



She continued: "Police officers would like to see crime reduced and prevented. A good place to start is with young people. When young people get in trouble with the law, they need special guidance. This department, like many others, has special officers who work with young people only. They are called juvenile officers. It is their duty to talk to young people and try to help them stay out of trouble with the law. Prison is no place for anyone to be. We try to see to it that as few youths as possible end up in that miserable situation."

"How do you become a police officer?" asked Jeff.

"We give interested applicants a written examination to test their intelligence and mental alertness," Corporal O'Brien said. "They also get a physical agility test. The highest scoring candidates will be the first ones asked to take further tests as jobs open up in the department. Candidates must have good character and no criminal convictions. We check their backgrounds very carefully. They also must have at least a high school diploma or the equivalent. After formal training at a police institute, new officers spend time on patrol duty with an experienced patrol officer. Only then do they become full-fledged police officers."

### Problems of Law Enforcement

Corporal O'Brien lifted a large book with very wide pages and placed it on the table in front of Jeff. "Now, you can take a look at exactly what a law enforcement officer does during a typical day. This is called our log. The log tells what each officer on patrol did while on duty."

Jeff looked through the log and saw many examples of police officers protecting lives and property. One officer gave first aid at a car crash, and another helped settle a family argument.

As Jeff leafed through more pages in the police log, he counted many citations for speeding, failing to stop at a stop sign, and other traffic violations.

Corporal O'Brien noted that many policemen are bothered that they must do certain tasks that people with less training could probably do. "Desk and clerk work, minor traffic violations, traffic control, and court appearances drain time and personnel from the police force. Hundreds of hours are lost by sitting in court or writing traffic tickets. 'Para-police' could handle these duties, and then well-trained law enforcement officers would be free to spend more time patrolling, preventing crime, and working with youth."

Jeff thought that was a good idea. He thanked Corporal O'Brien for her time and interest. "I really have a better idea now of what law enforcement is all about."



The following questionnaire will help you find out more about people's attitudes toward law enforcement officials and their work. The questionnaire does not reflect any views of the Boy Scouts of America. Rather, it tries to raise issues so that a wide range of opinions and ideas can be discussed.

## Sample Questions to Ask the General Public for Requirement 4

With each of the following questions, ask people you interview to indicate if they

- Strongly agree     Have no opinion     Strongly disagree  
 Agree     Disagree

After they answer these questions, discuss their views with them.

1. Police do the best job possible at all times.
2. Police officers do not understand the needs of the average person.
3. All police officers are good police officers.
4. Police officers are too tough; they are all bullies.
5. Police officers are not tough enough; they let people get away with too much.
6. Police officers should be free to shoot looters and rioters.
7. I can trust most police officers.
8. There are relatively few dishonest police officers.
9. We can do little to help law enforcement.
10. Street patrol is a good crime deterrent.
11. Walking the "beat" is helpful to both police and the community.
12. Being a police officer is not at all risky.
13. Police should have more education and better training.
14. Police are trained well enough; they can handle almost any situation.
15. It is possible I could be a police officer's friend and he or she could be my friend.
16. Police officers could be used more effectively in fighting crime.
17. Employing "para-police" personnel would be a big step toward better use of trained police personnel.
18. Nothing can be done about a dishonest police officer.
19. Society would be unsafe and unpleasant without police.
20. Police officers should be allowed to strike.

## Sample Questions to Ask Law Enforcement Officers for Requirement 4

Discuss the questions below with a law enforcement officer. Probe the officer's attitudes toward the job he or she holds and the public he or she serves. Your conversation should cover a wide range of topics, some of which might not be mentioned here.

1. How do you feel about people in general? Do you enjoy being a police officer? How do you feel about minority groups? Do you think you are misunderstood by the general public?
2. How can we help you do a better job? Do you want the public's help? How can people and the police understand each other better?
3. What is being done in your community to help police officers and people know each other better? What else can be done?
4. Are police trained well enough to handle emergency situations like riots, mobs, terrorist acts, and so on?
5. Do police officers think their work is hampered by the courts and by laws that protect defendants? Are you satisfied with the criminal justice system? What can be done to improve the situation?
6. Should police be allowed to unionize and have the right to strike even though they are essential to public welfare and order?
7. Is organized crime a major problem in our area? How does it affect the police?
8. Should police officers carry weapons? Why or why not? Should they wear name tags?
9. Should police officers use no-knock entry and wiretapping even though these actions could interfere with people's privacy rights?
10. How should complaints against police officers be handled—by civilian review boards or internal police units?



### State and Federal Law Enforcement

Besides local law enforcement agencies such as the police, Jeff learned about state and federal law enforcement agencies.

The enforcement of state laws is often the duty of the state police. State troopers patrol state and interstate highways for traffic violators and arrest criminal suspects within the state. Large rural areas and many small towns often lack effective police protection. Small forces are often under-equipped, understaffed, and undertrained.

Federal government agencies such as the Federal Bureau of Investigation have law enforcement responsibilities. The FBI investigates violations of federal law.

Activities that threaten the peace and security of the United States also are under FBI jurisdiction. The FBI is a branch of the U.S. Department of Justice. FBI agents are college educated and often have legal training. They receive special training in law enforcement and crime detection at the FBI Academy. Jeff also remembered Corporal O'Brien telling him that the FBI helps local and state law enforcement agencies by maintaining a central file of millions of fingerprints.

"Police work means more than I ever thought it did," Jeff told his parents. "Law enforcement deals with many problems in our society, which is far from perfect and needs everyone's help."



### Laws That Help Protect Consumers and Sellers

Jeff turned his attention to requirement 5. He wanted to learn more about laws that help protect buyers and sellers. He looked up the Federal Trade Commission on the Internet and found the Bureau of Consumer Protection's Division of Enforcement at <http://www.ftc.gov/bcp/bcpenf.htm>.

He learned that the Bureau's enforcement division conducts a wide variety of law enforcement activities to protect consumers. These include conducting investigations and prosecuting civil actions to stop fraudulent, unfair, or deceptive marketing and advertising practices; and enforcing consumer protection laws, rules, and guidelines.

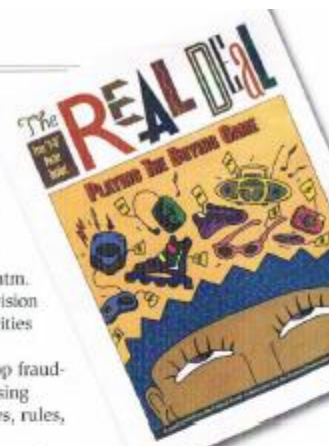
Jeff discovered that this important arm of law enforcement has recently investigated e-commerce and the Internet, including online shopping and unfulfilled holiday delivery promises. It also handles complaints about employment opportunities fraud. These "consumer cops" often check into scholarship scams that falsely guarantee scholarships.

The Bureau of Consumer Protection investigates questionable claims about the safety and effectiveness of diet drugs, weight loss aids, herbal remedies, and alternative treatments. Advertisers who make false claims about these products may come under the scrutiny of the Bureau's officers, which could result in action before federal administrative law judges or the U.S. District Courts.

The Bureau enforces trade laws, rules, and guides through administrative or federal court proceedings. Such rules include the Mail or Telephone Order Merchandise Rule, which requires regular and online companies to ship purchases to consumers when promised (or within 30 days if no time is specified) or to give consumers the option to cancel their order for a refund.

If a company sells a T-shirt with a "Made in U.S.A." label, it must comply with the Bureau's guidelines for making that claim. Another trade rule helps protect consumers from fraud by requiring fiber content labeling of textile, wool, and fur products, with care label instructions attached to clothing and fabrics.

Other energy rules require companies to disclose the energy costs of home appliances, the octane ratings of gasoline, and the efficiency rating of home insulation.



This helpful guide comes from the Federal Trade Commission.



## Fraud

When Jeff told his counselor what he had learned about consumer protection laws, Mr. Hernandez nodded his approval. "You know, Jeff, a major problem facing Americans today is fraud," Mr. Hernandez said. "The largest number of people who fall victim to fraud are poor urban dwellers and the elderly."

"What exactly is fraud?" Jeff asked.

Jeff's counselor explained that *fraud* means that a false statement—a lie—must be spoken, acted, or written, and the person making the false statement must know it is untrue when it is made. This act of fraud can sometimes make a binding contract between two people invalid or unenforceable. The falsehood must have influenced the person who was deceived and misled, so that money or other property was lost because he or she believed and relied upon that statement.

Mr. Hernandez suggested that Jeff think about the following examples: "If a real estate broker sells land to a buyer, promising that this is the richest, most fertile farmland in the region, but it turns out the land is sand and you can't grow a single potato on it, is the seller guilty of fraud? Or could you say that the seller was only stating an opinion to help sell that land?"

Jeff thought for a moment. "You know, the buyer doesn't have to take the broker's word. The buyer can observe the land and check things out."

Mr. Hernandez agreed. "That's what is meant by the old saying *Buyer Beware!* But what if someone applied for a life insurance policy and concealed past medical problems from the insurance company? Is this concealment an effort to obtain the policy by fraud? Do these examples fit into the definition of fraud?"

"That's a good question!" Jeff said. "I'll think about it."

## Spirit of Fairness

The law recognizes that bargains made between buyers and sellers must have a spirit of fairness and an element of basic justice. *Gross overreaching* means taking obvious unfair advantage of a weaker party in a contract. Such unethical practices are not tolerated by some courts. Mr. Hernandez gave an example of a situation in which a consumer agreed to a contract that appeared to be unfair.

In a case titled *Williams v. Walker-Thomas Furniture Co.*, which was decided in the mid-60s, Ms. Williams bought furniture and appliances over time from the furniture company. She bought about \$1,800 worth of goods and owed the company about \$200. "You might think she owned what she had already paid for," Mr. Hernandez said.

But she did not. Each time Ms. Williams bought new items from the company, she signed a complicated contract that said until full payment was made for all the items she had ever bought there, those items belonged to the store. If she missed one of her payments, the store would repossess, or take back, every single piece. The store knew that she was out of work and that she supported herself and her seven children on a \$216 monthly check from the government.

She bought another item and missed the first payment. The store took everything back—more than \$1,600 worth of goods already paid for were gone because Ms. Williams had signed a contract full of fine print and technical, hard-to-understand language. She understood, however, that something unfair was happening to her.

Ms. Williams went to court to challenge the legality of the contract. The trial judge said that because she had signed the contract, she was bound to responsibilities under the agreement. If it was unfair, she should have refused to sign it.

Ms. Williams and her lawyer appealed to the U.S. Court of Appeals. Judge J. Skelly Wright reviewed the case. He reversed the decision of the trial judge and decided that there are times when a contract's terms are shocking to decency—"unconscionable," he called it. He said that Ms. Williams's contract was so full of unreasonable, deceptive, hidden language that she had no idea what she was signing. The court, he went on, should not allow such things by approving them as legal.

Jeff was impressed with Judge Wright's logic and humane attitude. "The law wouldn't be respected by everybody if it allowed such things to go on. I'm glad there are judges like Judge Wright!"

Mr. Hernandez continued, "A good judge, no matter if he or she presides over a local traffic court or the Supreme Court, will always try to combine the strict letter of the law with the spirit of the law."





### Truth in Lending Act

Mr. Hernandez also told Jeff about the **Truth in Lending Act**, which was passed in 1968 as part of the **Consumer Protection Act**. This set of laws requires the seller to inform the buyer in clear terms exactly how much interest will be charged for a loan or credit agreement. Laws that enforce truth in labeling, packaging, and advertising also help. The Federal Trade Commission, the Food and Drug Administration, and even the Federal Communications Commission have all taken steps to help protect American consumers.

Mr. Hernandez said: "You can easily research these agencies on the Internet. Just access <http://www.ftc.gov>, <http://www.fda.gov>, or <http://www.fcc.gov> and you will learn a great deal."

When Jeff got home that night, he read more about various acts on the Federal Trade Commission's website. Here is what he learned about some laws that were passed to protect consumers.

A relatively new act, titled the **Children's Online Privacy Protection Act of 1998**, protects young people's privacy by giving parents the tools to control what information is collected from their children online. Commercial website and online services operators who knowingly collect personal information from children under age 13 must

- Notify parents.
- Obtain parental consent before collecting data on the child.
- Give parents a choice as to whether their child's information will be disclosed to third parties.
- Provide parents with access to their child's information.
- Let parents prevent further use of collected information.

- Not require a child to provide more information than is reasonably necessary to participate in an activity.
- Maintain the "confidentiality, security, and integrity of the information."

Always have a parent's permission before using the Internet.

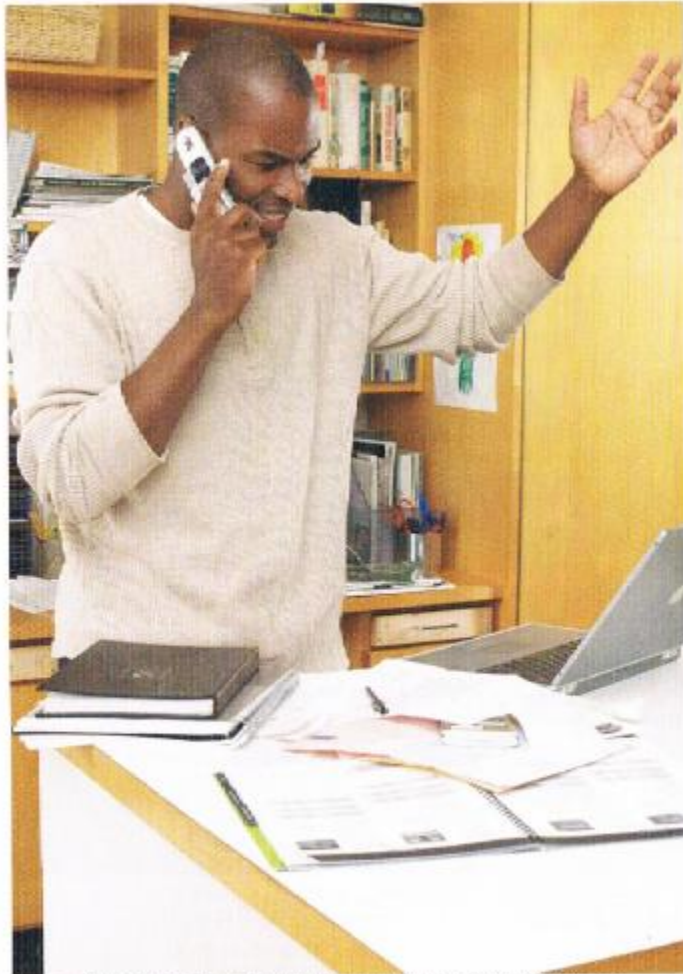


Another emerging area of consumer law deals with *identity theft*. What is identity theft? It happens when someone exploits the use of your name, Social Security number, credit card number, or some other personal information without your knowledge and with the intent to commit fraud or theft. The **Identity Theft and Assumption Deterrence Act of 1998** makes the Federal Trade Commission (FTC) a central clearinghouse for identity theft complaints. The act requires the FTC to log and acknowledge such complaints, provide victims with relevant information, and refer their complaints to appropriate agencies and law enforcement.

### The FTC, the Web, and You

One area that concerns the Federal Trade Commission is the protection of children who use the Internet. The FTC's Children's Online Privacy Protection Act of 1998 calls for operators of commercial websites and online services to "obtain verifiable consent from a parent or guardian before they collect personal information from children."





There are laws that help protect consumers from being harassed by aggressive telemarketers and other advertisers.

## Organizations That Help Protect Consumers and Sellers

When Jeff and Mr. Hernandez met again, Jeff told his counselor about some of the acts he'd learned more about at the Federal Trade Commission's website.

Mr. Hernandez told Jeff it was important to remember that state and local governments also have a department of consumer affairs and laws to help victims of fraud and dishonest business practices.

For example, the **Illinois Consumer Fraud and Deceptive Business Practices Act** protects people who have been talked into buying things they don't need by high-pressure door-to-door salespeople. The law says that a person can cancel an order for an item he or she agreed to buy within three days of the sale if the total cost is more than \$50. Many states have consumer fraud acts that regulate retail sales, and make the consumer and seller share the cost of repairs for certain parts on used cars.

Many local and county governments also have an office which handles fraud, consumer complaints, fair business practices, and consumer protection. If people don't report their complaints to such agencies, however, the agencies can't be useful. Honest businesspeople benefit when dishonest ones are taken to court. Everyone benefits when fraud is prosecuted in court.

Small claims courts exist to settle legal disputes over relatively small amounts of money or property. These courts also help the consumer. Legal aid organizations and public defender offices help people who cannot afford a lawyer.



## The Law in Action

Jeff was now ready to visit a courtroom so he could see the law in action. He invited his friend Raul to join him and Mr. Hernandez. Before they left, Mr. Hernandez thought it would be a good idea to talk about what they would see and hear. He, Jeff, and Raul decided to go first to a civil trial that involved the tort of negligence. Negligence is a large area within the law of torts and it accounts for many cases in civil courts across the country.

"Just what is negligence?" Jeff asked.

"That's a big question," Mr. Hernandez said. "Negligence can be confusing to some people—even lawyers. Let's begin by saying that *negligence* is a failure to do something that a reasonable person, guided by ordinary considerations, would do. Or, it's doing something that a reasonable and prudent person would not do."

"I'm not sure I'm following you," Jeff said.

"Look at it this way," said his counselor. "Negligence usually involves thoughtlessness, carelessness, and inattention to the interests and safety of other people. You will see this definition in action when you go to court."

Mr. Hernandez explained to them that there are degrees of negligence. If someone acts to put another person in fear or actual danger, that willful kind of behavior is "wanton" and "reckless" and is often called *gross negligence*. It is an act or failure to act when one has the duty to act. The act can be dangerous or careless. In some cases, what is *not* done can be just as dangerous.

"Maybe if you could give us an example, it would help us understand better," Jeff said.





"Suppose a construction company makes a hole in a public sidewalk to connect a new building to underground pipes. The builder doesn't cover the hole at night or put up a warning sign. A person walking along in the dark could fall into that hole and get seriously hurt. The law of negligence asks if the builder is responsible to warn passersby of that danger," explained Mr. Hernandez.

"That seems careless to me," Raul said.

"But what if the passerby knew it was a construction area and knew such holes might exist? Isn't that person assuming the risk of walking in what is known to be a dangerous area?"

"Hmmm . . . I didn't think of that," Raul admitted.

"In some states, tort law makes it clear that a duty of care and protection is owed," Mr. Hernandez said.

"In other states, the plaintiff's lawyer must establish the defendant's duty.

The question of duty in this construction hole case is unclear. The plaintiff's lawyer will try to prove that a duty was owed to the person who fell into the hole."

The rules of civil procedure see to it that each side has an equal chance to present its case as fully and as well as possible. Hopefully, this method is fair to weak and strong parties alike. In addition, the contesting parties bear the burden of time, effort, and energy to solve their controversy. Unlike criminal cases, the state is not a party to a civil matter.

### A Trial Involving Negligence

The next day Jeff and Raul went to the U.S. District Court to sit in on the case of *Tompkins v. Southern Airways*. They learned that Ms. Tompkins was a passenger on a Southern Airways DC-9 jet flying from Nashville to Dallas. Near Dallas, the plane was flying at about 4,000 feet when the pilot suddenly saw a U.S. Air Force plane about a half mile away. The planes were on a collision course. Without warning, the pilot of the DC-9 pushed the plane into a steep, 500-foot dive to pass under the Air Force plane. In the sudden dive, Ms. Tompkins was thrown from her seat and injured. Ms. Tompkins sued the airline for \$25,000 in a negligence action.

As the lawyer for Ms. Tompkins explained, a negligence tort has several elements that must be proven to win the suit. First, the lawyer must prove that the defendant had a duty to conform to reasonable standards of care and conduct that would ensure the plaintiff, Ms. Tompkins, against injury. Second, that duty had to be breached by the defendant airline. Third, that breach of duty must have caused the plaintiff's injuries. Finally, there had to be actual harm to the plaintiff.

The defendant's lawyer said that the airline breached no duty to Ms. Tompkins because the pilot avoided the crash. "Without the pilot's quick dive, the planes would have crashed, so how can the airline be at fault?" asked the defense lawyer.

Ms. Tompkins's lawyer strongly disagreed. "It was a clear day and visibility was at least 10 miles. Despite this, neither the pilot nor any crew member spotted the oncoming plane until it was five seconds away!" The lawyer's voice was firm, and she looked at each juror's face. "The pilot knew there were other planes in the area. He had flown that route many times before. He had a duty to maintain a lookout, but he did not do so. He failed in his duty and did not act properly under the conditions until the other plane was about five seconds away. Then the pilot made a steep dive without warning the passengers. In every way, he acted carelessly and negligently. He and the crew failed to keep a proper lookout and caused the situation that injured Ms. Tompkins."





After hearing the testimony and arguments, the jury was given instructions by the judge. She explained that if jurors decided from the facts that the defendant had indeed been negligent, they ought to find for the plaintiff.

The jury deliberated for two hours and returned with its verdict. They agreed with Ms. Tompkins's lawyer that the airline was negligent because the pilot and crew failed to maintain a proper lookout.

### A Trial Involving Burglary

Later Jeff and Raul saw a criminal trial at the County Court Building. A man was charged with breaking and entering with intent to commit larceny. The defendant allegedly broke into a house late at night when the owner was away. A neighbor phoned the police when she heard glass breaking next door. When the police arrived, the accused was about to drive away from the house with a portable television, a stereo, and the homeowner's coin collection.

Before the trial, the prosecution and defense had worked hard to gather evidence and witnesses. The defendant had a choice of entering one of three pleas: guilty, not guilty, or no contest, which has the same legal effect as a guilty plea. He had pleaded not guilty.

From the moment he was arrested by the police, the rules of criminal procedure began to operate. It works in ways unlike civil procedure. Jeff's counselor explained that criminal procedure protects the rights of the accused, from arrest through trial, and tells how the process by which guilt or innocence is determined must operate.

"The main goal of criminal procedure," Mr. Hernandez said, "is to guarantee the individual's rights while protecting the rights of society, and to ensure fairness and justice in the court process.

Somebody's guilt or innocence must be established through an orderly, precise, and uniform system in which constitutional freedoms and liberties are respected."



Jeff and Raul knew many of the constitutional rights guaranteed to accused persons. They knew that the reason for having a jury in the courtroom was found in the U.S. Constitution. They heard someone in the spectator's section say that the county provided the accused with a defense lawyer because he could not afford one. Jeff and Raul also knew that the right to *counsel*—to be represented by a lawyer—was found in the Constitution.

It was fascinating to watch the defense lawyer cross-examine a witness for the prosecution. The witness was asked to identify the man she saw at the back door of the house the night of the burglary.

"Him. It was him." The witness pointed to the accused.

"How late at night was it when you say you saw the defendant at the back door of your neighbor's house?" the defense attorney asked.

"About 2 A.M.," answered the witness.

"It's usually rather dark at 2 A.M., isn't it?" the defense attorney asked.

"Well . . . uh . . . yes."

"There were no lights on anywhere in the vicinity of your house or your neighbor's, isn't that correct?"

"Yes."

"But you have testified that a man with blond hair and blue pants was at the back door of your neighbor's house at 2 A.M. on the night of the burglary. How can you be sure?"

"I'm really sure, I guess," the witness said.

"You were able to clearly tell and swear under oath that you could see the man's blond hair and blue pants."

"Well, I . . . I was sure . . . I am sure!"

"And you were also quite sure," said the defense lawyer, "that the 'burglar' as you called him, was about 5 foot 7. Are you still sure that the burglar was 5 foot 7?"

"Well, it was dark . . . but, uh, yes. Yes, he was."

"I will now ask the defendant to stand," the lawyer said.

Jeff and Raul were surprised when the blond defendant rose from his chair. He was as tall as a basketball player. The people in the courtroom gasped.





"The defendant is almost 6 foot 5. You firmly claimed that the burglar was much shorter. Are you still sure this is the same person you saw outside your neighbor's back door?" asked the lawyer.

"No . . . no," the witness mumbled.

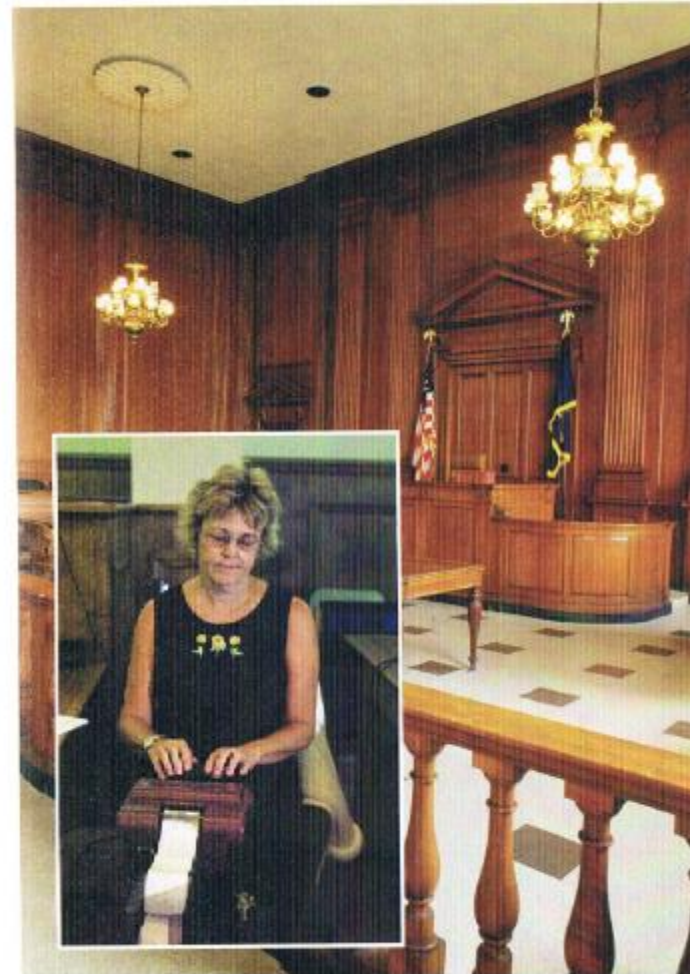
Despite this testimony, the accused was found guilty. The arresting police officer positively identified him, and his fingerprints were on the door and stolen items. He was sentenced to two years in the state penitentiary.

"Did you notice a court reporter toward the front of the courtroom tapping keys on a machine?" Mr. Hernandez asked Raul and Jeff.

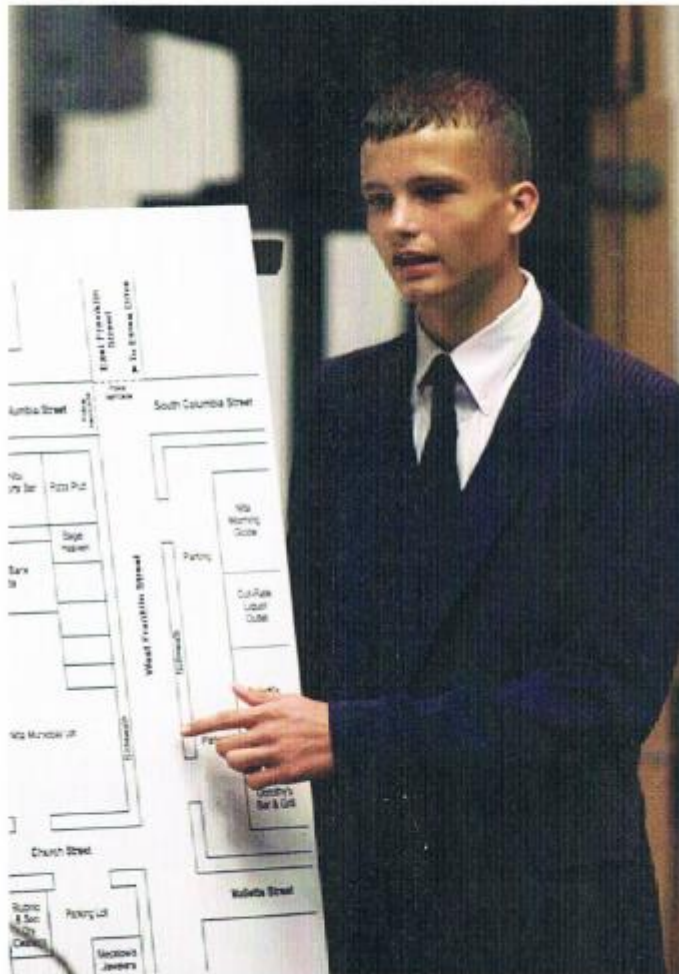
"Yes, yes we did. Why is there a court reporter?" asked Jeff.

"The court reporter takes down every word said during the trial so that if any of the defendant's rights are denied or even partly withheld, and the defendant loses the trial, the record can be used as a basis for appeal. Often a criminal case can be reversed or returned to the court for a new trial if a right is denied. If a judge acts unfairly or with prejudice, the record will help to prove it, and it will help get a new trial for the defendant," Mr. Hernandez explained.

"And now that you have seen real trials," Mr. Hernandez continued, "you'll be able to get more out of the mock trial in which you will take part."







## Planning a Mock Trial

Jeff decided to plan and conduct a mock trial with members of his troop. He asked Mr. Hernandez to be the judge. The counselor agreed. After discussing with other Scouts what kind of trial to hold, Jeff decided that a civil tort case would be fun to do.

Mr. Hernandez explained that this type of case was common. The most common tort cases involve an injured person seeking damages, for example, after an auto accident or slipping and falling. "The issue," he said, "is whether the injury was caused by someone's negligence, and, if so, what monetary damages would be sufficient to compensate the victim."

"How do we put on a case?" Jeff asked.

"Well," said Mr. Hernandez, "you could adapt the case that you and I witnessed, or just make up your own situation. For example, you could imagine how a car collision happened. Let's say a driver in one car is rushing to make a light and turns at the intersection, only to collide with a truck that may have run the red light. The car's driver is injured and has medical expenses. The car is pretty well totaled.

"If the driver sues the truck driver, the truck driver must be proven negligent. Could witnesses testify that the truck went into the intersection before the light changed? What if witnesses disagree with this point? What other factors might have caused the accident? Can witnesses testify to how fast the car was going? Do all the witnesses agree on this point? How fast should the car have been going given the weather conditions and time of day?

"You can make the case as simple or as complicated as you want. You can have one witness for each side (the two drivers), two witnesses, or more. You can even have an expert police witness testify to what the skid marks prove.

"Or maybe," Mr. Hernandez added, "you want to take a fact situation from one of the hundreds of mock trials that have already been done. The back of your Law merit badge pamphlet lists sources for mock trials."

Jeff made a list of the roles that had to be filled for the mock trial, in addition to the role of judge.

**Roles for mock trial**

- Plaintiff
- Defendant
- Plaintiff's lawyer
- Defendant's lawyer
- Court clerk
- Court reporter
- Bailiff
- Plaintiff's witnesses
- Defendant's witnesses
- Jurors

"Each role is important," Mr. Hernandez said. "The lawyers for both sides must present their cases clearly and try to persuade the jury. The witnesses must stick to the facts, and the jury must pay close attention to everything that is said. Each juror must make up his or her own mind about the evidence presented."

"What do the others do?" one Scout asked.

The counselor explained that the court clerk sets up the courtroom and keeps track of the court's records of the trial. "The court reporter makes notes of the important things said by the lawyers, witnesses, and judge. In a real trial, a word-for-word record is made. In this mock trial, you can write down important highlights. If you want to, you can tape-record the whole trial."

"That's a good idea," said Jeff. "Then we'll be able to review exactly what happened during the trial."

"You have chosen to do a mock civil trial with a jury," Mr. Hernandez said. "The trial follows a certain order and rules of procedure. After the jury is sworn in, the clerk will announce the name of the case and the name of the judge. Then, the plaintiff's lawyer will make an opening statement to lay out the charges and provide a summary of important facts. After that, the defendant's lawyer will make an opening statement. The lawyer will state the facts from the defendant's point of view and show facts that might weaken the plaintiff's case."

"Then the plaintiff's side will present its witnesses. All the witnesses will be sworn in by the clerk," said a Scout.

"That's correct," said the counselor. "After the plaintiff's side presents its witnesses and evidence, the defense will do the same. During cross-examination of each witness, the lawyers will try to explain, modify, or challenge what was said and presented by the opposing side.

"After witnesses have testified and cross-examination and rebuttal have ended, the defendant's lawyer makes a final argument. This is followed by the plaintiff's closing argument. Both sides present a summary of facts and make points in their favor in a way that clearly wraps up all the parts. They must present a sharp picture to the jury and leave a good impression with the jurors," the counselor explained.

"When the plaintiff completes the closing argument, the judge will give instructions to the jury that include the principles of law concerning the case and how those principles can be applied to the facts. The judge will then send the jury out of the courtroom to deliberate in secret. The jury will return its verdict and the judge will make a formal, official entry of the judgment. That will end the mock trial."

If your troop decided to hold a nonjury trial, the order of the trial would be similar to the jury trial except that jury selection, instructions to the jury, and fact-finding by the jury would not occur. In a nonjury case, the judge rules on both law and fact.

The key to a successful mock trial is careful preparation. Every trial lawyer knows that success depends on being well prepared to present the best possible case and to foresee what the other side might do. For the mock trial, you should also prepare for your role with care. When the trial is over, talk about how you felt in the role you played. Ask the others for their opinions.

**Lawyers Outside of Court**

In his talks with Mr. Hernandez, Jeff learned that many lawyers seldom go into court. His counselor arranged for him to meet a few of them to talk about what they do.

Because law is deeply involved in every aspect of life, businesses, banks, government, real estate companies, and many other concerns must employ men and women who understand law. Lawyers also work in state and federal legislatures, city and town councils, and other areas of government.

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When you are sworn in as a witness, you make a formal pledge or promise to tell the truth. You take an oath saying that what you are about to say is the truth.

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Chances are good that at least one of the officers at your local bank is a lawyer or has had some legal training. Title companies that record and insure property transactions, such as land and house sales, employ lawyers to make sure transactions go smoothly and title transfers are proper in all respects.

Government departments, commissions, committees, bureaus, and offices employ lawyers to ensure proper operation. These lawyers rarely go to court. Instead, they keep aware of new laws, rules, and regulations that concern their departments.

"I'm a full-time lawyer for the store," Ms. Jackson told Jeff. "My only client is the store. Because this is one of the largest department stores in the country and is owned by a company that has other stores like this one all over the United States, the company employs a staff of lawyers."

Jeff was visiting Ms. Jackson's office on the top floor of a large department store where his family often shopped. Ms. Jackson was explaining what a *corporation counsel*, a lawyer for a corporation, does.

"My responsibility is to keep the company out of court. Going to court involves time, trouble, and money. The company wants to avoid *litigation* or lawsuits. So what I do is research the laws, carefully read contracts, and advise the owners and managers of the company how to stay out of court," Ms. Jackson said.

"You must be busy," Jeff said.

"Believe me, we are! But there is more! The U.S. government makes rules and regulations concerning prices we can charge our customers, wages we must pay store employees, and many other things. The legal department must keep up with those laws and guidelines, too. We also work closely with the company accountants concerning taxes."

Jeff rose to leave and extended his hand to shake Ms. Jackson's. "Thank you for taking the time to talk to me about your duties and responsibilities," Jeff said.

As Jeff left the store, he saw a familiar face. It was Mr. Robertson, another counselor for the Law merit badge who was a good friend of Mr. Hernandez.

"Hello, Jeff," called Mr. Robertson. "What are you doing downtown?"

"I'm working on my Law merit badge and just spoke to Ms. Jackson about what lawyers who work for stores do." Jeff then had a great idea. Mr. Robertson is the *city attorney*—a lawyer who works for the local government. What a chance to find out what government lawyers do! "Do you happen to have a spare minute or two, Mr. Robertson?" Jeff asked.

"Certainly. I was just going to see Mr. Harrington, the lawyer at the bank, to talk about how to pay for the new swimming pool at the park. That's part of my responsibility. I'm going to check on the loan agreement with the bank," explained Mr. Robertson.

Jeff told Mr. Robertson about requirement 7. Mr. Robertson was happy to tell Jeff about some of the things the city attorney does.

Mr. Robertson explained that laws passed by the city council are called *ordinances* and that he writes such laws in proper legal form. He also represents the city in court when necessary, and he carefully reads and helps prepare contracts for city purchases and services.

"The city prosecutor works for me," Mr. Robertson said. "When the police arrest a suspect who may have violated a city ordinance, the *city prosecutor* represents the city in court. He or she also gives advice to the police department in many areas. While the prosecutor handles prosecutions and police-related matters, I work on civil law matters. Because my responsibility is to try to keep the city out of court, the prosecutor is in court a lot more than I am."

"How do you keep the city out of court?" Jeff asked.

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Law Day, which falls on May 1 each year, is a major national celebration of the rule of law and our heritage of liberty under law. Each year, the American Bar Association conducts a special program to help celebrate the day. You will find plenty of information about law and Law Day by visiting the ABA's website. See the resources section for more information.

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## Finding a Lawyer

Mr. Hernandez gave Jeff an imaginary problem to consider. "Let's suppose that Mr. Jenkins bought and paid for a refrigerator at a store. The salesperson said the refrigerator was new, but when it arrived, it was used and didn't work properly. Mr. Jenkins asked the store to take it back and refund his money or replace it with a new refrigerator. The store refused to do anything, and Mr. Jenkins seems to be left with a useless refrigerator.

"Now Jeff, I'm not asking you to solve the legal issues here," Mr. Hernandez said. "Just explain what you think Mr. Jenkins should do. Remember that he doesn't have enough money to pay for a lawyer."

In his research, Jeff learned a lot about how to find a lawyer and legal assistance. Mr. Jenkins should contact a consumer protection agency or go to small claims court if the value of the refrigerator is within a certain amount. Another thing he could do is call a legal assistance service. If he cannot find one, he should get in touch with the bar association.

Any local or state bar association can refer you to a legal aid service. Legal aid services offer the help of a lawyer for free, or, at most, for a small fee to people who can't afford a lawyer. Also, some charitable organizations help people obtain legal services when they cannot afford to pay.

One helpful agency is the Legal Services Corporation, a private, nonprofit corporation established by Congress in 1974 to ensure equal access to justice under the law for all Americans. It offers legal aid in every state. Bar associations and government public defender offices also offer free legal advice and assistance.

Most legal assistance groups do not usually become involved in criminal cases. In criminal cases, a judge will appoint a public defender if the accused person cannot afford a lawyer. Public defenders handle the defense of criminally accused people, and legal aid is available for those who cannot afford to pay. Jeff found out that lawyers have a professional responsibility to make the legal system work for everybody—not just those who can pay.

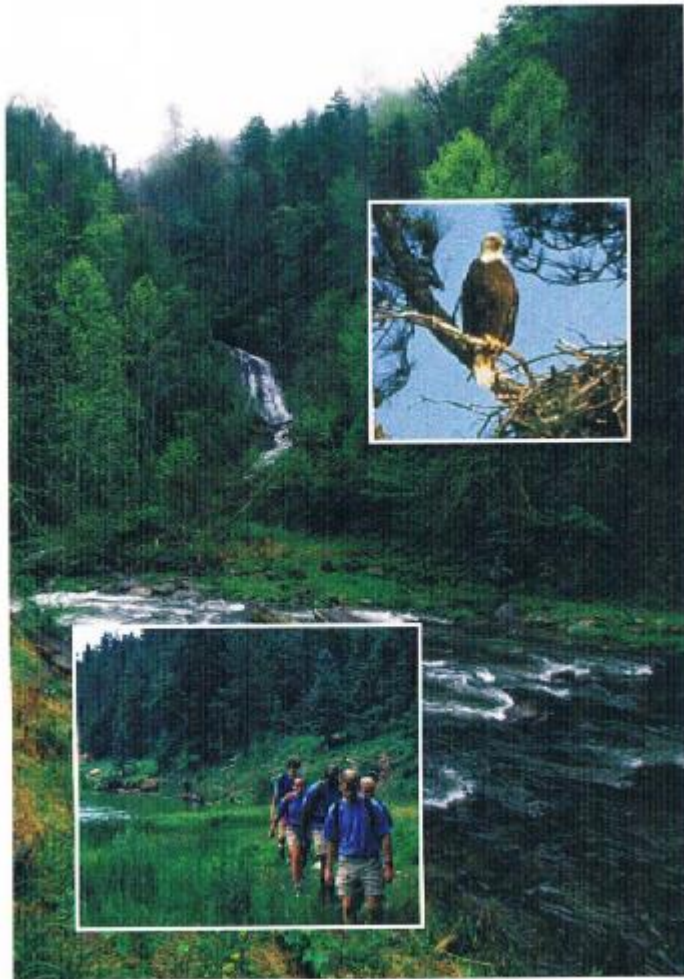
People who can afford to pay for legal services can still contact the local or state bar association and ask for the Lawyer Referral Service. The service can help find a lawyer who can assist them in the particular area of law in which they need help. The service also can make an appointment with a lawyer for a certain fee.

Jeff discovered that the Internet is a great way to find lawyers, too. The American Bar Association has a website that can help people find a lawyer referral service near them. The ABA offers a number of public services and can be found on the Web at <http://www.abanet.org/legalservices/lris/directory.html>.

"Well, as I said, by carefully reading contracts and giving advice to the mayor, the city council, and the city manager on how to avoid legal problems, I also make sure city ordinances are fair and within the limits set by the state and federal governments. You see, some areas are handled solely by the federal and state governments. I have to make sure the city's ordinances do not exceed their authority," Mr. Robertson said.

As Mr. Robertson left, Jeff decided to meet with his counselor and report on what he learned.





## Emerging Law

At Mr. Hernandez's suggestion, Jeff turned his attention to learning about emerging law. Jeff had been studying the environment in his science class at school and was particularly interested in finding out about environmental law. He found the Environmental Protection Agency's website to be very useful.

### Environmental Law

Jeff read that the modern environmental movement began with the passage of the **National Environmental Policy Act of 1969**. This is the basic national charter for environmental protection that establishes policy, sets goals, and provides means for carrying out the policy.

More than a dozen major statutes, or laws, form the legal basis for the programs of the Environmental Protection Agency. One important law under this umbrella is the **Clear Air Act**, passed in 1970, which regulates air emissions to protect public health and the environment. In 1977, this act was amended to address problems such as acid rain, ground-level ozone, and air toxics.

The **Clean Water Act** came along in 1977 amidst growing public awareness and concern for controlling water pollution. This act gives the EPA the authority to regulate the discharge of pollutants into America's waterways, rivers, lakes, and streams. It is now against the law for any person to discharge any pollutant into navigable waters without a permit.

Jeff also read about the **Endangered Species Act**, which became law in 1973. The U.S. Fish and Wildlife Service under the Department of the Interior maintains the list of 632 endangered species (326 are plants) and 190 threatened species (78 are plants).

The cheetah is just one species protected by the Endangered Species Act.



This act established a program for the conservation of threatened and endangered plants and animals and the habitats where they are found. Fish, birds, reptiles, mammals, crustaceans, flowers, grasses, and trees can be found on this list. Jeff was pleased to know anyone can petition the Fish and Wildlife Service to include a species on the list.

Amendments to the law allow the EPA to ban certain pesticides or restrict their use if an endangered species will be negatively affected.

Jeff noticed that the EPA's role expanded further in 1990, when the **Pollution Prevention Act** focused industry, government, and public attention on reducing pollution through cost-effective changes in production, operation, and use of raw materials.

In other words, industries are now being challenged to increase efficiency in their use of energy, water, and other natural resources. They must protect our resources through conservation.

Jeff learned that other acts passed in recent years cover corporate responsibility for polluting the environment knowingly or through a tragic mishap, such as a chemical leak.

### Copyright, Computers, and the Internet

Now that he had learned so much about emerging environmental law, Jeff decided that for his next project he would look up information on copyright, computers, and the Internet. In a telephone conversation, Mr. Hernandez told Jeff that copyright is so important it is covered in the U.S. Constitution.

"The Constitution states that Congress shall have the power to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries," Mr. Hernandez told Jeff. "Did you know whenever you write a story or create a drawing, you automatically own the copyright?"

"No, I didn't know that. You mean, even for a project at school?" Jeff asked.

"Yes, even for a project at school! Copyright is a form of protection given to authors or creators of 'original works of authorship' including literary, dramatic, musical, artistic and other intellectual works. What that basically means is, as the author of the work, you alone have the rights to make and distribute copies of it, perform your work



publicly, or make derivative works, such as modifications, adaptations, or translations of the work into another medium. It is illegal for anyone to do any of these things without your permission."

Mr. Hernandez added that there were some exceptions and limitations to a person's rights as a copyright holder. "One major limitation," he said, "is the doctrine of fair use."

"You see, Jeff, the *fair use doctrine* allows limited copying of copyrighted works for educational and research purposes. The copyright law allows reproduction for purposes of criticism, news reporting, teaching, scholarship, or research. This allows your teacher to hand

out short excerpts from a book, or for a reporter to quote from a particular work of art, writing, or speech. If an author claims that his or her work has been used without permission, courts must weigh the evidence to determine whether a particular use of a copyrighted work is permitted under fair use, or if it is, instead, an infringement of copyright."

"What about the Internet? Is information on websites protected by copyright law?"

"You bet," said Mr. Hernandez. "Most Web pages, including the information on them and the computer code used to create them, are protected by copyright law."

"How is copyright protected if the Internet is a worldwide network?" Jeff asked.

"Good question, Jeff," Mr. Hernandez said approvingly. "Because the Internet is a global resource, copyrighted work on the Web is governed by an international treaty, called the **Berne Convention for the Protection of Literary and Artistic Works**. The convention, however, allows individual countries to determine what is and isn't protected."

"What about computer software programs?" Jeff asked.

"Most software, including free software, is protected by copyright; it is not in the public domain. This means it is protected by law. All software is copyrighted on creation. No piece of software has been in existence long enough to pass into public domain. The only software currently available in the public domain is there because the owner has expressly allowed it to be. This kind of software is clearly labeled."





## Yours, Mine, and Ours

**Public domain** is described as a body of work—books, songs, music, and software are examples—that is not protected by copyright law and that, in effect, belongs to the public at large, to be used freely by the public. It could be that the copyright has expired, or that the creation consists solely of facts or ideas, or is printed by the Government Printing Office.

"How long does copyright protection last?" Jeff asked.

"Copyrights do not last forever but they do last a long time. Under current laws, copyright protection starts from the moment of creation of the work and continues until 70 years after the death of the author or artist."

"What does public domain mean exactly?" Jeff asked.

"When a copyright expires, the work falls into the *public domain*, meaning anyone can use it," explained Mr. Hernandez. "That's why you can copy artists like Leonardo da Vinci and writers like Shakespeare all you want. Because of changes to the law in the 1970s, you cannot assume any work is in the public domain unless it was first published before 1923."

Mr. Hernandez said another thing to keep in mind when looking at copyrighted works posted on the Web is that just because you are reading it there doesn't mean it is there legally. "A good rule of thumb," he said, "is to always get permission to use a copyrighted online work from the owner of that work, not from a secondary source like the Webmaster."

## Space Travel and Satellites Orbiting Earth

Another area Scouts can explore to fulfill part of requirement II is emerging laws governing space travel and satellites orbiting Earth. A good place to look at U.S. and international laws surrounding the space industry is the Archimedes Institute Library for Space Law and Policy Research: [http://www.permanent.com/archimedes/LawLibrary.html#US\\_INSTRUMENTS](http://www.permanent.com/archimedes/LawLibrary.html#US_INSTRUMENTS).

International law largely deals with issues concerning how outer space can be used to benefit humankind and the peaceful activities that can be undertaken by countries wanting to explore outer space. Treaties, such as the **Nuclear Test Ban Treaty** and the **Declaration on International Cooperation in Outer Space**, have been signed to ensure that a nuclear arms race doesn't evolve in outer space.

In addition to international law affecting space travel and satellites, the National Aeronautics and Space Administration also is subject to U.S. law. In recent years, policies have been signed into law that deal with the commercialization of space, the costs of the International Space Station now under construction, and the patents on new materials discovered in space or developed for the space industry's use.

Because space is a relatively new frontier, laws are also being formulated to regulate all kinds of potential opportunities and problems in space. For instance, proposed legislation in the United States includes bills such as the **Zero Gravity, Zero Tax Act of 2001**, which seeks a tax-free environment in outer space, and the **Space Tourism Promotion Act of 2001**, which seeks to encourage space travel by ordinary citizens.



## Careers in the Legal Profession

Jeff reported his findings to Mr. Hernandez on the two areas of emerging law he had selected for requirement II.

"You're almost finished with your Law merit badge requirements," Mr. Hernandez encouraged him. "All you need to do now is study the requirements for becoming a lawyer, find out how judges are selected in this state, and list 15 occupations that deal with law or legal processes. Think you can handle that?"

"Sure," said Jeff. After talking to Mr. Hernandez and other lawyers, Jeff knew it took a lot of training to become a lawyer. First you have to go to college and then on to law school.

### Becoming a Lawyer

To be admitted to a law school, a person should have good grades in college and a good score on the Law School Admissions Test (LSAT).

Mr. Hernandez had told Jeff that good lawyers should be naturally inquisitive, able to think logically, and able to recognize the core issues of a problem. Because lawyers have to deal with many different people during the course of their work, Jeff thought that patience, integrity, determination, and a sense of humanity also were important qualities for a lawyer to possess.

Jeff discovered that no special course of study is required in college to prepare for law school. Many law students have backgrounds in government, political science, sociology, and psychology. Many business, accounting, and economics majors go on to law school.

Because law is related to nearly every human activity, Jeff thought that the best background would include a well-rounded, general knowledge of many subjects.

More than 125,000 law students in the United States are in full-time courses of study, which take three years to complete. A few thousand are in part-time or evening law school programs, which usually take four years. Summertime positions working for law firms, judges, courts, or in other law-related areas provide practical, firsthand knowledge of how the law operates.

In law school, moot court, or mock trial, competition helps sharpen students' courtroom skills. Guest judges rate the students' abilities. Many schools have legal aid clinics and other programs in which students assist citizens with actual legal problems.

### State Bar Examinations

However, nobody becomes a lawyer simply by graduating from law school. Another step must be taken. A law school graduate who wishes to become a practicing lawyer must pass a state bar examination. The bar examination is a written test administered by the state's bar admission agency, which is often titled the Board of Bar Examiners. The exam is given over a period of several days and demands preparation, concentration, and skill. It asks questions about issues and subjects the applicant might face as a lawyer. It tests knowledge of many legal areas, including trusts, wills, estates, and civil and criminal law. The bar admission agency might also require an oral examination.

The highest court of each state usually has jurisdiction over the bar admission process for that state. But in some states, the responsibility for investigating candidates is given to state and local bar associations.

### Your State's Requirements

To find out the requirements for becoming a lawyer in your state, write to the state bar admission agency, which is usually located in your state capital. Or, contact the National Conference of Bar Examiners at 402 West Wilson St., Madison, WI 53703-3614. A list of state bar examination offices is online at <http://www.ncbex.org/offices.htm>.



### Becoming a Judge

Justice Felix Frankfurter once said that judges should be a combination of "the historian, the philosopher, and the prophet" and have "something of the creative artist in them." Justice Frankfurter's description makes good sense, but how are the right men and women chosen for the powerful, responsible role of judge?

In just over half the states, trial court judges are selected by elections—nonpartisan in 16 states, partisan in 10. In partisan election states, Jeff noted, judges run in elections and are identified by political party label. In nonpartisan elections, judges are not identified by party affiliation.

The candidate for the judgeship campaigns exactly like another other candidate for political office. Jeff wondered whether this was a good way to make sure the best people become judges. He thought that some people might be elected as judges just because they are active in politics and speak well, while some good lawyers might be overlooked because

they were not seeking to get the attention of a political party. Jeff also considered that elected judges might be partial to the causes of their own political party.

In a few states, he discovered, all or some of the judges are appointed to office by the governor with the consent and confirmation of a legislative body or the state legislature. Jeff read that at least 19 states have changed their method of selecting judges and have adopted a variation of the Missouri Plan.

The Missouri Plan works this way. The state legislature chooses a panel of impartial and well-respected lawyers and nonlawyers. An equal number is chosen from each major political party. The



panel searches for the finest candidates for judicial office and submits their list, usually of three names, to the governor. The governor must appoint one of these people. The choices are not listed by political party and the governor should not know the party labels. After the governor chooses, the new judge serves for a period of time. After a certain term, usually six years, the judge's record goes before the people.

"How do the people make a choice?" Jeff asked Mr. Hernandez.

"The only question on the ballot for judges will say, 'Should Judge Smith be retained in office?' No party identity is listed on the ballot. The judge does not have to run against other judges or candidates—only on his or her record. If the people say yes, the judge stays on the bench for another term."

"And what if the people say no?"

"Then the judge is no longer a judge and the governor again appoints a person from a list submitted by the panel," Mr. Hernandez explained.

Jeff wondered if the Missouri Plan was the best way to select judges. "They still have to sort of run for reelection. I'm just not sure that judges should have that much to do with elections and politics."

"There is probably no perfect way to choose judges, Jeff. People find positive and negative points with the election, appointment, and Missouri Plan methods. You can decide for yourself."



### Other Occupations in the Legal Profession

By now Jeff had talked to a lot of lawyers. And in visiting lawyers' offices, the courts, and the police, he had found plenty of other occupations in law.

As he handed his list of law-connected careers to Mr. Hernandez, Jeff said, "There are lots of positions that have to do with law, aren't there?"

"Sure are," Mr. Hernandez agreed as he looked at Jeff's list.

He began reading: "Uniformed police officer or sheriff's police officer, police detective, prison official, parole officer, juvenile officer, probation officer—Jeff, this list is really quite good."



The court bailiff helps keep order in the court.

"Thank you," Jeff smiled.

His counselor read more: "Court clerk, court bailiff—Say, do you know what the bailiff does?"

"The bailiff acts as the courtroom police," Jeff answered. "The bailiff helps keep the courtroom spectators, and sometimes the participants, orderly. The judge can sometimes have the bailiff serve subpoenas to witnesses, too."

"Judge, court reporter, legal secretary," Mr. Hernandez continued.

"Lawyers need legal secretaries to help prepare papers and legal briefs for cases, help write letters to clients and other parties, and perform other duties. Legal secretaries must be good at performing office duties as well as understanding the language of law."

Jeff also listed paralegal. The paralegal's responsibility is to take on some of the routine but important duties of a lawyer, such as researching, interviewing clients, and preparing papers. Paralegals have some legal education but usually not as much as lawyers themselves.

Jeff added FBI agent, state policeman, and private detective to his list. Private detectives must know the legal limits of their work. State police officers must know and enforce state laws while preserving the rights of citizens they are entrusted to protect. FBI agents often prepare for their work by taking law and criminology courses.

Jeff also listed elected and nonelected government officials. "People working for local, state, or federal governments must be aware of the law and how it affects their duties," he told Mr. Hernandez. "Elected legislators make laws, and nonelected officials carry out their responsibilities within the framework of those laws."

He also learned that business people, bankers, real estate personnel, and accountants must be aware of the law in their work. "When a real estate agent sells an interest in property, like a farm, a house, or an apartment building, the agent deals with property law," Jeff explained to his counselor.

"You are certainly right, Jeff," said Mr. Hernandez. "The law is everybody's business and concern."

## Resources About Law

### Scouting Literature

*Citizenship in the Nation*, *Citizenship in the World*, and *Crime Prevention* merit badge pamphlets

Visit the Boy Scouts of America's official retail website at <http://www.scoutstuff.org> for a complete listing of all merit badge pamphlets and other helpful Scouting materials and supplies.

### Books

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Renshorn, Peter G. *The American Law Dictionary*. A B C-CLIO, 1991.

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#### Organizations and Websites

**American Bar Association  
Division for Public Education**  
321 N. Clark, 20.2  
Chicago, IL 60610  
Telephone: 312-688-5735  
Website: <http://www.abanet.org/publiced/home.html>

**Environmental Protection Agency**  
Ariel Rios Building  
1200 Pennsylvania Ave., NW  
Washington, DC 20460  
Telephone: 202-260-2090  
Website:  
<http://www.epa.gov/epahome/laws.htm>

**National Association of  
Youth Courts**  
345 N. Charles St., 2nd Floor  
Baltimore, MD 21201  
Telephone: 410-528-0143  
Website: <http://www.youthcourt.net>

**Social Studies School Service**  
P.O. Box 802  
Culver City, CA 90232  
Toll-free telephone: 800-421-4246  
Website: <http://www.socialstudies.com>

**Street Law**  
1010 Wayne Ave., Suite 870  
Silver Spring, MD 20910  
Telephone: 301-689-1130  
Website: <http://www.streetlaw.org>

Bar associations everywhere support public legal education. To get an idea of the range of activities and the resources available, visit the following Websites.

The **State Bar of Arizona's** website can be found at <http://www.azbar.org>. The organization conducts a wide variety of law-related activities for youth. The **New York State Bar Association** has a Law, Youth, and Citizenship program that offers mock trial tournaments, summer courses, and programs that promote citizenship and law-related education. Visit its website at <http://www.nysba.org>. The **Pennsylvania Bar Association**, at <http://www.pabar.org>, provides information for all kinds of youth-related programs and activities. The **State Bar of Texas** can be found on the Web at <http://www.texasbar.com>. Its Law-Related Education, an arm of the association, sponsors an editorial contest and offers teacher in-service programs. The **Washington State Bar Association**, at <http://www.wsha.org>, offers a huge range of activities.

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