**Civil Discourse and Difficult Decisions**

Simulation of a Federal Court Legal Proceeding

*90-Minute Virtual Event*

Program Concept and Materials Produced by the Administrative Office of the U.S.

**Faculty: Federal Judge and Volunteer Attorneys**

**Preparation Time – 45 Minutes, Including Meeting with the Judge**

* **1** Federal Judge
* **4** Volunteer Attorneys from the Federal Bar Association or Government
* **1+** Classroom Teacher(s)

**Participants: High School Students**

**Preparation Time: 20 Minutes, Reading Seven Pages**

* Capacity: 30 Minimum – 60 Maximum Students

**Student Roles: Advocates and Jurors**

* **Part I:** All are Advocates Who Prepare and Argue Before the Judge. Coached by Attorneys.
* **Part II:** All are Jurors Who Deliberate Using Civil Discourse Skills. Facilitated by Attorneys

**Materials: Classroom-Ready and Program Ready**

* **Program Description/Overview:** One Page
* **Detailed Agenda with Roles and Responsibilities:** Three Pages
* **Student/Teacher Packet:** Four Pages
1. **Student Juror Preparation – All Case Specific:** [Elonis](https://www.uscourts.gov/educational-resources/educational-activities/elonis-v-us); [TLO](https://www.uscourts.gov/educational-resources/educational-activities/new-jersey-v-tlo); [Texas v. Johnson](https://www.uscourts.gov/educational-resources/educational-activities/texas-v-johnson); [Tinker v. Des Moines](https://www.uscourts.gov/educational-resources/educational-activities/tinker-v-des-moines)
* **Arguments Worksheet** – Activity Handout for All Jurors.
* **Arguments Worksheet Answer Key** – Handout. Only for Adult Coaches for Jurors
* **Optional: Juror Questionnaire** – Activity Handout for All Jurors *(if time permits).*
1. **Evaluation**
* **Student Feedback Form** – Handout for Participants. **Exhibit H**
1. **Optional Courtroom Tour**
* Courtroom Roles and Responsibilities. **Exhibit I**

**Exhibit A:****Civil Discourse and Difficult Decisions**

Legal Skills as Life Skills – A 90-Minute Virtual Courtroom Experience with a Federal Judge and Attorneys

**For More Information, Contact:** Rebecca Fanning,National Educational Outreach Manager for the Federal Courts. 202-502-2611.

**Civil Discourse and Difficult Decisions** is a national initiative of the federal courts that brings high school and college students into federal courthouses for legal proceedings that arise from situations in which law-abiding young people can find themselves. These court hearings (not mock trials) now are being conducted in the distance-learning environment.

**The 90-minute program** is presided over by a federal judge, assisted by volunteer attorneys who coach the students through the process. The distance learning environment gives every student the opportunity to serve as a lawyer and then as a juror. The program is conducive to every learning style and gives everyone the opportunity to speak.

**Learning Objectives – Benefits to Students:** Participants leave these virtual programs with sharpened tools for civil discourse and decision-making and a heightened awareness of situations they may not realize can have legal and long-term consequences. They have a rare opportunity to interact in a small group with a federal judge and attorneys. In doing so, they experience the differences between media portrayals of court personnel and processes and what happens in real life. Student feedback indicates that their virtual courtroom experience motivates them to serve willingly on juries when called.

**Time Commitment. Preparation -- Teachers and Students:** There is about 20 minutes of pre-reading for the students and teachers, listed below.

**Virtual Event:** The program takes90 minutes.

**What Happens**

**1. Reality Check Quiz:** In advance of the program, students take an attention-getting Reality Check Quiz to test their knowledge of situations that can put them in legal jeopardy. They are asked to go over the quiz with an adult in their lives – at home or at school. At the end of the program, the presiding judge leads students in a discussion that leaves them with insights that have practical applications beyond the specific anecdotes in the quiz.

**2. Civil Discourse Skill Building:** Also in advance of the program, students use a civility self-reflection tool to assess their typical responses to conflict and discuss them with an adult in their lives – at home or at school. They also review with an adult an activity on setting ground rules for a civil discussion. During the event, they discuss their own civil discourse attitudes, behaviors, language, and standards of behavior.

**3.** **Scenario:** Before the event, students read a one-page fictional scenario that is the subject of the simulation.

**4. Virtual Simulation:** All students serve as lawyers who advocate, then as jurors who must decide the outcome of a fictional, teen-relevant scenario that is based on a landmark Supreme Court case that the attorney coaches review with the students after their simulation.

**5. Reality Check Discussion:** The program concludes with a candid conversation with the host judge about the real-life scenarios in the Reality Check Quiz that can have legal consequences for teens. The closing question-and-answer session with the judge and attorneys on any topic is a highly rated part of the program.

**Exhibit B***:* **Teachers’****Advance Paperwork.**  *Audience Profile and Expectations at Federal Courts*

**Must be Submitted to the Court Contact Prior to the Event**

**Court Contact** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

***E-mail this form to Court Contact at*** *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Deadline \_\_\_\_\_\_\_\_\_\_*

*Contact’s Office Phone \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Court Contact’s Cell Phone*

**Event Day and Date** \_\_\_\_\_\_\_\_\_\_\_\_\_**Arrival Time at Courthouse \_\_\_\_\_\_ Departure Time**\_\_\_\_\_\_\_\_

**Lead Contact Teacher** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Cell** \_\_\_\_\_\_\_\_\_\_\_\_ **e-mail** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**School \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ City \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Number of Students** **\_\_\_\_\_ Number of Adults \_\_\_\_**

**Grade Level(s) \_\_\_\_\_\_\_\_\_\_\_\_ Related Class They are Taking \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Disabilities that Require Accommodation \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Transportation to Be Used \_\_\_\_\_\_\_\_\_\_\_\_Arrival Entrance at the Courthouse \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Day-of-Event Contact(s)** *Please List Two People.*

**1. Lead Contact Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Cell \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

*(Person in charge who will be on the bus and with the group on the day of the event.)*

**2. Contact Name at the School/Organization\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Cell \_\_\_\_\_\_\_\_\_**

*(Person at the organization that day who can be contacted in case of emergencies)*

**IN ADVANCE**

**Required:** Schools are responsible for collecting school-required permission slips in advance of the field trip. Schools also are required to present photo/video waivers to the court contact before the event.

**Do all participants have waivers for photos/videos on file at the school? Yes \_\_\_\_\_ No \_\_\_\_\_**

Schools are to identify students who do not have photo/video waivers. This can be done with a sticker or other identifier that the students wear at the event so that they are not inadvertently photographed. A group photo of interested students without waivers can be taken separately by a teacher.

**Teachers, school staff, and chaperones are responsible for managing student behavior at the courthouse. They agree that the students will:**

* *Be dressed appropriately for court before leaving the school.*
* *No backpacks or large purses.*
* *Provide the teacher with the signed waivers for photos and videos.*
* *Observe court decorum while at the courthouse.*
* *Arrive at the courthouse 30 minutes before the program start time to go through security.*
* *Bring a pen or pencil.*
* *Fill out the program feedback form and submit it before leaving the courtroom.*
* *Make sure that the courtroom is cleared of all paper and belongings.*

**Exhibit C:**Advance Handout for Teachers to Bring to Court -- *Photo, Video, Audio Waiver*

**Administrative Office of the U.S. Courts**

Consent and Release for Informational and Educational Use

of Still Images, Video, and Audio Recordings

I consent to having photographs/video/audio recordings taken of me for use by the Administrative Office of the U.S. Courts (AO) for educational and informational purposes. I understand that:

* These images and audio recordings, in whole or in part, may be used in or combined with other AO educational and informational programs, and
* These images and audio recordings may be disseminated to the public by various means, including on the Internet.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Signature**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Print Name**

**Date \_\_\_\_\_\_\_\_\_\_\_\_**

***If Under 18, an adult must also sign the form.***

**Signature**

**Print Name**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Relationship to Person Under 18**

**Date** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Notes**

**Go to Case-Specific Program Agenda:** *(Elonis; TLO; Texas v. Johnson; Tinker v. Des Moines) Courtroom Handout for All*

**Exhibit D:** *Agenda for 1 Judge and 4 Attorney Coaches*

**Civil Discourse and Difficult Decisions**

Legal Skills as Life Skills

*90-Minute Distance-Learning Module*

**Virtual Program Ground Rules**

* All participants’ cameras are on throughout the program.
* Access to chat box for student-to-student communication is turned off.
* Student access to large-group chat moderated by the teacher is turned on.
* Students may raise questions in the chat box, but also verbalize them using their camera and microphone when addressing the judge and attorneys.

**Advance Work for Students** *(less than 30 minutes, plus discussion with an adult)*

1. **Students Complete Two Quizzes and Discuss Them with an Adult at Home or School**
* Civility Self-Reflection Quiz: To be discussed at the beginning of the program.
* Pre-Test Reality Check Quiz: To be discussed with the Judge at the end of the program.
1. **Students Review One Handout to Prepare for the Civil Discourse Activity**
* How to Set Ground Rules for a Civil Discussion: Guidance for Setting Civility Rules
1. **Students Read One Handout to Prepare for the Simulation**
* One-Page Fictional Scenario: Andy Jackson v. Government-- Meme Version

**Advance Request for Teachers – Please Assign Students to Two Groups – Group #1 and Group #2 of Approximately Equal Numbers. They will receive their group assignments during the program.**

**Two Attorneys are Assigned to Group #1 Throughout. They are Group #1 Atty Coaches.**

**Two Attorneys are Assigned to Group #2 Throughout. They are Group #2 Atty Coaches.**

**The Online Program Begins**

**PART I: INTRODUCTIONS AND OVERVIEW**

**9:00—9:10 a.m. Introductions, Civil Discourse Discussion and Activity, and Scenario Review**

*(10 minutes***) The Judge Welcomes Everyone, Explains Role of a Judge, and the Program**

Four Attorney CoachesIntroductions: *Heart Reason --* *Why I Chose the Law*

**9:10 –9:20 Group #1 Atty Coaches (2) Lead Discussion and Activity with All Students**

*(10 minutes) Students have already gone over these two handouts, so will be ready to briefly discuss.*

**Discussion:** Civility Self-Reflection Quiz

Attorney Coach Draws Out Students to Discuss Three Self-Awareness Questions Selected by the Attorney Coach.

**Activity: Setting Civil Discourse Ground Rules**

Attorney Coach Calls on Students to Briefly Name Three Basic Rules the Group will Abide By.

 **Presentation of the Fictional Scenario**

 Two Attorney Coaches briefly review the fictional scenario with all students before they get into their two small groups. One attorney points out facts relevant to Andy Jackson’s position. The other attorney points out facts relevant to the Government’s position.

**PART II: ALL STUDENTS SERVE AS ATTORNEYS: PREPARATION FOR ARGUMENTS**

**9:20 – 9:35 Small Group Preparation. All Students are Attorneys.**

*(15 minutes)* **Group 1 –** Represents the Government Coached by **Group #1 Atty Coaches**

**Group 2 –** Represents Andy Jackson Coached by **Group #2 Atty Coaches**

 **Objective:**  Students are introduced to issue spotting and prepare for arguments.

 With their pair of attorney coaches, each group fills out and discusses the **Arguments Worksheet.** Each group:

* Identifies: Arguments on both sides. *(~5 minutes)*
* Discusses: Their best arguments. *(~5 minutes)*
* Discusses: The best argument the other side is likely to present and how they will refute it. *(~5 minutes)*

 **Instructions for All Coaches During Small Groups:** **A coach for Group #1** asks for a volunteer to make the group’s best argument *(~2 minutes)* for Andy Jackson in the hearing. **What is your key message to the Judge and the jury? All students are expected to help that student.**

 **A coach for Group #2** asks for a volunteer to make the group’s best argument *(~2 minutes)* for the Government. **What is your key message to the Judge and the jury? All students are expected to help that student.**

 **The first student speakers are the only pre-designated speakers.**  **Important:** **The Judge’s follow-up questions are for all students.**

**9:35 – 9:50 Return to the Large Group. All Students are Attorneys.**

*(15 minutes)* **The Judge Guides the Presentation of Arguments.** *(~7 minutes each side)*

 The Judge starts by raising the overarching issue in the form of a question:

 **The Issue Before the Court Is: Does the First Amendment require proof that a defendant is serious about following through on a statement before the defendant may be convicted of making a true threat against another person?**

1. **The Judge asks for Andy Jackson’s counsel to make the group’s best argument on his behalf.** The student who volunteered in the small-group to speak first at the hearing answers the question with a two-minute (approximately) summary of the group’s best argument.

1. The Judge’s follow-up questions are for all students representing Andy Jackson. The Judge calls on students who use the raise-hand function. This gives all interested students the opportunity to participate.

 **The Judge turns to counsel for the Government** and raises the same overarching issue in the form of a question.

 **The Issue Before the Court Is: Does the First Amendment require proof that a defendant is serious about following through on a statement before the defendant may be convicted of making a true threat against another person?**

* + - 1. **The Judge asks the Government’s counsel to make the group’s best argument on its behalf.** The student who volunteered in the small-group to speak first at the hearing answers the question with a two-minute (approximately) summary of the group’s best argument.
			2. **The Judge’s follow-up questions are open to any student** representing the Government. The judge calls on students who use the raise-hand icon.

**PART III: ALL STUDENTS SERVE AS JURORS**

**9:50—10:05** **All Students Return to the Main, Large Group as Impartial Jurors.**

*(15 minutes)* The Judge releases students from their small groups and the positions taken by their groups. The Judge administers the jurors’ oath.

 **The Judge tells students that they now are impartial jurors and explains the different roles and obligations of advocates and jurors.**

 **JURY DELIBERATIONS**

 **Group #2 Atty Coaches (2) Facilitate the Deliberations to Ensure that Everyone Who Wishes to Speak Has an Opportunity. They draw out the students to participate. When deliberations wind down:**

 **Verdict Poll is Put on Screen:** **Results are the Verdict.**

 The Judge announces the verdict. The Judge asks students who have not yet spoken to explain their rationale.

 **Landmark Case:** An Attorney Coachbriefly reports onthe decision and rationale in Elonis v. U.S. as a landmark Supreme Court case that dealt with a similar issue and summarizes the decision.

**PART IV: REALITY CHECK QUIZ DISCUSSION AND GENERAL Q/A**

**10:05 – 10:25 The Judge Goes Over the Answers to the Reality Check Quiz**

*(20 minutes)* **Based on Advance Input from the Teacher, the Judge Pinpoints Two Anecdotes to Discuss with Students.**

 The Judge Opens the Floor to Questions on any Topic.

**10:25 -- 10:30 The Judge Makes Concluding Remarks**

*(5 minutes)* **Students Complete Feedback Form**

**Exhibit E:** *Quiz Questions for Participants to Fill Out as They Wait for the Program to Start*

**Reality Check Quiz: Sometimes There Are No Do-Overs**

*Today’s Decisions Can Have Legal and Long-Term Consequences*

1. Because I’m 18, if I’m convicted of a federal crime, a lot of factors come into play and it won’t, necessarily, have an impact on the rest of my life. **True False**

1. My parents know that my friends and I are going to drink, and they want to keep us off the road, so they buy the beer and we get together at our house, where my parents can keep an eye on us. If the party gets busted, anyone who is underage is breaking the law, but my parents won’t get charged. Of course, they’re over the legal age and they won’t be drinking because they are driving some kids home. **True False**
2. My friends and I have been driving for two years. One of my friends has never been caught speeding and she’s never had an accident. But she’s got a lot of unpaid parking tickets stuffed in her glove compartment. I keep telling her that if she ever gets stopped, they could take her license. **True False**

1. When I go to a bar, I use the fake I.D. I bought it on the Internet. I’ve heard that the site could be part of a national ring, but I’m not going to get caught. Besides, if I do, the worst that will happen is that they’ll take my I.D. and kick me out of the bar. **True False**
2. If I’m hiking in Colorado, where pot is legal, and my friends bring some back to our home state where it’s not legal, they could end up in federal court, if they’re caught with it. **True False**
3. I order nutritional supplements off the Internet that I get in the mail. I use them to improve my athletic performance. I need every edge I can get to win a college scholarship. These are pharmaceuticals and not illegal drugs that I’m getting from some street dealer, so I’m okay.

**True False**

1. If I ever did get convicted of something in federal court, because of my age, I’d get probation. My older brother says that means I might not be able to travel with my tennis team. **True False**
2. My buddies on the football team were joking around in the locker room after a big win. One of the guys popped open a bottle of sparkling cider that looked like champagne. He dropped his towel while he was guzzling from the bottle on his way into the shower. It was hysterical so, when he turned his back, I captured some video on my phone. I sent it to the other guys on the team who weren't in the showers at the time. I thought it was a harmless moment that we'll laugh about at our high school reunion, some day. The coach says we could be in big trouble. **True False**
3. My classmates and I were sitting in first period when our teacher was called to the office for an emergency. Before he left, we noticed that he was in the middle of posting an announcement on the class website. We thought it would be funny to change the message and post it. I kept watch while my friends posted a music video and a message that our class will be cancelled next week. I figured he’d have a good laugh and just delete it later. **True False**
4. A friend of mine was a witness to a car wreck and now she has to testify before a grand jury. She’s not sure that she’s willing to tell the whole truth because it implicates her and could jeopardize her scholarship. The details are not that important because she’s not the one on trial. Since the proceedings aren’t in court, the standard of “telling the truth, the whole truth, and nothing but the truth” doesn’t apply. T**rue False**

**Exhibit E-1:** *Quiz Answer Key and Discussion Prompts for the Judge or Discussion Leader*

**Reality Check: Sometimes There Are No Do-Overs**

*Today’s Decisions Can Have Legal and Long-Term Consequences*

1. Because I’m 18, if I’m convicted of a federal crime, a lot of factors come into play and it won’t, necessarily, have an impact on the rest of my life.

**FALSE**

A felony conviction affects many important civil rights: You lose the right to vote, the right to hold public office, the right to serve on a jury, and the right to possess any type of firearm. In addition, if you are not a U.S. citizen, you may be subject to deportation or exclusion from the United States. A conviction can affect your ability to become a U.S. citizen. There are also collateral consequences that can affect your driving privileges and certain employment and business opportunities. You can be barred from professional licenses in nursing, transportation or teaching. You can be denied access to government benefits, student loans, or public housing.

1. My parents know that my friends and I are going to drink, and they want to keep us off the road, so they buy the beer and we get together at our house, where my parents can keep an eye on us. If the party gets busted, anyone who is underage is breaking the law, but my parents won’t get charged. Of course, they’re over the legal age and they won’t be drinking because they are driving some kids home.

**FALSE**

Parents may be charged with a criminal offense, for example, contributing to the delinquency of a minor or hosting an “open house” party.

1. My friends and I have been driving for two years. One of my friends has never been caught speeding and she’s never had an accident. But she’s got a lot of unpaid parking tickets stuffed in her glove compartment. I keep telling her that if she ever gets stopped, they could take her license.

 **TRUE**

Her license may be suspended until the tickets are paid, and her car may be impounded.

1. When I go to a bar, I use the fake I.D. I bought it on the Internet. I’ve heard that the site could be part of a national ring, but I’m not going to get caught. Besides, if I do, the worst that will happen is that they’ll take my I.D. and kick me out of the bar.

**FALSE**

Possession of a fake ID is a third-degree felony in some states. Use of another person’s identifying information is a federal offense of aggravated identity theft that may carry 24 months in federal prison.

1. If I’m hiking in Colorado, where pot is legal, and my friends bring some back to our home state where it’s not legal, they could end up in federal court, if they’re caught with it.

**TRUE**

The federal government and most states prohibit the possession of marijuana. Transporting marijuana across state lines is a federal offense.

1. I order nutritional supplements off the Internet that I get in the mail. I use them to improve my athletic performance. I need every edge I can get to win a college scholarship. These are pharmaceuticals and not illegal drugs that I’m getting from some street dealer, so I’m okay.

**FALSE**

The distribution and transport of a controlled substance is a serious criminal offense. Depending on the quantity of the controlled substance, there may be mandatory minimum penalties that can be imposed. A controlled substance includes any anabolic steroid, narcotic, hallucinogenic, stimulant or depressant drug.

1. If I ever did get convicted of something in federal court, because of my age, I’d get probation. My older brother says that means I might not be able to travel with my tennis team.

**TRUE**

For most federal offenses, probation or supervised release is mandatory and limits your ability to travel, restricts employment opportunities. Supervision is conducted on a weekly basis and may be conducted over the course of several years.

1. My buddies on the football team were joking around in the locker room after a big win. One of the guys popped open a bottle of sparkling cider that looked like champagne. He dropped his towel while he was guzzling from the bottle on his way into the shower. It was hysterical so, when he turned his back, I captured some video on my phone. I sent it to the other guys on the team who weren't in the showers at the time. I thought it was a harmless moment that we'll laugh about at our high school reunion, some day. The coach says we could be in big trouble.

**TRUE**It is a serious federal crime to create or distribute child pornography, which would include pictures like this. Even though it was consensual and done as a joke, it’s still a crime.

1. My classmates and I were sitting in first period when our teacher was called to the office for an emergency. Before he left, we noticed that he was in the middle of posting an announcement on the class website. We thought it would be funny to change the message and post it. I kept watch while my friends posted a music video and a message that our class will be cancelled next week. I figured he’d have a good laugh and just delete it later.

**FALSE**

Accessing the computer of a school or a business is illegal hacking. As the lookout, you are still in trouble. Helping someone else commit a crime is called aiding and abetting. Legally, you are considered just as responsible as the person who did it.

1. A friend of mine was a witness to a car wreck and now she has to testify before a grand jury. She’s not sure that she’s willing to tell the whole truth because it implicates her and could jeopardize her scholarship. The details are not that important because she’s not the one on trial. Since the proceedings aren’t in court, the standard of “telling the truth, the whole truth, and nothing but the truth” doesn’t apply.

**FALSE**

Lying while under oath may result in a federal conviction for false declarations before a grand jury, otherwise known as perjury, which carries with it a maximum penalty of up to five years imprisonment.

**Exhibit F:** *Civility Self-Reflection Tool*

**Civil Discourse and Difficult Decisions**

*Students Fill Out This Quiz While Waiting for the Program to Start*

**Instructions:** Circle the option that best applies to you when you are with your peers.

**1. When a conversation gets heated, I contribute to the conversation.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

**2. When peers disagree about an issue, I remain silent.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

**3. I take an active role in creating a welcoming environment for differing opinions.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

**4. I give my peers eye contact and my full attention when they speak, even when I disagree.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

**5. When I disagree with someone, I keep an open mind and, momentarily, put aside what I plan to say next.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

**6. I can’t control others’ behavior or opinions, so I focus on my own actions and civility.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

**7. When I’m speaking, sometimes, I use silence to get the attention of others.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

**8. I speak respectfully to people with whom I disagree, even if they disrespect me.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

**9. I ask clarifying questions.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

**10. I am careful not to take over a conversation by talking longer than others**

• Very Frequently • Frequently • Occasionally • Rarely • Never

**11. When I get excited, I interrupt the person speaking.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

**12. I have side conversations that distract the person I’m talking with – and others -- from the person who has the floor.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

**13. I listen for what people mean – not just what they say -- when I disagree with them.** Very Frequently • Frequently • Occasionally • Rarely • Never

**14. When peers disagree, I find common ground and call attention to areas of agreement.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

**15. Sometimes I tune out, then realize I’ve repeated something that already has been said.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

**16. I roll my eyes or make subtle faces when I disagree with someone’s opinion.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

**Exhibit F-1:** *Civility Self-Reflection -- Discussion Prompts for Volunteer to Draw Out Students*

**Civil Discourse and Difficult Decisions**

Self-Reflection Tool: Discussion Starter

**Instructions:** Circle the option that best applies to you when you are with your peers.

**1. When a conversation gets heated, I contribute to the conversation.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

***Would people say you, typically, are an inflamer, an informer, an inquirer, an influencer, a good listener, a comedian? What other roles do people take in heated conversations?***

**2. When peers disagree about an issue, I remain silent.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

***Why do you tend to remain silent? Can that be a good thing? What makes you comfortable enough to speak?***

**3. I take an active role in creating a welcoming environment for differing opinions.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

***What do you say and do?***

**4. I give my peers eye contact and my full attention when they speak, even when I disagree.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

***When people are really listening to you, what difference does that behavior make to you? What difference does it make in the conversation?***

**5. When I disagree with someone, I keep an open mind and, momentarily, put aside what I plan to say next.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

***What do you say to yourself so that you really listen, not just wait for your turn to speak?***

**6. I can’t control others’ behavior or opinions, so I focus on my own actions and civility.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

***What does that mean? How does it work?***

**7. When I’m speaking, sometimes, I use silence to get the attention of others.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

***How do you use silence? How effective is it?***

**8. I speak respectfully to people with whom I disagree, even if they disrespect me.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

***Why? Give an example of what you can say or do/not do when someone is disrespectful to you.***

**9. I ask clarifying questions.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

***Give examples of clarifying questions.***

**10. I am careful not to take over a conversation by talking longer than others**

• Very Frequently • Frequently • Occasionally • Rarely • Never

***What limits do you put on yourself to keep from talking too much? On the other hand, what do you do/say when you can’t get a word in edgewise?***

**11. When I get excited, I interrupt the person speaking.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

***When you feel strongly about a subject, how do you monitor yourself so that you don’t interrupt?***

**12. I have side conversations that distract the person I’m talking with – and others -- from the person who has the floor.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

***How do you feel when someone is whispering while you’re talking, even when they’re trying not to be disruptive?***

**13. I listen for what people mean – not just what they say -- when I disagree with them.** Very Frequently • Frequently • Occasionally • Rarely • Never

***What do people do/say when they are listening just to the words? What do they do/say when they are listening for what the person means?***

**14. When peers disagree, I find common ground and call attention to areas of agreement.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

***What are some phrases you can use to bridge the gap when you are trying to find common ground?***

**15. Sometimes I tune out, then realize I’ve repeated something that already has been said.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

***How do you feel when someone repeats a point that already has been made?***

**16. I roll my eyes or make subtle faces when I disagree with someone’s opinion.**

• Very Frequently • Frequently • Occasionally • Rarely • Never

***How do nonverbals detract from the civility of the conversation, even when the speaker doesn’t see you rolling your eyes or making faces?***

**Exhibit G:** *Handout for Setting Ground Rules –for Use by All Participants and the Facilitator*

**Civil Discourse and Difficult Decisions**

*Setting Ground Rules for a Civil Discussion*

In courtrooms, it’s not the loudest voice that prevails. Opposing arguments are grounded in reason and evidence and they are put forward within strict guidelines for courtroom decorum. Each side tests the arguments of the other side, and a judge holds everyone to the same protocol and standards of appropriate behavior. Asking questions of each side is an integral part of the process. The adversarial system is no place for incivility. In fact, court proceedings are set up to promote effective civil discourse.

**Put an X next to the actions and attitudes that are most important to you.**

**1. Be mindful of your own behavior**. Notice how you internally are reacting/responding when others speak. Pay attention to how your words and your silence are impacting the experience for others in the group.

**What are you doing to create a welcoming environment for differing** **opinions?** Are you looking at each speaker and giving your full attention? Are you listening with an open mind – momentarily putting aside what you will say next?

Are you asking clarifying questions? Are you being careful not to take over the conversation by talking longer than others? Are you refraining from subtle, but disrespectful behavior or not paying attention when others speak?

**2.**  **Wait** to be recognized by the moderator before speaking. This allows time – before you speak -- for reflection on what the previous speaker(s) have said.

**3. Don’t interrupt** or talk over someone else who is speaking, even when you are excited.

**4. No side conversations.** They are disrespectful to the speaker and distract listeners from the person who has the floor.

**5. Listen for content** inthe statements of others, especially when you disagree. Listen for what the speakers are trying to communicate, even if they aren’t expressing their points concisely.

**6. Find common ground.** Identify and call attention to areas of agreement.

**7. Follow the direction** **of the discussion.**  Don’t repeat what already has been said. **Relate** your comments to those of previous speakers.

**8. Ask questions.** Don’t assume that you know what someone else means**.** Ask the speaker to help you understand perspectives different from your own.

**9. Don’t embarrass yourself or disrespect others by making** demeaning or inappropriate comments, facial expressions, or gestures. No eye rolling, sighing, or checking out of the conversation.

**10. Differentiate between facts and opinions**. Both are valid when expressed appropriately.

**WHAT WOULD YOU ADD?**

**Exhibit G-1:** *Example of Student-Developed Civility Rules*

**Civil Discourse and Difficult Decisions**

The Facilitator Can Use This List as a Reference to Prompt Student Responses

**How to engage in civil discourse:**

**1.** Tell the truth, the whole truth, and nothing but the truth.

**2.** Moderate your tone, so that you don’t sound aggressive.

**3.** Be conscious and mindful of your facial expressions.

**4.** Be attentive and considerate of your opponent’s point of view:

* Process what is being said
* Give equal time to opposing opinions.

**5.** Don’t repeat yourself. Use a variety of evidence.

**How to interact respectfully with someone who fails to follow the agreed-upon rules:**

**1.** Respectfully ask for evidence that supports the statements made.

**2.** Stay calm and consider taking a break from the conversation.

**3.** Tell your opponent that you don’t know how to interpret his/her facial expression.

* Ask for help in understanding what they mean.

**4.** Ask for equal time, using a polite tone: “May I finish my point?”

**5.** Express understanding: “I understand,” or “I hear you."

**Student Packet:** *Students Read This Fictional Scenario in Advance and Bring It to the Program*

**Fictional Scenario: Memes as Artistic Expression or True Threats?***Elonis v. U.S.* Applied to Teen Social Media Posts

Andy Jackson is an 18-year-old junior at Bay State High School where he is on the championship basketball team and is gearing up to be scouted by colleges. He and Sarah Somers are debate partners who have gone to the state finals every year. Being on a winning debate team is important for Sarah’s scholarship chances. Due to the demands of his training schedule, Andy decides to break up the partnership, after which he says Sarah started rumors alleging that he tested positive for the coronavirus but didn’t report his status to his basketball coach.

If true, Andy could lose opportunities for an athletic scholarship for violating the team’s zero-tolerance COVID-19 health and safety regulations that require reporting. Even rumors could hurt his chances. His friends show him Sarah’s Instagram video of him having a coughing spell while dribbling a basketball on his driveway basketball court. Andy, who has severe allergies, becomes enraged at the possibility that he might lose an opportunity to play college basketball, but he has to go to his DJ job after school at the Boys & Girls Club where he volunteers. He has to act as if everything is okay.

Andy is a popular DJ and rapper at these and other events. He is known for lyrics that have clever, PG-rated messages with controversial double meanings. That night, he posts a meme of himself performing a parody of some well-known rap lyrics saying that “players know how to even the score” when liars make false accusations against them. Andy includes in the meme a series of skull emojis and a wink emoji superimposed on a basketball.

When Sarah sees the meme, she feels threatened in light of the fact that friends have told her how angry Andy is with her. She is concerned enough about the posts that she goes to the school police safety officer and asks how to get a restraining order against Andy. She also reports the post to the basketball coach and the assistant principal. Andy says Sarah is just playing dumb if she claims she doesn’t know what he means by “players know how to even the score.” It’s an obvious basketball reference.

Ultimately, Andy is charged with two counts of violating 18 U.S.C. § 875(c), which makes it a federal crime to “transmit [ ] in interstate or foreign commerce any communication containing…any threat to injure the person of another.”

At today’s hearing in federal court, Sarah’s attorneys will argue that whether the lyrics were referring to the coronavirus, or physical injury, or basketball they could be weaponized to hurt Sarah. The skull emojis confirm that the lyrics are death threats. As such, the statements are true threats.

Andy’s attorneys will argue that Andy’s statements were not true threats, but artistic free speech protected by the Constitution.

**Exhibit H**: *Student Feedback Form to Be Turned in Before the Group Photo and Adjournment*

**Name** \_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Date \_\_\_\_\_\_\_\_\_\_**

 *(first) (last)*

**School \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Year You’ll Graduate \_\_\_\_\_\_**

**Career Aspirations \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**1. Setting.** What was it like having the program in a real courtroom?

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**2. Judge.** What was it like having a judge preside?

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**3. Adult Attorneys.** What were the differences between the real attorneys and those on TV?

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**4. Jury Deliberations:** What were the judicial deliberations like for you? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**5. Future Jury Service:** How do you feel about serving on a real jury after this event?

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**6. What did you learn from anything in the program that you can apply in your life?**

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**7. How would you rate your civil discourse skills during the program?**

*Poor Good Very Good Excellent*

**8. What civility skill will you practice after today’s experience?**

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**9. What did you learn from the host judge during the Q/A session?**

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1. **What will you tell your friends about this experience? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Exhibit I:** *Guidance for the Facilitator Giving the Optional Courtroom Tour*

**Optional Program Icebreaker – Courtroom Tour** *(~5 minutes)*

Roles and Responsibilities

A good attention getter is a verbal courtroom tour that involves the participants by having them sit in designated places around the courtroom for the brief duration of the tour.

The activity demonstrates that the program is interactive. It gets students moving around and acclimated quickly and helps them visualize themselves working in the courts.

The facilitator asks the following questions. Students raise their hand, and a teacher selects volunteer students because he/she knows who will act appropriately. The facilitator directs students to the different places in the courtroom where they sit for the duration of the tour.

* **Courtroom Deputy:** Who is really organized and maintains a schedule or a calendar?
* **Court Reporter**: Who is a fast texter?
* **Court Interpreter:** Who speaks another language *(2 students)*
* **Bailiff**: Who is a peacemaker?
* **Attorneys: Who would like to present arguments to the Court but doesn’t want to volunteer to be a presenter in the full program today? You just want to know what it’s like to sit at the counsel tables.**
* For the Government? (*4 students*)
* For the Defendant? (*4 students)*
* **Jurors:** Who is fair minded? *Fill up the jury box.*
* **Jury Foreperson**: Who likes to be a spokesperson for a group?