



AMERICAN LAW I

COMMON LAW PRESS

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An Introduction

The idea for this curriculum has been on my mind for many years. However, as a homeschooling mother of six children, five of whom are school aged, its actual creation has taken several years to come to fruition. This curriculum is fully secular, and I believe unparalleled in the current curriculum market.

In addition to being a licensed attorney, I have also worked as a legal writer for the past fifteen years. In practice, this means taking complex legal topics and breaking case decisions and figuring out how to write about them in a way that the average blog reader would be able to understand (and want to read). I believe that it's probably in large part due to this particular experience that I have been able to take essentially a complete law school level of information and present it on a level that any willing high school student should be able access.

I am very grateful to have been able to consult with my husband on this project, as he is also a licensed attorney. In addition to discussing the nuts and bolts of what to teach and how, he has been especially insightful with regard to whether or not my expectations are realistic. For example, the extended case law table that accompanies the mini moot court brief writing assignment is the direct result of a conversation we had regarding the likelihood of high school students being able to engage in legal research. I apologize to my co-op students for not realizing the disconnect sooner!

While I initially believed that I would be creating a course based solely on U.S. Constitutional Law, once I began teaching and writing I realized it would be much more interesting to expand the purview of the cases to include topics that I knew would be highly engaging to the average teenager. This is especially true of the content in the second quarter and beyond.

At the end of the day, I believe that this course will allow you to:

- Learn foundational legal principles
- Complete practice based legal writing exercises
- Engage in oral advocacy (whether through discussion prompts or via the mini moot court exercise)
- Learn how the U.S. legal system actually works
- Become a more informed citizen
- Develop higher level critical thinking skills
- Respond to Socratic dialogue questions/engage in a Socratic dialogue
- Have fun?

I invite you to contact me directly with any comments or questions or constructive criticism of how the course progressed. I hope that you will enjoy the material enough to consider moving on to Unit 3 and beyond.

How This Curriculum is Structured

This course is designed to be flexible depending upon the needs of the user. It was created to facilitate a co-op style discussion among a group of high schoolers that were meeting in person once a week. Thus, it is absolutely capable of being used in a group setting. Please contact Common Law Press directly for more information about group licensing. That being said, many homeschoolers educate their students in an individual setting. Thus, the curriculum is written in such a way that it can also be used with one student, or multiple students within one household. It can either be used independently or it can be done in tandem with the person who is educating the student(s). Each lesson has two major components, as follows:

Google Classroom Post -- Because the course was initially created to facilitate a group of students meeting only once per week, all of the necessary reading assignments, videos, and comprehension questions are formatted into a user-friendly Google Classroom format. There is one post for each lesson. These can be used within your own family, or if you do not wish to use Google Classroom, you may simply use the assignment page as you would with any other curriculum. You begin with this component each week.

Lecture-- This was initially designed to be used by the teacher and read aloud to the student. However, considering the logistical realities of homeschooling, it can alternatively be used either by the person teaching the student, or it can be read independently by the student. This is the second component each week, intended to be done after the Google Classroom assignments have been completed.

Both components, the Google Classroom Post and the Lecture are accompanied by their own “worksheets,” (so two per lesson) designed to mirror the content taught and elicit critical thinking in the form comprehension and Socratic dialogue questions. Interspersed throughout the unit you will find many opportunities for optional legal writing and other extension activities. Use your discretion in determining whether you wish to require these assignments. The content of the course is challenging and complex even without the optional legal writing extensions.

This entire unit is anchored by Just Mercy, Young Reader’s Adaptation. Module 1 introduced Theories of Criminal Punishment, which is now available as a stand alone lesson. I would suggest beginning with at least that lesson before beginning this sample lesson. Module 2 will focus exclusively on the issues surrounding the American Criminal Justice System.

*******CONTENT WARNING*******
PLEASE PLEASE PLEASE preview the book, yourself. It contains strong, mature, adult content. While the content is completely within the parameters of what the criminal justice system and prison system are actually like, it can be too much for certain

readers. In fact, the heaviness of the content is one of the reasons I recommend this course would be most appropriate for grades 10-12.

This unit uses *Just Mercy* as a narrative anchor to connect abstract legal principles to real-world application. While students will study constitutional doctrines such as the Exclusionary Rule, Due Process, and evidentiary rules, *Just Mercy* provides a concrete example of how these principles operate—and sometimes fail—in practice.

The purpose of including this text is not to replace legal analysis, but to deepen it. By examining the legal issues presented in the book, students will learn to identify procedural errors, evaluate constitutional claims, and apply doctrine to real factual scenarios. In this way, the book serves as a bridge between legal theory and lived experience, helping students develop a more complete understanding of criminal law and procedure.

In the future, I hope to be able to make audio recordings of the lectures in order to embellish upon and enrich the underlying content, as this was possibly the most rewarding aspect of being able to personally teach this course in person. That being said, I realize that the curriculum may present challenges in implementation for the non-lawyer. Therefore, if there ever comes a time where you or your student(s) feel stuck, or are not understanding a concept or assignment, please do feel free to reach out to me directly. Thank you for purchasing this curriculum and giving Common Law Press a chance!

Course Description:

Module 2: Criminal Law & Procedure

Fourth Amendment • Exclusionary Rule • Evidence • Due Process • Eighth Amendment • Model Penal Code • Juvenile Justice

Credit Recommendation: 0.25 credit (Quarter Unit)

Course Type: Law / Civics Elective

Suggested Grade Level: 10–12

Course Overview

Module 2 introduces students to the constitutional protections, procedural rules, and legal doctrines that govern criminal law in the United States. Through the study of criminal procedure, evidence, and punishment, students learn how cases are investigated, prosecuted, and adjudicated within the American legal system.

The module begins with a historical context lecture examining the development of policing, punishment, and incarceration in the United States. Students explore how regional history, public policy, and legal structures shaped modern criminal justice systems, providing context for the legal doctrines studied throughout the unit.

Students then examine the structure of the American criminal justice system, including the roles of law enforcement, prosecutors, defense attorneys, judges, and juries, as well as the stages of a criminal case from arrest through sentencing.

The module proceeds through core areas of criminal procedure and evidence, including the Fourth Amendment and the Exclusionary Rule, with attention to unlawful searches, suppression of evidence, and the “fruit of the poisonous tree” doctrine. Students also study the Hearsay Rule under the Federal Rules of Evidence and the use of Motions in Limine as pretrial tools for shaping admissible evidence and trial strategy.

Students then explore constitutional limits on punishment through the Eighth Amendment, including proportionality and evolving standards of decency. The unit introduces the Model Penal Code, focusing on mens rea, insanity, and diminished capacity, emphasizing how the law evaluates criminal responsibility and moral blameworthiness.

Building on these concepts, students analyze the Fourteenth Amendment, including procedural and substantive due process and equal protection, with particular attention to how constitutional protections apply to the states.

The module concludes with a Juvenile Justice mini-unit, in which students examine how age, development, and culpability affect criminal responsibility through case studies and Supreme Court decisions.

Core Topics

1. Historical Foundations of American Criminal Justice

- Development of policing, punishment, and incarceration in historical context
- Regional differences in law enforcement and legal culture
- Relationship between history, public policy, and modern criminal justice systems
- Connection to *Just Mercy* as a narrative case study

2. Overview of the American Criminal Law System

- State vs. federal criminal law
- Stages of a criminal case: investigation, charging, trial, sentencing
- Roles of police, prosecutors, defense attorneys, judges, and juries
- Structure and function of the adversarial system

3. The Fourth Amendment & the Exclusionary Rule

- Searches and seizures under the Fourth Amendment
- Warrant requirement and exceptions
- *Weeks v. United States* and *Mapp v. Ohio*
- Exclusionary Rule and “fruit of the poisonous tree” doctrine

4. The Hearsay Rule (Federal Rules of Evidence)

- Definition of hearsay (FRE 801–807)
- Purpose of evidentiary rules: reliability and fairness
- Common exclusions and exceptions
- Application of hearsay principles in trial settings

5. Motions in Limine

- Pretrial motions to admit or exclude evidence
- Strategic use of evidentiary rules
- Judicial gatekeeping and trial fairness

- Connection to real-world litigation practice

6. The Eighth Amendment: Cruel and Unusual Punishment

- Proportionality in sentencing
- Evolving standards of decency
- Capital punishment overview
- Conditions of confinement and constitutional limits

7. The Model Penal Code & Mental Capacity

- Mens rea and levels of criminal intent
- Insanity and diminished capacity defenses
- Moral blameworthiness and legal responsibility
- Influence of the Model Penal Code on modern criminal law

8. The Fourteenth Amendment: Due Process & Equal Protection

- Procedural vs. substantive due process
- Equal protection principles
- Incorporation of constitutional rights to the states
- Fairness and constitutional limitations on state action

9. Juvenile Justice Mini-Unit

- Differences between juvenile and adult criminal systems
- Developmental considerations and culpability
- Supreme Court cases on juvenile sentencing (Roper, Graham, Miller)
- Balance between punishment and rehabilitation

Learning Objectives

By the end of this course, students will be able to:

- Explain how criminal cases progress through the American legal system.
- Identify the roles of key participants in criminal proceedings.
- Analyze Fourth Amendment issues involving searches, seizures, and admissibility of evidence.

- Apply evidentiary rules, including hearsay, to determine whether evidence is admissible.
- Evaluate pretrial strategies such as motions *in limine*.
- Assess constitutional limits on punishment under the Eighth Amendment.
- Explain how *mens rea* and mental capacity affect criminal liability under the Model Penal Code.
- Analyze due process and equal protection claims under the Fourteenth Amendment.
- Evaluate how age and development influence criminal responsibility in juvenile justice cases.

Assignments & Activities

Lecture Note Worksheets

Fillable guided notes covering criminal procedure, evidence, and constitutional protections.

Case Law Analysis

Students track facts, issues, holdings, and rules for key cases including:

- *Weeks v. United States*
- *Mapp v. Ohio*
- Eighth Amendment and juvenile justice cases

Evidence & Procedure Applications

Short exercises applying hearsay rules, exclusionary rule analysis, and evidentiary challenges.

Motions in Limine Writing Assignment

Students draft or analyze a simplified motion to admit or exclude evidence.

Juvenile Justice Case Studies

Analysis of real-world cases involving juvenile defendants, including structured reflection and discussion.

Discussion & Socratic Questions

Guided questions connecting doctrine to broader questions of fairness, accountability, and legal reasoning.

Optional Extension Activities

Documentary clips, articles, and deeper readings on policing, incarceration, and criminal justice policy.

Course Outcome

By the end of Module 2, students will understand how constitutional protections operate within the criminal justice system and how procedural rules shape the outcome of criminal cases. They will be able to analyze issues related to searches and seizures, evidentiary admissibility, due process, and punishment.

Through case analysis, structured writing, and applied legal exercises, students will develop the ability to identify constitutional violations, evaluate legal arguments, and apply foundational principles of criminal law and procedure.

Note: This quarter-unit course is part of a year-long high school elective, *Introduction to American Law*.

Required Text(s):

Stevenson, Bryan. Just Mercy: A True Story of the Fight for Justice (Adapted for Young Adults). Random House (2019).

Randy E. Barnett, Josh Blackman. An Introduction to Constitutional Law: 100+ Supreme Court Cases Everyone Should Know 2nd Edition. Aspen Publishing (2022).

I like this text because it contains links to some 60+ lectures which describe constitutional law cases in more detail.

Please note: unlike in Unit 1, several videos and cases from the text **will be assigned in this unit**, starting in Lesson 1. I therefore recommend purchasing the text before beginning. Students are also invited to read through the written materials on the assigned cases to gain a deeper understanding.

Beyond the purposes of this course, it is an excellent and affordable resource to have on hand.

You can learn more about the textbook by visiting the authors' website:

<https://conlaw.us/books/an-introduction-to-constitutional-law/>

I will create a list of additional books to accompany this unit, and future units, on the website. Please check periodically for updates: <https://commonlawpress.com/>

Links:

Where possible, I have attempted to link to audio versions of documents or resources. My goal is to make the content accessible, regardless of format. The following links are generally applicable. All of the required readings and videos are listed in each individual lesson.

The Constitution, printable: <https://constitutioncenter.org/media/files/constitution.pdf?authuser=2>

The Constitution, audio/video: <https://www.youtube.com/watch?v=QZxBOzwwgBQE>

Please note:

This sample is a draft. The final version of this file and the entire unit will be further proofread and possibly edited for content or coherence. The outlined topics above will provide the structure for the course.

Lesson 1: Historical Foundations of American Criminal Justice

Law does not develop in isolation. It operates within a complex web of political decisions, social pressures, economic interests, and historical conditions.

This lesson is different from most lessons in this unit. Instead of focusing on case law, it provides historical and sociological context that helps explain why the American justice system operates the way it does — both in *Just Mercy* and in real life.

This lesson is strongly recommended but optional. If you choose to complete it, begin with the lecture and then explore any extension activities that interest you. If not, you may move on to Lesson 2, An Overview of the American Criminal Law System.

Lecture 1: Historical Foundations of American Criminal Justice

Overview

This context lecture examines how American systems of policing, punishment, and incarceration developed over time — particularly how history, law, and regional culture shaped different approaches to justice. Students will explore how racial exclusion, segregation, and public policy influenced law enforcement practices in both the American South and the Pacific Northwest.

Studying history helps explain patterns and structures, while recognizing that individuals within systems always retain moral agency and the capacity to act with integrity.

Reconstruction, Race, and Policing in the American South

After the Civil War, Reconstruction (1865–1877) attempted to rebuild the South and integrate formerly enslaved people into civic life. Although the 13th Amendment abolished slavery, it included an exception clause allowing involuntary servitude “as punishment for a crime.”

Southern states exploited this loophole through systems such as Black Codes and convict leasing, which criminalized everyday behavior and funneled Black men into forced labor.

Key developments:

- Laws criminalized loitering, unemployment, curfew violations, and other minor acts.
- Sheriffs and courts collaborated with private companies to lease prisoners for profit.
- In many regions, law enforcement evolved directly from slave patrols and Reconstruction-era militias.

As a result, Southern policing became deeply tied to racial control rather than neutral law enforcement.

The Ku Klux Klan and Law Enforcement

Founded in 1865, the Ku Klux Klan used terror and intimidation to undermine Reconstruction and suppress Black political participation. By the early 20th century, the Klan had millions of members nationwide — including elected officials and law enforcement personnel.

Historical records and federal investigations document that:

- Some sheriffs and police officers were Klan members.
- Klan members were deputized to enforce segregation and intimidate voters.
- White perpetrators of racial violence were rarely arrested or convicted.

This overlap normalized authoritarian policing practices that persisted even as formal segregation laws were later dismantled.

Oregon and the Myth of the “Progressive Northwest”

Oregon offers an important counterpoint to Southern history.

Although Oregon banned slavery, it also enacted exclusion laws that barred Black people from:

- residing in the state
- owning property
- making contracts
- testifying in court

Oregon entered the Union in 1859 with a racially exclusionary constitution — the only state to do so.

These laws shaped:

- Oregon’s demographics
- housing patterns
- policing practices
- later criminal justice outcomes

Modern disparities in stops, use of force, incarceration, and youth discipline trace back to these legal foundations rather than individual prejudice alone.

Regional Differences: South vs. West

Racism existed throughout the United States, but regional history shaped law enforcement differently.

In the Deep South:

- Policing evolved from systems designed to control enslaved and formerly enslaved populations.
- Jails and prisons were used as tools of intimidation.
- Chain gangs and forced labor persisted well into the 20th century.
- Violence and humiliation were accepted disciplinary methods.

In the West:

- Law enforcement developed around property protection, railroads, and territorial control.
- Racism targeted Indigenous, Mexican, and Asian populations rather than enforcing a Black-white caste system.
- Prisons emphasized isolation and order more than forced labor.

These different origins help explain ongoing regional disparities in incarceration rates and police-community relationships.

The Rise of the Carceral State (1970s–Present)

Beginning in the 1970s, the United States expanded its reliance on incarceration as a *primary* tool of public policy — a development often referred to as the carceral state. (Other examples of public policy tools include: taxes, subsidies, informational or educational campaigns and programs, voluntary programs, and performance based incentives.)

The War on Drugs

In response to rising drug use and public fear of crime, policymakers adopted aggressive enforcement strategies emphasizing punishment over treatment.

A major turning point was the Anti-Drug Abuse Act of 1986, which:

- Created mandatory minimum sentences for drug offenses.
- Established a 100-to-1 sentencing disparity between crack and powder cocaine.

Government research later found that these policies disproportionately impacted Black communities.

As a result:

- Prison populations grew rapidly

- Drug offenders became a significant share of the federal prison population
- Low-income and minority communities experienced concentrated enforcement

Schools, Zero-Tolerance, and Policing Culture

During the same era, prevention programs like DARE brought law enforcement into schools. Although intended to deter drug use, these programs emphasized *policing* rather than counseling or support.

Over time, this contributed to:

- Zero-tolerance school discipline policies.
- Increased police involvement in student behavior.
- The funneling of students into the juvenile and criminal justice systems.

Mandatory Minimums, Three-Strikes Laws, and the 1994 Crime Bill

Additional sentencing policies expanded incarceration:

- Mandatory minimums removed judicial discretion.
- Three-strikes laws imposed life or extremely long sentences for repeat offenses.
- The Violent Crime Control and Law Enforcement Act of 1994 funded prison expansion and incentivized harsh sentencing.

Although crime declined after the mid-1990s, research shows these policies were not the primary cause — but they did significantly expand prison populations.

Just Mercy and the Meaning of Accountability

Just Mercy is set in Alabama — a state deeply shaped by racialized justice systems. The wrongful conviction of Walter McMillian reflects historical patterns:

- unreliable witnesses
- ignored exculpatory evidence
- racially biased presumptions of guilt
- harsh jail conditions

Bryan Stevenson does not argue against law enforcement as an institution. Instead, he calls for honesty, accountability, and reform — so the justice system can better live up to its ideals.

This unit will explore many of the underlying legal deficiencies that are highlighted in *Just Mercy*. The goal of using the novel as an anchor for the study is to provide concrete examples of otherwise abstract legal principles. By the end of this unit, you should be able to identify the specific shortcomings that occurred in the book, and make coherent legal arguments as to what *should have happened* instead using both case law and principles of American common law.

This lecture does not ask you to agree with any particular interpretation of history. Its purpose is to provide context for understanding how legal doctrines developed and how they operate in practice. As you move through this unit, you will evaluate specific cases and legal rules using this historical background as one lens—not the only one.

Guided Note Taking Worksheet

Big Idea

The American justice system was shaped over time by _____, _____, and _____, not just by laws and court cases.

Reconstruction, Race, and Policing in the American South

Time Period: _____

1. What was the goal of Reconstruction after the Civil War?

2. The 13th Amendment abolished slavery but included an exception for:

3. Define **Black Codes**

4. Define **convict leasing**:

5. How did local sheriffs and courts participate in these systems?

6. As a result, Southern policing became closely tied to:

- Neutral law enforcement
- Racial control
- Community protection
- Judicial independence

The Ku Klux Klan and Law Enforcement

1. What was the original purpose of the Ku Klux Klan?

2. By the early 20th century, the KKK included members who were:

- Private citizens only
- Law enforcement officers
- Elected officials
- Judges

3. How did overlap between the KKK and law enforcement affect justice for victims of racial violence?

4. Why did these practices persist even after segregation laws began to change?

Oregon and the Myth of the “Progressive Northwest”

1. Oregon banned slavery but passed laws that excluded Black people from:
 - Living in the state
 - Owning property
 - Making contracts
 - Testifying in court

(Check all that apply.)

2. Why is Oregon's history important for understanding modern disparities?

3. These outcomes are best explained by:

- Individual prejudice alone
- Historical legal structures
- Random chance

Regional Differences: South vs. West

The Deep South

List two defining features of policing or incarceration in the South:

1. _____
2. _____

The West

List two defining features of policing or incarceration in the West:

1. _____
2. _____

Key Insight:

Different regions developed different law-enforcement cultures because

The Rise of the Carceral State (1970s–Present)

1. The **carceral state** refers to a system where _____ becomes a primary tool of public policy.
2. What was the **War on Drugs**, and what did it emphasize?

3. The Anti-Drug Abuse Act of 1986 did two major things:

- Created _____
- Established _____

4. Government research later found these policies disproportionately impacted:

5. As a result of these policies, prison populations:

- Declined
- Stayed the same
- Increased rapidly

Schools, Zero-Tolerance, and Policing Culture

1. What was the purpose of programs like DARE?

2. Over time, these programs helped normalize:

- Counseling responses
- Police involvement in schools
- Restorative justice
- Reduced discipline

3. How can school discipline policies funnel students into the justice system?

Mandatory Minimums, Three-Strikes Laws, and the 1994 Crime Bill

- 1. Mandatory minimums remove _____ from judges.
- 2. Three-strikes laws require _____.
- 3. The 1994 Crime Bill:
 - o Funded _____
 - o Encouraged states to _____
- 4. Even though crime declined later, these policies still:

Just Mercy and Accountability

- 1. Why is Alabama a significant setting for *Just Mercy*?

- 2. List two patterns in Walter McMillian’s case that reflect historical injustice:
 - o _____

- _____
- 3. According to Bryan Stevenson, reform requires:
 - Rejecting law enforcement
 - Ignoring history
 - Accountability and honesty
 - Eliminating courts

Final Reflection

Complete the sentence:

Understanding the history of law and policing helps explain modern justice outcomes because

_____.