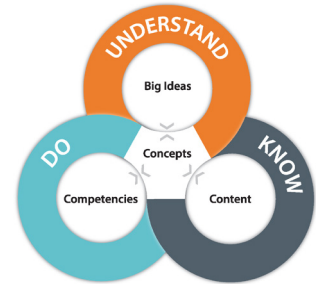


### Court Trial: Digital Matter

Online gaming and online gambling are two increasingly popular pastimes for young people. While gaming is an enjoyable, recreational activity for most, it can lead to serious problems for some, especially when paired with third-party gambling sites. Gambling real money is illegal for youth under the age of 19 throughout most of Canada but there is a legal loophole for gambling with digital matter.

In this three-session lesson (or more if desired), students learn that digital matter can cost real money and can result in winning or losing real money. Students get an opportunity to learn about gambling and digital matter through their own research while simultaneously experiencing and contributing to a mock trial in class. Students also get a chance to develop critical thinking skills that may help them reduce their risk of problematic gambling in the future.



#### Instructional strategies

1. Familiarize students with gaming and gambling issues.
  - a. Introduce gaming and gambling by asking students what they already know or have experienced related to the topics. Invite students to share their stories to help others understand the issues from a peer point of view.
  - b. Give students the [Background Information handout](#) at the end of this document, which features the three articles and background information below.
    - <http://theconversation.com/gambling-loot-boxes-in-video-games-could-be-conditioning-children-107667>
    - <https://www.theverge.com/2017/12/19/16783136/loot-boxes-video-games-gambling-legal>

- <https://thenextweb.com/syndication/2018/12/10/loot-boxes-in-video-games-could-be-giving-kids-a-gambling-problem/>

Under-aged youth can purchase keys, or their counterparts, in video games. Keys are purchased for a base rate without the player knowing what crate or loot box the key will open – it is a randomized selection that could have something as simple as a modification for a game’s avatar in it or as essential as game-enhancing armor or weapons. When a player purchases a key in a game, there is a gamble involved –the key they purchase will open a box that has an item of either greater or of lesser value in it than the amount that they paid for the key. These winnings or digital goods (weapons, armor, avatar modifications, etc.) do not have real money value in the game. But players can transfer their digital goods to online third party sites. Through a legal



loophole, these third-party sites such as Steam Marketplace allow players to buy and sell digital goods from their games for real money. The outcome of this process is that under-aged youth end up losing or winning real money even though it is illegal for them to gamble with real money.

## 2. Introduce the court case

- a. Give each student the [Court Case handout](#) on the background information of the case. You may want to read it aloud with the class:

Nathan Smith is 13 years old and has been using his parents' money without them knowing to regularly purchase keys to crates in Team Fortress 2.

It started out with his parents giving him \$30 or so just to play the online games. The Smiths say Nathan seemed happy playing Team Fortress 2 with his friends and they did not want to take that away from him. The Smiths' credit card was linked with Nathan's gaming account, and Nathan began to purchase keys to crates without his parents' consent.

Nathan began acting out in school and around the home, and began spending more and more time alone in his room online. His parents were concerned and after looking over credit card statements they discovered that over the past year Nathan had spent about \$1000 of their money on a combination of keys in Team Fortress 2 and on buying, selling, and trading goods from the game in the Steam Marketplace.

After being confronted by his parents, Nathan claimed that he has been buying more keys recently and visiting the Steam Marketplace more frequently because he wanted to win back the money before his parents found out.

Nathan's parents are suing Team Fortress 2 and Steam Marketplace for \$1000 each for not enforcing the age restriction of gambling and for punitive/exemplary damages of setting their child on the road to problematic gambling behaviour. They say they have noticed a significant change in Nathan's behaviour and are concerned that he is already experiencing problematic gambling.

The media got wind of this case and the story is being discussed on national radio, television, and online. It appears many parents and children can relate to the Smiths' experience, and share concerns about the current laws regarding digital material and its true monetary value (or, currently, lack thereof).

## 3. Set the stage for the mock trial

- a. Explain that the trial will mimic a Supreme Court Case with 12 jurors and that each student will have a role in the trial. Note: Due to the small nature of the claim it would in real life be in a small claims court which often does not have a jury.
- b. Assign or have students choose a role. You may want to distribute the [Roles handout](#) and give students time to think about how they'd like to participate.
  - Plaintiffs' Lawyers (2-4) – They will argue on behalf of Nathan Smith and his parents for why digital matter/goods should have the same value as real money and for damages.
  - Defense Lawyers (2-4) – They will defend the current status quo. There need to be lawyers for both Team Fortress 2 and for Steam Marketplace.



- Witnesses (4-6 – mix of eye witnesses and professionals) – Lawyers will get an equal number of witnesses to work with and together the witness and lawyers will decide how the witness can best assist in arguing their side of the case. Witnesses must be cross examined by opposing counsel in trial as well and will need to prepare for cross examination. Witnesses will also each need to create their own [Eyewitness Statement](#) or [Expert Witness Report](#).
- Clerk/Timekeeper (1) – They will ensure timing is fair and that a strict schedule is maintained.
- Jurors (up to 12) – They will deliberate together after the case and come up with a verdict. Jurors will need to take notes throughout the trial. A jury foreman will need to be elected.
- Journalist (1 or 2) – They will need to take notes throughout the trial and give a short recap of the proceedings after each class.
- Judge (Played by the teacher) – The judge will rule over the courtroom and ensure all runs smoothly. The judge will address the jury and will inform them of how they are to deliberate and decide the case, and what burden of proof they will apply. For example: “This is not a criminal case and the plaintiffs do not have to prove their case beyond a reasonable doubt – they only have to show on a balance of probabilities that the corporate defendants are liable.”

**Note:** Encourage plaintiff and defense lawyers to come up with their own arguments. If they are stuck, however, we suggest the following:

*Team Fortress 2 Defense:* Keys do not differ in price based on the value of the item you win, and because they stay in the game they do not contribute to winning or losing real money and are therefore not gambling. It is not the game’s responsibility to monitor who trades on third-party sites, nor to check ages of players, and age should not even matter considering real money is not involved.

*Steam Marketplace Defense:* This is a buy-and-sell marketplace that does not involve gambling. There is no need for an age restriction because anyone can purchase or sell products online. It is not the responsibility of Steam Marketplace to research where the items are coming from and the ages of the individuals that are buying and selling goods. The site is also not responsible for contributing to any problem gambling as individuals should be monitoring their own use.

*Plaintiff:* Focus on how it is illegal for children to gamble, how digital matter ends up having real monetary value when taken to the third party sites, how keys to crates and loot boxes still cost real money to purchase, how Steam Market and Team Fortress 2 know the video game targets many under aged youth and that they should have an extra added duty to ensure kids are not gambling, and how Nathan has now had a year of gambling experience which might lead to problematic gambling. In addition, they will likely want to challenge that digital matter has real



monetary value and that the status quo should be changed. They may want to call on a psychologist or professor with a doctorate degree as an expert witness for how gambling at a young age can effect a child, or the reality of and monetary value of digital matter.

4. Prepare for court and outline the court process
  - a. Give the students a class or two to prepare for their trial and conduct the research they need, as well as for the lawyers to meet with their witnesses.
  - b. Outline what will happen in court:
    - i. **Day 1:** Opening statements and witness questioning. Journalists will each have one or two minutes at the end of the class to give a recap of the day's events.
    - ii. **Day 2:** Witness questioning (cont.) and closing statements. Again, journalists will have a few minutes to present the day's events to the class at the end of the class.
    - iii. **Day 3:** Juror deliberation and debrief. Note: Although this happens in a separate room in real trials, you may consider having the jurors deliberate in the classroom while the rest of the students watch silently so that they may have an understanding of what the conversations are like. Jurors present a verdict to the judge. Debriefing. (If desired, you may want to debrief the following day.)
  - c. Set a court date.

5. Go to court. And have fun!

**Suggestions for the debrief:**

The purpose of the debrief is to discuss the details of the mock trial and to build students' skills. In law and in life, it is essential that individuals learn how to ask good questions and that they consider the ethical implications of their actions and decisions.

You may wish to discuss the quality of questions asked throughout the trial with the class. Asking questions is contextual. In dialogue with people in real life situations it is critical to use open ended, non-judgmental, and empathetic questions. In a trial situation, however, questions are almost always asked to solicit known information or to raise a reasonable doubt. There is a famous law saying that, while contradictory to everyday life situations, is recommended in a court of law: Never ask a question that you don't know the answer to. Discussing the differences between legal questioning and questioning for open-ended dialogue may be an interesting topic to cover with students.

In addition, it is worthwhile discussing the ethics of not only the mock trial but of the benefits and consequences of partaking in these types of online gaming and gambling activities. Asking students about the thought process involved before making gambling decisions and of the different elements that they consider to be beneficial, or to result in consequence, will help students develop their critical thinking skills and reduce their chance of problematic gambling in the future. Consider also asking students about their opinions on the ethics of the system



in general – Are gaming and gambling companies benefitting? Why are they allowing this loophole to occur, knowing that many youth are participating? What is working well with the system, and is any part unacceptable or unethical? Have students explain their thoughts and think critically about the topic.

More resources and handouts on mock trial can be found at: <https://classroomlaw.org/resources/mock-trial-student-handouts/>

## Gambling literacy

### Big ideas

- ✓ As humans, both individually and as communities, we need to learn how to manage gambling in our midst
- ✓ We can learn how to control gambling by examining the different ways people have thought about it, engaging in critical self-reflection and listening to each other
- ✓ Gambling can be a fun recreational activity but can also lead to significant harm

### Competencies

- ✓ Assess the ways in which material goods are distributed in society, how those goods are valued and how this is related to gambling policies and behaviours
- ✓ Explore and appreciate the diverse cognitive, social, emotional and physical factors that impact gambling behaviour
- ✓ Develop personal and social skills to reflect on and manage personal behaviour and choices related to gambling
- ✓ Assess the complex ways in which gambling is linked to human culture and impacts the health and wellbeing of individuals, families, communities and societies

- ✓ Consider dominant social discourses and assess their impact on the distribution of risk and benefit associated with gambling

For a complete look at the gambling literacy competencies, as defined by the Canadian Institute for Substance Use Research, see: <https://www.uvic.ca/research/centres/cisur/assets/docs/iminds/hs-gambling-curriculum.pdf>

## Links to curriculum

### First Peoples' principles of learning

- ✓ Learning ultimately supports the well-being of the self, the family, the community, the land, the spirits, and the ancestors
- ✓ Learning is holistic, reflexive, reflective, experiential, and relational (focused on connectedness, on reciprocal relationships, and a sense of place)
- ✓ Learning involves recognizing the consequences of one's actions

### Law Studies 12

#### Big ideas

- ✓ Laws can maintain the status quo and can also be a force for change
- ✓ Laws are interpreted, and these interpretations may evolve over time as a society's values and worldviews change
- ✓ A society's laws and legal framework affect many aspects of people's daily lives



**Competencies**

- ✓ Make reasoned ethical judgments about legal systems or codes
- ✓ Make reasoned ethical judgments about controversial decisions, legislation, or policy
- ✓ Assess the justification for differing legal perspectives after investigating points of contention, reliability of sources, and adequacy of evidence
- ✓ Use social studies inquiry processes and skills to ask questions
- ✓ Gather, interpret, and analyze legal concepts, issues, and procedures
- ✓ Communicate findings and decisions
- ✓ Assess and compare significance and impact of legal systems or codes

This resource was developed by the **Canadian Institute for Substance Use Research** with funding provided by the **BC Responsible & Problem Gambling Program**. Any views expressed herein are those of the authors and do not necessarily represent the views of the BC Responsible & Problem Gambling Program or the Canadian Institute for Substance Use Research.



## Background Information

### Articles

<http://theconversation.com/gambling-loot-boxes-in-video-games-could-be-conditioning-children-107667>

<https://www.theverge.com/2017/12/19/16783136/loot-boxes-video-games-gambling-legal>

<https://thenextweb.com/syndication/2018/12/10/loot-boxes-in-video-games-could-be-giving-kids-a-gambling-problem/>

### **Brief blurb about third-party sites**

Under-aged youth can purchase keys, or their counterparts, in video games. Keys are purchased for a base rate without the player knowing what crate or loot box the key will open – it is a randomized selection that could have something as simple as a modification for a game’s avatar in it or as essential as game enhancing armor or weapons. When a player purchases a key in a game, there is a gamble involved – the key that they purchase will open a box that has an item of either greater or lesser value in it than the amount that they paid for the key. These winnings or digital goods (weapons, armor, avatar modifications, etc.) do not have real money value in the game. But players can transfer their digital goods to online third party sites. Through a legal loophole, these third-party sites such as Steam Marketplace allow players to buy and sell digital goods from their games for real money. The outcome of this process is that under-aged youth end up losing or winning real money even though it is illegal for them to gamble with real money.



## Court Case

Nathan Smith is 13 years old and has been using his parents' money without them knowing to regularly purchase keys to crates in Team Fortress 2.

It started out with his parents giving him \$30 or so just to play the online games. The Smiths say Nathan seemed happy playing Team Fortress 2 with his friends and they did not want to take that away from him. The Smiths' credit card was linked with Nathan's gaming account, and Nathan began to purchase keys to crates without his parents' consent.

Nathan began acting out in school and around the home, and began spending more and more time alone in his room online. His parents were concerned and after looking over credit card statements they discovered that over the past year Nathan had spent about \$1000 of their money on a combination of keys in Team Fortress 2 and on buying, selling, and trading goods from the game in the Steam Marketplace.

After being confronted by his parents, Nathan claimed that he has been buying more keys recently and visiting the Steam Marketplace more frequently because he wanted to win back the money before his parents found out.

Nathan's parents are suing Team Fortress 2 and Steam Marketplace for \$1000 each for not enforcing the age restriction of gambling and for punitive/exemplary damages of setting their child on the road to problematic gambling behavior. They say they have noticed a significant change in Nathan's behaviour and are concerned that he is already experiencing problematic gambling.

The media got wind of this case and the story is being discussed on national radio, television, and online. It appears many parents and children can relate to the Smiths' experience, and share concerns about the current laws regarding digital material and its true monetary value (or, currently, lack thereof).





## Roles

**Plaintiffs' Lawyers (2-4)** – They will argue on behalf of Nathan Smith and his parents for why digital matter/goods should have the same value as real money and for damages.

**Defense Lawyers (2-4)** – They will defend the current status quo. There need to be lawyers for both Team Fortress 2 and for Steam Marketplace.

**Witnesses (4-6 – mix of eye witnesses and professionals)** – Lawyers will get an equal number of witnesses to work with and together the witness and lawyers will decide how the witness can best assist in arguing their side of the case. Witnesses must be cross examined by opposing counsel in trial as well and will need to prepare for cross examination. Witnesses will also each need to create their own statement/report.

**Clerk/Timekeeper (1)** – They will ensure timing is fair and that a strict schedule is maintained.

**Jurors (up to 12)** – They will deliberate together after the case and come up with a verdict. Jurors will need to take notes throughout the trial. A jury foreman will need to be elected.

**Journalist (1 or 2)** – They will need to take notes throughout the trial and give a short recap of the proceedings after each class.

**Judge (Played by the teacher)** – The judge will rule over the courtroom and ensure all runs smoothly. The judge will address the jury and will inform them of how they are to deliberate and decide the case, and what burden of proof they will apply. For example: "This is not a criminal case and the plaintiffs do not have to prove their case beyond a reasonable doubt – they only have to show on a balance of probabilities that the corporate defendants are liable."



Name: \_\_\_\_\_

## Eyewitness Statement

Use this outline to help you read through the witness affidavit to begin analyzing this witness's role in the trial.

**Witness Name:** \_\_\_\_\_

**Witness Age:** \_\_\_\_\_

**Witness Occupation:** \_\_\_\_\_

**Witness positive factors:** \_\_\_\_\_

**Witness negative factors:** \_\_\_\_\_

**Witness's Relationship to the Case:** \_\_\_\_\_

**What the witness saw (from their point of view):**

Name: \_\_\_\_\_

## Expert Witness Report

Use this outline to help you read through the expert witness to begin analyzing this witness's role in the trial report.

**Witness Name:** \_\_\_\_\_

**Witness Age:** \_\_\_\_\_

**Witness Occupation:** \_\_\_\_\_

**Witness positive factors:** \_\_\_\_\_

**Witness negative factors:** \_\_\_\_\_

**Witness's area of expertise:** \_\_\_\_\_

**What Expert can testify to:**