

The Case of the Troubled Teen: Bail or Jail?

Mock Bail Scenario: *R. v. Reid*

Teacher Resource

Curriculum Links: Understanding Canadian Law (CLU3E), Grade 11, Workplace Preparation

Legal Focus: Criminal Law, Bail

Estimated Time: 1 period

Overall Expectations:

- Describe the criminal trial process.
- Communicate legal knowledge effectively.

Specific Expectations:

- Describe the procedures that take an accused from being charged to trial (e.g., arrest and release procedures).
- Demonstrate an ability to listen and read critically, find relevant information, and express and support opinions, using proper legal terminology.

Description of the Scenario

Linda Reid is a 17 year-old high school student. Her father left the family two years ago and she has been having a hard time dealing with this. While she used to do well at school, her grades have been falling and she quit the basketball team. A couple of months after her father left, Linda began dating John, a 20 year-old young man who has a history of problems with the law. John has been a negative influence on Linda and she now has a criminal record for dangerous driving on account of a night when she and John took his aunt's car on a joyride. She was not taken into custody for this offence and did not have a bail hearing. At trial, she was found guilty, ordered to pay a fine and placed on probation for 12 months.

Eight months later, Linda and John were allegedly caught breaking into a neighbour's house late at night. Linda was charged with:

- Break and enter
- Assault
- Failure to comply with her probation order from the previous conviction (keeping the peace/good behaviour)

Linda was taken into custody by the police. At the bail hearing, the Justice of the Peace (JP) released her on a \$500 surety (which her mom supplied) and gave her a 9:00 pm curfew.

Linda is once again appearing before a JP at a bail hearing. Although she has not yet gone to trial for the break and enter incident, she was picked up by the police again because she and John allegedly stole a sign from inside a bar at 1:00 a.m. on a Saturday night. They were also allegedly in possession of a stolen car that was parked outside the bar. The new charges Linda is facing are:

- Theft under \$5000
- Fail to comply with her probation order (keeping the peace / good behaviour)
- Fail to comply with her curfew
- Possession of stolen goods over \$5000

The Crown is seeking a detention order. This means that the accused, Linda, would be denied bail and would remain in jail until her trial. Normally, youth are not detained in jail before trial and it is the Crown's responsibility to show why they should be denied bail. However, in certain cases where youth are charged with more serious offences, have previous charges, or previously failed to appear in court, the accused will have to show the JP why s/he should *not* be detained. This is called a "reverse onus". Since Linda has outstanding charges, it will be up to her to convince the JP that she does not pose a threat to society and that she will show up to court when ordered.

Linda's mom is willing to act as her surety again, but is unable to come up with another \$500 because she quit her job when Linda was charged with the most recent offences. Her brother (Linda's uncle) has recently moved in and plans to help support the family while Linda's mom remains at home and searches for part-time employment.

The Final Judgment

This is a mock scenario. Students will use the information provided to determine a fair judgment.

Teaching & Learning Strategies

1. Ask students to read ***The Big Question***. Have a class discussion about the value of one's word, honour, and trust. Ask students why these things are important and how people react when they are broken.
2. Have students read ***The Facts of the Case*** and, using the *Think/Pair/Share* strategy, have students consider ***The Issue***. Students should come up with a list of things that they think should be considered when determining bail in general. Create a class list on the board.
3. Using a teacher- or student-centred reading strategy, review ***The Relevant Law***. Clarify any questions, check for understanding, and point out how the law applies to the case.
4. Read ***Each Person's Perspective***. With a partner, ask students to come up with arguments for and against giving Linda bail. Make a class list and have students copy the arguments into their charts.

5. Have two students act out a bail hearing, arguing in favour for and against Linda's release. Have another student act as a JP. Alternatively, invite a Justice of the Peace to speak to the class and preside over the mock bail hearing. Visit www.ojen.ca to arrange for a classroom visit.
6. Have students complete the ***You Be the JP*** exercise. Students should consider the facts of the case, Linda's previous history, and the factors for consideration of bail. Students should determine a final decision in Linda's case and be able to provide reasons for how they reached their decisions.
7. Ask students to complete the ***Reflecting*** exercise either in class or for homework. Discuss the answers as a class.

Assessment & Evaluation

- *Think/Pair/Share*
- Class discussions
- *Each Person's Perspective* chart
- Mock bail hearing
- *You Be the JP* worksheet
- *Reflecting* worksheet

Resources

Ontario Justice Education Network
www.ojen.ca

- Mock Bail Scenario: *R. v. Reid*
- How to Conduct a Mock Bail Hearing
- *Making the Case: Mock Hearing Toolkit*

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Mock Bail Scenario: R. v. Reid

Student Handout

The Big Question

If you make a promise and break it, should you be given a second chance? What are your personal feelings on this issue? What factors would you consider when making this decision?

The Facts of the Scenario

Linda Reid is a 17 year-old high school student. Her father left the family two years ago and she has been having a hard time dealing with this. While she used to do well at school, her grades have been falling and she quit the basketball team. A couple of months after her father left, Linda began dating John, a 20 year-old young man who has a history of problems with the law. John has been a negative influence on Linda and she now has a criminal record for dangerous driving on account of a night when she and John took his uncle's car on a joyride. She was not taken into custody after this offence and did not have a bail hearing. At trial, she was found guilty, ordered to pay a fine, and was placed on probation for 12 months.

Eight months later, Linda and John were caught breaking into a neighbour's house late at night. Linda was charged with:

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Linda is once again appearing before a JP for a bail hearing. Although she has not yet gone to trial for the break and enter incident, she was picked up by the police again because she and John allegedly stole a sign from inside a bar at 1:00 a.m. on a Saturday night. They have also admitted to being in possession of a stolen car that was parked outside the bar. The new charges Linda is facing are:

- Theft under \$5000
- Fail to comply with her probation order (keeping the peace / good behaviour)
- Fail to comply with recognizance (the bail condition of a 9:00 pm curfew)
- Possession of stolen goods over \$5000

The Crown is seeking a detention order. This means that the accused, Linda, would be denied bail and would remain in jail until her trial. Normally, youth are not detained in jail before trial and it is the Crown's responsibility to show why they should be denied bail. However, in certain cases where youth are charged with more serious offences, have previous charges, or previously failed to appear in court, the accused will have to show the JP why s/he should *not* be detained. This is called a "reverse onus". Since Linda has outstanding charges, it will be up to her to convince the JP that she does not pose a threat to society and that she will show up to court when ordered.

Linda's mom is willing to act as her surety again, but is unable to come up with another \$500 because she quit her job when Linda was charged with the most recent offences. Her brother (Linda's uncle) has recently moved in and plans to help support the family.

The Issue

- What factors should be considered when deciding whether or not to grant bail to Linda?

The Relevant Law

Bail is the word used for when a person charged with an offence is allowed to remain in the community during the time between the laying of the charge and the trial.

When people are arrested they are usually taken to the police station. Once there, the police can either release them (after signing a “Promise to Appear” for trial) or hold them in custody. If they are being held in custody, the police must bring them before a Justice of the Peace (JP) within 24 hours for a bail hearing.

At the bail hearing, both the Crown and defence present legal arguments and evidence as to why the accused should or should not get bail. Generally, the Crown goes first and has the responsibility of showing why the accused should not be released. However, in some cases (those involving more serious offences, or ones where the accused has previous charges, or previously failed to appear in court) the responsibility – or “onus” – is switched and the defence must explain why the accused should be released; this is called a “reverse onus”. Justices of the Peace (not judges) preside at bail hearings and decide whether or not an accused will be granted bail. If the accused is not released, s/he will be held in a detention centre until the trial.

Most people are granted bail after ensuring that they will appear at trial by promising a payment of money and/or the agreement of a responsible person (a surety) to supervise them and ensure that they attend court. Usually bail will not be granted if:

- There is reason to believe that the person will not show up for court
- There is reason to believe that the person will reoffend and is therefore a danger to society
- The public would be outraged if the person is released.

It is very important to remember that a person is presumed innocent until proven guilty and guilt is determined at trial. At the bail hearing, the JP does not decide whether the accused is innocent or guilty of the crimes with which s/he is charged.

The JP only decides whether the person should be released prior to the trial or should await trial in jail.

Usually a person on bail must abide by strict conditions. Failure to keep the bail

conditions may mean that bail is revoked and the person must await trial in jail. The accused may also be charged with another offence: breaching their bail conditions. Bail conditions must relate specifically to the charge (e.g. if the offence involved alcohol, a condition which prohibited the accused from drinking alcohol may be imposed). Here are some examples of possible bail conditions:

- Not having contact with certain people (such as the complainants of the offence, or other witnesses, or co-accused); contact includes letters and phone calls, even through friends.
- Staying away from a certain place, such as the home address or school of the complainant/victim
- Agreeing that he/she or someone else will pay money into court if the accused does not show up at the next court hearing
- Submitting passports to the court
- Reporting to the police or a bail supervisor at set times
- Attending school or work
- Following a curfew
- Not using drugs or alcohol
- Keeping the peace (no other fights or criminal involvement)
- If the alleged offence involved violence, a weapon or criminal harassment the judge must also add a condition prohibiting the accused from possessing a weapon or residing in a house where weapons are kept.

Each Person's Perspective

The Crown

The Crown is seeking a detention order because they believe that Linda should not be released before trial. At the bail hearing, they will use the facts of this case to argue that:

- Linda will not show up for court.
- If she is released, Linda will reoffend and is therefore a danger to society.
- The public would be outraged if Linda is released.

The Defence

The defence will be arguing that Linda should be released. In order to do this, they will need to come up with a plan (a list of specific conditions) which will ensure that Linda will show up for her trial and is not in danger of reoffending. Think about the circumstances which led to the charges and come up with ways in which these circumstances could be prevented.

What arguments can be made in court to convince the Justice of the Peace to either release Linda on bail, or have her detained in custody until her trial? In your groups, try to come up with as many reasons as you can for each side.

LINDA'S (DEFENCE) ARGUMENTS (She should get bail because...)	CROWN'S ARGUMENTS (She should be detained because...)

You Be the JP

Use the information you have just learned about to make a decision on Linda’s bail hearing case. Consider the following questions before coming to a final judgment. Record your answers in the space provided. When you are done, review your notes and come to a decision on whether bail should be granted or not.

1. Will Linda appear for her next court appearance? What do you know from the facts of this case which makes you think one way or the other?

2. Is there a danger of her committing further crimes if released? Why or why not?

3. Why would it be in the community’s best interests to have her remain in custody?

4. What is your decision for granting or denying bail in Linda’s case? If you grant bail, specify any conditions that you would impose on her, and whether you would require a surety. If you deny her bail, explain the reasons why.
