing Jeff found when he looked up Justinian's Code was another definition of law. In the sixth century, when Justinian was emperor of Rome, he said that law was "a theory of right and wrong" and "an art of the good and the equitable." Jeff thought that sounded very much like modern ideas of law.

The trouble in Rome more than 14 centuries ago was that its laws were an incredible mess! Roman laws were unclear to even the most intelligent people.

Jeff explained that the laws had to be untangled and collected so that they could be easily looked up. This process of collecting the laws and placing them in order by subject was called *codification*, from which we get the term *order of laws*. Justinian decided to form a committee of lawyers, judges, and wise citizens to place the laws into books. The committee arranged the laws into 50 books collectively called *The Digest*. Because the laws were updated and made understandable, people were more sure what the laws of their society were. Most important, people had a better chance for justice.

Justinian also made certain that his new code of law would not become old and useless. Periodically, new laws were published in books called *The Novels* to keep the code up-to-date.

Together, *The Digest* and *The Novels* formed the basis of civil law. Justinian's Roman laws greatly influenced the way law developed all over the Western world.

Jeff learned that one major contribution to the development of today's laws comes from England. In 1215, King John signed the Magna Carta, which means "great charter." It was a big step toward establishing English liberties and constitutional government. The Magna Carta in turn influenced American law in important ways.

"At the start," Jeff said, "not everyone was included in the rights given by the U.S. Constitution. As time passed, more and more people were included."

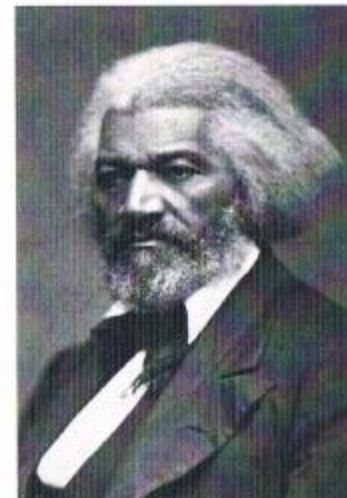
"What do you mean by that?" asked Mr. Hernandez when Jeff visited him.

"When the United States was founded, only free white males who were property owners and at least 21 years old could vote. Later, the property requirement was dropped and all white adult males had the right to vote. In 1870, after the Civil War, former slaves were given the right to vote by the 15th Amendment to the Constitution," Jeff said.

"What about women during all that time?" Mr. Hernandez asked.

"Women finally could vote in 1920 when the 19th Amendment to the Constitution was adopted. American Indians were declared full citizens by law in 1924 and granted the right to vote. When the 26th Amendment passed in 1971, the vote was extended to anyone age 18 and older. These rights for everyone were a long time coming but they gradually became part of our law," Jeff told his counselor.

"The Magna Carta also gave rights only to free men at first, but when the feudal system ended and the present English system started to grow, more and more people were included."



Abolitionist Frederick Douglass was a man ahead of his time. In addition to fighting for the rights of blacks, he also fought for the rights of women.

## The Jury System

"You'll want to find out about the jury system next. A jury's role in trial has its origins in older systems, too," said Mr. Hernandez. "Find out how the jury became what it is today and explain what it does."

Jeff discovered two kinds of juries: *petit* or *petty jury*, which means small; and *grand jury*, which means large. A *petit jury* deliberates, or decides, the majority of criminal and civil cases. In most cases, 12 people are chosen to be members of a jury. These 12 jurors sit together to decide on the facts in a case and return a *verdict*—a decision about whether the person on trial is innocent or guilty of the charges against him or her.

A *grand jury* usually has more people than a *petit jury*. It also has a very different task. A *grand jury* meets privately to decide whether the government's lawyers can take an accused person to trial. The *grand jury* must consider evidence the government has gathered and then decide whether to *indict*, which means to accuse, a person. The government must offer proof to the *grand jurors* that a person suspected of a crime ought to go to trial.

"Justice delayed  
is justice denied."

—William

Gladstone

(1809–1898)

four-time prime

minister of

Great Britain



Jeff found out that the jury has been a part of English and American law for hundreds of years. The jury system was brought to England around 1066. The idea was to get ordinary citizens who were not lawyers or judges involved in the legal system. The English jury system grew from other jury systems and took hundreds of years to evolve. There was a time, though, when there were no juries.

## Development of the Jury System

The first rather primitive jury system began in ancient Greece. Before a trial, a large number of citizens was chosen; then, just before a trial began, a smaller number was taken from the larger group. This was done so that no one could know ahead of time who would be a juror and try to influence the decision. Very often, hundreds of citizens would be on the jury. The very size of it made attempts to corrupt, bribe, or scare individual jurors difficult.

Imagine the confusion and noise of hundreds of people trying to decide important matters of property and even life and death! There were definitely faults in that system—but it was the first try.

The Romans gave the jury system a new shape. A judge defined the issues of a dispute, and a group of private persons called a *judice* made the decision on how to handle the problem. The *judices* (jurors) worked without a judge present. Their decisions were final and often harsh.

"Poor people who couldn't pay their debts were put in jail or even killed," Jeff told Mr. Hernandez.

The Romans decided that juries were too powerful and developed a trial system somewhat like ours—a hearing before a judge and a jury.

In early Germany, the head of the court would gather a small group of landowners to help decide cases. There were usually seven such helpers and sometimes 12. They could talk about the case away from the judge—much like the closed-door, secret discussions of American juries.

As people traveled across Europe, the idea of a jury spread. Norway, Sweden, and Denmark adopted juries. The jury system started in France when the invading Norsemen brought it with them. William the Conqueror brought the system to England in 1066 when he invaded the British Isles.

"If we do not  
maintain justice,  
justice will not  
maintain us."

—Sir Francis

Bacon (1561–1626),

English philosopher



After many years, the jury became a group that decided whether the facts of a case warranted an innocent or guilty verdict. Life was sometimes rough on those jurors. They were often locked in small rooms without food or drink until they reached a decision.

Jeff also learned that when English colonists came to America they brought the English system of law. The jury was an important part of that system and remained important in the colonies. It was seen as a way to keep the administration of justice in the hands of ordinary citizens and to prevent powerful or rich citizens from influencing the court.

### The Jury and U.S. Law

Among the first 10 amendments to the Constitution, known collectively as the Bill of Rights, are several that guarantee the right to a jury trial in federal criminal cases and certain civil cases. The Fourth, Fifth, Sixth, and Seventh Amendments are a package of rights that include a fair and speedy trial, the right to confront witnesses, the right to counsel (to have a lawyer), and the right to trial by jury in specified cases. The Fifth Amendment says that accused persons in criminal trials do not have to testify. These amendments, combined with statutes and case law—laws established by court decisions—make up the rights and procedures guaranteed to all Americans in court.



### The Bill of Rights

Rules for jury trials are often different from state to state. Some states require unanimous verdicts or decisions. In other states, in trials for certain types of crimes, a verdict can come with  $\frac{2}{3}$ ,  $\frac{3}{4}$ , or  $\frac{5}{6}$  of the jurors agreeing. Most states have juries of 12 people; others allow juries of fewer than 12.

Minor crimes such as traffic violations often do not have jury trials. "Just imagine the time it would take, the huge workload upon the justice system, if every person accused of speeding could have a jury trial," said Mr. Hernandez. "Still, any defendant going to trial may choose a jury trial."

Jeff wondered how juries were chosen. Mr. Hernandez explained that jury selection is usually accomplished by choosing names at random from voting lists. This method tends to ensure a mixture of jurors—men and women, poor and wealthy, people with different jobs and backgrounds. A juror should live in the area in which the crime allegedly took place and should have no criminal record. Lawyers for both sides may question possible jurors about their background and attitudes to see whether they should serve. Some possible jurors may be excused before the trial by the judge, and the lawyers can ask that certain jurors be excused if they display attitudes that might be harmful to their side of the case.

"Lawyers like to choose a jury that will be sympathetic to their side," Mr. Hernandez told Jeff. He went on to say that a possible juror must not know the people involved in the trial or have special feelings about them or the issues in the case.

Some critics question the effectiveness of juries. They say that jurors will not always follow a law they don't like or understand.

But those who favor the jury system praise its flexibility. They say that the jury realizes the spirit of the law and can shape true justice to a particular case. In reaching their decision, jurors try to apply a sense of fairness to the strict letter of the law.

### Location, Location, Location

If a defendant's lawyer feels a client might not receive a fair trial—because of pretrial publicity, for instance—the lawyer may request a *change of venue*. After reviewing the circumstances of the case, the appointed judge may or may not grant the motion to request a change of venue.

### Famous Trials

Mr. Hernandez gave Jeff the names of books that describe famous trials. (See the book list at the back of this pamphlet.)

"When you discover two trials that you would like to discuss with me, research the facts and issues and then prepare to tell me what was learned from each trial. Tell me what effect each trial had on life, liberty, and law," Mr. Hernandez instructed Jeff.

On the following pages are the two trials Jeff studied—the Trial of Socrates and the Nuremberg War Crimes Trials.

Other famous trials that you might want to look up include: *Gideon v. Wainwright*, decided in 1963 by the U.S. Supreme Court, which guaranteed a criminal defendant the assistance of an attorney if he or she cannot afford one; and *Sheppard v. Maxwell*, decided by the Supreme Court in 1966, which involved a conflict between two of our most important rights—freedom of the press and the right to a fair trial.



The Trial of Socrates

## The Trial of Socrates:

*The right to be different, to think freely, and to speak your opinions.*

Socrates was a philosopher—a thinker and teacher—who lived in Athens in ancient Greece. His ideas were unpopular with the rulers of Athens.

Socrates believed that goodness is based on knowledge, and wickedness on ignorance. He tried to teach people the meaning of his motto Know Thyself and to open their minds to new thoughts. He always searched for truth and never hesitated to criticize the government and its leaders. Because they feared and hated him, the government leaders arrested Socrates and put him on trial for



Greek philosopher Socrates once said, "Nothing is to be preferred before justice."

"corruption of the young" and "neglect of the gods whom the city worships."

Most of the jury of 500 men disagreed with Socrates and his defense of freedom of speech and thought. He had no lawyer to assist him.

Because the truth often hurts when it uncovers dishonesty, evil people sometimes want to stamp out the free exchange of ideas. Socrates did not convince the jury of his innocence and was condemned to death by swallowing poison. He spent his last hours of life talking over his ideas with friends. He took the poison and died peacefully, with the knowledge that the truth will never die.

## The Nuremberg War Crimes Trials: *Conscience, morality, and the state.*

During World War II the Nazi government of Germany set out to conquer Europe. In the process, millions of people were thrown into the horrors of war. Huge numbers of soldiers on all sides died in the long, bloody combat.

Millions of innocent civilians—men, women, and children—were deliberately put to death by the Nazis. These deaths were not unavoidable, accidental, or battle-connected: They were planned mass murders carried out as part of the Nazis' insane quest to produce a "master race." The main group of civilian victims were 6 million European Jews, who were starved, shot, or fed into gas chambers and fiery furnaces. This number included more than 1 million children. Soldiers who were prisoners of the Nazis also were executed. Millions of innocent people died.

When the war ended in 1945, the victorious Allies—United States, Britain, and Russia—were shocked at the Nazi crimes. Many nations had long agreed to obey certain laws—rules of war—that would keep civilians out of violence and danger as much as possible, and would treat prisoners of war humanely.

The Nazis violated all such rules of war. Worse, they violated rules of humanity, decency, and morality. The Allies put Nazi officials, generals, admirals, and private citizens on trial in Nuremberg, Germany, for their crimes against humanity.

A panel of judges from many nations decided that people could not abandon their basic humanity even if the government says they must. The court also ruled that a government that orders the killing and torture of innocent people is acting outside the law and thereby loses its right to govern.

The principles of decency and human rights for all were affirmed by the Nuremberg War Crimes Trials. Many Nazi war criminals were executed or imprisoned. Other Nazis killed themselves when they realized their positions were indefensible in law or morality.



## Civil and Criminal Law

Jeff learned that there are two separate systems of solving legal disputes—civil law and criminal law. Disagreements between two parties about their rights and responsibilities are handled in *civil actions*. They involve the private and civil rights of individuals, corporations, government bodies, and others.

Criminal law is concerned with harmful acts called *crimes*. Crimes are forbidden by statute law, and if the person who commits a crime is discovered, the state will take that person to court and seek punishment in the name of the people.

To keep the basic concepts of civil and criminal law clear in his mind, Jeff made the following chart:

	CRIMINAL LAW	CIVIL LAW
WHO IS INVOLVED	The state prosecutes; it goes to court against the accused person.	Usually a person or corporation goes to court against another person or corporation.
THE "BURDEN OF PROOF"	The state must prove the accused person is guilty "beyond a reasonable doubt."	The plaintiff must prove its position by a "preponderance of the evidence."
PENALTIES	Imprisonment and/or a fine.	No imprisonment. An award of damages or an order to perform or refrain from performing an act is issued.

What does Jeff's chart tell us? You probably can think of quite a few crimes. But did you know that civil law is the "bigger" of the two kinds? More people are involved with civil law than with criminal law, and more civil law cases are decided in courts. But you probably have heard more about criminal cases than you have heard about the thousands of civil cases that wind their way through the courts each day.

### Civil Law

Today's civil law developed from Roman civil law. It is the branch of the law that affects all citizens and a wide range of rights and legal questions. While criminal law deals with wrongs committed against the public, civil law deals with wrongs committed against individuals.

A civil action may seek to recover money or property that rightfully belongs to someone, or to correct a situation a person thinks is wrong, unfair, or unjust.

Civil law remedies arguments over private rights. The people seeking a remedy are *adversary parties*. That simply means that one person is on one side of an argument and someone else is on the other side. The one bringing the suit is called the *plaintiff*. The one charged with doing something wrong is the *defendant*.

Jeff made a list of things that civil law includes.

#### Civil law includes:

- Contracts
- Copyrights
- Corporation law
- Trademark
- Marriage
- Taxes
- Divorce
- Property (land, buildings, money, jewelry, and so forth)
- Trusts
- Torts
- Wills
- Estates
- Patents

From that long list, Jeff discovered that most civil law cases arise from contracts and torts. But what are torts? A *tort* is a wrong or an injury committed against persons or property other than a breach of contract. Examples include trespass, false arrest, libel, slander, negligence, nuisance, and assault and battery. If people camp on posted land without permission, they may have committed the tort of trespass.

The owner of the property might start a civil action against the trespasser and ask for damages or other relief.



### Criminal Law

Look at Jeff's chart again as you make comparisons between civil and criminal law. You will see that criminal law leaves the responsibility of enforcing and prosecuting largely to the government. The government will act as plaintiff and prosecute the accused, asking for punishment in the name of the people. The accused in this criminal action becomes the defendant. Thus, while civil law protects private rights, criminal law involves the protection of us all.

People who are accused of breaking criminal laws are protected by law, too. The U.S. Constitution and state constitutions assure persons of many rights and safeguards in the criminal law process. The right to a lawyer, even if the defendant cannot pay for one, and the right to a fair and speedy trial (by jury if the defendant wishes) are basic rights of accused persons.

Some crimes, of course, are far more serious than others. Crimes are divided into two categories: felonies and misdemeanors. A *misdemeanor* is a crime that usually results in a fine or a penalty of no more than one year's imprisonment. *Felonies* carry greater punishments, usually imprisonment in a state penitentiary. A forcible felony, such as murder, rape, robbery, burglary, arson, kidnapping, or any other felony that involves the use or threat of physical violence, carries long jail terms.



## Types of Crimes

### Offenses Against a Person

1. Homicide (murder, manslaughter, and reckless homicide)
2. Assault and battery; aggravated assault (placing a person in fear of bodily harm and causing bodily harm)
3. Kidnapping (confinement of another person against his or her will)
4. Robbery (theft from a person by force or threat of force)

### Offenses Against Property

1. Burglary (breaking and entering with intent to commit a felony or theft)
2. Arson (damage done deliberately by fire or explosives)
3. Larceny (taking away property without the owner's consent and with the intent to permanently deprive the owner)
4. Embezzlement (fraudulent use and appropriation of property or money entrusted to a person by others)
5. Theft (obtaining control of property by deception or threat)
6. Fraud (taking property by false pretenses)
7. Receiving, concealing, or selling stolen property
8. Forgery (making or altering any document or using such document to knowingly defraud)
9. Counterfeiting (copying money or documents to deceive or defraud)
10. Extortion (obtaining money or valuable property by threat or force)

### Other Crimes

1. Hijacking of boats, airplanes, trains, automobiles, and buses
2. Unlawful use of a weapon
3. Illegal eavesdropping

Within these two categories, criminal law has natural divisions. Crimes can be committed against a person, against property, and in other ways.

Jeff went to the law library at the county courthouse to find out more. Mr. Hernandez had told Jeff to pick any state in the whole country and any crime. Then he should look up that state's *criminal code*—its criminal laws—for that crime.



Jeff picked a thick, red book with gold letters. It was the *Illinois Revised Statutes*. He checked the index and opened the volume to the section on the Illinois Criminal Code. He looked for the code on armed robbery, and made copies of a few pages so he could take them with him. Later, after reading those pages, he had a discussion with his counselor.

"Imagine this," Mr. Hernandez said. "You are walking down the street and suddenly a man points a gun at your head and tells you to hand over your money fast. After handing over your money, the gunman tries to get away as quickly as possible. If that happened, what laws would have been broken?"



Jeff thought for a moment. "Stealing! He stole my money."

"The law is much more exact than that," Mr. Hernandez said. "Every crime has its proper category. Look at sections 18.1 and 18.2 of the Illinois Criminal Code. Read it to me."

Jeff looked up the sections and read aloud. "A person commits robbery when he or she takes property . . . from the person or presence of another by the use of force or by threatening the imminent use of force." So that would have been a robbery, right?"

"Read on," Mr. Hernandez said.

"A person commits armed robbery when he or she violates section 18.1, and he or she carries on or about his or her person or is otherwise armed with a firearm," Jeff read.

"There you have it," said Mr. Hernandez. "Robbery is what the law calls a Class 2 felony. Armed robbery is a far more serious crime. The law says armed robbery 'is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court.'"

"What about this 'burden of proof' business?" asked Jeff.

"That means that in a criminal law case, the state can hope to get a conviction—a finding of guilty—against the accused only if guilt is proven 'beyond a reasonable doubt.'"

"How is that different from 'preponderance of the evidence' in civil law?"

"In civil law, your proof and evidence must be the most believable and give more of a feeling of truth than the other party can give. In criminal law, you are concerned with a person's liberty, not just money. 'Beyond a reasonable doubt' means that the state must fully satisfy the jury so that jurors are entirely convinced of the defendant's guilt. The evidence presented must be absolutely clear, precise, and certain. There just cannot be any room for doubt when a person's freedom is at stake."

"Do you think it's always smart to put convicted criminals in jail?" Jeff asked.

"Jail can be a very rough, horrible experience. Many judges realize that the prison system needs a lot of attention and reform, so they won't put certain people in prison."

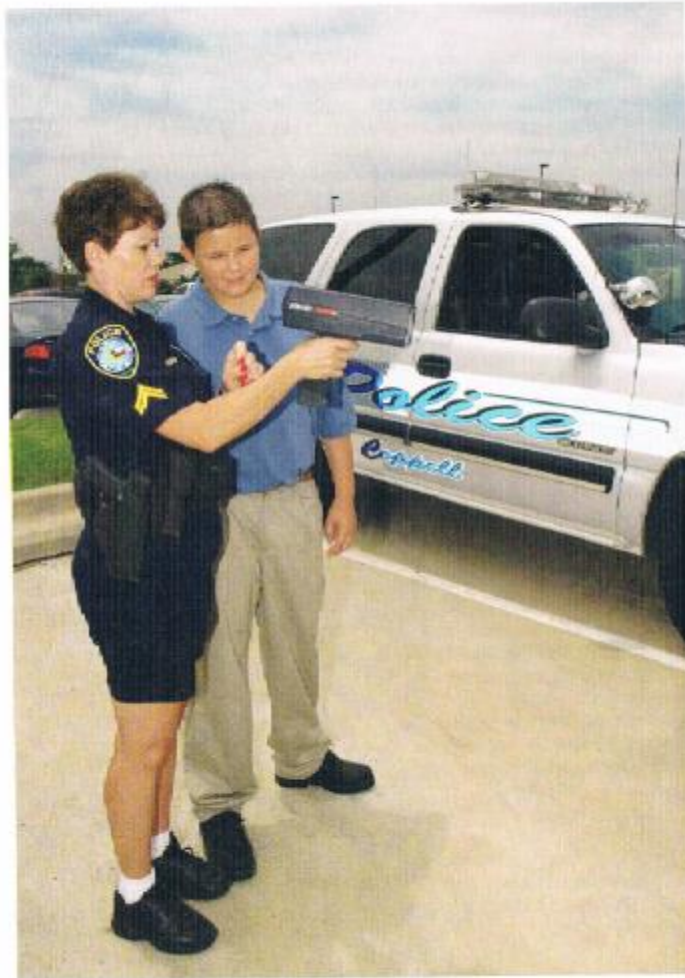
"What else can they do?"

"They can place an offender on probation. Especially for younger, first-time offenders, jail might do more harm than good. Probation means that the offender will be under the supervision of the court. A probation officer will meet with the offender from time to time. The offender may be allowed to live at home and lead a normal life, but with restrictions on where he or she can go, what he or she can do, and whom he or she can see. The offender must check in with the probation officer and must stay out of trouble. At any sign or hint that the offender is violating a law or restriction, the probation could be ended and the supervising judge might send the person to jail. Probation is a way of giving someone a second chance."

"What about people already in jail? Do they have any chance to show the community that they will not break the law again?"

"Yes, Jeff. The legal system is based on the belief that justice and mercy go together. A person in jail may be entitled to parole after having served a certain portion of the prison term. If the offender behaves in jail and shows that he or she truly has changed, learned from past mistakes (the crime committed), and will not be a danger to society, a group of citizens called a parole board may decide to release him or her before the sentence is completed."





## Law Enforcement: More Than a Gun and a Badge

Jeff was ready to begin requirement 4. He was eager to learn about the responsibilities of local police or sheriff's departments and the state and national law enforcement agencies.

Jeff was aware that police often are considered the first line of defense in the legal system. Society would most likely be chaotic without police protection and services.

"Even though the police serve necessary functions of enforcing criminal laws, protecting lives and property, and maintaining order, many people resent them," Mr. Hernandez said. "Some members of society view the police as a harsh tool of a system that has deprived and hurt them. Police officers sometimes find their own prejudices aroused and return that distrust. As a result, the police and the people they are supposed to serve sometimes don't get along."

"It must be very hard to be a police officer," Jeff said quietly. He knew about the mixed feelings toward police. He knew that police do good things, too. (For help in getting people's views on law enforcement, see the questionnaire later in this chapter.)

Jeff made an appointment and went to the district police station near his home to talk to Corporal Deborah O'Brien. "Hello, Jeff," she said as they shook hands. "I'm the watch commander this afternoon. That means I have to keep an eye on all the patrols during this shift, so why don't we sit in the communications room."

Corporal O'Brien and Jeff entered a large room full of electronic equipment, lighted maps of the town, and other devices. The lighted maps were "crime maps" and patrol area maps showing where patrol cars were and where extra patrols cars were needed to help prevent crimes.

Jeff watched the lighted panels and heard the crackling of radio messages coming to the station from patrol officers. He told Corporal O'Brien about his conversation with Mr. Hernandez.

### The Role of the Law Enforcement Officer

The corporal looked serious and spoke slowly. "It is almost impossible to take care of every problem. But being a police officer means handling problems. We have to protect lives and property, of course, and we try to detect crime and arrest offenders. Police officers must also handle unruly crowds, patrol streets, protect neglected or lost children, give emergency first aid, step into family arguments, among other things.



"Most police departments send their officers through some sort of training institute. This is rarely enough to train officers to cope with complex problems, different groups of people, and various situations."

"What does this department do to educate its police officers better?" Jeff asked.

"Our officers take college courses on department time and at the department's expense. We hope our personnel can learn as much as possible about people and problem solving. We want to make this police force more professional. It is important for an officer to understand people and society by learning about sociology and psychology," Corporal O'Brien said.

Another way to increase police professionalism is to eliminate improper conduct. Jeff wondered what citizens can do if they have complaints against a police officer or the department.

Corporal O'Brien explained: "Most departments have either a civilian review board or an internal complaints section. A group of citizens or the department itself may investigate if a complaint has merit. If a police officer is found to be responsible for the action charged in the complaint, he or she can be fired or suspended for a period of time without pay. Of course, if the officer committed a criminal act, he or she can be prosecuted."