

SEEDS OF CHANGE: USING THE TOOLS OF TODAY TO EMPOWER THE LEADERS OF TOMORROW

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Six 11th graders bang their fists on the desks in unison setting up the background beat for what's to come. "Nisa on the beat...Molly from the streets." The first two chant. Molly starts rapping—"I was just takin' my prescription. I don't see why everybody havin' a conniption. Chill Lewis, stop tripping. I tried to explain. It didn't work. I fought and they took me to me to the Supreme Court. They haven't decided yet but I hope it's in my favor. I apologize for my allegedly suspicious behavior but I have rights that's intact. In fact, that's a violation of the direct Fourth Amendment...this discussion should have been ended." Who's Molly? Molly is possibly the name of the petitioner in this year's Marshall-Brennan Constitutional Literacy Project moot court problem, or the name of a street drug that has led to a number of recent overdoses in Capital City, Old Columbia—a fictional moot court jurisdiction. Anyway, the students are engaged and that is what matters to us most.

At the Marshall-Brennan Constitutional Literacy Project (The Project) we teach high school students to care about important issues and we connect those issues to the U.S. Constitution. The Project was started in 1999 by Professor Jamin B. Raskin to address the well-documented constitutional illiteracy and civic disengagement of America's high school students by mobilizing the idealism and energy of law students. We are a part of a

powerful movement that seeks to reframe the issues present in the daily lives of youth as legal issues that must not be ignored if we want to have an active, questioning, democratic citizenry.

The Project began with 25 upper-level law students, designated Marshall-Brennan Fellows in honor of the late United States Supreme Court Justices Thurgood Marshall and William J. Brennan, Jr., and, with the support of their widows, Mrs. Cecilia Marshall and the late Mrs. Mary Brennan. Today 36 students are teaching 15 classes in 10 different public high schools in Washington, DC, with 18 other law schools across the country forming Marshall-Brennan chapters to join in this work.

All Fellows promote democratic engagement, constitutional literacy, and leadership by teaching the importance of constitutional rights and responsibilities in our democracy. They use interactive techniques with their students to promote creativity, problem-solving, collaboration, and critical thinking. Research tells us that high school students who participate in experiential civic education programs are more likely to become engaged citizens and contribute to society. Students benefitting from critical early involvement with civic education programs are less likely to drop out of school, have higher rates of academic achievement, are more likely to participate in school activities, volunteer more in their communities, advocate for their needs, and are less likely to become incarcerated.

The key to success in The Project lies in the relationships formed between the high school students and the law students as they grapple with the question of how to teach what the law *says* to members of disempowered communities where the law may *mean* something very different in those students' community. The close-knit relationships formed between the law students and high school students as they face these questions together are reciprocal in nature, providing a deep understanding about our society for both high school students and law students; an understanding that will shape perspectives as active citizens and advocates for justice.

The Fellows open up the space to connect the frustrations felt by many of their high school students in the face of events like the deaths of Trayvon Martin, Michael Brown, Eric Garner, and most recently, Vonderrit Myers, Jr., to specific amendments in the Constitution, by validating the experiences of their high school students, and acknowledging that race, class, and privilege have affected the ways in which people interact with the law and the criminal justice system. As the Fellows get more comfortable in the classroom and listen to the needs of their students, Fellows begin to tailor their lesson plans to the interests and learning styles of their classroom.

Two specifically designed texts and a moot court problem form the backbone of the basic curriculum. *We the Students: Supreme Court Cases For and About America's Students*, written by Professor Raskin, covers important Supreme Court cases relating to the lives of students at school: locker searches, drug testing, censorship of students' or student newspapers and yearbooks, school desegregation, prayer in the classroom and at football games, gender discrimination and other issues. *Youth Justice in America*, written by Professor Raskin in collaboration with Professors Maryam Ahranjani from the University of New Mexico School of Law

and Andrew Ferguson from the University of the District of Columbia's David A. Clarke School of Law, closely examines cases involving the Fourth, Fifth, Sixth, and Eighth Amendments with the goal of teaching high school students about the criminal justice system. Through this powerful curriculum, engaging lessons and strong relationships, The Project has made a concrete difference in the lives of young people in cities with some of the lowest high school graduation rates in the country.

On day one we tell Fellows to have fun with the law. We give them permission to leave the box of law school thinking and get creative in designing their lesson plans. As an example of this creativity, for this year's moot court problem we commissioned a graffiti artist to design our graffiti drawing for the case. Yet this creativity does not only involve The Project and its Fellows. As I mentioned earlier, The Project is part of a growing civic education movement whereby members of the legal community are investing time working with high school students across the country to ensure that this generation of students grows to become an action-oriented generation that has the civic knowledge necessary to make a real difference in our society.



Once such example comes from my experience before joining The Project as Associate Director, when I taught at Georgetown University Law Center as a Clinical Teaching Fellow in the Street Law Clinic. Headed by Richard (Rick) L. Roe, the Street Law Clinic has brought practical law alive for high school students since 1972. There are two Clinical Teaching Fellows who teach and supervise the law students alongside Rick. Rick always encouraged us to leave the box ourselves when it came to curriculum design, teaching methodology, or when choosing topics for the mock trials we wrote for our citywide mock trial tournament. One year, we spent weeks researching gang tattoos so we could come up with a tattoo design that could either be interpreted as a gang tattoo or a 'matter of public concern' as defined by the First Amendment. Once we were satisfied, we called up a tattoo artist and had him draw it up. We had 300 fake tattoos made so our high school students who played the plaintiff in the case could wear them to the trial.

The following year we stepped up our game and moved from visual to audio. We took on the realities of cyberbullying and the question of how far schools can go regulating what students do in cyberspace. The question we tackled was whether a student who writes a rap song and posts it on a personal website could be subject to school discipline after the song was used by another student to bully a third student at the school. We drafted our facts and then enlisted a New York City rap artist to bring our idea to life. The result was hundreds of students across the District of Columbia listening to and analyzing our rap song *Stupid Money* to see if it violated our fictional school bullying policy. We witnessed students in both the lowest performing and highest performing high schools write their own lyrics to respond to *Stupid Money*. One school even went so far as to choreograph and perform a dance based on the original song and a response song.



Using hip hop to teach law leads to success in most classrooms because high school students are able to connect with the legal topics in very concrete ways that are familiar to them. Although it's now a throwback to the nineties, Jay Z's *99 Problems* is a song that is used consistently to teach students about Fourth Amendment law. It isn't what Jay Z gets right in this song that matters most; it's what he gets wrong (Mason, 2012). In his song, Jay-Z gets wrong a crucial aspect of Fourth Amendment law when dealing with car searches. He says "you gonna need a warrant for that" when the police officer asks whether he can search the trunk of the car. Police officers don't need a warrant though. They just need probable cause to believe they are going to find evidence of a crime in the trunk (Mason, 2012, p. 581). That's a really big distinction. It matters. Many of our students experience racial profiling on a daily basis and knowing Fourth Amendment

law is an important part of navigating police interactions.

This knowledge comes in handy in everyday school situations as well. Urban schools across the nation have a heavier police presence now than they ever have before. School Resource Officers, who are part of the Metropolitan Police Department, are stationed at public high schools across the District of Columbia. The question brought to life in this year's moot court problem is a very real one. Students are routinely searched at school by School Resource Officers. One of the main questions of our problem—whether the fictional Officer Lewis was acting as a school official or a police officer at the time of the search—is a key question related to the legality of searches occurring on school property of which students should be aware. The impact an increased police presence has on a school's learning environment is an issue students deal with on a daily basis. It's also a constitutional issue. At The Project we work tirelessly to invite students to connect the dots and get involved in the issues that matter in their lives.

By educating youth about their rights, law-related civic education programs are giving students the tools they need to answer the very questions the recent events around the country are creating. When George Zimmerman was acquitted of the murder of Trayvon Martin our students were angry. At least in that case, we could look at the Florida self-defense statute and use it to analyze the difference between *objective* statutes, written so that the jury members must consider what a "reasonable person" in the situation would do, and *subjective* statutes, written so that jury members predominantly consider how the perspective and feelings of that particular defendant at the time of the alleged crime. Having an understanding of how the ways in which statutes are written can affect the outcomes of trials opened the door for us to have meaningful discussions about how laws are made, who makes them, and what we can do to influence how laws are written.

Now we are working with our students to try and make sense of a system where grand juries in two different states decided not to indict police officers in the killings of two men of color in a span of less than 10 days. The terms *grand jury* and *indictment* are on the lips of people across the country but we have to remember the incredibly important role the prosecutor played in both situations. In both Missouri and New York, head prosecutors are elected officials. This is where our Marshall-Brennan Fellows come in. How can we change the system? We can understand how the system works and mobilize to elect prosecutors whose understanding of what justice is and who it is for is rooted in ideals of social justice. As civic educators our Marshall-Brennan Fellows are planting the seeds of change by giving their students the tools to take advantage of these painful moments in time, connect the dots, and get involved with what matters most in their lives.

Melinda Cooperman is the Associate Director of the Marshall-Brennan Constitutional Literacy Project and an adjunct professor of law. She directs the national and international expansion of The Project, oversees the program's efforts in DC public high schools, teaches an advanced constitutional law seminar to the Marshall-Brennan Fellows, and supervises their work in the classroom. Melinda is a passionate advocate for justice and dignity for the most marginalized members of our society. While at the Street Law Clinic, Melinda, alongside her colleagues and students, developed an Innocence Project curriculum to teach students about the causes of wrongful convictions. Melinda is a proud graduate of the City University of New York (CUNY) School of Law where she was a Haywood Burns Fellow in Civil and Human Rights. She also served as a Peace Corps Volunteer in rural El Salvador and directed a youth and family education program at a transitional homeless shelter in San Francisco with the San Francisco Urban Service Project. For more information about the Marshall-Brennan Constitutional Literacy Project we welcome you to contact Melinda Cooperman at melindac@wcl.american.edu.

REFERENCE

Mason, C. (2012). Jay-Z's 99 Problems, verse 2: A close reading with Fourth Amendment guidance for cops and perps. *Saint Louis University Law Journal* 56(567), 567- 585.