

What Is Truth?

A lesson plan for middle and high school students

By Attorney David N. Foley
Law Office of Robert Howard, III
Henniker, New Hampshire

Background

Legal rights and legal authority depend upon the truth of certain events. When there is a question about what the truth is, people who want the benefit of the law go to court for help. The ability of courts to help determine the truth is tremendous because the people in court (jurors, judges, lawyers, witnesses, investigators, police officers and others) are capable of remembering, describing, questioning and evaluating. At the same time, courts are limited in their ability to determine the truth because these same people are humans, with limited memory, differing skill levels, and human motivations.

Purpose

Today's students are tomorrow's jurors and judges, lawyers and police officers, witnesses and voters. This lesson will build student skill in assessing the truth, and appreciate the human aspect of truth.

Procedure

Part One: A "brainstorming" activity.

1. Tell students about Julia Athens, who wanted to register to vote. She went to town hall to register, but learned that she needed a birth certificate or a driver's license. Julie had both of these, but each indicated that her date of birth was January 1, 1982. Julie has lived with foster parents since 1986. She was small for a six-year-old, so her foster parents never suspected there was a mistake on her birth certificate. She is now a sophomore in high school and is the student council representative on the school board. She is anxious to vote at the school district meeting because there is a proposal to build a new gymnasium. If the proposal passes, the gym might be ready in time for basketball season during her s-mother. Julie has asked Elliot Hospital and Catholic Medical Center for records about her birth, but they refuse to give her information without the signed permission of her mother.

The United States Constitution prohibits states from denying citizens who are eighteen or older the right to vote because of their age. (26th Amendment)

2. Ask the class to brainstorm ways that Julie can try to prove that she is in fact eighteen years old and eligible to vote. (All answers are recorded in a brainstorming activity.)

Ask the class to decide if the following information would be adequate to prove that Julie was old enough to vote:

A. Her grandmother says what she remembers. A news reporter then testifies that he remembers that there was a debate during the 1980 presidential campaign, Ronald Reagan told George Bush that he paid for the microphone. He could invite the other candidates to participate in the debate.

B. Former President Reagan testifies that he remembers being photographed with Julie's grandmother after a debate during one of his campaigns for New Hampshire's First in the Nation primary election. He says that Julie's grandmother was a loyal campaign volunteer and that she introduced him to an infant she was carrying as her granddaughter.

C. Julie's foster mother testifies that Julie told her about the Thanksgiving conversation with grandmother. She also testifies that Julie always seemed older than her classmates in school do, and was always the top athlete in her class.

Part Two:

Your students have just been appointed special detectives of the town police department and have been asked to investigate a claim that Sally May Smith committed the crime of burglary at the town's general store. The claim was made by Robert Jones, who lives in apartment next door to the store, who came to the police station and said to the officer on duty: "Sally Smith committed a burglary at the General Store."

The offense of burglary is committed when a person enters a building such as the pharmacy "with the intent to commit a crime therein." See RSA 631:1. The object of the investigation is to find out if there is enough evidence to believe that Sally Smith actually did commit the crime of burglary.

If they determine that Sally Smith committed the crime, do they have enough evidence to charge her with the crime? (Do they have probable cause?) Note: "Probable cause to arrest exists when caution and prudence in believing that the arrest has committed an offense." **State v. Brown** 138 NH 407, 409 (1994).

1. Ask the class if they need to ask Mr. Jones any questions, or have enough evidence based on what Mr. Jones has already told police. (He has only offered a conclusion that a person committed a crime. His conclusions are not evidence. What he saw, tasted, smelled, heard, felt (by touch) might be evidence. He might also have many things to say that may or may not be evidence, but could help your detectives find evidence.

2. Ask the class to brainstorm a list of activities that might help them determine whether Sally Smith committed burglary.

3. Read the class the following set of investigation results, and another set of results that detectives compiled. For each set of results, ask the class whether or not they believe there is probable cause to charge a person with the offense of burglary.

A. Robert Jones told detectives that: Two nights ago, he heard a loud sound. It sounded like glass breaking. He said that he has heard glass breaking many times. He said it sounded the same as when he saw his cousin throw a rock through the general store window ten years ago. After he heard the noise, he ran to his window. He saw a person running away from the store. The person was about 50 feet away from the store when he got to the window. Because of the long brown hair, he believed the person was a woman. She ran 15 more feet and got into the passenger door of a dark pick-up truck. He could not see the license plate well and could not even tell what state it was from. She was wearing a green sweatshirt, just like the one Sally Smith wears to work.

B. Add the following: Robert Jones knows Sally from work, and recently she was promoted to supervisor, a job for which he had applied. A man with long brown hair who drives a brown pick-up truck drops off Sally at work every morning.

C. Add the following Jones remembers that before the person who was running got into the truck; she placed an object in the bed of the truck. The object looked like a duffel bag. She must have been carrying it with two hands as she ran, he said, because he did not see it until she got near the passenger door of the truck. She had one hand on the bottom of the object and the other hand appeared to be holding on to a strap or handle.

D. Add the following: After he saw her get into the truck, the truck drove away quickly. He thinks he heard the truck tires spin. He then looked toward the side window of the store. It appeared smashed. In fact, it looked just like it did when his cousin through a rock through it ten years ago. The next morning he went right to the police to tell what he saw.

E. Add the following: After he told detective Kraft everything he knew, Kraft went to the general store. He saw the smashed window. The store owner told him that he was not sure whether or not any money was stolen because money is not supposed to stay in the register overnight. He did not close the store the night before, however, and sometimes his employees leave the money in the register. He has been intending to put an end to that. He said none of the merchandise was out of place and that he could not tell whether anything was missing. He said he is very suspicious of anything Robert Jones says, because Jones has been acting very oddly in his store lately. Jones asked many questions of his store clerk three nights ago, including questions about closing procedures. The next day he applied for a part-time job at the store. He was very rude to the storeowner when told that he did not need any extra help.

F. Add the following: After meeting with the storeowner, the detective went to Sally Smith's house. Sally lives with her parents. In front of the house was a pick-up truck with a duffel bag in the back seat. Sally said that it was her boyfriend's truck and her duffel bag. She said she keeps it in the back of her boyfriend's truck. It contains two life vests and two seat cushions for their canoe. She told the detective she did not mind if he looked in the duffel. Inside the duffel he found the life vests and the cushions, as well as a money clip containing a \$20.00 bill and a check made out to the general store. The back of the check had the storeowner's name written on it. Below the storeowner's name was Sally Smith's name. Both names were in the form of a signature. The detective asked Sally if she had any material with her signature on it. She gave him a stack of her canceled checks. The signatures on the

canceled checks looked very similar to the signature on the general store check. The "S's" were identical.

G. Add the following: Two weeks later the general store owner came to the police station with Nelson Bridges. Nelson told the detective that he thought it curious the other day when he received his canceled checks from the bank that his check to the general store was not endorsed the way it normally is. Instead of the stamp, "for deposit only, Town General Store," the storeowner's name was hand written on the back of the check.

Below the store owner's signature was Robert Jones' signature. The storeowner said he did not sign the back of the check. The detective then went to the Local Bank and met with the security officer, who located the security film for the date and time stamped on the check. Sure enough, there was Robert Jones cashing the check at the window with the new bank teller from out of town.