

DEMOCRATIZING LEGAL EDUCATION: IMPLEMENTING A LEGAL RESEARCH COURSE AT A PRETRIAL DETENTION FACILITY

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Legal education in carceral settings presents a pedagogical challenge: how can educators teach law without reproducing the hierarchical relationships embedded in both traditional legal education and the criminal legal system? This Article examines that question through the development and implementation of a legal research course at Nashua Street Jail, a pretrial detention facility in Boston, Massachusetts. The Article draws on the liberative pedagogies of Paulo Freire and bell hooks to help frame the collaborative learning process inside the jail. Rather than relying on a traditional “Know Your Rights” model that positions educators as experts and participants as passive recipients of legal information, the course treats pretrial detained persons and law students as co-learners who bring distinct forms of knowledge and experience to the classroom. The Article proceeds in three parts. Part I describes the development of the Nashua Street Jail legal research course and grounds it in the liberative pedagogies of Freire and hooks, contrasting the course’s approach with traditional models of “know-your-rights” trainings. Part II examines how liberative theory translates into practice, using the development and implementation of the course’s initial lessons to explore the challenges and possibilities of building a curriculum within a pretrial detention facility. Part III turns to the role of the law student-facilitator, examining the art of facilitation and creating a space for law students to learn

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alongside pretrial detained persons, as the law students facilitate the class through dialogue, active listening, and shared power—thereby creating opportunities for epistemic friction and critical engagement. The Article illustrates how legal education in carceral settings can democratize access to legal information, equip pretrial detained persons with tools to understand and question the legal structures that affect their lives, and cultivate a more relational approach to legal practice grounded in learning with rather than working for people affected by the criminal legal system.

INTRODUCTION

As an educator working in prisons and jails, I grapple with how to teach law in carceral settings without reinforcing the harms well-documented in traditional legal education. This paper is my effort to explore how I navigated power imbalances in legal education while teaching a legal research course at the Suffolk County Jail, also called Nashua Street Jail, a pretrial detention facility in Boston, Massachusetts. In teaching the course and writing this paper, I drew on the liberative pedagogies of Paulo Freire and bell hooks. Specifically, I aimed to create a learning environment that emphasized dialogue, critical thinking, and shared authority, while acknowledging the inherent power dynamics in a carceral setting. As bell hooks states, “Education as the practice of freedom is not just about liberatory knowledge, it’s about a liberatory practice within the classroom.”¹ The legal research course at Nashua Street Jail brought together law students and pretrial detained persons in a collaborative learning environment, fostering a bottom-up perspective, a shared exploration of legal research tools, and discussions of criminal procedure.² The course, developed and refined over two years while I was in law school, reflects an ongoing process of creating, learning, and relearning how to teach a legal research course inside a pretrial detention facility. After I graduated from law school, Boston University’s Criminal Law Clinic continued to teach the course at Nashua Street Jail, supplementing the lessons I included in the appendix.³

¹ BELL HOOKS, *TEACHING TO TRANSGRESS: EDUCATION AS THE PRACTICE OF FREEDOM* 147 (1994).

² In 1987, Mari Matsuda urged legal scholars to “look to the bottom” to (re)theorize justice and equality under the law. *See generally* Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323, 324 (1987) (“Looking to the bottom—adopting the perspective of those who have seen and felt the falsity of the liberal promise—can assist critical scholars in the task of fathoming the phenomenology of law and defining the elements of justice. . . . When notions of right and wrong, justice and injustice, are examined not from an abstract position but from the position of groups who have suffered through history, moral relativism recedes, and identifiable normative priorities emerge.”).

³ Prison Education Practicum, Bos. Univ. Sch. of L., <https://www.bu.edu/law/experiential-learning/clinics/prison-education-practicum/> (last visited June 8, 2025).

There is no single way to teach this course. Each class, each facilitator, and each participant brings their perspective, which helps to refine and improve how the course is taught.⁴ What I have documented is offered not as a definitive solution but as a guide for those interested in undertaking similar projects. The following descriptions in this paper explore how liberative pedagogies are translated and negotiated in practice, bridging the gap between abstract concepts and their implementation in the course. While the students are not providing single-client representation, often characteristic of clinical legal education, they still play a valuable role in providing community legal education to pretrial detained persons.⁵

I hope to contribute to a broader understanding of legal education in carceral contexts and encourage a wider conversation about how to teach law inside carceral facilities by detailing the course's development, pedagogical approach, and the challenges faced along the way. Given the increasing presence of legal courses in carceral settings⁶ and the limited scholarship on this topic, we need to examine our practices. We should aim to transgress institutional boundaries and educational hierarchies toward a relational model of learning, avoiding the reproduction of the systems of domination prevalent in legal education and carceral facilities.⁷ Law students, through teaching this course, move "closer to the ground" by challenging the hierarchies that structure public interest

⁴ See generally HOOKS, *supra* note 1, at 10 ("Even though I share strategies, these works do not offer blueprints for ways to make the classroom an exciting place for learning. To do so would undermine the insistence that engaged pedagogy recognize each classroom as different, that strategies must constantly be changed, invented, reconceptualized to address each new teaching experience.").

⁵ See Rachel Camp, Margaret E. Johnson, Catherine F. Klein & Lisa V. Martin, *Teaching Social Justice Lawyering: Systematically Including Community Legal Education in Law School Clinics*, 18 CLIN. L. REV. 401, 407 (2012).

⁶ While some law schools, like Georgetown, have a longstanding commitment to provide legal education to incarcerated persons—Georgetown's program with youth detention centers began in the 1970s—others have more recently initiated such programs. See *Learning to Teach, and Teaching to Learn: A Conversation with Professor Richard Roe of Georgetown Law's Street Law*, Georgetown University Law Center (June 25, 2018), <https://www.law.georgetown.edu/news/learning-to-teach-and-teaching-to-learn-a-conversation-with-professor-richard-roe-of-georgetown-laws-street-law/> (last visited Apr. 6, 2026). For instance, Cornell Law School launched its prison education program in 2024. Cornell Law School *Prison Education Law School Practicum*, <https://www.lawschool.cornell.edu/academics/experiential-learning/clinical-program/prison-education-practicum/> (last visited Apr. 6, 2026). Columbia Law School established a paralegal training program for formerly incarcerated individuals in 2018. Paralegal Pathways Program Trains Formerly Incarcerated People to Be Paralegals, News 12 New York (Nov. 2, 2023), <https://newyork.news12.com/paralegal-pathways-program-trains-formerly-incarcerated-people-to-be-paralegals> (last visited Apr. 6, 2026). The legal education program I helped to start at Nashua Street Jail was integrated into Boston University's Criminal Law Clinic and is now taught through a practicum starting in 2026.

⁷ Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy*, 32 J. LEGAL EDUC. 591, 591 (1982).

legal practice and cultivating a more relational vision of lawyering – one grounded in solidarity, because “[r]adical change only comes about by working with people; it is never the result of working for people.”⁸ This course offers an opportunity to cross institutional boundaries, anchoring budding lawyers in the day-to-day operations of oppressive legal structures and helping them understand what fighting alongside future clients can look like through a community education model, opening up new ways of seeing the law.⁹ Most importantly, it provides pretrial detained persons with legal literacy skills that help them understand, question, and navigate the legal structures infringing on their lives.

This article is divided into three parts. In Section One, I discuss the course’s initial development and theoretical foundation, drawing on the liberative pedagogies of Paulo Freire and bell hooks to critique traditional educational models. Section Two explains the theory behind the curriculum, highlighting the challenges and opportunities faced when applying Freire’s pedagogy at Nashua Street Jail. I examine the first three lessons and detail the decision-making process for each lesson plan. Section Three focuses on the facilitator’s role as a co-learner, emphasizing active listening, shared power, and fostering critical engagement within legal discourse. The article aims to add to the growing body of knowledge on creating meaningful and transformative learning experiences in carceral spaces and encourages critical reflection on legal education within carceral systems.

I. DESCRIPTION OF THE LEGAL RESEARCH CLASS

The legal research class emerged from a question during a mindfulness session I taught at Nashua Street Jail in the spring semester of 2021.¹⁰ A participant challenged the mindfulness practice, asking

⁸ William P. Quigley, *Revolutionary Lawyering: Addressing the Root Causes of Poverty and Wealth*, 20 WASH. U. J. L. & POL’Y 101, 149 (2006).

⁹ This kind of education extends what community lawyering can look like and develops the essential skills needed for Gerald López’s vision of radical lawyering: lawyers who strive to engage in the collective fight for social change, acknowledge the skills and expertise clients offer; cultivate the consciousness of the interpersonal relationships required for collaboration; continuously evaluate both legal and non-legal approaches to social problems; and maintain an awareness of the impact lawyers have on a client’s life. Anthony V. Alfieri, *Rebellious Pedagogy and Practice*, 23 CLINICAL L. REV. 5, 11–13 (2016) (“Lopez’s vision focuses on enhancing the community informed, collaboration . . .”).

¹⁰ Nashua Street Jail is a pretrial detention facility in Boston, Massachusetts, operated by the Suffolk County Sheriff. The jail is 249,540 square feet and houses 13 maximum-security units, 453 cells, and 654 beds for pretrial detention. Suffolk County Jail, Suffolk Cnty. Sheriff’s Dep’t, <https://scsdma.org/facilities/nashua-street-jail/> (last visited June 8, 2025). Nashua Street Jail was built on a 2.1-acre site, next to the Charles River and across the street from TD Garden. *Id.* The jail’s backdrop cannot entirely disguise its six-story concrete and brick walls, punctuated by narrow, slitted windows, confining many of the students I have grown to respect over the three years I taught at the jail.

whether meditation could disrupt generational cycles of incarceration. He mentioned being incarcerated with his nephew. His question sparked a discussion about the type of class the participants envisioned, which centered on theories of justice and the criminal legal system. Although I was nearly finished with my first-year criminal law course, my limited knowledge left me ill-equipped to guide the discussion they imagined. Our conversation planted the seed for a course designed to help incarcerated learners at Nashua Street Jail navigate the complexities of the criminal legal system.

After finishing the mindfulness course, I emailed Nashua Street's education director about teaching a law-related class. Unsure about the course structure, I told the director it would be based on a Know Your Rights curriculum called StreetLaw. I also mentioned I was open to teaching other non-law classes, not wanting to rule out the chance to teach a different subject. Legal education behind bars is fairly rare because few carceral facilities offer education programs,¹¹ and carceral systems tend to be cautious about legal education.¹²

During my 1L summer and 2L fall semester, I developed a legal research course with the help of two of my law professors at Boston University, Marni Caputo and Kate Devlin Joyce, along with law librarian Brian Flaherty. In my final year of law school, Clinical Law Faculty members Shira Diner and Angelo Petrigh helped me refine the curriculum. We concentrated on legal research skills, including interpreting case law, conducting legal research, and using search terms and connectors. I intentionally moved away from the initially proposed Know Your Rights curriculum because I wanted to develop a program that fosters conversation rather than simply dispensing information. My lawyering professors and librarians helped me understand how the legal skills I learned in my first-year legal research and writing course could help incarcerated individuals access legal databases and interpret case law, which are often challenging to use without formal training.

¹¹ Postsecondary education programs in prisons are "rare and getting rarer." Natasha Yousefi, *The Case for Prison Education Reform*, 18 DEPAUL J. SOC. JUST. 1, 10 (2024) ("Policymakers, state courts, and public political sentiments reinforce this punitive ideology by characterizing services for prisoners as undeserved and misallocated handouts, and these sentiments have underscored the gradual elimination of prison postsecondary programs since the introduction of Pell Grants in the 1960s.").

¹² Through conversations with prison educators, including those at the National Conference on Higher Education in Prison, I have learned that legal research courses are typically prohibited within carceral facilities. When I presented this class at the National Conference on Higher Education, attendees expressed surprise that Nashua Street Jail permitted law classes, confirming that this restriction is widely recognized. My own experience—with a rejected proposal at another Boston-area jail—further supports this observation. I am deeply grateful that Nashua Street Jail partnered with me to offer this course.

I recruited several of my law school friends to co-facilitate the initial sessions.¹³ A co-facilitation model not only creates a dynamic learning environment but also challenges traditional classroom power structures.¹⁴ We aimed to embody the class's collaborative spirit by fostering mutual support, building on each other's ideas, and ultimately demonstrating a horizontal power structure through sharing facilitation responsibilities. Our approach acknowledged that power is shared between facilitators and participants. Co-facilitation provides a practical way to challenge hierarchical education models by dispersing classroom authority among facilitators.¹⁵ Everyone was encouraged to actively co-create knowledge rather than passively receive information.

A. *Synopsis of the Curriculum*

I developed a guide to facilitate the course based on popular education models and Freirean principles. The guide compiles the lessons we pieced together in conversation with class participants over the first two years of teaching.¹⁶ The course emphasized practical legal research skills for finding and applying relevant statutes and case law in motions to dismiss and motions to suppress. For many class participants, the criminal legal system is a confusing maze. This course helps demystify the process by providing individuals with knowledge of their procedural rights and tools to participate actively in their defense. Simultaneously, the format allows law students to gain legal insight from those directly impacted by the system.

The facilitation guide establishes common ground by creating shared parameters and a flexible framework that facilitators and participants can use as a template for meaningful discussion. We recognize the expertise and insight held by those navigating the legal system from within, treating participants as valued partners in a collaborative learning process. The following sessions delve into common themes that participants were most interested in, including criminal procedure, bail and arraignment, search and seizure, *Terry* motions, *Miranda* rights, and other procedural safeguards.

¹³ Thank you, Eric Wellers, Jacob Cantor, Nana Boateng, Marie Tashima, Peter Kaplan, Sam Packard, Aoife Croucher, Adam Luban, Angel Yi, and Carolyn Sacco.

¹⁴ Reema Harrison et al. highlight how co-facilitation enables facilitators to share authority, redistribute decision-making, and monitor power dynamics within group work in ways that can shift power imbalances. Reema Harrison, Bronwyn Newman, Ashfaq Chauhan & Mashreka Sarwar, *Employing Co-Facilitation to Balance Power and Priorities During Health Service Codesign*, 27 HEALTH EXPECTATIONS e13875 (2023).

¹⁵ See generally *id.*

¹⁶ Please see the appendix for the Facilitators' Guide.

Session 1: Laying the Foundation

- Introduces key legal terminology and the structure of a case timeline and explores different sources of legal authority. Participants will understand common legal terms and how case law and statutes form the basis of the legal system. Using a Massachusetts bail-reform case, *Brangan v. Commonwealth*, 477 Mass. 691 (2017), participants will identify the types of authority in a decision.

Session 2: Case Analysis and IRAC

- Participants are invited to examine the IRAC method (Issue, Rule, Application, Conclusion), a systematic approach for analyzing case law. Using *Brangan*, participants will practice identifying the relevant legal issues and rules and how the court applied the law to reach its conclusions. This session equips participants with the tools to break down case law.

Session 3: From Case Analysis to Legal Research Strategy

- This session bridges the gap between case analysis and the development of focused research strategies. Participants will revisit *Brangan* to identify the specific legal questions the court addressed. Using these questions, participants will learn to craft concentrated research questions using keywords and Boolean search terms. This session teaches participants how to translate legal issues into research plans.

Session 4: Motions to Dismiss

- Participants will delve into Motions to Dismiss and understand their purpose and role in criminal proceedings. They will learn about probable cause; review provided fact patterns and analyze whether the facts support probable cause for an arrest. They will practice crafting research questions and apply their skills by finding relevant case law and statutes. This session emphasizes the connection between research and the development of legal arguments for a motion to dismiss.

Session 5: Discovery Motions

- This session focuses on discovery in criminal cases, specifically under Rule 14 (mandatory discovery rules). Participants will learn about automatic discovery, exculpatory evidence (including the prosecution's obligations under *Brady*), and analyze Rule 14 to understand what the prosecution must disclose. Participants will identify potential exculpatory information using fact patterns. This session emphasizes the strategic use of discovery to bolster defense arguments.

Session 6: Evidentiary Motions - *Terry* Stops

- Participants will learn about the exclusionary rule and how it applies to evidentiary motions. This session focuses on *Terry* stops, defining reasonable suspicion and how it differs from probable cause. Participants will analyze fact patterns using videos and case law to determine if stops meet the reasonable suspicion standard and outline how a defense attorney would frame a Motion to Suppress based on a potential *Terry* stop violation.

The lessons should remain open to modification based on the evolving discussions and circumstances within each class. The course's flexibility underscores a key commitment behind the class: it is not meant to be a traditional "know your rights" training that treats participants as receptacles for information.¹⁷ Know-your-rights campaigns are "often dry recitations of law" that "fail to mention the practical difficulties in implementing" the discussed rights.¹⁸ Instead, the lessons should center on participants' questions and foster an exchange of knowledge and experience.

It's important to note that centering the experiences of justice-impacted groups is not a novel concept. In 1987, Mari Matsuda called for a bottom-up perspective in legal scholarship, recognizing the importance of centering the voices of those most affected by the legal system's injustices.¹⁹ Her approach has been further developed through participatory models such as Participatory Legal Scholarship (PLS), which aims to generate legal theory grounded in co-analysis with those with lived experience of the law's dysfunctions.²⁰ These models challenge the traditional top-down approach to legal knowledge and equip marginalized communities to help shape the legal landscape. I hope the legal research course can contribute to this collaborative movement by fostering a participatory learning environment that centers the voices

¹⁷ Brandi M. Lupo, *Legal Rights, Real-World Consequences: The Ethics of Know Your Rights Efforts and Towards Improved Community Legal Education*, 17 NW. J. HUM. RTS. 1, 17 (2019).

¹⁸ Charles Elsesser, *Community Lawyering - The Role of Lawyers in the Social Justice Movement*, 14 LOY. J. PUB. INT. L. 375, 393 (2013).

¹⁹ Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323, 324-25 (1987) ("Looking to the bottom—adopting the perspective of those who have seen and felt the falsity of the liberal promise—can assist critical scholars in the task of fathoming the phenomenology of law and defining the elements of justice. . . . What is suggested here is not abstract consideration of the position of the least advantaged. The imagination of the academic philosopher cannot recreate the experience of life on the bottom. Instead, we must look to what Gramsci called 'organic intellectuals,' grass roots philosophers who are uniquely able to relate theory to the concrete experience of oppression.").

²⁰ Rachel López, *Participatory Law Scholarship*, 123 COLUM. L. REV. 1795 (2023).

of incarcerated persons. Matsuda's and López's work has been crucial to my understanding of how to model bell hooks' and Paulo Freire's pedagogy in a legal literacy program.

B. The Model's Theoretical Foundation: bell hooks and Paulo Freire

I primarily used Paulo Freire's classic text, *Pedagogy of the Oppressed*, to develop the course. In *Pedagogy of the Oppressed*, Freire's educational model was designed to engender social action among people who have suffered socioeconomic repression.²¹ Freire diverged from traditional, vertical models of education and proposed a liberative model of education for adult literacy.²² Freire's method considers the practice of dialogue as a cornerstone of education and a bulwark of resistance against structural violence: "no one teaches another, nor is anyone self-taught. People teach each other, mediated by the world."²³ Freire's dialogical process opens space for students and teachers to co-create the learning process, thereby challenging the oppressive structures that can be reproduced within traditional lecture-style classrooms.²⁴

The educator's role is to engage in dialogue with students and provide them with tools to teach themselves how to deconstruct and reconstruct their social contexts.²⁵ The dialogical process begins when educators present codified situations to help learners arrive at a critical understanding of their own situation.²⁶ In Freirean pedagogy, a code refers to a theme or identified problem that the learning community may face.²⁷ Codes can include scripts, role-plays from written or oral dialogues, stories from participants' lives, texts from newspapers and magazines, and videos on social media; these codifications

²¹ PAULO FREIRE, *PEDAGOGY OF THE OPPRESSED* 72 (1970). Freire's pedagogy and theory are well known and often referenced in clinical legal scholarship, particularly his analysis of the banking method, which is often used to describe the deficits of traditional, lecture-style education. Less often mentioned is Freire's description of how to subvert banking-method education and extend participation, dispersing power between student-teachers and teacher-students. This section draws out Freire's method through his use of social codes and generative themes.

²² Daryn Egan-Simon, *Active Agents of Change: A Conceptual Framework for Social Justice-Orientated Citizenship Education*, 1 *EQUITY IN EDUC. & SOC'Y* 297 (2022).

²³ FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 80.

²⁴ *Id.* at 81 ("The students—no longer docile listeners—are now critical co-investigators in dialogue with the teacher.").

²⁵ *Id.* at 80 ("The teacher is no longer merely the-one-who-teaches, but one who is himself taught in dialogue with the students, who in turn while being taught also teach. . . . They become jointly responsible for a process in which all grow.").

²⁶ See generally PAULO FREIRE, *THE POLITICS OF EDUCATION: CULTURE, POWER, AND LIBERATION* 50–52 (1985).

²⁷ *Id.*

are knowable objects that mediate between the knowing subjects, educators, and learners.²⁸ Educators utilize these coded representations of social issues to guide conversations and anchor the problem-posing process.

Freire recommends that educators enter a community to talk with students and learn their perspectives on the problematic realities they face.²⁹ The educators would investigate what words and expressions the community most used to describe their issues (codes).³⁰ Educators then incorporate those words into the lesson so that students and educators can share a vocabulary to describe the situations students face.³¹ Freire called these words and themes generative because they appeal to the students' interests and lay the foundation for dialogue.³²

In line with liberative education models, the Nashua Street Jail class's approach positions facilitators as learners alongside students, acknowledging that while power dynamics inevitably exist, their shared commitment to learning ensures that educators and learners are respected as equally knowledgeable subjects in the classroom.³³ In Freire's pedagogy, students and educators maintain their individual identities as dialectical partners in the educational process.³⁴ The process does not impose an artificial erasure of social distinctions, nor does it collapse the social identities of students and educators, which would inevitably obscure each person's individual identity.³⁵ Rather, differing social locations and identities are crucial to the learning process. Genuine learning and growth occur through respectful engagement with distinct identities, not their erasure.

In order to engage in this discursive process, facilitators "must examine their priors – their prior perspectives, prior academic training, and prior understanding of expertise and how knowledge is produced – through critical dialogue and collective inquiry."³⁶ Facilitators

²⁸ *Id.* at 56.

²⁹ Freire describes how curriculum development begins with educators engaging in informal conversations with members of the community where classes will be held. *Id.* at 43–47. The educators identify commonly used words and explore their meanings to understand the issues faced by the community. *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.* at 47–48 ("The codification represents familiar local situations—which, however, open perspectives for the analysis of regional and national problems. The generative words are set into the codifications, graduating according to their phonetic difficulty."); *see also* FREIRE, PEDAGOGY OF THE OPPRESSED, *supra* note 21, at 115 ("[C]odifications should open up in the direction of other themes.").

³³ FREIRE, THE POLITICS OF EDUCATION, *supra* note 26, at 51.

³⁴ *Id.*

³⁵ *Id.* at 101.

³⁶ López, *supra* note 20, at 1852.

cannot enter the classroom assuming that their interpretation of the law is correct or that learning is unidirectional. The learning process is bidirectional, flowing between facilitators and participants. Freire's process, ultimately what this course inspires, is not just about "changing something 'out there'" but is "also about both changing ourselves and our mental models, and our relationships between the 'out there' and the 'in here.'" ³⁷

The facilitator's critical self-reflection is an essential part of the education process. "Without greater reflexivity in [the learning] processes, the power differences that exist between [educators] and participants may lead them to reenact the relations and norms that uphold the repressive legal order [that the educators] aim to unsettle." ³⁸ The reflective process must be continual because educators can never fully escape the systems they teach within, despite their best efforts to resist social norms. ³⁹ Freire described this process of critical awareness as *conscientização*, conscientization, in which "we become more fully conscious through self-reflection and action in community with others." ⁴⁰ In Freire's paradigm, dialogue with another perspective allows educators and students to better discern the material world because, through that dialogue, we are not limited to our own subjective understandings. ⁴¹

Recognizing that educators and students contribute equally to discussions from their distinct social locations is fundamental to Freire's approach; however, this acknowledgment does not imply a relinquishment of the educator's positional authority to manage the classroom. Freire's liberatory pedagogy necessitates that teachers retain directional authority within the learning environment. ⁴² For the educator, this means being an authority in the classroom but not authoritarian. ⁴³ In *Epistemology of the Oppressed: The Dialectics of Paulo Freire's Theory of Knowledge*, Wayne Au explicates Freire's position:

³⁷ *Id.* at 1828 (quoting Hillary Bradbury et al., *A Call to Action Research for Transformations: The Times Demand It*, 17 ACTION RSCH. 3, 8 (2019)).

³⁸ *Id.*

³⁹ *Id.* at 1828.

⁴⁰ *Id.* at 1834.

⁴¹ *Id.* at 1819 ("In short, Freire believed that humans are unable to perceive the world objectively through our own consciousness; instead, he maintained that we learn what the material world is only through sharing our subjective lens with others to reveal the bigger picture.").

⁴² Wayne Au, *Epistemology of the Oppressed: The Dialectics of Paulo Freire*, 5 J. FOR CRITICAL EDUC. POL'Y STUD. 175, 186 (2007).

⁴³ See *id.*; see also FREIRE, PEDAGOGY OF THE OPPRESSED, *supra* note 21, at 178 ("In the theory of dialogical action, organization requires authority, so it cannot be authoritarian; it requires freedom, so it cannot be licentious.").

To be authoritarian would, after all, be to treat students as objects, and therefore dehumanize them. Liberatory pedagogy, then, requires that teachers negotiate the relationship between freedom and authority in the teaching process, and understand that “authority. . . has its foundation in the freedom of others.” This means being neither completely hands-off and “laissez-faire” nor does it mean being authoritarian and dictatorial. As Freire puts it, liberatory educators must be “radically democratic” in their pedagogy, which translates into being “responsible and directive” in the classroom while respecting the students’ right to come to their own conclusions.⁴⁴

Here, the teacher’s limited authority is to guide and facilitate critical thinking by providing structure and resources, while simultaneously helping students construct their own understanding of the curriculum.

In the first iteration of the class, I was hesitant to exercise my positional authority, which allowed the class to veer off course. We easily got sidetracked. Sometimes, the lack of structure hindered student engagement, as some students would dominate the discussion without clear boundaries to bring the class back to the main topic. My initial attempt at teaching this course was characterized as a misunderstanding of liberatory pedagogy. I mistakenly adopted a laissez-faire approach, lacking a clear structure, hoping that an unstructured conversation would encourage participation. However, the absence of guidance proved ineffective and ultimately hindered student engagement.

After stumbling through the first few lessons, I started to understand the importance of clear expectations. One of my co-facilitators offered valuable guidance, suggesting that the class needed more structure. Providing this structure, far from being a strict authoritarian rule, helps students understand the day’s lesson goals and direction, encouraging them to contribute and give feedback at the beginning of each session. Therefore, the lesson plans outlined in section II are not rigid models that lead participants to a predetermined answer. Instead, they serve as helpful guideposts to support a two-way learning process between facilitators and participants.

C. What the Course Is Not: Banking Method and Know Your Rights

Traditional models of education, which Freire critiqued as the “banking method,” treat students as depositories and teachers as

⁴⁴ Au, *supra* note 42, at 186.

depositors.⁴⁵ In this approach, communication is one-way, flowing from the teacher to the students. Students are expected to “meekly” receive what the teacher tells them and contribute little to the conversation.⁴⁶ Students are treated as empty receptacles for the information passed from teacher to student. bell hooks states that traditional classrooms that use the banking method often create “docile bodies,” reinforcing existing power structures.⁴⁷ To break this cycle, Freire and hooks suggest a model that values each student’s experience and input.⁴⁸

Freire’s descriptions of the banking method echo critiques of the Socratic method in legal education. The Socratic method places the professor as the sole questioner, guiding students toward predetermined answers through a structured question-and-answer exchange (the “Law School Socratic Method”).⁴⁹ Rory Bahadur and Liyun Zhang describe the Law School Socratic Method as “neither active nor student-centered . . . a classic example of a passive sage on the stage, teacher-centered pedagogy, which has been shown to leave a respondent feeling ‘passive, powerless, and unknowing.’”⁵⁰ The Socratic method mirrors Freire’s banking method as a coercive “gift bestowed by those who consider themselves knowledgeable upon those whom they consider to know nothing.”⁵¹ This teacher-centric model is often the default in educational settings, and is how many educators naturally operate and what many learners expect.⁵² Consequently, in designing the class, I had to make a deliberate choice to resist this ingrained socialization and adopt alternative pedagogical approaches.⁵³

⁴⁵ FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 72 (explaining in the “banking” model of education, “the scope of action allowed to the students extends only as far as receiving, filing, and storing the deposits.”).

⁴⁶ *Id.* (“Worse yet, it turns them into ‘containers,’ into ‘receptacles’ to be ‘filled’ by the teacher. The more completely she fills the receptacles, the better a teacher she is. The more meekly the receptacles permit themselves to be filled, the better students they are.”).

⁴⁷ HOOKS, *supra* note 1, at 4–6.

⁴⁸ *Id.* at 14–15 (arguing that the banking system of education resists dialogue). For Freire, education begins with the solution of the teacher-student contradiction, by “reconciling the poles of the contradiction so that both are simultaneously teachers and students.” FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 72. He adds, “Authentic education is not carried on by A for B or by A about B, but rather by A with B.” *Id.* at 93.

⁴⁹ Rory Bahadur & Liyun Zhang, *Socratic Teaching and Learning Styles: Exposing the Pervasiveness of Implicit Bias and White Privilege in Legal Pedagogy*, 18 HASTINGS RACE & POVERTY L.J. 114, 125 (2021).

⁵⁰ *Id.*

⁵¹ FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 72.

⁵² See generally Emma Sokoloff-Rubin, *Centering Student Voices in the Clinic Seminar*, 32 CLINICAL L. REV. 391, 405 (2026) (discussing that dialogic discourse, a form of conversation that centers student voices, encourages critical thinking and independent thought to engage more around difficult conversations and topics because students feel a collective responsibility to keep the conversation.).

⁵³ *Id.*

In a similar vein, pre-scripted know-your-rights training in carceral facilities risks indoctrinating participants into a corrosive legal system. In *Addressing Recidivism: Legal Education in Correctional Settings*, Justin Brooks argues that StreetLaw, as a traditional know-your-rights curriculum, can help “rehabilitate [incarcerated individuals] and decrease recidivism” by fostering a sense of belonging within the law-making society, thereby encouraging respect for the law.⁵⁴ He suggests that “to accept the legal system, [incarcerated individuals] must first accept the necessity of laws, and society’s role in creating them,” presenting the StreetLaw curriculum as an educational model that guides students toward assumed legal truths as a form of socialization.⁵⁵ Freire might describe this as a process of domestication, which “represents the imposition of one individual’s choice upon another, transforming the consciousness of the person prescribed to into one that conforms with the prescriber’s consciousness.”⁵⁶ Like the “banking method,” a pre-scripted know-your-rights training generally emphasizes information transfer without encouraging critical thinking or connecting knowledge to real-life experiences.⁵⁷ When instructors deliver information without creating space for exploration and questioning, they reinforce the traditional power dynamic of teacher-as-knower and student-as-recipient.⁵⁸

Our shift away from the StreetLaw curriculum and similar Know Your Rights Trainings reflects our focus on actively engaging participants in the learning process by sharing legal research skills and writing tools. I aimed to create a space that encourages critical participation and centers participants rather than positioning facilitators as experts, emphasizing co-creation of the learning space between participants and facilitators. This collaborative approach ensures that course development reflects participants’ input and provides an accurate, normative understanding of the systems that negatively impact them. The shared ownership of the Nashua Street Jail process aims to empower facilitators and participants to critically analyze their experiences within the legal system rather than passively accept pre-set legal truths.

⁵⁴ Justin P. Brooks, *Addressing Recidivism: Legal Education in Correctional Settings*, 44 RUTGERS L. REV. 699, 735 (1992) (explaining that incarcerated individuals must “learn how to legally cope with everyday dilemmas, both inside and outside of correctional facilities,” or else they will “continue to come in and out of the system because they cannot deal with their problems in society.”).

⁵⁵ *Id.* at 722.

⁵⁶ FREIRE, PEDAGOGY OF THE OPPRESSED, *supra* note 21, at 46.

⁵⁷ See *id.* at 72 (“In the banking concept of education, knowledge is a gift bestowed by those who consider themselves knowledgeable upon those whom they consider to know nothing. Projecting an absolute ignorance onto others, a characteristic of the ideology of oppression, negates education and knowledge as processes of inquiry.”).

⁵⁸ See *id.* at 73 (“[B]anking education maintains and even stimulates the contradiction through the following attitudes and practices, which mirror oppressive society as a whole.”).

D. What the Program Accomplishes: Epistemic Friction

In liberative education models, learning is a reciprocal process – teachers and students learn from each other, ideally fostering an environment of mutual respect and trust. As bell hooks explains, to create an engaged classroom, a teacher must be open and vulnerable, willing to learn from students.⁵⁹ Entering into dialogue presupposes that the educator questions what they know and remains open to the possibility that their thoughts will change and new knowledge will be created from the co-learning process. Transformational teaching involves creating a classroom of support where diverse perspectives can interact and generate new understandings of the material for both students and teachers, challenging previously held beliefs.⁶⁰ This section explores how this collaboration fosters epistemic growth and challenges the cognitive limitations of law students like me who facilitate the class.

The lived experiences of participants in the class challenge the abstract views often presented in traditional 1L criminal law courses. As Alice Ristroph explains in her article, *The Curriculum of the Carceral State*, substantive criminal law sustains mass incarceration because it is disconnected from the realities of the carceral system.⁶¹ Ristroph argues that this disconnect has led to several consequences, including a false sense of fairness and objectivity created by an emphasis on internal constraints and logical structures within criminal law, which hide systemic biases and discriminatory practices still present in the legal system.⁶² Additionally, the focus on homicide as the archetypal crime reinforces the idea that criminal law mainly deals with serious violent offenses, while ignoring the over-policing and disproportionate punishment of marginalized communities.⁶³ The doctrinal approach is sanitized and decontextualized, maintaining mass incarceration by not challenging the assumptions and biases underlying the criminal legal system. As a result, law schools produce legal professionals who do not fully grasp the impact of the criminal legal system, thus continuing the cycle of oppression and injustice.⁶⁴

⁵⁹ HOOKS, *supra* note 1, at 21 (explaining that “empowerment cannot happen if we refuse to be vulnerable” because vulnerability creates the possibility for mutual connection that disrupts hierarchical relationships.).

⁶⁰ See generally *id.* at 41 (explaining that “[o]ften, professors and students have to learn to accept different ways of knowing, new epistemologies, in the multicultural setting.”).

⁶¹ Alice Ristroph, *The Curriculum of the Carceral State*, 120 COLUM. L. REV. 1631 (2020).

⁶² *Id.* at 1701.

⁶³ *Id.* at 1667.

⁶⁴ *Id.* at 1707 (“[T]here is a particular vision of criminal law that made millions of criminal prosecutions seem, when each was considered individually, like a good idea. *That is the vision of a noble, impartial, and constrained criminal law, and it is a mirage.*”) (emphasis added).

The harms caused by the criminal legal system are kept hidden from public view. José Medina in *The Epistemology of Resistance* says, “The machinery in charge of the discipline and punishment of the oppressed is certainly in the hands of those in power, its day-to-day operation – and sometimes even the machinery itself – are not always rendered visible to all who occupy a position of power.”⁶⁵ This machinery is often deliberately concealed, shielding those in privileged positions from the harsh realities of the system it sustains.⁶⁶ Legally privileged individuals, like myself, often remain unaware of carceral violence despite having access to information.⁶⁷

In constructive dialogue, the epistemic journeys of differently positioned groups can enrich each individual, enabling facilitators to learn and close their epistemic gaps while acknowledging the complexities and subtleties that their own limited views might have previously obscured. Epistemic friction, as a process of mutual learning and understanding, is vital for developing a consciousness capable of challenging oppressive systems.⁶⁸ Using critical dialogue as a teaching method, the legal research class encourages Freire’s process of conscientization, which involves a willingness to engage with differences, listen deeply to others’ experiences, and recognize the limits of one’s own perspective. Through these exchanges – where alternative viewpoints oppose dominant ones – epistemic friction is created, challenging assumptions and expanding facilitators’ and participants’ understanding.⁶⁹

Unlike traditional substantive criminal law, the Nashua Street Jail class offers a contextual understanding of the law’s impact and encourages broader perspectives on the criminal legal system. Law students can challenge their assumptions and biases through engaging with class participants and developing a critically conscious approach to legal practice. The close proximity between law students and incarcerated individuals creates a critical space in which participants’ perspectives serve as epistemic counterpoints to the facilitators.⁷⁰

⁶⁵ JOSÉ MEDINA, *THE EPISTEMOLOGY OF RESISTANCE: GENDER AND RACIAL OPPRESSION, EPISTEMIC INJUSTICE, AND RESISTANT IMAGINATIONS* 33 (2013).

⁶⁶ *Id.*

⁶⁷ *Id.* at 109 (arguing that privileged subjects are “conceptually ill-equipped to make sense of certain things,” which “are precisely the things they may not want to understand” because doing so would require them to confront uncomfortable truths that may threaten the privileges they enjoy).

⁶⁸ *See id.* at 203 (explaining that “[t]he expansion of one’s social sensibilities . . . is an ongoing task that does not have an end” and “that individuals cannot fully carry out all by themselves”).

⁶⁹ *See id.* at 78 (“Alternative social imaginaries can serve as correctives to each other, epistemic counterpoints that enable people to see limitations of each viewpoint, creating beneficial epistemic friction.”).

⁷⁰ *See id.* at 176 (arguing that “[e]pistemic counterpoints can offer . . . beneficial epistemic friction,” which “enables us to acknowledge and engage alternative viewpoints and to

While I understand the importance of these viewpoints, it would be a mistake to idealize carceral perspectives or assume they are uniform. As José Medina argues, oppressed groups do not inherently possess a superior cognitive perspective or a unified point of view.⁷¹ However, the participants I work with hold an epistemic advantage, having experienced critical demystifying experiences through their understanding of the system.⁷² Instead of thinking one perspective is better than another, it is important to recognize how facilitators' and participants' perspectives can work together to fill each other's epistemic gaps.

II. APPLYING THE MODEL: BUILDING LIBERATIVE CURRICULUM

The Nashua Street Jail's classroom, with its seemingly simple layout, whiteboards, and participants' artwork, reflected the effort and energy many students had invested in the program and in their own transformation. The artwork depicted breaking chains and scenes of visceral, transformative experiences, a stark contrast to the off-white hallways surrounding the entrance to the education unit. The classroom was pre-arranged in rows of chairs for a lecture. While we waited for participants to arrive, we pushed the tables together to form one large, communal surface. We sat at the corners or along the sides of the table, deliberately avoiding the head, to reduce any perceived power dynamic. Our goal was to design a space that fostered dialogue and encouraged open conversation, allowing ideas to flow freely rather than being filtered through the lead facilitator.⁷³ As each participant entered, we stood to greet them with a handshake or a nod, acknowledging their presence and welcoming them into this shared learning environment.

Each class brought an element of unpredictability. While a few familiar faces might return, the group's composition was constantly in flux: court dates, revoked privileges, conflicts with canteen schedules, or lack of motivation led to absences. The lack of continuity meant we had to stay flexible, creating lessons that could stand alone while building on previous material. No matter who walked through the door, our goal remained the same: cultivating an inclusive environment where everyone felt comfortable participating, whether it was their first or last lesson.

We began with introductions once participants had settled into their seats; reintroductions were often needed because attendance varied. We asked participants what they wanted to be called. While this is

reach epistemic equilibrium among alternative perspectives on problems or phenomenon," thereby "enabl[ing] subjects and communities to detect and sensitize themselves to their blind spots and shared self-ignorance.").

⁷¹ *Id.* at 73.

⁷² *Id.*

⁷³ See generally Sokoloff-Rubin, *supra* note 52.

common in many classrooms, choosing a name clashed with the jail's culture of referring to participants by their legal last names.⁷⁴

We emphasized that our primary goal is to create a community of co-learners and share foundational legal research skills.⁷⁵ We stressed that we were not their lawyers but facilitators in their learning journey, sharing resources and information.⁷⁶ After our introductory remarks, we presented the day's agenda, a roadmap for the class session. However, this roadmap was always open to negotiation. Some days, the class might skip a planned activity to delve deeper into a topic that resonated with the participants' immediate questions. Our flexibility and responsiveness helped to maintain engagement and extend shared ownership over the learning process.

The idea for a flexible "roadmap" came from a participant. He requested that we present the day's lessons at the start of each class, allowing him and his classmates to choose the day's focus. This simple request transformed our approach toward a more responsive curriculum. Navigating the uncertainty of each session meant arriving with three or four lesson plans, knowing that only one or two might resonate with the class. Our flexibility was key to sparking discussions and extending ownership of the learning process.

Our initial lesson plans were designed to ask participants their legal questions and to hear how they would like to explore those questions. As Freire indicated, "If the educators [have the ability] to carry out the preliminary investigation [alongside students], they can – with minimum knowledge of the situation – select some basic themes to serve as

⁷⁴ We transgressed the jail's culture and gestured to the students that we were not part of the carceral culture by inviting participants to share their names. This act of recognizing individual agency extends to other aspects of language, such as using "incarcerated person," the person-first language, rather than "inmate," the language choice of the carceral system. See Eddie Ellis, *An Open Letter to Our Friends on the Question of Language*, CTR. FOR NULEADERSHIP ON URB. SOLS. 1–2 (Jan. 2020) ("We habitually underestimate the power of language. . . . [B]y insisting on being called 'people' we reaffirm our right to be recognized as human beings, not animals, inmates, prisoners or offenders. We also firmly believe that if we cannot persuade you to refer to us, and think of us, as people, then all our other efforts at reform and change are seriously compromised."). Language choices have a significant impact on how we perceive and treat those who are incarcerated. Ethicist Rachelle Green observes that "[t]he practice of choosing names signals not only that a person can have the agency to choose the name they desire for themselves, but they can also express agency in naming the world as they experience it." RACHELLE GREEN, *LEARNING TO LIVE: PRISONS, PEDAGOGY, AND THEOLOGICAL EDUCATION* (2024).

⁷⁵ HOOKS, *supra* note 1, at 153 ("When I enter the classroom at the beginning of each semester the weight is on me to establish that our purpose is to be, for however brief a time, a community of learners together.").

⁷⁶ I refer to "participants" and "facilitators" rather than "students" and "teacher" to reflect the dynamic we sought to foster in the course. Our aim was to cultivate a collaborative environment—one that built a community of co-learners. Those who attended the weekly sessions were not merely recipients of knowledge but active participants and co-creators of the learning process.

codifications to be investigated.”⁷⁷ We could not invite the participants to the initial planning process to learn about their specific interests because of the participants’ pretrial detention.⁷⁸ Despite this limitation, we aimed to incorporate the spirit of Freire’s pedagogy as much as possible.

In the initial planning sessions, we developed a variety of topics to present to the participants. We considered starting with an introduction to legal research, including how to read and analyze case law, distinguish holdings from dicta, and use effective search strategies. We also prepared mini-lessons on specific legal topics, such as the Fourth, Fifth, Sixth, and Eighth Amendments, as well as practical skills, such as sealing criminal records. However, we understood the importance of staying flexible and responsive to participants’ interests, so we planned to use the first sessions to gauge their questions and the legal resources available to them. For example, some participants showed interest in prosecutorial misconduct and Fourth Amendment violations. Letting participants choose discussion topics helped us find material on what Freire calls “limit-situations,” the daily realities that limit a person’s freedom.⁷⁹ Designing a course around these limit-situations connects with participants’ experiences and provokes lively discussions.⁸⁰ These early conversations helped us understand the group’s specific interests and how to develop

⁷⁷ FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 123.

⁷⁸ Freire’s pedagogical approach starts with educators planning the curriculum together with students. FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 120–124. Before teaching a class, Freire advises that educators engage with a community to talk with students and learn their views on the real issues they face. *Id.* Freire’s educators would investigate what words and expressions the community frequently uses to describe their problems. *Id.* They would then include those words in the lessons so that students and teachers share a common vocabulary to describe their experiences. *Id.* Freire calls these words generative because they connect with students’ interests and create the foundation for dialogue. *Id.* The term generative connotes the potential for students and educators to act as co-explorers working toward a shared understanding of their world. *Id.*

⁷⁹ Freire describes “limit-situations” as conditions that people come to recognize as “fetters” or “obstacles to their liberation.” *Id.* at 99. Once recognized, these conditions can become the object of action aimed at “negating and overcoming” rather than passively accepting them. *Id.* For people held pretrial, such limit-situations can include restricted access to books, legal materials, libraries, and educational opportunities, as well as language and literacy barriers that make it difficult to navigate institutional rules, legal documents, and their own cases. These daily constraints can hinder a person’s ability to understand their pretrial detention, advocate for themselves, and participate in their own defense.

⁸⁰ Designing a course around these limit-situations connects participants to what is discussed, provoking lively engagement in discussions that are meaningfully relevant to their lives. *See generally id.* at 104. Freire argues that critically examining these realities can produce “a new, critical attitude towards the limit-situations.” *Id.* For participants in a legal research course, beginning with the concrete barriers they encounter in detention – such as limited access to legal information or difficulty navigating legal language – creates an opportunity to examine those barriers critically rather than simply accepting them as features of incarceration. In this sense, the course seeks not only to teach participants how to conduct legal research but also to cultivate *conscientização*: a critical understanding of the legal and institutional world in which they are situated.

the curriculum in a meaningful, engaging way. As we moved through the first version of the class, we observed what worked well and what needed improvement.

The participants responded positively to our initial method of asking about their legal questions. Their feedback shaped our teaching process and aligned sessions with their interests. Some of the mini-lessons we designed helped foster dialogue and guided participants in asking thoughtful questions about their legal issues. However, at times, trying to spark discussion by asking about their legal questions disrupted group conversations because the over-detailed responses weren't suitable for the overall class, especially when one person dominated the discussion. Some participants spoke over others quickly, while most stayed quiet. At times, a class on legal research in a pretrial detention facility can get chaotic, with a classroom full of people facing unique legal situations and seeking immediate answers.

As facilitators, we realized we needed to create a classroom environment that encouraged participation from everyone. Simply asking legal questions without a guiding framework did not foster mutual discussion and, unfortunately, created an atmosphere where participants sought answers instead of exploring questions collaboratively. The challenges we faced stemmed from the fact that we could not answer everyone's questions. Some participants appeared to disengage once they realized we were not there to answer their specific legal questions or provide direct legal advice. The unstructured conversations highlighted the need for a framework that promoted collaboration between class participants and facilitators.

After each iteration, we continued developing various curriculum elements in collaboration with the participants. The main parts of the first three lessons are outlined in the following three subsections.

A. Lesson One

In our introduction, we emphasized that we are not experts but fellow learners, each offering a valuable perspective. Our goal was to share resources and knowledge, such as how to conduct legal research, use case law databases, and other skills we had learned in law school. We believed that through collaboration, we could deepen our understanding of the law and enhance our research skills, especially in identifying relevant cases for specific criminal motions.

We found it necessary to clarify from the start that we were not offering legal advice or addressing specific legal questions. Ethically, we could not provide such advice,⁸¹ and pedagogically, we wanted to avoid

⁸¹ See Lupo, *supra* note 17.

reinforcing a passive, lecture-style learning approach where knowledge is simply transferred. Instead, we sought to create a space of co-creation, with everyone actively participating in the learning process. As one participant noted, “You cannot give legal advice but share legal knowledge.”

We then distributed the course outline, which included lesson plans for the six classes. Sharing the lesson plan invited class participants to note what they wanted to include and other topics we could cover in the coming weeks. To organize the lessons, we presented a visual timeline of a criminal case within Massachusetts, highlighting key points in the case’s progression that we planned to discuss: Motions to Dismiss (MTD) and Motions to Suppress (MTS). The first half focuses on bail, followed by the second half on MTD and MTS.

We began the first formal group exercise by distributing a sheet of legal definitions. We read through the definitions and asked volunteers to explain them in their own words. We encouraged participants to indicate which words were familiar and which were unfamiliar. The legal definitions served as a starting point for discussion and a foundation for developing a critical understanding of the legal system. As we reviewed the definitions, participants and facilitators worked as co-investigators, creating a shared vocabulary to use throughout the course. Similar to Freire’s generative words, we developed a shared vocabulary to navigate the legal landscape by inviting participants to share their understandings and interpretations of these terms. This initial exercise established the expectation that participants would co-create knowledge through active participation and dialogue.⁸²

The course then shifted to an applied exploration of the terms within the context of a Massachusetts bail reform case, *Brangan v. Commonwealth*.⁸³ The facilitators guided participants through *Brangan*, breaking it into manageable parts that mirrored Freire’s concept of “codification.” Codifications represent oppressive situations faced by the group, described as “coded situation-problems containing elements to be decoded by the groups with the collaboration of the [educator].”⁸⁴ Codes served as tools to represent real-world situations through problem-solving questions.⁸⁵ The three guidelines for

⁸² See PAULO FREIRE, *EDUCATION FOR CRITICAL CONSCIOUSNESS* 46 (2013) (discussing the importance of “[r]esearching the vocabulary of the groups with which one is working,” which involves selecting the words and expressions “most weighted with existential meaning” and “linked to the experience of the groups in which the researcher participates”).

⁸³ *Brangan v. Commonwealth*, 477 Mass. 691 (2017).

⁸⁴ FREIRE, *EDUCATION FOR CRITICAL CONSCIOUSNESS*, *supra* note 82, at 47 (explaining that “[d]iscussion of these codifications will lead the groups toward a more critical consciousness at the same time that they begin to learn to read and write”).

⁸⁵ Codes represent real-world situations through pictures, words, or other media. FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 115.

codification were: “1) The situation must be familiar, 2) The meanings should not be too explicit or too vague, and 3) The codifications must open into multiple themes.”⁸⁶

Here, *Brangan* was on point: at Nashua Street Jail, many participants are detained due to unaffordable bail. *Brangan*, which directly addressed bail rights, was a strategic choice for interrogating the key terms previously introduced, allowing participants to observe how terms such as “precedent,” “binding authority,” and “jurisdiction” functioned in case law.⁸⁷ Participants went beyond simply learning definitions by actively analyzing the case and identifying the legal authorities the court used. Freire explains that codification allows learners to distance themselves from their daily lives so they can see their situation from a new perspective.⁸⁸ Participants engaged in a process of “decoding” the legal system, uncovering how different sources of law worked together and influenced legal outcomes.⁸⁹

Brangan encouraged participants to share their legal knowledge and past interpretations of bail. Using *Brangan* as an anchor text contextualized the learning process, fostered a sense of ownership, and invited participants to engage with the material and share their perspectives. At the end of the first session, we reviewed next week’s plan and asked for feedback on which topics they would like us to focus on in the following classes.

B. Lesson Two

At the start of the second lesson, we restated the purpose of the course and clarified that we could not provide legal advice. We then reviewed the previous lesson as an opportunity for participants to reflect on what they had learned and remembered. In the second class, we presented the legal definitions and their relation to *Brangan*. Next, we outlined the roadmap and discussed how the second lesson would build on the first by introducing the IRAC (*Issue, Rule, Application, Conclusion*) method for analyzing case law.

⁸⁶ Bonnie Burstow, *Freirian Codifications and Social Work Education*, 27 J. Soc. WORK EDUC. 196, 198 (1991).

⁸⁷ From Freire’s perspective, codification is the presentation of an existential situation that is related to the generative word. FREIRE, *EDUCATION FOR CRITICAL CONSCIOUSNESS*, *supra* note 82, at 47–48.

⁸⁸ *Id.*

⁸⁹ FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 105 (explaining that decoding “requires moving from the abstract to the concrete . . . from the part to the whole and then returning to the parts,” which, “in turn requires that the Subject recognize himself in the object . . . and recognize the object as a situation in which he finds himself, together with other Subjects.”).

We introduced IRAC as a framework we learned in law school for analyzing and constructing legal arguments. Sharing this framework supported a core goal of the course: to equip participants with the resources to actively participate in their defense. By understanding the IRAC structure – identifying the Issue, stating the Rule, Applying the rules to the facts, and reaching a Conclusion – participants developed a better grasp of how lawyers are trained, how legal arguments are structured, and how judges write opinions. Participants received a handout explaining the IRAC method and a non-law fact pattern to practice applying it. Participants worked with IRAC in a simple context, broken down into core elements, as a problem-posing activity. Participants saw how IRAC can be used to analyze and develop arguments before applying it to *Brangan*.

Facilitators guided participants through an IRAC analysis of *Brangan*, demonstrating how the court identifies issues, pulls relevant rules, applies those rules, and then reaches a conclusion. The issue we guided the participants toward was the due process requirements when bail is unaffordable.⁹⁰ The *Brangan* court outlines several bail-related rules, including those on alleged dangerousness and flight risk.⁹¹ Through a guided conversation, we highlighted how the applications of the rules, including the procedural requirements that judges must follow when setting bail, will likely result in long-term pretrial detention.⁹²

Participants were often surprised that judges must explain their reasoning in writing or on the record. Under *Brangan*, judges should consider “the defendant’s financial resources, explain how the bail amount was calculated, and state why, notwithstanding the fact that the bail amount will likely result in the defendant’s detention, the defendant’s risk of flight is so great that no alternative, less restrictive financial or nonfinancial conditions will suffice to assure his or her presence at future court proceedings.”⁹³ In practice, however, judges rarely follow *Brangan*’s procedural requirements.⁹⁴ Participants often returned to the next lesson with their bail papers, showing that the judge in their case did not provide a written finding on the record, which demonstrated their ability to analyze legal documents and spot potential procedural violations that impacted their lives. Here, IRAC aligned with what Freire calls “Decodification.”⁹⁵ Participants used the IRAC method to

⁹⁰ See *Brangan v. Commonwealth*, 477 Mass. 691, 703–707 (2017).

⁹¹ See *id.*

⁹² See *id.*

⁹³ *Id.*

⁹⁴ M. Leonard, *The State of Bail in Massachusetts Following the Brangan Decision*, NE. U. L. REV. ONLINE FORUM (Jan. 10, 2018), <https://nulawreview.org/forum-posts/2022/8/23/the-state-of-bail-in-massachusetts-following-the-brangan-decision>.

⁹⁵ FREIRE, PEDAGOGY OF THE OPPRESSED, *supra* note 21, at 104–06.

break down *Brangan* into intelligible parts, allowing them to better understand the relationship between due process and the requirements a judge must follow when setting unaffordable bail.⁹⁶

Freire emphasizes that knowledge is not passively absorbed but actively built through critical engagement with social reality.⁹⁷ Central to Freire's approach is *conscientização* (conscientization), which is achieved through dialogue that encourages individuals to examine their reality, beliefs, and assumptions about the world around them.⁹⁸ In the context of the legal system, this translates to equipping pretrial detained persons with the tools to challenge traditional narratives and develop their understanding of their rights and the legal process. The lesson is grounded in *Brangan*, draws on participants' lived experiences, and helps them develop the skills to question, analyze, and problematize the legal system through the lens of *IRAC*.

C. Lesson Three

The third lesson connects case analysis with legal research strategy. After reviewing the previous lesson, participants revisit *Brangan* to identify the specific legal questions the court addressed, showing how legal issues can steer research strategies. We asked participants to write down keywords in *Brangan* to pinpoint areas for further research into bail protections. We used these keywords as a template for effective research skills and legal research methods. We asked participants how they would search for a case, excavating their current research habits, which often involve basic keyword searches. We used a projector to visually demonstrate the limitations of just searching a keyword or a string of words, especially its tendency to produce overly broad results. We then introduced natural language and Boolean search terms to help participants find more precise and efficient ways to improve their legal searches. Through small group exercises, participants practiced developing research questions and identified potential search terms to strengthen their understanding and boost confidence in their research skills. The facilitators prepared participants to engage with the law actively and effectively by linking case analysis to research strategy and introducing essential research techniques.

⁹⁶ *Id.* *Brangan* served as the codification of understanding pre-trial detention, and *IRAC* provided a method for breaking the code into parts for analysis.

⁹⁷ FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 104 (“When carried out with a methodology of *conscientização* the investigation of the generative theme contained in the minimum thematic universe (the generative themes in interaction) thus introduces or begins to introduce women and men to a critical form of thinking about their world.”).

⁹⁸ *Id.*

Lesson three marked a crucial turning point in the course. Up to this point, *Brangan* was a foundational text guiding class discussions on legal analysis. As Freire suggests, decodification opens up new themes and questions.⁹⁹ Building on the legal concepts in *Brangan*, we guided exploration and analysis in later lessons that sparked participants' interest, often Motions to Dismiss and Motions to Suppress. This shift encouraged participants to engage with their legal questions and influence the course's direction.

Each class participant most likely had an attorney representing them in their pending criminal case. The course was neither intended nor designed to serve as a program for *pro se* litigants. Rather, it was designed to help criminal defendants understand what was happening in their cases so they could participate in their defense as fully and meaningfully as possible. The realities of criminal defense practice can make it difficult for even the most committed attorney to explain every aspect of a case in the depth or detail a client may desire, despite the attorney's obligation to communicate with clients and explain the legal issues relevant to their case. Time constraints, large caseloads, and the demands of navigating the pretrial process can limit opportunities for extended conversations about legal doctrine, procedural rules, or potential research strategies.

Moreover, criminal defendants often want to understand and research their own cases. Providing participants with basic legal research skills therefore does not displace the role of counsel; instead, it gives defendants additional tools to make sense of the legal system in which they are situated. A participant who understands how to identify relevant legal questions, locate cases, and recognize the rules governing a particular issue may be better positioned to ask their attorney informed questions and communicate concerns about their case. This is particularly important because defendants possess knowledge that their attorneys may not: they know the facts of their cases, their experiences with the alleged conduct, and the circumstances surrounding their arrest. Defendants may be able to bring their knowledge into conversation with their attorneys when defendants develop a stronger understanding of the legal rules that bear on those facts.¹⁰⁰

⁹⁹ *Id.* at 115 ("As the decoders reflect on the codifications, the codifications should open up in the direction of other themes.").

¹⁰⁰ The goal is not to turn participants into their own lawyers, but to create conditions in which they can be informed and collaborate with their attorney. Legal education can give defendants a stronger vocabulary for articulating questions, identifying concerns, and engaging with the legal issues that shape their cases. In this sense, legal research becomes not merely a technical skill but a means of supporting defendants' participation in the decisions that affect their lives.

III. THE ROLE OF THE FACILITATOR IN FOSTERING CRITICAL DIALOGUE

The facilitator's role in the Nashua course signifies a democratization of power within the classroom. Unlike a traditional teacher who acts as the sole authority, the facilitator functions as a co-learner, sharing control with other facilitators and participants, creating a space where everyone's voice is valued.¹⁰¹ Moving toward a liberative education model requires a deliberate effort to relinquish control, resist the urge to dominate discussions, and adopt a more dialogic approach to teaching and learning. Our approach aligns with Freire's emphasis on a dialogical relationship between teacher and student, where both are learners. As discussed earlier, facilitation involves a shift from a banking education model, where knowledge is deposited into passive recipients, to a problem-posing model, where students are encouraged to critically engage with their issues and develop their own answers. Facilitators do not teach the law; instead, they guide participants through a process of critically analyzing the law and exploring legal research tools for their cases.

Freire's educational model helps facilitators demystify the criminal legal system, fostering critical engagement with the law and promoting a focus on the perspectives of those impacted by the system. A key element of this approach is Freire's idea of *conscientização*, achieved through dialogue that prompts individuals to examine their reality, beliefs, and assumptions about the world.¹⁰² In the context of the legal system, this means equipping pretrial detained persons with tools to challenge social myths about the legal system that may prevent a critical awareness of the system.

During class discussions, participants often voiced frustrations with their assigned attorneys. In one instance, a participant asked, "What gives my public defender the right to make choices in my case?" As a second-year law student, I was unsure how to answer his question, or even if I should, since responding could be considered legal advice. Instead of answering directly, we, as facilitators, paused the discussion and asked if we could delay providing an answer until the next class.

The participant's question led to the following week's lesson plan: the authority of assigned counsel. In that session, we passed out *Florida v. Nixon*, and I told the participants that this was a case I recently read in my criminal procedure class to establish the rule that an assigned counsel has professional discretion in making strategic decisions.¹⁰³

¹⁰¹ Au, *supra* note 42, at 186.

¹⁰² FREIRE, PEDAGOGY OF THE OPPRESSED, *supra* note 21, at 104.

¹⁰³ See *Florida v. Nixon*, 543 U.S. 175, 187 (2004) ("That obligation, however, does not require counsel to obtain the defendant's consent to 'every tactical decision.'") (citations omitted).

As we read key portions of the text, one participant pointed out that a defendant does not have to approve “every tactical decision” made by their lawyer.¹⁰⁴ Class participants, through their experiences with the legal system, offered a critique of lawyers’ ability to make tactical decisions. They questioned *Nixon’s* holding that a lawyer may concede guilt without a client’s explicit consent, given the power imbalance between an attorney and an indigent client.¹⁰⁵ One participant said he felt less frustrated with his attorney after reading *Nixon* because he now had a frame of reference for understanding his appointed attorney. The facilitated discussion opened avenues for class participants to pose questions, guide lessons, and co-create and direct the class’s curriculum.

The above vignette illustrates the facilitation process by discussing a shared text, posing questions, and investigating ideas through active listening.

A. Shared Text

A shared text serves as the starting point for dialogue. Learners engage with the material presented, whether it’s a fact pattern or a case, and share their perspectives. These texts provide a framework, offering a focus that guides the themes identified by participants. The specific text being discussed is less about the document itself and more about creating common ground for conversation and critical reflection. It’s about using something – a theme, a representation, a case – to provoke discussion, connect to lived experience, and help participants become active learners in their own process.¹⁰⁶

In the scenario above, *Florida v. Nixon* provides a framework for understanding attorney authority, but its pedagogical use comes from how it intersects with the participants’ experiences. The case itself is a coded representation of power dynamics, legal strategy, and client agency. The participants’ experiences—their frustrations and questions about their own lawyers—became the generative themes illuminated by the *Nixon case*. The shared text allows them to move beyond anecdotal frustration to a structured analysis of the system.

The *Nixon case*, as a shared text, provided focus for class discussions. It’s not just a free-floating discussion about lawyers; it’s an examination of attorney authority within the context of a specific legal case. The text provides guardrails for the conversation. While the conversation may branch out to related issues, the shared text provides a grounding point, a common reference that keeps the discussion productive and relevant.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ FREIRE, EDUCATION FOR CRITICAL CONSCIOUSNESS, *supra* note 82, at 47–48.

A shared text creates a parameter for exploring complex issues without giving direct legal advice.

B. Problem-Posing Questions

Initial questions are grounded in the text or fact pattern. After the class has read a portion of the text, the facilitators ask what issues the court is trying to answer or what rules the court applies. It is helpful to first define the problem prior to examining the text.

To elaborate on the issue, a facilitator can personalize the problem by asking what the participants think or feel about the issue facing the court. Ron Scapp, in dialogue with bell hooks, points out that “[w]hen one speaks from the perspective of one’s immediate experiences, something’s created in the classroom for students, sometimes for the very first time. Focusing on experience allows students to claim a knowledge base from which they can speak.”¹⁰⁷ In investigating personal insight, problem-posing questions are essential for developing critical consciousness. Problem-posing questions encourage learners to move beyond a superficial understanding of the text and to critically examine the root causes of social problems and injustices.¹⁰⁸

These problem-posing questions, grounded in the shared text connected to the lived experiences of the participants, facilitate a meaningful learning process. The questions and resulting discussions foster critical engagement by enabling facilitators and participants to collaboratively explore their critical perspectives, sociopolitical context, and the lived experiences of those impacted by legal injustice, thereby integrating experience with theory. The pedagogical aim of problem questions is twofold. First, problem-posing questions lead facilitators and participants to grapple with the officially stated purpose of the law and the sociopolitical undercurrents that drive the enforcement of the law.¹⁰⁹ Second, these discussions open a space for facilitators and participants to imagine what could be and explore ideas that inherently challenge the vertical power relations that are embedded in the law.¹¹⁰

Most importantly, these questions and the discussions they spark create a space for facilitators and participants to face each other. As bell hooks states, “[t]o engage in dialogue is one of the simplest ways

¹⁰⁷ HOOKS, *supra* note 1, at 148.

¹⁰⁸ FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 83 (“In problem-posing education, people develop their power to perceive critically the way they exist in the world with which and in which they find themselves; they come to see the world not as a static reality, but as a reality in process, in transformation.”).

¹⁰⁹ *See generally id.*

¹¹⁰ *See generally id.*

we can begin as teachers, scholars, and critical thinkers to cross boundaries, the barriers that may or may not be erected by race, gender, class, professional standing, and a host of other differences.”¹¹¹ Skilled facilitators make participants feel safe sharing their opinions, avoid excessively pushing their own agenda, and foster an atmosphere of trust.¹¹² The aim of facilitation is to ask questions and provide responses to questions from participants that promote dialogue and trust, which are essential for ensuring full participation in the learning process.

C. Active Listening

As discussions unfold, the facilitators allow the threads to unravel organically. Rather than rigidly adhering to a predetermined agenda, we embrace the dynamic nature of learning and enable the conversations to guide the class. Facilitators must carefully listen and observe, attuning to the nuances of the discussion and identifying the core issues that ignite participants’ interest. Facilitators can orchestrate the flow toward a generative path, guiding the participants toward critical engagement with the material, by actively listening to what is alive within a conversation.

For example, during a discussion on bail, a participant brought up the topic of sovereign citizenship.¹¹³ The participant explained how sovereign citizens are not under the government’s jurisdiction and believe they are exempt from U.S. laws if they follow certain procedures. His beliefs about his rights could have easily derailed the planned lesson, and if the facilitators had shut down the conversation, it could have damaged the participant’s trust by not giving him the chance to ask questions. Instead of ending the discussion, the facilitators listened actively and observed, guiding the conversation back on track. As participants debated the benefits of sovereign citizenship, a common theme emerged: the sources of individual rights.

Our observations as facilitators allowed us to gently guide the conversation back toward the class topic, linking the questions about

¹¹¹ HOOKS, *supra* note 1, at 130.

¹¹² University of Minnesota Human Rights Center, *The Practice of Facilitation*, in *Human Rights Education Handbook*, Part II(B), <https://hrlibrary.umn.edu/edumat/hreduse-ries/hrhandbook/part2B.html> (last visited Mar. 30, 2026).

¹¹³ Sovereign citizens believe that courts and law enforcement authorities have no jurisdiction over people who undergo certain procedures and exploit legal loopholes to avoid government laws and regulations. Southern Poverty Law Ctr., *Sovereign Citizens Movement*, <https://www.splcenter.org/resources/extremist-files/sovereign-citizens-movement/> (last visited Aug. 30, 2026). They believe that the contemporary legal system is based on a decades-old conspiracy in which the U.S. government, established by the Founding Fathers under a common-law legal system, was secretly replaced. *Id.* Specifically, they believe that the government replaced common law with admiralty or maritime law. Sovereign citizens therefore reject government-issued forms of identification, such as Social Security cards, and other legal documents and requirements. *Id.*

sovereign citizenship to broader discussions about constitutional rights and due process of law.¹¹⁴ The underlying question for the participant was how he could access his rights. As bell hooks and Ron Scapp insist, the quality of an educator comes from their ability to listen to the student.¹¹⁵ Thus, the facilitators are not passive in the learning process but actively guide the class toward a critical awareness of the materials through the in-class exercises, as they listen and respond to the students.¹¹⁶ The facilitators' ability to actively listen honors divergent points of view and creates a responsive learning environment where unexpected detours can lead to valuable insights and a shared understanding of the law. Freire says that a critical perception of the world cannot be imposed; it must be developed through dialogue and critical reflection.¹¹⁷

The participant's questions about sovereign citizenship underscore the importance of a Freirean approach to legal education, particularly within a marginalized setting like a jail. The facilitator's task is not to lecture but to engage participants in problem-posing questions, encouraging them to examine their assumptions and beliefs.¹¹⁸ From a facilitation standpoint, this means expanding participants' understanding of how various legal concepts and processes interact, helping to demystify the legal system.

To ask the right questions, one must honor the participants' perspectives, even when those perspectives seem misguided or contradictory. As Freire emphasizes, "I cannot think for others or without others, nor can others think for me."¹¹⁹ Even if participants' thinking is initially rooted in misinformation or conspiracy theories, they can change only by rethinking their assumptions.¹²⁰ By creating a space for open

¹¹⁴ FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 116–117 (explaining that "the co-ordinator must not only listen to the individuals but must challenge them, posing as problems both the codified existential situation and their own answers," encouraging participants to "externalize a series of sentiments and opinions about themselves, the world, and others, that perhaps they would not express under different circumstances").

¹¹⁵ See generally HOOKS, *supra* note 1, at 150 ("I see it as a fundamental responsibility of the teacher to show by example the ability to listen to others seriously.").

¹¹⁶ See generally *id.* at 41 ("To hear each other (the sound of different voices), to listen to one another, is an exercise in recognition. It also ensures that no student remains invisible in the classroom.").

¹¹⁷ See FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 108 ("Even if the people's thinking is superstitious or naive, it is only as they rethink their assumptions in action that they can change. Producing and acting upon their own ideas—not consuming those of others—must constitute that process.").

¹¹⁸ See *id.* at 134 (explaining that facilitators "cannot impose themselves and their knowledge on the people" and should instead "enter into dialogue with them, so that the people's empirical knowledge of reality, nourished by the leaders' critical knowledge, gradually becomes transformed into knowledge of the causes of reality").

¹¹⁹ *Id.* at 108.

¹²⁰ *Id.*

dialogue and critical inquiry, facilitators can help participants challenge their own beliefs and develop a nuanced understanding of the law and its implications for their lives and the lives of the facilitators. The facilitator's task is to hold the conversation together and honor the divergent voices that emerge.

The most crucial learning moments occurred when participants turned to one another, sharing resources and past experiences related to specific legal questions.¹²¹ Participants might discuss a relevant court case, offer advice from a previous hearing, or share a letter they wrote to their lawyer. These simple exchanges transformed the classroom into a space of collective empowerment, where knowledge flows horizontally, and everyone, including the facilitators, becomes a co-learner.¹²² When facilitators and participants create space where each person can share and learn together, traditional hierarchies are challenged, critical consciousness is fostered, and ultimately, legal education is democratized.

CONCLUSION

As explored throughout this paper, the course has evolved continuously as my understanding of classroom dynamics has grown and as feedback from participants and facilitators has been incorporated. This course continues to adapt each lesson and each iteration over time. There is no single way to teach this course. The class structure is a dynamic, iterative process – a “laboratory of discovery,” as my professor Gregory Ellison aptly puts it: “In any good laboratory, things have to blow up or break down in order to achieve a breakthrough.”¹²³ The class remains fluid, with elements pulled apart and reassembled to create the most effective, collaborative, and transformative learning process. Facilitators must embrace this dynamic of refinement, recognizing that the course's strength lies in its ability to engage in conversation with participants. It is an ongoing conversation that mirrors my hope for the legal system: a belief that understanding the law is not static but demands constant questioning, adaptation, and a willingness to embrace the perspectives of those most impacted by the legal system.

¹²¹ PAULO FREIRE & IRA SHOR, *A PEDAGOGY FOR LIBERATION* 146 (1987) (“Still another in-process test for me is if students address each other in verbal exchanges If they respond to each other's statements in a serious way, then I see some desocialization is underway, because they recognize their peers as creators of worthy discussion in an intellectual setting.”).

¹²² I often learned about the law in new ways, gaining fresh perspectives on legal concepts through the participants' experiences.

¹²³ Gail O'Neill, *Emory's Gregory Ellison Sparks Difficult Conversations with “Fearless Dialogues,”* Arts Atl (Jan. 8, 2018), <https://www.artsatl.org/emorys-gregory-ellison-encourages-citizens-engage-fearless-dialogues/>.

APPENDIX

Facilitators’ Guide

NASHUA STREET JAIL

Introduction to Legal Research and Pretrial Motions

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Course Description

Course Summary

The legal research course at Nashua Street Jail is a six to eight-week program designed to equip pretrial detained persons with research skills while providing law students with valuable practical experience. The collaboration breaks down traditional barriers in legal education, creating a shared learning environment where participants strengthen their research abilities and develop an understanding of the criminal legal system.

The course delves into core aspects of criminal procedure, from bail and arraignment to search and seizure, *Terry* motions, *Miranda* rights, and other procedural safeguards. The course emphasizes developing effective legal research skills to find and apply relevant statutes and case law in Motions to Dismiss and Motions to Suppress.

For many class participants, the criminal legal system is a confusing maze. This course helps demystify the process by giving individuals knowledge of their procedural rights and tools to actively participate in their defense. At the same time, the format gives law students the opportunity to gain legal insight from those directly impacted by the system.

The class embodies a transformative approach to legal education. Drawing on Mari Matsuda's work, it recognizes the expertise and insight of those navigating the legal system from within and treats participants as valued partners in a collaborative learning process. This co-learning partnership not only enhances the learning experience but also has the potential to spark new ways of understanding and applying the law for participants and law students alike.

Course Design and Collaborative Learning

The course brings together law students (class facilitators) and pretrial detained persons (class participants) for collaborative learning about legal research and criminal procedure. Unlike law school's traditionally hierarchical structure, the class promotes a co-learning environment rooted in mutual respect and shared expertise between facilitators and participants. This approach draws inspiration from Paulo Freire's *Pedagogy of the Oppressed*, which emphasizes dialogue, critical thinking, and empowerment for those marginalized by conventional education systems. Freire argued that traditional education can uphold the status quo if teachers are the sole source of knowledge

and students remain passive. The Nashua Street course actively breaks down this hierarchy, encouraging open discussion and mutual learning. Participants aren't just taught "black letter law," but are equipped with tools to analyze the law and understand its influence on their lives and cases.

Since its beginning, the course has evolved through ongoing input from both facilitators and participants. It serves as a dynamic laboratory of discovery, where elements are continually adapted and refined to create the most transformative learning experience. The course's flexibility reflects the idea that legal understanding isn't fixed but thrives on questioning, adaptation, and incorporating perspectives from those most adversely impacted by the system. While the curriculum helps solidify the project, the hope is that this document remains a living resource, continually evolving based on the input of those involved.

Session Summaries

Session 1: Laying the Foundation

- Introduces key legal terminology and the structure of a case timeline and explores different sources of legal authority. Participants will understand common legal terms and how case law and statutes form the basis of the legal system. Using *Brangan v. Commonwealth*, 477 Mass. 691 (2017), a bail-reform case, participants will identify the types of authority within a decision.

Session 2: Case Analysis and IRAC

- Participants are invited to examine the IRAC method (Issue, Rule, Application, Conclusion), a systematic approach for analyzing case law. Using *Brangan*, participants will practice identifying the relevant legal issues and rules and how the court applied the law to reach its conclusions. This session equips participants with the tools to break down case law.

Session 3: From Case Analysis to Legal Research Strategy

- This session bridges the gap between case analysis and the development of focused research strategies. Participants will revisit *Brangan* to identify the specific legal questions the court addressed. Using these questions, participants will learn to craft concentrated research questions using keywords and Boolean search terms. This session teaches participants how to translate legal issues into research plans.

Session 4: Motions to Dismiss

- Participants will delve into Motions to Dismiss and understand their purpose and role in criminal proceedings. They will learn about probable cause; review provided fact patterns and analyze whether the facts support probable cause for an arrest. They will practice crafting research questions and apply their skills by finding relevant case law and statutes. This session emphasizes the connection between research and the development of legal arguments for a motion to dismiss.

Session 5: Discovery Motions

- This session focuses on discovery in criminal cases, specifically under Rule 14 (mandatory discovery rules). Participants will learn about automatic discovery, exculpatory evidence (including the prosecution's obligations under *Brady*), and analyze Rule 14 to understand what the prosecution must disclose. Participants will identify potential exculpatory information using fact patterns. This session emphasizes the strategic use of discovery to bolster defense arguments.

Session 6: Evidentiary Motions - Terry Stops

- Participants will learn about the exclusionary rule and how it applies to evidentiary motions. This session focuses on *Terry* stops, defining reasonable suspicion and how it differs from probable cause. Participants will analyze fact patterns using videos and case law to determine if stops meet the reasonable suspicion standard and outline how a defense attorney would frame a Motion to Suppress based on a potential *Terry* stop violation.

Session 1

Laying the Foundation

GOALS

- **Establish a foundation in legal research:**
 - This includes understanding legal terminology (common definitions), the structure of a case (brief overview of a case timeline), and the different sources of legal authority (Common Law, Statutes).
- **Introduce key legal research skills:**
 - The session aims to introduce participants to how to find and analyze legal resources like case law and statutes.
- **Develop a plan for further learning:**
 - Map out a plan for the next 6 weeks, suggesting the sessions will introduce a roadmap for participants to continue building their legal research skills.

LESSON OUTLINE

1. Introductions (10-15 minutes)
 - a. A brief introduction to the Course
 - b. Instructor introductions
 - c. Participant introductions
 - d. Expectations Setting: Outline the format and goals of the course. Briefly discuss how this session fits within a larger learning roadmap (pass out course syllabus)
 - i. **Stress:** class facilitators cannot offer legal advice
2. Laying the Foundation: Definitions and Concepts (20-30 minutes)
 - a. Case Timeline: Provide a visual representation of a typical case timeline, highlight key points in the life of a case and motions attorneys file to move the case along. Suggestion: connect the timeline to the subject material of the class: MTD and MTS.
 - b. Key Definitions: Define common legal terms the participants will encounter (e.g., precedent, binding authority, jurisdiction, etc.) (pass out definition chart)

3. Exploring Authority and Sources (30-40 minutes)
 - a. Definitions:
 - i. Explain the difference between primary and secondary sources.
 - ii. Focus on primary sources:
 - iii. Common Law (Precedent, Binding vs. Persuasive Authority)
 - iv. Statutes (Federal vs. State)
 - v. Hierarchy of Courts
 - b. Interactive Exercise: Authority Identification (*Brangan*)
 - i. Explain the holding and facts of *Brangan*.
 - ii. Identify the various legal authorities throughout *Brangan*.
 - c. On the bottom of the second page, highlight usage of G. L. c. 276, § 57
 - i. Invite participants to identify how the court uses legal authority to arrive at their holding.
4. Closing & Planning for the subsequent weeks
 - a. Pass out course schedule.
 - b. Provide a template for the next five weeks of the material the class will cover.
 - c. Ask participants whether they have any procedural questions about the criminal legal system.
 - d. Ask participants whether they have any substantive questions about the criminal legal system.
 - e. Provide information about next week's class: Review of *Brangan* and IRAC

Session 2

Case Analysis and IRAC

GOALS

- **Reinforce Understanding of Key Legal Concepts and Framework**
 - The lesson begins with a review of basic legal definitions and Massachusetts courts. This recaps essential knowledge needed to analyze cases effectively.
 - It introduces the IRAC method, a tool for legal reasoning and structuring legal arguments.
- **Develop Case Analysis Skills**
 - Revisit *Brangan*, demonstrating how to identify and analyze the following within a court decision:
 - Issues presented in the case
 - Relevant legal rules
 - How those rules are applied to the specific facts
 - The court's conclusions
- **Understand Binding vs. Persuasive Authority**
 - The lesson will explicitly discuss how a court's decision creates protections within the legal system.
 - This helps to differentiate between binding authority (which must be followed in a jurisdiction) and persuasive authority (which may influence courts from other jurisdictions).

LESSON OUTLINE

1. Review and Roadmap (10-15 minutes)
 - a. Introductions
 - b. Brief Check-In: Ask participants what they remember from the previous lesson.
 - c. Quick Definitions Review: Have participants call out definitions for key terms (precedent, jurisdiction, statute, etc.)
 - d. Massachusetts Courts Recap: Display a visual of the Massachusetts court hierarchy as a reminder.
 - e. Provide a roadmap for today's lesson

2. Introduction to IRAC (20-30 minutes)
 - a. Explain what IRAC stands for: Issue, Rule, Application, Conclusion
 - b. Discuss how IRAC structures legal arguments and analysis.
 - c. Provide a handout or visual representation of the IRAC method.
 - d. Example/exercise: Use a non-legal hypothetical scenario to demonstrate IRAC in basic terms (please see handout)
3. *Brangan* Case Analysis (30-40 minutes)
 - a. Review *Brangan* Facts: Briefly summarize the key facts of the case (or ask participants to recap).
 - b. Guided IRAC Analysis:
 - i. Lead the class through identifying the Issue(s), relevant Rule(s), and how the court Applied these rules to reach its Conclusion
 - A. First Issue: Whether bail must be affordable
 - B. Second Issue: Due process requirements
 - ii. Suggestion: write responses on a board or shared document.
 - c. Dissect the Decision:
 - i. Discuss the protections the court established through its ruling.
 - d. Discuss whether the *Brangan* decision is binding or persuasive within and outside of Massachusetts.
4. Binding vs. Persuasive (if there is extra time) (15-20 Minutes)
 - a. Clarify the difference and how it impacts legal research/arguments.
 - b. Small Group Exercise: highlight the various cases used in the *Brangan* decision and ask participants to identify whether the authority is binding or persuasive, and why.
5. Wrap-Up (5-10 Minutes)
 - a. Q&A: Address any outstanding questions.
 - b. Connection to Next Lesson: Briefly mention how these skills will be used in future research or analysis tasks.

Session 3

From Case Analysis to Legal Research Strategy

GOALS

- **Connect Case Analysis to Research Strategy**
 - Participants will analyze the *Brangan* decision to understand the specific legal question(s) the court sought to answer.
 - By reviewing the court's reasoning, participants can see how the legal issue shaped the types of resources (statutes, case law, etc.) the court used to arrive at its decision.
- **Develop Legal Research Question Framing**
 - The lesson will use *Brangan* as a case study to demonstrate how to turn a broad legal issue into a specific and focused research question.
 - Participants will learn how to identify key terms and concepts within the legal issues of a case to guide their research strategy.
- **Introduce Technical Research Concepts**
 - The lesson will explain the difference between natural language searches (like a regular web search) and Boolean search methods used in legal databases.
 - Participants will learn about key search terms (e.g., synonyms, broader/narrower terms) and how to use Boolean connectors (AND, OR, NOT) to refine their searches.

LESSON OUTLINE

1. Review and Roadmap (10-15 minutes)
 - a. Re-Introductions
 - b. Brief Check-In: Ask participants what they remember from the previous lesson.
2. *Brangan* Case Review (15-20 minutes)
 - a. Recap: Ask participants to briefly summarize the key facts of the *Brangan* case.
 - b. The Legal Question: Guide participants to identify the specific legal question(s) the court had to answer in *Brangan*. Write these questions down for reference.
 - c. Court's Reasoning: Discuss what types of authority the court relied on (e.g., statutes, case law) and how those sources helped answer the legal question.

3. Framing Research Questions (15-20 minutes)
 - a. From Issue to Question: Using the *Brangan* question(s) as an example, demonstrate how to turn a broad legal issue into focused research questions.
 - b. Identify Keywords: Have participants highlight key terms and concepts from the *Brangan* questions that would form the basis of a research strategy.
4. Introduction to Legal Research Techniques (20-30 minutes)
 - a. Natural Language vs. Boolean: Explain the difference between everyday search terms and Boolean search methods used in legal research databases.
 - b. Connectors and Search Terms.
 - c. Introduce Boolean connectors (AND, OR, NOT).
 - d. Discuss synonyms and broader/narrower terms to expand or refine searches.
 - e. Brief Demo: If possible, provide a short demonstration of a legal database, showing how to use Boolean searches with terms derived from the *Brangan* analysis: Find new cases that use *Brangan*.
5. Practice and Application (10-15 minutes)
 - a. Small Group Exercise: Divide participants into groups.
 - b. Provide new legal scenarios/fact patterns, and have groups practice developing 2-3 research questions and suggest potential search terms.
6. Wrap-Up (5-10 minutes)
 - a. Q&A: Address outstanding questions about search techniques or research strategy.
 - b. Next Steps: Briefly outline how these research skills will be further practiced and applied in future sessions: Motion to Dismiss and Motion to Suppress.
 - c. Check-in and go over the next few classes

Session 4

Motions to Dismiss

GOALS

- **Understand Probable Cause and its Role in Motions to Dismiss**
 - Participants will analyze police reports to determine whether probable cause exists to support an arrest and charges.
 - The lesson will introduce the concept of probable cause and how it relates to Motions to Dismiss.
- **Apply Legal Research to Motions to Dismiss**
 - Participants will practice crafting research questions based on fact patterns and use legal research tools to find relevant case law and statutes.
- **Develop Legal Analysis Skills**
 - Participants will apply researched case law and statutes to support arguments for or against granting a Motion to Dismiss based on the provided fact patterns.
 - The lesson will introduce burdens of proof and how they impact a Motion to Dismiss decision.

LESSON OUTLINE

1. Review and Roadmap (10-15 minutes)
 - a. Re-Introductions (if needed)
 - b. Brief Check-In: Ask participants what they remember from the previous lesson.
2. Probable Cause Introduction (15-20 minutes)
 - a. What is Probable Cause: Define the concept and explain its significance in criminal proceedings.
 - b. Tie Probable Cause to Motions to Dismiss: “Four Corners of the complaint.”
 - c. Review: MCLE MTD handout
 - d. Optional: Present *DiBenedetto*

3. Problem-Based Exercise: Fact Pattern Analysis (35-45 minutes).
 - a. Elements of a Charge: Fact Pattern #1 (OUI):
 - i. Distribute OUI fact pattern.
 - ii. Break into Groups of 3-4 (A facilitator should be in each group).
 - iii. Identify Elements of an OUI: Participants dissect the fact pattern to identify the key elements the Commonwealth would need to prove for an OUI conviction.
 - iv. Research Questions: Guide them to develop research questions around the legal definition of OUI and the concept of “operation” of a vehicle.
 - v. Reconvene: Discuss the elements identified and potential research strategies.
 - b. Intent Fact Pattern #2 (Possession charges):
 - i. Distribute the Intent to Distribute fact pattern.
 - ii. Break into Groups of 3-4 (A facilitator should be in each group).
 - iii. Identify Elements: Participants dissect the fact pattern to identify the key elements the Commonwealth would need to reach a conviction for possession with intent to distribute.
 - iv. Research Questions: Guide participants to develop research questions around the legal definition of “intent to distribute.”
 - v. Reconvene to discuss the elements identified by each group, highlighting how the quantity or packaging of drugs might influence “intent.” Suggest avenues for further research.
 - vi. Distribute and Talk through MTD example.
4. Research Demo/Review: (10-15 minutes)
 - a. Provide a brief demonstration or review of legal research databases (Fastcase or Lexis) focusing on searching for relevant case law and statutes.
 - b. Research Time (If possible): Allow participants time to explore legal databases, using the questions they developed for Fact Pattern #1 and #2.

5. Wrap-Up (10 minutes)
 - a. Summary: Reiterate the key concepts of probable cause, Motions to Dismiss, and how legal research informs legal arguments in this context.
 - b. Q&A: Address outstanding questions.
 - c. Next Steps: Briefly outline any upcoming assignments or how this lesson connects to broader coursework.

Session 5

Discovery Motions

GOALS

- **Understand Automatic Discovery Under Rule 14(b)**
 - Participants will analyze Rule 14(b)(1)–(2) and identify the categories of information the prosecution is automatically required to disclose to the defense.
 - The lesson will discuss the rationale for automatic discovery and its role in promoting fairness.
- **Identify the Scope of Discovery and Exculpatory Evidence**
 - The lesson will define “exculpatory evidence” and explore its implications through case law (including *Brady*).
 - Participants will revisit the fact patterns and, applying Rule 14, identify potential discovery items that might contain exculpatory information.
- **Analyze Motions for Additional Discovery**
 - Participants will learn about Rule 14.2(d) and the process for seeking materials not covered by automatic discovery.
 - The lesson will cover *Long/Cuffee* motions and their role in obtaining additional discovery relevant to a defense strategy.

LESSON OUTLINE

1. Review and Roadmap (10-15 minutes)
 - a. Re-Introductions (if needed)
 - b. Brief Check-In: Ask participants what they remember from the previous lesson.
 - c. Review MTD and Probable cause
2. Rule 14 Analysis (25-30 minutes)
 - a. Dissect the Rule: Break down Rule 14(b)(1)–(2) section by section, focusing on:
 - i. Automatic disclosures by the prosecution
 - ii. Limits on prosecutorial discovery
 - iii. Procedures and deadlines
 - b. Exculpatory Evidence
 - i. Define Exculpatory: Explain the concept and discuss *Brady* (use handout)

3. Fact Pattern Analysis
 - a. Pass out fact pattern #3.
 - b. Small Group Work: Participants identify information related to the arrest itself (location, officer attire, initial reason for the stop) that could be exculpatory IF it casts doubt on the legality of the arrest/search.
 - c. Class Discussion:
 - i. Discuss possible defense challenges to the stop/search.
 - ii. What discovery items are crucial to build this argument?
4. Motions for Further Discovery & Case Strategy (25-30 Minutes)
 - a. Rule 14.2(d): Explain the purpose of motions for additional discovery.
 - b. *Long/Cuffee*: suppression of evidence from a racially motivated stop
 - i. Introduce the concepts, focusing on how they could be used to gain information to support either.
 - ii. Suppression of Evidence: If the stop/search were questionable.
 - iii. Building a Defense: If other evidence exists that might mitigate the charges (e.g., substances weren't drugs).
 - c. Fact Pattern Application:
 - i. Groups brainstorm what they might request in a discovery motion and connect their requests to specific potential defense strategies.
5. Wrap-Up (5-10 Minutes)
 - a. Summary: Key points about discovery under Rule 14 and how it shapes case strategy.
 - b. Next Steps: Preview how discovery could lead to motion practice (suppression, etc.) and trial preparation.

Session 6

Evidentiary Motions - *Terry* Stops

GOALS

- Understand the Exclusionary Rule & Evidentiary Motions
 - Participants will learn about the exclusionary rule, its purpose, and its application in different contexts (search warrants, warrantless searches).
 - The lesson will highlight the shift from non-evidentiary motions (like basic Motions to Dismiss) to evidentiary motions that require hearings.
- Analyze Reasonable Suspicion and *Terry* Stops
 - Participants will define “reasonable suspicion” and how it differs from “probable cause” in the context of warrantless stops.
 - The lesson will use case law and videos to illustrate these concepts, emphasizing the totality of circumstances.
- Apply *Terry* Stop Analysis to Motions to Suppress
 - Participants will dissect the provided fact pattern to determine whether the initial stop of the individual meets the reasonable suspicion standard.
 - The lesson will outline how a defense attorney would build a Motion to Suppress based on a potential *Terry* Stop violation, including what evidence arises from the facts.

LESSON OUTLINE

1. Review and Roadmap (10-15 minutes)
 - a. Brief Check-In: Ask participants what they remember from the previous lesson.
 - b. Quick Review: Remind participants about probable cause and its role in past lessons.
2. Exclusionary Rule & Evidentiary Motions (15 minutes)
 - a. The Exclusionary Rule: Introduce the concept and its rationale.

- b. Evidentiary Motions: Briefly explain how Motions to Suppress are used to challenge evidence based on constitutional violations, requiring a hearing with testimony.
 - c. Distinguish Evidentiary Motions from Motions to Dismiss (Four Corner Motions).
- 3. *Terry* Stops: Reasonable Suspicion vs. Probable Cause (20-25 minutes)
 - a. Definitions & Distinction: explain reasonable suspicion and how it differs from probable cause (burden of proof, required level of certainty).
 - b. Quimbee Video (if possible): Show the *Terry* video and follow up with a discussion of key points.
 - c. MCLE Resource: Briefly review the resource, focusing on factors courts consider for reasonable suspicion in warrantless stops.
 - d. (You may also want to provide information on warrant procedures)
- 4. Fact Pattern Analysis & Motion to Suppress (30-35 minutes)
 - a. Distribute the fact pattern #3
 - b. Small Group Work: Participants identify the key facts related to the initial stop and consider whether they raise the following issues:
 - i. **Reasonable Suspicion:** Did officers have reasonable suspicion to justify the stop based on the time of day, location, offense, the vehicle being known to police, and the race of the suspect?
 - ii. **Scope of the Stop:** Even if the initial stop was justified, did the scope of the stop exceed what was reasonable based on the offense?
 - c. Motion to Suppress Outline:
 - i. Discuss how a defense attorney would structure a Motion to Suppress, focusing on TWO potential arguments:
 - A. Lack of Reasonable Suspicion for the initial stop.
 - B. Exceeding the scope of a permissible stop under the *Terry* standard.
 - ii. Evidence: Discuss what specific evidence from the fact pattern they would cite, focusing on how the new details might shape the legal arguments.

5. (If Time) Introduction to Long Motions (10 minutes)
 - a. Briefly explain *Long* Motions in the context of obtaining additional evidence to support a suppression argument.
 - b. Apply a *Long* Motion analysis to the fact pattern #3.
6. Conclusion: If Final Class (20–30 minutes)
 - a. Recap the course with the course outline
 - b. Provide course review/feedback form.
 - c. Hold a closing ceremony.
 - i. Pass out certificates of completion.
 - ii. Pep talk/congratulatory speech.