

GROUP ACTIVITY: CRIMINAL LAW

Situation

Bart is an 18-year-old high school senior. He has had a few run-ins with the law. Last weekend, two witnesses saw someone who looks like Bart break into a stereo shop, steal some equipment, and race away in a red Firebird - just like the one Bart drives. The police began investigating.

One day, Principal Skinner called Bart out of class. He told Bart there are some things he'd like to ask him. When Bart went to Principal Skinner's office, he noticed a police officer sitting in the chair, giving him the eye, and holding a notepad. Principal Skinner told Bart about the break-in and then started asking him a lot of questions about it. At first, Bart denied everything. After a while, though, he admitted he was there. But, says Bart, "I didn't do it; someone else did."

Based on what Bart said, Chief Wiggum filed burglary charges against Bart. The burglary charge is a class A misdemeanor. It carries a heavy fine and up to a year in jail.

You are Judge Hibbert (Yes, Dr. Hibbert's wife). Bart's lawyer, Lionel Hutz, has asked you not to allow any of the questioning Principal Skinner asked Bart during his trial. He argues that since Chief Wiggum was in the room at the time, Bart should have received Miranda warnings. Those are the warnings that tell suspects they can remain silent and can have a lawyer. Lionel Hutz argues that since Bart didn't receive those warnings, his right against self-incrimination was violated. If that is true, Principal Skinner's questioning cannot be allowed as evidence during the trial.

However, the prosecutor, Ned Flanders, claims that the questioning did not violate Bart's rights at all. He has pointed out that school officials, like Principal Skinner, can question students without giving them any Miranda warnings. This is true under the laws of Springfield. But, the law doesn't say anything about whether a student can be questioned by his principal while a police officer is present in the same room.

Which would you do?

___ Hold that Bart was "in custody," and that because Miranda warnings were not given, the questioning cannot be used during trial.

___ Hold that Bart was not "in custody" during the questioning because it was Principal Skinner, and not Chief Wiggum, who did the questioning.

* Hint for the Judge: Courts look at all of the circumstances to decide whether a reasonable person in the suspect's position would have believed his freedom to leave had been taken away from him. What things make you think Bart was or was not in custody?

Choose a group spokesperson to explain the reasoning of the group.

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You are the prosecutor, Ned Flanders. You know that Bart has been a bad kid for a long time and has done a lot of really bad things. In fact, you've tried to get him for a few other crimes, but Bart always wiggles out of the trouble. You'd really like to get him for this one!

However, you know the law in Springfield. On the one hand, if a suspect is in custody, he deserves Miranda warnings before police question him. (The warnings that say you have the right to remain silent, etc.) On the other hand, you know that school officials are allowed to ask questions without giving Miranda warnings at all. Since it was Principal Skinner who did the questioning, you think there's a good chance the judge would say the questions were okay. But, this could really go either way.

The one thing you know is that you really need the judge to allow the questioning as evidence if you're going to put Bart where he deserves to be. If you decide to go to court and the judge throws that evidence out, you'll lose.

Which would you do?

- ___ Take Bart to trial and hope you can put him in jail, while risking the chance that the judge will say the questioning was wrong (and Bart goes free).
- ___ Offer Bart a plea bargain, where you don't risk losing the case at all, but you only get to put Bart on probation.

Choose a group spokesperson to explain the reasoning of the group.

Be ready to tell what you understand about Miranda warnings and why someone could go free if he or she doesn't get those warnings.

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You are Bart. You broke into the stereo store and got away with a bundle of stuff. It was your best job ever.

But, you're really worried about the chance of going to jail. You'd miss Prom with Jessica Lovejoy! You figure the police might even have more evidence on you.

However, you have a lawyer named Lionel Hutz. He believes your rights were violated because Principal Skinner asked you those questions with a cop in the room. He explained that a cop can't ask questions without telling a suspect they can choose not to answer and are entitled to a lawyer (Miranda warnings). However, since it was Principal Skinner who asked the questions, and not Chief Wiggum, he says there is only a 50/50 chance the judge will throw out the questioning. If he does throw out the questions, you'll probably win.

The prosecutor, Ned Flanders, has offered a plea-bargain. If you agree not to go to trial, he'll give you one year of probation (instead of six months jail time and a fine).

Which would you do?

- ___ Take the plea bargain so that you don't risk going to jail and missing your Prom date with Jessica Lovejoy. (But you lose the chance of going free.)
- ___ Go to trial, hoping the questioning is thrown out of court, so that you can go free. (But run the risk of going to jail.)

Choose a group spokesperson to explain the reasoning of the group.

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GROUP ACTIVITY: CRIMINAL LAW

State of Happy Valley Penal Code

§111.1 Use of force to effect arrest, prevent escape, or overcome resistance

Any police officer who has reasonable cause to believe that the person to be arrested has committed a public offense *may use reasonable force to effect arrest*, to prevent escape or to *overcome resistance*.

A police officer who makes or attempts to make an arrest *need not retreat* or desist from his efforts by reason of the resistance or the threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or *lose his right to self-defense by the use of reasonable force to effect the arrest* or to prevent the escape or to *overcome resistance*.

§222.2 Officer unnecessarily assaulting or beating any person: punishment

Every public officer who, under color of authority, without lawful necessity, assaults or beats any person, is punishable by a fine not exceeding \$10,000, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

STATEMENT OF OFFICER POW

June 13, 1998, 11:00 p.m. An individual ("Rod"), driving a white Hyundai, was clocked at 85 m.p.h. on Speedy Avenue. The speed limit for that area is 35 m.p.h. We pursued Rod and attempted to pull him over by initiating our sirens and lights. Rod did not pull over, but instead he sped up, and we called for backup. We checked on Rod's criminal background, and Rod has a history of violent robberies, having attempted to run over a police officer with his car.

We had over ten patrol cars and the police helicopter in pursuit. During the chase, Rod swerved wildly, and we were afraid that Rod would end up killing an innocent individual. Rod was speeding at about 90 m.p.h. as he entered the freeway. We were scared for our lives during the chase. It lasted for one hour and during that time, all I could think about was my wife and three kids and if I would ever be able to play ball again with little Johnny.

About 12:00 p.m., Rod pulled over because he ran out of gas. We asked Rod to please get out of his car and lie down on the ground. Rod would not get out of his car. Instead, he flipped us off and told us to kiss his _ss. We again asked Rod politely to get out of his car. No response from Rod. We decided to approach the car, and suddenly Rod jumped out of the car and started towards us. We again yelled at him to get down on the ground. Rod told us to go to hell. Officer Biggot came behind Rod and used an electric current on Rod. He did this twice using over 50,000 volts. Rod fell to the ground, but in less than two seconds, he jumped up again and charged after me. We were shocked and astonished because usually when somebody is zapped, they become immobile for a substantial period of time. Officer Race used his stick on Rod to stop him from attacking me or other officers. Rod fell to the ground, and again we yelled at him to stay on the ground. But again he tried to get up. While keeping our distance, we used our sticks to keep Rod down.

People have asked me why we didn't jump on him and lie on him in order to keep him on the ground. But from my 20 years of police experience, only people that are on PCP could have that kind of super-human strength to withstand 50,000 volts of electricity and be able to withstand our sticks. People on PCP are known to be very violent and unpredictable. We had to keep our distance from him. Two weeks ago in a situation similar to ours, police officers were in a struggle to get a suspect down, and that suspect grabbed a police officer's gun and shot and killed that officer.

Rod was given a breathalyser, and he had the blood alcohol level of 0.21.

ROLEPLAYS

(General Observations)

I. Roleplays are useful in teaching certain points and ideas. Roleplays are helpful because they illustrate these points and ideas in a way that regular lecturing or discussion cannot. The best roleplays seem to be roleplays to which the participants can relate or roleplays that have practical meanings and make sense to the participants. In the area of individual rights, students usually react best and learn more when the roleplay involves a right of theirs that has been taken away.

II. Types of Roleplays:

A. Roleplays where participants are chosen days in advance to perform the roleplay for the class

Example: (Mock Trial)

Advantages

- better chance to prepare
- the students who volunteer to participate are generally enthusiastic about the roleplay and, therefore, will do a good job in presenting it to the rest of the class

Disadvantages

- fewer students have the chance to participate in the roleplay

B. Roleplays in which the students divide up into small groups; each student plays a part of the roleplay or the group as a whole plays one part while the other groups take on other parts

Advantages

- everyone has the chance to participate in the roleplay; actual participation in the roleplays is the most important factor

Disadvantages

- more difficult to supervise and monitor (yes, sometimes high school students need supervision)
- because of the lack of supervision, students who are somewhat inhibited or less enthusiastic about the subject might not be as motivated to participate