

NOVA MIDDLE SCHOOL

6th & 7th GRADE LAW VOCABULARY / BAR STUDY GUIDE

BELL RINGER JOURNAL VOCABULARY		
1	Allegation	An accusation that someone has done something illegal or wrong or something someone says is true.
2	Constitution	Sets up a structure for government and provides the rules for how it should run.
3	Statute & Elements	<p><u>Statute</u>: A law. § is a section (like a chapter) of a statute.</p> <p>Be careful with statute wording: “Or” means one or the other, but not all. “And” means both or all.</p> <p><u>Elements</u>: Facts that define a crime or law. Each fact (element) must be proven in order to find a defendant guilty or liable. Juries decide verdicts based on the elements listed in their jury instructions. Example: the crime of battery is defined as “a harmful or offensive touching.” The elements are:</p> <ol style="list-style-type: none"> 1. Intentional, 2. Harmful or offensive; and 3. Touching. <p>To be found guilty of battery, a defendant has to intentionally touch someone and that touch has to either be harmful or offensive. So, if the defendant was pushed into the victim, the defendant would not be guilty, because the touch was not intentional; it was accidental.</p>
4	Civil Law & Criminal Law	<p><u>Civil Law</u>: Deals with the private rights of individuals, groups or businesses.</p> <p><u>Criminal Law</u>: Deals with crimes, which are treated as wrongs against society.</p>
5	Plaintiff vs. Prosecutor	<p><u>Plaintiff</u>: A person who files a lawsuit (civil court). AKA: Petitioner</p> <p><u>Prosecutor</u>: A lawyer that tries to prove a criminal defendant is guilty.</p>
6	Defendant and Defense	<p><u>Defendant</u>: A person or a company accused of doing something wrong.</p> <p><u>Defense</u>: Facts which, if proven by the defendant, excuse the defendant's unlawful conduct. Also, the lawyers representing a defendant.</p>
7	Record	Everything that is written down during a hearing or trial and all of the official paperwork that gets filed in a case. It includes the evidence introduced by the parties, all papers filed by the parties, and a transcript of the trial. It may also include an audio or videotape of hearings or arguments of motions.
8	Acquittal vs. Convict	<p><u>Acquittal</u>: When a person accused of a crime is freed by a court because the prosecution hasn't proven guilt beyond a reasonable doubt, or when a defendant is found not guilty by a jury.</p> <p><u>Convict</u>: Finding a person guilty of a crime. A person who has been convicted of a crime is also called a convict (pronounced differently).</p>

9	Affidavit	A sworn statement in writing. The person who signs it is called the Affiant.
10	Perjury	Purposefully lying in court after swearing to tell the truth (taking an oath).
11	Jury & Verdict	<u>Jury</u> : A group of citizens selected from the community to decide the outcome of a case. Six jurors in civil cases & some criminal cases; 12 jurors in murder cases. <u>Verdict</u> : The decision reached by the jury. Possible criminal verdicts are guilty or not guilty. Possible civil verdicts are liable or not liable.
12	Burden of Proof	If you accuse someone of doing something wrong, you have to prove they did it. If you can't prove it, you lose. The accused does not have to prove they didn't do it. There are different burdens of proof for criminal and civil cases. See, "Beyond a reasonable doubt" under "Criminal Law" and "Preponderance of Evidence" under "Civil Law."
13	Precedent	A rule established in a higher court that some lower courts must follow.
14	Assets & Liabilities	<u>Assets</u> : Things of value that someone owns. <u>Liabilities</u> : Something you owe; a debt. Also, see "verdict."
15	Bias	Prejudice for or against someone or something.
16	Breach	You didn't do something you were supposed to do, or you did do something you shouldn't have.
17	Candor, Credibility & Veracity	<u>Candor</u> : Honesty. Telling it like it is. Being direct. <u>Credibility</u> : Believability. If someone is credible, they are believable. Someone is also credible if they are knowledgeable. A person that knows the truth but is lying is not credible. A person that is not lying but doesn't actually know the truth is not credible. <u>Veracity</u> : Truthfulness
18	Character & Ethics	Character: How a person thinks, feels, and behaves. Ethics: The ideas of right and wrong that guide an individual in making decisions.
19	Consent	Agreement.
20	Contempt	Disobedience or disrespect to a court, judge, or law.
21	Damages	Money paid to a person as compensation for their loss or injury. Also refers to someone having suffered a loss.
22	Deposition	When a witness gives sworn testimony out of court. It's recorded by a court reporter.
23	Foundation	Part of the basis for admitting testimony or evidence into evidence. Formed from three elements: Authenticity, Reliability, and Relevance. Must be established before an exhibit can be admitted as evidence. Example, an attorney must lay a foundation in order to admit an expert witness' testimony or a document into evidence. Laying a foundation establishes the qualifications of a witness or the authenticity of evidence.

24	Motion & Hearing	<u>Motion</u> : Asking a judge to do something, or make someone else do something. <u>Hearing</u> : A meeting between the judge and lawyers in a case, usually to decide issues before trial raised in a motion.
25	Housekeeping Matters	Anything related to the trial that needs cleared up before you begin. It's about the process of the trial, not the subject of the trial. Example: stipulations.
26	Injunction	A court order that prohibits a person from doing something.
27	Jurisdiction	The authority of a court to hear a case.
28	Knowingly, Willfully & Maliciously	<u>Knowingly</u> : Fully aware of what you are doing. <u>Willfully</u> : On purpose <u>Maliciously</u> : Intending to do evil.
29	Stipulate	To agree.
30	Subpoena	An order from the court, in writing, that demands the person named appear in court on a specific day, at a specific time.
31	Testimony	A written or spoken statement given in court given under oath, as evidence.
32	Theme	A memorable word or phrase that you repeat throughout trial.
33	Theory	Your side's version of what really happened.

THE U.S. CONSTITUTION

34	Article I	Legislative. Creates Congress and gives it the power to make laws.
35	Article II	Executive. Says who is qualified to be President and how s/he is elected. Also defines the powers of the executive branch.
36	Article III	Judicial. Responsible for interpreting the laws made by the executive branch to determine what they mean. Creates the SCOTUS.
37	1st Amendment	Freedom of speech, religion, press, religion, and assembly.
38	2nd Amendment	The right to bear arms (own and carry guns and other weapons).
39	4th Amendment	You have the right to be free from unreasonable search and seizure. The police must have reasonable suspicion, probable cause or a warrant to search your home or vehicle. Searching is looking; seizing is taking. Reasonable suspicion is not simply an idea or hunch that you are involved in criminal activity – it must be more. When the police see you and the surrounding circumstances, they must note specific facts that support a suspicion of current or future crimes. If the police gather more facts to support your involvement in a crime, they may have probable cause to arrest you at this time.

40	5th Amendment	Says we are entitled to due process, which means we are entitled to a fair legal proceeding, which must include notice and an opportunity to be heard. Prohibits Double Jeopardy: A defendant cannot be tried twice for the same crime. Says we have a right against self-incrimination, which means exposing yourself with words. "Pleading the Fifth:" A defendant cannot be forced to testify against him/herself. SCOTUS ruled in <i>Miranda v. Arizona</i> that the 5 th amendment requires a Miranda Warning: "You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford one, one will be appointed to you. With these rights in mind, are you willing to talk to me about the charges against you?"
41	6th Amendment	Right to a Speedy Trial: A defendant must have a trial within a reasonable time after being arrested. Right to Trial by Jury: Criminal defendants are entitled to a jury trial. Right to a lawyer. Right to confront witnesses against you.
42	8th Amendment	Protects criminals from excessive punishment (right against cruel and unusual punishment). It forbids the government from using torture as well as excessive fines and bail to punish people who have broken the law. Bail: Temporarily releasing a person from jail while they await trial, usually after they pay money that hopefully guarantees their appearance in court.
43	14th Amendment	Grants equal rights to anyone born in the United States or who becomes a citizen of the country. Called the "Equal Protection Clause."
CIVIL LAW		
44	Complaint	A document filed by a plaintiff that starts a lawsuit. It lists the elements of the causes of action (statutes) believed to have been violated by a defendant. Cause of Action: Facts that let a person file a lawsuit. If the elements are present, a plaintiff has a cause of action.
45	Contract	A legally binding document. The elements are: offer, acceptance, and consideration (something you are willing to give up in exchange for what you're getting in the contract).
46	Damages	Money paid to a person as compensation for their loss or injury.
47	Liable	A possible verdict in a CIVIL case. It means the defendant is responsible (it is the criminal law version of "guilty"). Not liable means the defendant is not responsible.
48	Litigate & Litigant	<u>Litigate</u> : To take a dispute to a court of law; file a lawsuit. <u>Litigant</u> : A person involved in a lawsuit; one engaged in litigation. Also called a "party."
49	Negligence	Failure to take proper care in doing something.
50	Preponderance of Evidence	The burden of proof in a civil case. Means "more of the evidence." To win, the plaintiff has the burden to convince the jury that there is a greater than 50% chance that they're right.
51	Settlement	An agreement that resolves a dispute or conflict.

CRIMINAL LAW

52	1st Degree Murder vs. 2nd Degree Murder	<p><u>1st Degree</u>: Premeditated (planned) killing of a human being.</p> <p><u>2nd Degree</u>: Killing by an act imminently dangerous to another with a depraved mind (showing no care for human life). No premeditation required.</p>
53	Accessory Before or After the Fact	<p><u>Before</u>: Someone who helps a person commit a crime, but is not present at the crime scene. <u>After</u>: knowingly helping a person who has just committed a felony escape or avoid arrest or trial.</p>
54	Accomplice	A person who helps another person commit a crime.
55	Actus Reus & Mens Rea	<p><u>Actus Reus</u>: Latin phrase meaning "guilty act."</p> <p><u>Mens Rea</u>: Latin phrase meaning "guilty mind." It means whatever the statute says is the mental requirement. Example: intentionally, knowingly, purposefully, maliciously.</p>
56	Aggravated Crimes	Any crime committed with factors that make the crime more severe. Allows for harsher punishments over what the crime would usually receive. Some factors include: use of a deadly weapon, victim is a minor, elderly, or disabled person, serious injury to victim.
57	Alibi	Proof a defendant was in another place at the time the crime was committed.
58	Arrest Warrant	A written order signed by a judge directing a police officer to arrest the person named in it who is accused of an offense.
59	Arson	Willfully & unlawfully damaging a house or building by fire or explosion.
60	Assault & Battery	<p><u>Assault</u>: An intentional, unlawful threat to do violence and doing something that creates a fear that violence is imminent (about to happen).</p> <p><u>Battery</u>: Actual and intentional touching or striking of another person against that person's will; or Intentionally causing bodily harm to another person.</p>
61	Beyond A Reasonable Doubt	The level of proof required to convict a person of a crime; if a jury member has any reasonable doubt that a defendant committed a crime, the verdict must be "not guilty." Reasonable means fair and sensible.
62	Burglary vs. Robbery	<p><u>Burglary</u>: Entering property (a house or a building) with the intent to commit a crime.</p> <p><u>Robbery</u>: Taking money or property from a person, with the intent to temporarily or permanently deprive them of the money or property, using force, violence or assault.</p>
63	Conspiracy	An agreement between two or more people to commit a crime, with the intent to actually commit the crime.

64	Felony vs. Misdemeanor	<p><u>Felony</u>: A serious crime punishable by death or confinement in prison a year or more).</p> <p><u>Misdemeanor</u>: An offense less serious than a felony and which may be punished by a fine or sentence to a local jail for less than one year.</p>
65	Grand Jury	A group of people chosen from the community to look at the evidence gathered by a prosecutor and determine whether there is probable cause to believe a person committed a crime and should be put on trial. Reserved for serious felonies. They do not decide guilt. Can have 16-23 people.
66	Guilt Phase vs. Penalty Phase	<p><u>Guilt Phase</u>: Trial to decide if the defendant is guilty of the crime s/he is accused of committing.</p> <p><u>Penalty Phase</u>: Setting the punishment for a convicted defendant after s/he enters a plea of guilty or is found guilty during the guilt phase.</p>
67	Guilty	Responsible for committing a criminal offense.
68	Homicide	Killing of one person by anothe.
69	Incarceration	Being in jail, prison, or other correctional facility as punishment for a crime. Jail holds inmates waiting for trial and those sentenced to one year or less. Prison holds criminals who have been sentenced to one year or more.
70	Information	A written formal charge against a defendant which begins a criminal proceeding.
71	Means, Motive, & Opportunity	When considering whether a defendant is guilty, we look at whether s/he had the Means: ability to commit the crime, Motive: a reason for committing the crime and Opportunity: had the chance to commit the crime.
72	Parole vs. Probation	<p><u>Parole</u>: Releasing a prisoner from prison early on the promise of good behavior.</p> <p><u>Probation</u>: When a prisoner is supervised by a probation officer instead of going to prison.</p>
73	Plea Bargain	Agreement between a defendant and prosecutor to drop or lessen a charge in exchange for the defendant pleading guilty.
74	Search Warrant	A court order signed by a judge allowing an officer to search the property listed in the warrant.
75	Self Defense	The justified use of force. Ex: A defense to the crime of 2nd degree murder.
76	Sexual Assault & Battery	<ul style="list-style-type: none"> • Committed on a victim under 12 by an adult (over 18): capital felony • Committed on a victim under 12 by someone under 18: Life felony • Committed on a victim over 12: 2nd degree felony • Defendant used a deadly weapon or physical force likely to cause serious bodily injury to a victim over 12: Life felony
77	Strict Liability	When a defendant is guilty, or liable, of breaking a law, regardless of what his/her intent or mental state was when committing the action. Mens rea doesn't matter.

78	Types of Felonies	3rd Degree: Up to five years in prison and a \$5,000 fine. 2nd Degree: Up to 15 years in prison and a \$10,000 fine. 1st Degree: Up to 30 years in prison and a \$10,000 fine. Life Felony: Up to 40 years in prison and a \$15,000 fine. Capitol Felony: Death or life in prison without possibility of parole.
79	Voir Dire	Questioning potential jurors. Literal translation: to speak the truth.
80	Voluntary Manslaughter vs. Involuntary Manslaughter	<u>Voluntary</u> : Killing without the intent to seriously harm or kill (“malice aforethought”). Sometimes, a murder charge is reduced due to mitigating (less severe) circumstances. Example: heat of the moment; when one spouse sees the other spouse cheating & they kill one or both of them before having a chance to think through the consequences of their actions. <u>Involuntary</u> : Unintentional killing caused by negligent or reckless behavior. AKA: Negligent Homicide. Lowest murder charge. Example: punching someone in a fight and the victim falls down, hits his head and dies. Punching someone is behaving in a way that people know is risky.
81	Waiving 5th Amendment	When a criminal defendant takes the stand, their attorney should make it known that the defendant is waiving his/her 5th amendment right against self-incrimination.

COURTS AND COURTROOMS

Starting Here, # front AND back of each page in composition book!

82	Adjourn	To postpone; take a break.
83	Appeals Courts vs. Trial Courts Vs. Federal Courts	<u>Appeals Courts</u> : Review trial court decisions to make sure they followed the law. No juries. They affirm trial court decisions when they agree with them, and reverse them when they disagree with them. The first appeal is from a trial court to the District Court of Appeals; it has three judges. The next appeal would be to the Florida Supreme Court (seven justices; highest court in FL). The final appeal would be to the Supreme Court of the United States - SCOTUS (nine justices; highest court in the U.S.A.) They make decisions by looking at the record. They look for mistakes made in the trial court. <u>Trial Courts</u> : Where trials happen and evidence is heard. Can have juries. There is one judge. <u>Federal Courts</u> : Deal with cases that involve federal laws, maritime (sea) laws, and disputes between people and companies from different states.
84	Bailiff, Bar & Bench	<u>Bailiff</u> : An official in a court of law who keeps order. <u>Bar</u> : The low wall in a courtroom that divides the place where the attorneys and judge sit from the audience. <u>Bench</u> : Where the judge sits.
85	Dissent	Disagreeing. Example: when one judge disagrees with another judge.

86	Overruled vs. Sustained	<p><u>Overruled</u>: Means that the judge disagrees with the objection and allows the testimony or item to be considered as evidence.</p> <p><u>Sustained</u>: Means the judge agrees with the objection and excludes the testimony.</p>	
TRIALS			
87	Opening Statement vs. Closing Argument & Demonstrative Aids	<p><u>Opening Statement</u>: First thing a jury hears. Explains the theory of the case, the facts to be proven, the evidence to be presented, and summarizes the arguments to be made.</p> <p><u>Closing Argument</u>: Final statement of each party's attorney restating the important arguments for the jury. May only include evidence introduced at trial and may not contain any new information.</p> <p>Demonstrative Aids: Diagrams, charts, and photographs used at trial to help explain testimony or other evidence. Demonstrative aids are NOT evidence. To use a demonstrative aid say, "Your Honor, we request your permission to use a demonstrative aid during our opening statement and closing argument."</p>	
88	Direct Examination vs. Cross Examination	<p><u>Direct</u>: Questioning your own witness. Leading questions are NOT allowed. The best questions include, "if anything," "what happened next," and "describe." A re-direct is when the attorney who directed the witness has a chance to explain any damaging testimony brought out by the opponent during cross-examination.</p> <p><u>Cross</u>: Questioning your opponent's witness using mostly leading questions. Find a way to discredit the witness. Question the witness like an angry parent. Show sympathy when discussing the loss of a loved on, etc. "Sorry for your loss." <u>Re-cross</u>: when the attorney who crossed the witness tries to weaken and discredit what the witness said on re-direct.</p>	
89	Directed Verdict	A ruling entered by a judge after determining that the plaintiff/prosecution failed to meet its burden and prove their case. The defense attorney asks the judge for a directed verdict once the plaintiff/prosecution rests its case.	
90	Evidence vs. Exhibits	<p><u>Evidence</u>: Facts or information that help determine if something is true. Evidence can be Direct: directly links a defendant to a crime (ex: eyewitness testimony), Circumstantial: implies a person committed a crime (ex: witnesses sees a defendant fleeing a crime scene), or Physical: objects found at the scene of a crime (ex: a weapon, shoe print, tire marks).</p> <p>Exhibits: A document or other object produced in a court as evidence. An attorney can use exhibits admitted into evidence by the other side.</p>	
91	Expert Witness	A person with special knowledge, skills, experience, or education that is called to trial to provide their expertise about the case. Experts are the only witnesses that can provide their opinions, as long as the opinion is about the topic in which they're an expert.	

92	Impeaching a Witness	<p>Attacking a witness’s credibility by comparing what they say during trial to what they said in their affidavit or deposition and pointing out the differences. Can also be done by asking questions that show the witness is biased, or by attacking their character. How to:</p> <ol style="list-style-type: none"> 1. Remind the witness what they said previously. 2. Show the witness the part of their affidavit where it says something different (it should be highlighted). <p>Ask them to read what they previously said aloud for the jury.</p>	
93	Introducing Physical Evidence	<p>If you want to show a witness any physical evidence, you have to follow a special procedure. First, make sure the evidence is relevant to the case. Then, before trial, work with your opponent to pre-mark the evidence. Marking it means that a number will be placed on the evidence to help identify it for the record. Steps to use:</p> <ol style="list-style-type: none"> 1. Show the evidence to opposing counsel to see if they have any objections. 2. Say “I’m showing you what has already been marked for identification as Prosecution’s/Defendant’s Exhibit ___” 3. Ask the witness: Do you recognize this? What is it? Does it look like an accurate copy? Can you please describe to the jury what you see?” Then, ask the witness any questions you have about the document. 4. Once you’re done asking questions about the document, say, “Your Honor, I ask to move Prosecution's/Defendant's Exhibit ___ into evidence.” Hand it to the bailiff. <p>You now have the choice to publish the exhibit to the jury. If you choose to do so say, "Do I have permission to publish this exhibit to the jury?" The judge may or may not allow you to do so. Make sure you have several copies for the jury.</p>	
94	Qualifying a Witness as an Expert	<p>An expert is the only witness that is allowed to give their opinion about certain matters. Before you can ask them their opinion, they have to be qualified as an expert in a particular area of study. Do this by asking the witness to tell the jury their name, and then ask questions that allow him or her to show the jury why they’re an expert in a particular field. Example: What, if any, degrees do you possess? Do you have a job? Where? How long have you been at that job? Please describe some of your job duties. Do you have any job specializations? Have you given any lectures? Written any papers or books? Etc. Once you’ve asked enough questions to convince the jury the witness is an expert, say, “Your Honor, I am requesting that this witness be qualified as an expert witness in the field of _____.” (You must state a specific field of study).</p>	
95	Withdrawn	<p>What you should say when you want to stop asking a question, take back a question you just asked, or get rid of an objection you just made. “I withdraw the question/objection, Your Honor.” You can also say, “strike that.”</p>	
TRIAL OBJECTIONS			
96	Ambiguous Question	<p>An attorney shall not ask questions that are capable of being understood in two or more possible ways.</p>	

97	Argumentative vs. Badgering the Witness	<p><u>Argumentative</u>: Used when the witness is not being asked a question that he or she can properly answer. In other words, when the questioning attorney makes an argument instead of asking a question. These types of arguments should be saved for the closing.</p> <p><u>Badgering</u>: Harassing the witness to intimidate them, asking argumentative questions, or when opposing counsel becomes hostile with the witness.</p>
98	Asked & Answered	Question has already been asked and it was answered the first time it was asked. "Objection. Your honor, the question has already been asked and answered."
99	Beyond the Scope of Direct	When the opposing attorney is cross examining a witness about matters that were not asked about on direct. This objection is not allowed when a witness is being asked a question about character, veracity or credibility.
100	Compound Question	Multiple questions asked together.
101	Golden Rule	A rule that doesn't allow lawyers to ask jurors to put themselves in the place of the victim before they deliver the verdict that they would wish to receive if they were in that person's position.
102	Hearsay	<u>Simple definition</u> : testimony or documents quoting people who are not present in court. Not usually allowed because it is untrustworthy. <u>Actual definition</u> : Out of court statement made by someone other than the declarant, that is offered to prove the truth of the matter asserted.
103	Lack of Personal Knowledge	A witness may not testify to any matter of which the witness has no personal knowledge. "Objection. The witness has no personal knowledge that would enable him/her to answer this question."
104	Lack of Proper Predicate vs. Lacks Foundation vs. Assumes Facts not in Evidence	<p><u>Predicate</u>: Exhibits will not be admitted into evidence until they have been identified and shown to be authentic (undisputed). Even after proper predicate has been laid, the exhibits may still be objectionable due to relevance, hearsay, etc.</p> <p><u>Foundation</u>: The prerequisite evidence has not been entered that would make this evidence admissible.</p> <p><u>Assumes Facts</u>: A question that assumes something is true even though no evidence has been shown to prove it.</p>
105	Leading Question	A question that suggests the answer the questioner wants to hear. Example: "You're wearing a red shirt, aren't you?" Leading questions are generally not allowed on direct examination; they are mostly used on cross examination.
106	Making Objections	An attorney can make an objection (1) When an attorney is questioning a witness, when a witness is answering a question, or when an attorney is trying to admit evidence. Attorneys should stand during objections. No objections should be made during opening/closing statements.
107	Mischaracterize s Testimony	When an attorney misstates what a witness said. For example, a witness says he is tired and the attorney says, "you just admitted you weren't paying attention."

108	Narration	Instead of giving a clear answer, the witness tells a long story and rambles. Also, a question that invites a witness to answer like this.
109	Nonresponsive	A witness' answer is objectionable if it fails to respond to the question asked.
110	Privileges	Attorney-client privilege: Typically, discussions between an attorney and his or her client are private. They cannot be forced to discuss what was said. Doctor-patient privilege: Typically, discussions between a doctor and his or her patient is private. They cannot be forced to discuss what they said to each other.
111	Relevance	Generally, only relevant testimony may be presented. Relevant evidence is physical evidence and testimony that makes a fact that is important to the case more or less probable than the fact would be without the evidence. "I object, your honor. This testimony is irrelevant to the facts of this case."

