

# THE CASE OF...

## The Unclear Law

The city of Beautifica has established a lovely park in the city. The city council wishes to preserve some elements of nature, undisturbed by city noise, traffic, pollution, and crowding. The park is a place where citizens can go and find grass, trees, flowers, and quiet. In addition, there are playgrounds and picnic areas, and at one time a road ran through the park. Now the road is closed. The city council has enacted a law requiring that all entrances to the park have the following sign posted: NO VEHICLES IN THE PARK.



▲ Park rules should be clear to everyone.

### PROBLEM 2.2

The law seems clear, but some disputes have arisen over its interpretation. Interpret the law in the following cases, keeping in mind what the law says (the letter of the law) as well as the legislative intent. Examine each situation and decide whether or not the vehicle described should be allowed in the park. Write the reasons for your choices. When you finish analyzing all of the situations, rewrite the law to make it clearer.

- a. Tony lives on one side of the city and works on the other. He will save ten minutes if he drives through the park.
- b. To keep the park clean, trash barrels are located throughout the area. The sanitation department wants to drive a truck into the park to collect the trash from the barrels.
- c. Two police cars are chasing a suspected bank robber. If one police car cuts through the park, it can get in front of the suspect's car and trap it between the patrol cars.
- d. An ambulance is racing to the hospital with a dying patient. The shortest route is through the park.
- e. Elena wants to take her baby to the park in a stroller.
- f. A monument is being erected to the city's citizens who died in the Vietnam War. A tank, donated by the government, is to be placed beside the monument.
- g. Amul uses an electric wheelchair and wants to visit the park.
- h. Roshini wants to fly her toy drone in the park.



## Drafting a Bill

No matter where the idea for a bill originates, eventually there must come a time when the bill is drafted—that is, when actual language is written. As you can see from *The Case of the Unclear Law*, even the simplest language might not be clear enough for people to understand. Legislation is often drafted and redrafted before being introduced and discussed by a legislative body. Despite these efforts, laws are sometimes difficult to read and understand. When misunderstandings occur, one of the basic purposes of law—letting people know what conduct is expected of them or what conduct is prohibited—is lost. When drafting laws, it is useful to ask the following questions to evaluate whether problems are likely to result.

- Is the law written in clear language?
- Is the law understandable?
- When does the law go into effect?
- Does the law contradict any other laws?
- Is the law enforceable? If so, by whom?
- Are the penalties for breaking the law clear and reasonable?

In deciding what a statute means, judges must follow certain rules. One rule is that courts will not enforce laws, particularly criminal laws, that are so vague that it is unclear exactly what conduct is prohibited.

# TAKING ACTION: Law and Democracy

## Drafting a Law Simulation

The harmful effects of cigarette smoking, both for smokers and for those nearby, continue to make headlines. In your town there is a discussion about prohibiting smoking in certain places. Opinion on this issue is divided. Some restaurant employees want to work in healthier, smoke-free environments. Some restaurant owners are concerned that no-smoking rules will harm their businesses and might result in a loss of jobs. Some citizens believe that smoking should be banned in all public places, including stores, restaurants, workplaces, and even outdoor spaces such as parks.

Still others believe that these restrictions go too far and intrude on the rights of people using

a lawful product (cigarettes). They believe that economic forces, rather than government action, will bring the best results. Some restaurants, for example, will choose to be smoke-free in order to attract patrons who care about this issue.

### PROBLEM 2.3

You are a member of the citizens advisory group to your town council. Your group has been asked to draft a new ordinance dealing with smoking in public places.

- List the details that should be included.
- Create a draft of the ordinance, using the guidelines for drafting laws.
- Who would support your ordinance? Who would oppose it?



For example, a law that stated “it shall be illegal to gather on a street corner without a good reason” would be considered too vague because the phrase “good reason” is not clear. Another rule says that if there is doubt as to the meaning of a word in a criminal statute, the word must be strictly interpreted against the government. This usually means that words are given their ordinary meaning by the court. These rules are meant to encourage lawmakers to write clear laws and to ensure that people are not punished for failing to obey an unclear law.

Clarity in legal language is important. For that reason, some legislatures now attempt to write in simple, clear English rather than traditional legal language. Those who favor this practice argue that laws have been written in language that is too complex and should instead be written so that a person of ordinary intelligence and education can understand what is expected.

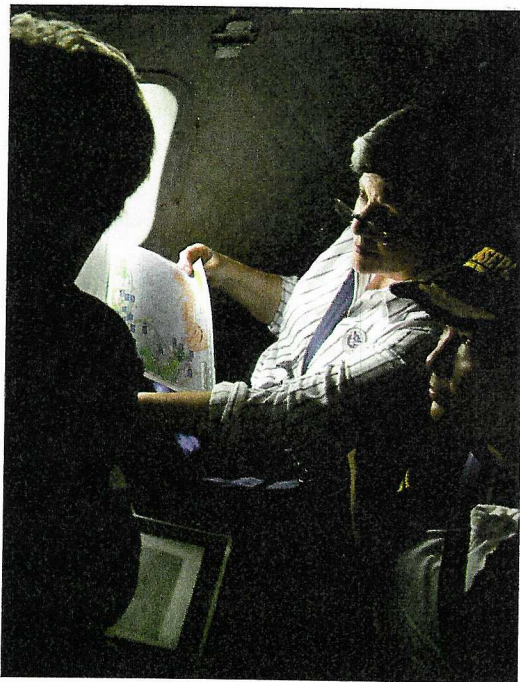
## Agencies

Many of the laws that affect you are made by government agencies. Legislative bodies usually deal with problems in only a general way. They authorize administrative agencies to develop rules and regulations to make laws more specific. These regulations influence almost every aspect of our daily lives and have the force of law. For example, Congress passed a law requiring safe working conditions in places of employment. To implement the law, Congress established the Occupational Safety and Health Administration (OSHA). This agency develops specific regulations governing health and safety on the job. These regulations dictate specific requirements, such as the height of guardrails in factories, the number of fire exits, and the type of safety equipment to be worn by employees in various occupations.

Another example of a government agency is the Environmental Protection Agency (EPA). It works with other federal agencies, state and local governments, and Native American groups to develop and enforce regulations under existing environmental laws passed by Congress. The EPA sets national standards that help protect human health and safeguard the national environment, with enforcement delegated to state governments. The agency also works with industry and government at various levels on pollution prevention and energy conservation.

In response to the terrorist attacks of September 11, 2001, the federal government created new agencies and reorganized existing ones to increase homeland security. For example, in November 2002 President George W. Bush signed a bill creating a new federal Department of Homeland Security. The department’s primary mission is to help prevent, protect against, and respond to acts of terrorism on U.S. soil. An existing agency, the Department of Transportation (DOT), was also reorganized when the Transportation Security Administration (TSA) was created within DOT to protect the nation’s transportation systems.

▼ Specific rules and regulations are made by agencies such as the Department of Homeland Security. Why do you think this agency is needed?







◀ A scientist conducts research to improve diagnostic tests for diseases. How do administrative agencies work to protect the well-being of individuals?

The Federal government also responded to the financial crisis of 2008 by enacting a new financial reform law. This law, administered by many Federal agencies including the newly established Consumer Financial Protection Board, prevents credit card companies from raising interest rates on existing credit card balances.

The administrative agencies with the greatest impact on your daily life are those at the state and local levels. For example, a zoning commission and other local agencies where you live may have developed a plan that determines what kind of buildings can be located in specific parts of your town. A local agency may hold public hearings to determine whether a new restaurant can serve alcohol or feature live music.

Administrative agencies, then, are really hidden lawmakers, enacting numerous rules and regulations that affect business and industry as well as individuals. For example, regulations govern the amount of pesticides that can be used on produce, the number of animals that can be killed by hunters, the ingredients that can be used in canned food, the costs of phone calls and electricity, the hours of operation for bars and restaurants, the qualifications of people employed in various professions, and hundreds of other issues. In addition to their lawmaking functions, agencies also administer government programs and provide many services.

Regulations issued by these agencies become law without being voted upon. However, agencies usually hold **public hearings** before issuing proposed regulations. These hearings give individuals or businesses an opportunity to express their views on the proposals. In addition, regulations proposed by the federal government must be published in a special newspaper called the *Federal Register*. This allows people to learn about and comment on proposed rules.

### Investigating the Law Where You Live

**Visit** the official website of your state government. Note that your state has many agencies. Which state agencies are likely to be most important to you at some time in your life?

**public hearings** proceedings that are open to the public. During these proceedings, evidence is considered and then a decision is reached based on this evidence



The logo for 'networks' features the word in a white sans-serif font with a stylized '@' symbol. Above the text are several thin, colorful lines (red, green, blue, yellow) that intersect and radiate outwards, resembling a network or starburst pattern.

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► Community members advocate their cause by publicly expressing their opinions.



## CHAPTER 3

### Advocacy

One of the most important goals of *Street Law* is promoting positive involvement in public affairs. This chapter discusses advocacy, or how citizen involvement can influence the lawmaking process. In our democracy, citizens are responsible for making the law, usually through their elected representatives. While voting is, of course, an important obligation of citizenship, an individual's lawmaking role is much broader than voting. Citizens are also responsible for working to change laws that are not helping to solve problems and working for new laws and policies that address problems in their communities, cities, states, or countries.

### The Art of Advocacy

Advocacy is the active support of a cause. It also involves the art of persuading others to support the same cause. Advocacy is based on the careful gathering of facts, the development of excellent communication skills, and the creation of an effective plan and time line. In order to advocate effectively, you must determine what level or levels of government are responsible for addressing the problem.

High school students all over the country have become effective advocates on important questions ranging from national issues, such as violence prevention and military activity abroad, to local concerns, such as homelessness and school uniform policies. In some instances students have advocated change with their local schools and town or city councils. In other instances they have communicated with state or congressional representatives. For example, high school students concerned about smoking in student bathrooms lobbied for membership on their school's

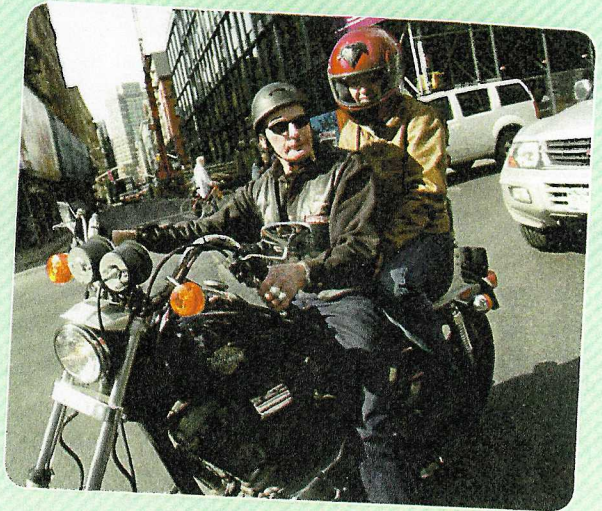


# TAKING ACTION: Law and Democracy

## Changing the Law: Research and Role-Play

Work with your classmates in small groups to research one of the proposed laws listed below. Then answer the questions that follow. Each group will share its findings. The proposed laws would:

- require motorcycle riders of all ages to wear an approved safety helmet while riding on public roads.
- legalize the use of marijuana for medical purposes while under the supervision of a doctor.
- require voters to have a state-issued ID in order to vote.
- suspend a person's driver's license for failing to pay court-ordered child support.
- require every worker in the country to carry a national identification card with biometric information, such as a fingerprint, to make sure that all employees have legal status.



### PROBLEM 3.1

- a. What arguments could be presented for and against the proposed law?
- b. What groups, organizations, or businesses are likely to lobby for or against the proposed law? What techniques could they use to influence legislators?
- c. How could social media be used to advocate for or against the proposed law?
- d. Predict the outcome if your community held a voter referendum on the proposed law. Explain your reasons.

safety committee. When they joined the committee, they worked with the school resource officer, building principal, and assistant principal to convince their county board of education to give them funds to purchase smoke detectors. The students then lobbied their state representative, who was so impressed with their solution that he introduced a bill in the next legislative session to make smoke detectors mandatory in public school bathrooms across the entire state.