

## CO301(L) – LESSON PLAN: UNIT 3; WEEK 13

### Preparation/Homework (for student & teacher)

#### Teacher:

1. Read *Miranda* and *Gideon*. These are two key cases in criminal case law. There is not enough time to cover all of the criminal justice case law but you can get a good overview through these two cases and a display of the critical criminal justice amendments: 4, 5, 6 & 8. Prepare slides with each of the 4 Amendments displayed and a slide with the *Miranda* warning. *Gideon* set the precedent that indigent (poor) defendants were entitled to representation in criminal court.
2. Review the Model Rules of Professional Conduct assigned to students below. It is important that when discussing the ethical rules and hypothetical that students know writing is bound by the rules re: Communication and that they prioritize honesty and candor to the court and their clients. If they were committed to educate themselves and could adequately represent their client and perhaps find mentorship from a supervising attorney, they could take the client's case but only if they could represent the client adequately and they honestly advised their client of any concerns.
3. Prepare a slide of the hypothetical of the client communication scenario assigned to for homework.

#### Student:

1. **Read and Brief:** *Miranda* and *Gideon*; Read the 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and 8<sup>th</sup> Amendments. Take notes on confusing terminology.
2. **Review ABA Model Rules of Professional Conduct** 1.1 (Competence); 1.4 (Communication); Rule 1.6 (Confidentiality); 6.1 (Pro Bono Publico (Voluntary) Service); and 7.1 and 7.2 (Communications Re: Services). Next imagine you have just started a Criminal Defense Practice and a potential client email you to and ask for your help with a complex DUI case. They have past convictions and are facing significant jail time and a potential felony conviction. You need the money and are anxious to build your clientele, but you only have experience with low-level traffic offenses. Draft an email response to your prospective client. Why did you respond they way you did? Is there any way you can take the case and abide by the model rules? **Bring your email response and reflection explanation.**

### Lesson Objectives

1. Students review Constitutional language regarding fundamental criminal justice rights and review examples of language on documents like speeding tickets. Students question the implications of unapproachable language.
2. Students practice revising complex language present in the 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and 8<sup>th</sup> Amendments for a potential client.
3. Students practice communicating with potential clients through written communications.
4. Students evaluate the implications fo the model rules of professional conduct on writing/communication.

### Journal (beginning of class) &/or Discussion Prompt (prior to class)

1. Consider the phrase: "cruel and unusual punishment" of the 8<sup>th</sup> Amendment. Do you find the language problematic? Why or why not? Consider As times change how should we deal with changing definitions of cruel and unusual? What about for defendants convicted under one standard and in custody when the law changes? What other terms were problematic in the criminal justice amendments? How would you determine what these terms mean? Consider the *Gideon* was not settled law until 1963, what should the reprieve be for previously unrepresented defendants?
2. What was your inclination re: the hypothetical case? Why did you decide to accept or reject the case?

### Activity in Class/Discussion

1. **Post:** criminal justice amendments. **Small Groups:** Have a conversation about problematic (confusing) terminology. Why is it confusing? Pick one term/phrase and write how you would explain it to someone without legal expertise.
2. **Lecture/Class Discussion:** Talk about why everyone reached the reflections they did and how they would translate the language for a lay audience. Display the *Miranda* Warnings. Discuss the implications of *Gideon* being relatively recent.
3. **Small Group:** Ask groups to review each of the examples. Draft a response together. Make sure there are groups of at least 3-4 so no one feels too on the spot. **Class Discussion:** Have groups email their answers and then post hypothetical question/example and discuss what the best response would be as a class.

### Connection to Course Objectives

1. Students develop more sophisticated ways to communicate knowledge with lay audience regarding legal language.
2. Students reflect on the implications of written communications with a potential client.
3. Students revise their own and others' work to craft and appropriate response to prospective client's email.
4. Students reflect on the implications and consequences of context when the definitions and understanding of legal language changing over time.
5. Students extend their knowledge of legal writing expectations and genre conventions in multiple ways.

### Reflections (draft notes below)