



STATE BAR *of* TEXAS

# RULE OF LAW TOOLKIT

*A public education resource guide for lawyers*

## Welcome to the State Bar of Texas Rule of Law Toolkit!

As lawyers, we do our jobs in the face of low public opinion of our profession, attacks on our justice system, and a general apathy and lack of knowledge about the legal process. It can be disheartening and frustrating, but that is why it is imperative we do something to combat these perceptions and attitudes.

This year, in continuing the *Let's Do Justice for Texas* public education initiative begun by Immediate Past President Gib Walton, I am asking each of you to assume a leadership role for us and to go out into your community and schools to talk about the rule of law and what that means to our society.

You will have help. The State Bar of Texas is producing a series of toolkits to aid you in engaging the public in conversations about various legal topics. The first, on the **rule of law**, provides a sample op-ed piece and speech, as well as questions you may frequently hear from the public about the legal system and discussion points and tips for visiting a school. Also included is a list of online resources. These toolkits will be available through your local bar associations, as well as on the State Bar web site ([www.texasbar.com](http://www.texasbar.com)).

Using the items in this toolkit as a starting point, you can, through your creativity and knowledge, help to educate the public on the rule of law and to build awareness about why it is so important to their daily lives. I firmly believe that one lawyer can make a difference. Now, imagine us 83,000 strong, working together for greater understanding about the rule of law and our profession.

Welcome to the world's largest committee.

Harper Estes  
State Bar of Texas President, 2008–09

## STATE BAR OF TEXAS:

Number of State Bar of Texas members: 83,000

State Bar membership is mandatory for lawyers practicing in Texas.

State Bar is self-funded and receives no state appropriations.

Number of statewide volunteers in attorney disciplinary system: 800

1/3 of attorney disciplinary system volunteers are non-lawyers.

Percentage of Texas lawyers offering pro bono legal services: 66%

## TEXAS COURT SYSTEM:

Two courts of last resort: Supreme Court (civil cases) and Court of Criminal Appeals (criminal cases).

Number of Supreme Court justices: 9. The current Chief Justice is Wallace B. Jefferson.

Number of Court of Criminal Appeals judges: 9. The current Presiding Judge is Sharon Keller.

State courts handle more than 98% of all litigation.

Number of state justice courts: 821; municipal courts: 917

Number of county-level courts: 494. Includes constitutional county courts, county courts at law, and statutory probate courts.

Number of district courts: 444; courts of appeals: 14

## FEDERAL COURT SYSTEM:

The U.S. Supreme Court was created by Article III of the Constitution.

Number of federal judicial districts: 94

Federal courts have exclusive jurisdiction over bankruptcy cases.

Two special trial courts: Court of International Trade and Court of Federal Claims.

Number of regional circuit courts of appeals: 12

## TEXAS LEGISLATURE:

Number of members of House of Representatives: 150

Number of members of Senate: 31

Start of 81st Texas Legislature: Jan. 13, 2009

**GENERAL DISCUSSION POINTS:**

How do you define the rule of law?

What is the lawyer's role in the rule of law?

What is the public's responsibility to the rule of law?

What is our government's responsibility to the rule of law?

How does our judicial system uphold the rule of law?

Why do other countries look to the U.S. judicial system as a model?

Has/Is the rule of law been/being challenged in this country? If so, what are some examples and how have we dealt with these challenges?

What role does the media play in upholding the rule of law? Or does the media hinder it?

What is the importance of due process? Why should you defend someone you know is guilty?

Why is trial by jury an important feature of the rule of law?

**IDEAS FOR SPEAKING TO CLASSROOM OR YOUTH GROUPS:**

Discuss what a lawyer does and why you became a lawyer.

Discuss why the law is important to everyday life.

Discuss the court system — what judges do, trial by jury, and the appeals process. Help the students stage a mock trial.

Have the class recite the Pledge of Allegiance and discuss what the pledge means.

Discuss individual rights — especially how they apply to children and teens — and which rights are protected by the Bill of Rights.

# FREQUENTLY ASKED QUESTIONS

Consider the following questions on the legal system as being asked by the general public. A basic answer is provided but think about how you would answer these questions if asked. You can also use these questions as a basis for a talk to a civic organization or student group.

## **What does “rule of law” mean?**

“Rule of law” can probably be defined in several ways, but at its center, it is about the political philosophy of “government of law, not men,” meaning our society and government abide by the laws of our society and are not allowed to act above the law. This is illustrated in the checks and balances system of our three branches of government — the legislative branch makes the laws, the executive branch executes them, and the judicial branch interprets them.

## **Why is the rule of law important?**

The rule of law ensures all members of our society are subject to the same set of laws and the consistent enforcement of these laws.

## **What does the Bill of Rights mean to the rule of law?**

The Bill of Rights — the first 10 amendments to the U.S. Constitution — were instituted to afford certain individual civil liberties to the American people that were not originally contained in the Constitution. The protection of these individual rights is at the heart of our American values and ideals.

## **Why should I use a lawyer rather than do it myself?**

Any number of circumstances could recommend themselves to using a lawyer, but the primary reasons are usually connected to major or life-changing events, such as acci-

dents, committing a crime or being a victim of one, financial transactions, and changes in family status (divorce, death, etc.). Because the court system involves often serious and complex issues, it is in your best interest to obtain a lawyer, someone who has the knowledge and training to guide you through all the legal steps. Many people do not understand how to present their case, orally and in writing, so they end up hurting their cause and perhaps costing themselves more in the long run than if they had originally hired an attorney.

## **How do I find a lawyer?**

Ask your friends, family, or colleagues for recommendations. You can also contact the lawyer referral service of your local bar association or through the State Bar of Texas. Your local library also has resources you can use, such as the Texas Legal Directory or the Martindale-Hubbell ratings, which provide brief bios of the lawyers in your area.

## **What if I can’t afford a lawyer?**

While lawyers are ethically obligated to charge a “reasonable” fee, that still may be out of range for many people. Several options are available, however, for low-income Texans, either for reduced-cost or free legal services. The State Bar of Texas web site, [www.texasbar.com](http://www.texasbar.com), offers resources for legal aid services as does [TexasLawHelp.org](http://TexasLawHelp.org).

## **What is so important about an independent judiciary?**

An independent judiciary is necessary to uphold the law, even in cases where the outcome may be unpopular and invite criticism. The U.S. Constitution provides for life tenure for federal judges in part to insulate them from political or other outside pressures.

## **What is the basic structure of our court system?**

It is a hierarchical system. Higher courts can review lower court decisions and either uphold or reverse those decisions. The basic hierarchy begins with trial courts, where cases begin, followed by appellate courts, where appeals are heard, and finally, courts of last resort (such as the U.S. Supreme Court, the highest court in the land).

## **What kinds of cases do federal courts decide?**

Cases before federal courts are limited by Article III of the U.S. Constitution. The cases must involve issues of federal law, multistate jurisdiction, involvement of the U.S. government as a party, international issues, and laws relating to navigable waters and commerce on those waters.

## **What kinds of cases do Texas courts decide?**

At the local level in Texas, we have justice courts and municipal courts. Justice courts are small-claims courts and handle civil actions less than \$10,000. Municipal courts primarily handle criminal misdemeanors. At the county level, we have county courts at law, constitutional county courts, and statutory probate courts. County courts at law maintain jurisdiction over civil cases between \$200 and \$100,000, and constitutional county courts handle various cases, including juvenile matters, misdemeanors, and some probate. The state district courts handle civil and criminal matters. Appeals from trial courts, both at the county and district levels, are heard by the courts of appeals. Texas is one of only two states (Oklahoma is the other) that has two courts of last resort — the Supreme Court for civil cases and the Court of Criminal Appeals for criminal matters.

## **What is the difference in prosecuting a criminal case as opposed to a civil one?**

A criminal prosecution is brought by the government (state or federal) to punish an individual or corporation that has allegedly committed a crime. A civil prosecution is usually brought by a person or corporation against another person or other entity seeking remedy for an alleged wrongdoing.

## **Is a person guaranteed the right to a trial by jury in every case?**

No, there is no right to a trial by jury in every case. Certain civil matters, such as cases where a plaintiff seeks an equitable remedy for a loss or injury, are not usually afforded a jury trial. However, in criminal prosecutions, the Sixth Amendment to the U.S. Constitution provides the right to a trial by a public jury. All parties are considered equal before the law and are entitled to a fair and impartial trial.

## **Are there legal remedies other than going to trial?**

Yes, there are various options, such as negotiating a settlement or using mediation or arbitration.

## **Why is jury service important?**

It is an essential responsibility of citizenship and is a way for each citizen to participate in upholding the rule of law. Jury duty can also be an educational experience as jurors learn more about the legal process.

## **What if you are called for jury duty?**

Again, this is a chance to serve your country and your fellow citizens by actively participating in our justice system. If you are called, you should inform your employer — the law requires your employer to allow you to take time off to serve — and report to the court as instructed on the summons.

As a lawyer, you have the ability to share your knowledge and expertise with students — whether a class of second-graders or high school seniors — especially by providing a better understanding of the rule of law, its importance to our country, and both a lawyer’s and a citizen’s role in the rule of law.

### **What steps should you take to speak with a group of students?**

1. Choose a school and grade level. This can be a school where your children or a friend’s children attend, your old alma mater, or just a school in your neighborhood.
2. Contact the principal or other administrator about arranging a speaking engagement. Ask about any special civics programs that your talk on the rule of law would complement.
3. Meet with the teacher to discuss your presentation and to determine what materials, if any, should be provided ahead of time for student preparation.
4. Outline your presentation. Discussion ideas and additional online resources are included in this toolkit.
5. Follow up after your presentation with a thank you to the teacher and the class. Be willing to answer any further questions from the students.

### **WAYS TO PROMOTE THE RULE OF LAW TO STUDENTS:**

Contact your local schools to make sure instructors and administrators are aware of the educational programs available through the State Bar Law-Related Education Department. There are programs and curricula for all grade levels.

Among key programs are Constitution Day, Project Citizen, and the Texas Citizen Bee. For more information on these and other educational programs, visit [www.texaslre.org](http://www.texaslre.org).

Constitution Day is observed on September 17, commemorating the date the U.S. Constitution was signed in 1787. Each educational institution that receives federal funding is required each year to hold a Constitution Day program.

Project Citizen is aimed at middle school students to promote responsible and knowledgeable involvement in state and local government, including learning to monitor public policy and developing an action plan for implementing a new policy.

The Texas Citizen Bee is a fun competition for high school students to help them develop a better understanding of the U.S. Constitution, our institutions, and our civic values.

Use this sample speech as a starting point to develop your own thoughts about the rule of law and your role in it. Incorporate your experiences as a lawyer to flesh out the ideas behind the rule of law and its importance to the everyday lives of Americans.

*“In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.”*

—James Madison  
Federalist Paper No. 51 (1788)

When I say “the rule of law,” what does that mean to you? Does it mean obeying the law? Or ruling with laws? Or does it mean that we are protected by laws? The rule of law encompasses all of those things. It is the idea that a government should be rooted in laws for the common good and that its citizens’ rights are protected from encroachment by the government. At its heart, the rule of law keeps our government — and society — from descending into tyranny or chaos.

Our understanding today of the rule of law is based upon this country’s founding. We hold several key ideals dear, not least of which are freedom, justice, and equality, as established by our Constitution and the Declaration of Independence.

Our founders had dealt first-hand with a government — the British monarchy — that was ignoring its own established laws. The colonies, while considered under British rule, were not represented in Parliament. The American Revolution grew out of the discord between the colonists, who didn’t appreciate being taxed without the representation they should have been accorded as British subjects. The Declaration of Independence took King George III to task for these infringements of what were believed to be common rights and liberties afforded to all British subjects. Our own Constitution and Bill of Rights grew out of these commonly held rights and liberties. Some examples: the right to freedom of speech and debate, the right to keep arms for self-defense, the right to trial by jury.

Today, we can look back more than 200 years to the founding of this nation, to the formation of a government held accountable to itself by a separation of powers among the executive, legislative, and judicial branches. And to the drafting of the Bill of Rights, the first ten amendments to the Constitution, to guarantee all citizens certain “unalienable” rights under the law of our country. We can look back in wonder at this system that was put in place

in this country — a form of democracy that had never been tried before. And it has succeeded — not without some trial and error along the way — but that success stems from holding true to the rule of law and to remaining vigilant against the people and institutions that try to undermine the rule of law.

As a lawyer, my role is to defend and protect the rights and liberties of individuals in a justice system that allows for due process, right to counsel, trial by jury, judicial independence, etc. It is my duty to advocate for those who are accused of crimes so that they may receive a fair hearing before their peers. It is my duty to defend a person or organization that I might not personally like because, regardless of my personal feelings, that person or organization shares the same rights under the law as you and I do. It is my duty to aid those who otherwise could not afford legal counsel.

While my profession certainly receives its share of bad press — and sometimes rightfully so — I think I'm safe in saying that the majority of lawyers in this country work hard every day to uphold the rule of law by protecting and defending your rights and seeking that justice is served.

## **Celebrate Constitution Day on September 17!**

In December 2004, Sen. Robert C. Byrd of West Virginia sponsored an amendment, approved by the House and Senate, requiring all educational institutions receiving federal funds to implement educational programs relating to the U.S. Constitution on September 17, the date the Constitution was signed in 1787. The legislation took effect in 2005.

Constitution Day provides the perfect opportunity for you to speak to students about the rule of law and how that concept is embodied in our Constitution, the oldest written constitution of any nation on earth. You can talk about the Bill of Rights or talk about what an independent judiciary means.

Or contact the State Bar of Texas Law-Related Education (LRE) Department for program information and ideas ([www.texaslre.org](http://www.texaslre.org)). For example, one fun LRE program sends “Patrick Henry” and “Alexander Hamilton” to schools to reenact a debate on the ratification of the Constitution.

To learn more about Constitution Day, you can visit several sites, including:

The National Constitution Center, which offers numerous resources for planning Constitution Day programs:  
[www.constitutioncenter.org](http://www.constitutioncenter.org)

The Bill of Rights Institute, which educates students on the words and ideas of America’s founders:  
[www.billofrightsinstitute.org](http://www.billofrightsinstitute.org)

Constitution Facts, which includes a downloadable pocket-sized Constitution plus games and quizzes:  
[www.constitutionfacts.com](http://www.constitutionfacts.com)

# SAMPLE OP-ED ON CONSTITUTION DAY

Do you know what year the Constitution was signed? How about when it was ratified? Do you know which amendments the Bill of Rights comprise?

You're probably not alone if you sat there puzzling for a moment before hitting your computer to Google the answers. Or you could have asked your resident elementary student. Like the popular Fox game show, your fifth-grader probably knew the answers — 1787, 1788, and the first ten amendments.

Most Americans tend to be fairly fuzzy on their Constitutional history, a rather sad prospect considering the document is only the basis for our government. We once memorized the Preamble and learned the basics, including some dates and amendments, but retention of that knowledge? Not so much.

On Sept. 17, students from elementary to collegiate level will celebrate Constitution Day. The day needs to include all Americans because those of us well beyond school days are the ones who need to celebrate — and re-learn — the Constitution the most.

Constitution Day was created by Sen. Robert Byrd of West Virginia in December 2004. The legislation, passed as part of a 2005 federal spending bill, requires any educational institutions that receive federal funds to implement an educational program on the Constitution on the Sept. 17, commemorating the date it was signed.

Why should Americans know the Constitution? Even though we elect leaders to represent us in government, we cannot forget our responsibilities as citizens, one of which is to hold our representatives accountable and to make sure they are upholding the laws of our land. The Constitution provides for this marvelous system of checks and balances and the separation of powers in our government, but we as citizens must remain vigilant that these checks and balances are not threatened. As Sen. Byrd said, "Without constant study and renewal of our knowledge of the Constitution and its history, we are in peril of allowing our freedoms to erode."

Thus, it's incumbent on each of us to get involved this Constitution Day. Talk to your local educators about their school programs. Get involved in your children's or grandchildren's schools and their Constitution Day projects. Go online or to your nearest library and re-read the Constitution. Memorize that Preamble again. And this time, try to remember it.

Law Day offers an excellent opportunity to promote greater understanding and awareness among students of the freedoms and responsibilities afforded us by our governmental institutions.

President Dwight D. Eisenhower established Law Day in 1958 to strengthen our heritage of liberty, justice, and equality under law. Each year, the American Bar Association designates a Law Day theme that state and local bar associations can use to conduct contests and other activities for students.

The State Bar of Texas holds a statewide contest for winning entries from local bar associations' Law Day poster, editorial, and photography contests.

Contact your local bar association for more information on Law Day events and how you can help generate participation in your area schools or how you can participate directly — such as being a judge for your local contest.

To learn more about Law Day programs, visit the American Bar Association's website:

**<http://www.abanet.org/publiced/lawday>**

Remember these important deadlines for the 2009 statewide contests:

- **Wednesday, April 1 — Local bar association winning entries due to State Bar of Texas**
- **Friday, April 10 — Statewide winners announced and notified**
- **Friday, May 1 — State Bar of Texas statewide celebration**

For more information about Law Day 2009 and how you can get involved, contact Holly Wilkerson at 800.204.2222, ext. 1514.



**2008-2009**

**STATE BAR OF TEXAS YOUTUBE CONTEST**

Which ideals unite us as citizens of this country? Look at our Constitution and the Declaration of Independence. How have the concepts expressed in these documents evolved? What do “life, liberty, and the pursuit of happiness” really mean to us in 2008?

“Texans on Justice — Ideals That Unite Us” is the theme for the State Bar of Texas’ second annual YouTube contest. Once again prizes/scholarships will be awarded in the categories for ages 18 and over and under 18, as well as in a new category — classrooms and groups. For teachers, the contest is an excellent addition to your curriculum.

Much is made of our differences, whether geographically or culturally. But what about our common goals, our common ideals? We want Texans of all ages to show us their creativity in expressing the ideals that citizens of this state and this nation share.

Everyone has a little different perspective on laws, government, freedom, and democratic principles. We want to see yours.

For more information, visit:

**[www.texasbar.com/texansonjustice](http://www.texasbar.com/texansonjustice)**

**[www.texasre.org](http://www.texasre.org)**

## GENERAL/LEGAL:

State Bar of Texas:  
[www.texasbar.com](http://www.texasbar.com)

Texas Young Lawyers Association:  
[www.tyla.org](http://www.tyla.org)

American Bar Association:  
[www.abanet.org](http://www.abanet.org)

World Justice Project:  
[www.abanet.org/wjp](http://www.abanet.org/wjp)

State Bar Pro Bono Services:  
[www.texasbar.com/probono](http://www.texasbar.com/probono)

Texas Law Help:  
[www.TexasLawHelp.org](http://www.TexasLawHelp.org)

Texas Access to Justice Commission:  
[www.texasatj.org](http://www.texasatj.org)

Legal Aid of NorthWest Texas:  
[www.lanwt.org](http://www.lanwt.org)

Lone Star Legal Aid:  
[www.lonestarlegal.org](http://www.lonestarlegal.org)

Texas RioGrande Legal Aid:  
[www.trla.org](http://www.trla.org)

Lawyer Referral Information Service:  
[www.texasbar.com/lris](http://www.texasbar.com/lris)

## GOVERNMENT:

Texas Legislature Online:  
[www.capitol.state.tx.us](http://www.capitol.state.tx.us)

U.S. Government Web Portal:  
[www.usa.gov](http://www.usa.gov)

U.S. House of Representatives:  
[www.house.gov](http://www.house.gov)

U.S. Senate:  
[www.senate.gov](http://www.senate.gov)

The White House:  
[www.whitehouse.gov](http://www.whitehouse.gov)

National Constitution Center:  
[www.constitutioncenter.org](http://www.constitutioncenter.org)

Library of Congress:  
[www.loc.gov](http://www.loc.gov)

## COURTS:

Texas Courts Online:  
[www.courts.state.tx.us](http://www.courts.state.tx.us)

Supreme Court of Texas:  
[www.supreme.courts.state.tx.us](http://www.supreme.courts.state.tx.us)

U.S. Supreme Court:  
[www.supremecourtus.gov](http://www.supremecourtus.gov)

## **COURTS CONT.:**

The Federal Judiciary:

[www.uscourts.gov](http://www.uscourts.gov)

Federal Judicial Center:

[www.fjc.gov](http://www.fjc.gov)

TYLA's The American Juror:

[www.americanjuror.org](http://www.americanjuror.org)

The Role of Texas Municipal Courts (2 parts):

<http://www.youtube.com/watch?v=-g1T8U5eDss>

Official Kids' Portal for the U.S. Government:

[www.kids.gov](http://www.kids.gov)

Texas Kids' House:

[www.kids.house.state.tx.us](http://www.kids.house.state.tx.us)

Texas Senate Kids:

[www.senate.state.tx.us/kids](http://www.senate.state.tx.us/kids)

WhiteHouseKids:

[www.whitehouse.gov/kids](http://www.whitehouse.gov/kids)

Kids in the U.S. House:

[www.clerkkids.house.gov](http://www.clerkkids.house.gov)

## **CHILDREN/STUDENTS:**

State Bar Law-Related Education:

[www.texaslre.org](http://www.texaslre.org)

State Bar of Texas YouTube Contest:

[www.texasbar.com/texansonjustice](http://www.texasbar.com/texansonjustice)