DOCUMENT RESUME

ED 256 633 SO 016 287

AUTHOR Chrystie, Richard; Jaffe, Geraldine
TITLE People v. Larson: Drugs, Schools, and the Law.
INSTITUTION Constitutional Rights Foundation, Los Angeles, Calif.
PUB DATE
NOTE p.; For related document, see SO 016 288. Official materials for the California State Mock Trial Competition, a part of the State Department of Education Project. Co-sponsored by the State Bar of California, the California Young Lawyers Association, and the Los Angeles Daily Journal.
AVAILABLE FROM Constitutional Rights Foundation, 601 S. Kingsley Dr., Los Angeles, CA 90005 ($3.95).
PUB TYPE Guides - Classroom Use - Materials (For Learner) (051) -- Guides - Classroom Use - Guides (For Teachers) (052)

EDRS PRICE MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS Courts; *Criminal Law; *Drug Abuse; Drug Education; Drug Legislation; Experiential Learning; Illegal Drug Use; Instructional Materials; *Legal Education; Secondary Education; Simulation
IDENTIFIERS *Law Related Education; *Mock Trials; Moot Court

ABSTRACT

These instructional materials involve secondary students in simulating a criminal case concerning drug abuse. Included are all materials necessary for participation in the 1983 California State Mock Trial Competition. Part I of the document contains a hypothetical situation concerning legal and ethical aspects of drug abuse and drug trafficking on a school campus and questions that will stimulate class discussion. Part II, which makes up the bulk of the publication, takes the same hypothetical situation, expands it, and provides all materials necessary for presentation of the mock trial. Included are competition rules, a discussion of the form and substance of a criminal trial, role descriptions, order of events in the mock trial, procedures for presenting the case, a rules of evidence summary, the judge's rating sheet, case materials, and classroom exercises. Part III is the Moot Court section. Using facts from the mock trial, it assumes the defendant has lost his case at the trial level and is now appealing the judge's decision to a higher level (an appellate court). Specific moot court directions are provided. Tips on how to use a law library and suggestions for debriefing are also included. (RM)

PEOPLE v. LARSON:

DRUGS, SCHOOLS AND THE LAW

CONSTITUTIONAL RIGHTS FOUNDATION

Official Materials for the California State Mock Trial Competition

Co—Sponsored by the State Bar of California, the California Young Lawyers Association and the Los Angeles Daily Journal

1983

Constitutional Rights Foundation

ACKNOWLEDGEMENTS

Written By:

Richard Chrystie, Los Angeles County Deputy District Attorney
Geraldine Jaffe, Clore Warne Intern

Reviewed By:

James A. Baker, Los Angeles County Deputy District Attorney
Judge Michael E. Ballachey, Alameda County Superior Court
Ronald Y. Butler, Orange County Public Defender
Sidney P. Chapin, Kern County Bar Association President
Michael Delaney, Los Angeles County Deputy District Attorney
Howard Gillingham, Attorney-at-Law, Los Angeles
Edward W. Hunt, Fresno County District Attorney
Richard B. Isham, Attorney-at-Law, Visalia
Deborah Kranze, Los Angeles County Deputy District Attorney
Judge Darrell W. Lewis, Sacramento County Municipal Court
Ken D. Little, Contra Costa County Bar Assn. Board of Directors
Justice Harry W. Low, California Court of Appeal, First Appellate District, San Francisco
Richard M. Macias, Attorney-at-Law, Visalia
Ann Panizzon, Director, Santa Barbara Center for Law-Related Education
Justice Robert E. Rickles, California Court of Appeal, Fourth Appellate District, San Bernardino
Phillip M. Sims, Santa Clara County Bar Association President
James D. Ward, California State Bar Association Board of Directors, Riverside
Abram Wiesbrot, Los Angeles County Deputy District Attorney
Christopher W. Yaeger, Imperial County Deputy District Attorney

---

The California State Mock Trial Competition
is a part of State Department of Education
Project #6100-221-890

Design: Richard Stein

1510 Cotner Avenue
Los Angeles, California 90025
(213) 473-5091

TABLE OF CONTENTS

INTRODUCTION 1

- o Program Objectives 2

PART I—DRUGS, SCHOOLS AND THE LAW 3

- o Discussion Dilemmas 4

PART II—MOCK TRIAL MATERIALS 5

- o Criminal Trial Process 5
- o Mock Trial Competition Rules 7
- o Form & Substance of a Criminal Trial 8
- o Role Descriptions 11
- o Time Sheet 13
- o Procedures for Presenting the Case 14
- o Rules of Evidence 17
- o Judge's Rating Sheet 22
- o Case Materials for People v. Larson 23
- o Exercises 30

PART III—MOOT COURT 34

- o Moot Court Directions 36
- o Cases 37
- o How to Use a Law Library 41
- o Questions for Debriefing 43
- o A Question of Justice 44

INTRODUCTION

Governor George Deukmejian, Attorney General John Van de Kamp, Superintendent of Public Instruction Bill Honig, the California State Legislature and citizens statewide have all voiced increasing concern about drug abuse and trafficking in and around our school campuses. The materials presented here are designed to address some legal and ethical aspects of this important issue.

School health and safety are threatened not only by drugs, but by the criminal behavior and attitudes they generate. Support for law-breaking undermines important values of citizen responsibility in our society. Free nations depend for survival on the support of common values by their citizens. Our society expects the schools to transmit these values. Students need to understand the danger drugs pose not only to their health but to our free society. For if citizens at large do not work together to reduce a problem such as this, government authorities may be tempted to ignore individual rights in their effort to eliminate the danger of illegal drugs to our society.

Part I of this packet contains a hypothetical situation and questions which will stimulate class discussion about the moral dilemmas faced by youth as they confront the drug problem. Their sense of responsibility as citizens versus their commitment to peers places many young people in a difficult situation. The materials in Part I can help stimulate discussion between students and teachers on this vital topic. Part II takes the same hypothetical, expands it, and provides all materials necessary for the presentation of a Mock Trial. Part III is a Moot Court section, featuring the appeal of the decision reached in the Mock Trial case.

1983-84 Mock Trial Competition

Part II of this packet contains the official materials for the Third Annual California State Mock Trial Competition, sponsored by the Constitutional Rights Foundation, with co-sponsorship from the State Bar of California, the California Young Lawyers' Association and the Los Angeles Daily Journal. The program consists of local county competitions; the winning team from each county may then choose to participate in the State Finals in Sacramento March 6-8, 1984. While in Sacramento, students will have an opportunity to explore state government through specially arranged appointments, seminars, panels and debates.

The Mock Trial is a simulation of a criminal case, with students portraying each of the principals in the cast of courtroom characters. The Mock Trial is designed to demystify the workings of our legal institutions for young people. As the student teams study a hypothetical case, do legal research, and are coached by volunteer attorneys in courtroom procedure and trial preparation, they acquire a working knowledge of our judicial system. Students participate as counsel, witnesses, court clerks or bailiffs, and actually present their cases in court before Municipal and Superior Court judges. Altnough competition may be the primary concern of students during the Mock Trial activities, the lasting value of this experience comes from the understanding of our judicial system and the process we use as we strive to create a just society.

In a series of rounds held over the course of several weeks, students are scored on their presentations and effectiveness. Teams are unaware which side they will

present until a week before the competition begins, thus they must prepare a case for both the prosecution and the defense. The Mock Trial Competition helps students gain an understanding of our court system, and also encourages young people to increase their analytical abilities, learn self-confidence and develop communication skills.

The Constitutional Rights Foundation gratefully acknowledges the National Institute for Citizen Education in the Law (NICEL) and Eric Mondschein, Director, Law, Youth & Citizenship Program, New York State Bar Association.

PROGRAM OBJECTIVES

Student

1. Increase proficiency in basic skills such as listening, speaking, reading and reasoning.

2. Further students' understanding of the philosophy and content of the law as applied by our courts and the legal system.

3. Provide a forum for high school students who want to pursue law-related activities on an extra-curricular basis.

School

1. Promote cooperation among students of various abilities and interests.

2. Demonstrate to the community the achievements of high school students.

3. Provide a non-athletic competitive opportunity for young people.

4. Recognize those students who have devoted significant time and energy to achieving the learning objectives of the mock trial program.

PART I--DRUGS, SCHOOLS & THE LAW

The California State Legislature, the Governor, the Superintendent of Public Instruction, and the State Attorney General have declared that substantial drug abuse and drug trafficking problems exist among students on and around school campuses. "Drugs" are defined to include marijuana, P.C.P., cocaine, quaaludes, heroin and alcohol.

Centerville High School has been experiencing a serious drug problem. One student, who was driving under the influence of alcohol and quaaludes purchased from an unknown school source, died in an accident when he lost control of his car. Concerned about harm to any more teenagers, the authorities decide to enroll Donna Butler, a youthful-looking undercover police officer, to pose as a student at Centerville High starting on February 2, 1983. Only the principal, Valerie Garcia, was informed of the police undercover operation.

Centerville is a closed campus. Once the students drive their cars to school they cannot leave campus during school hours. Seniors with a special lunch pass are allowed to leave campus. However, a student who drives to school is free to go to his or her car at lunchtime as long as the car remains in the lot.

When Officer Butler started her assignment, the principal told her that she suspected one of the school band members of selling drugs on campus, but she had no real proof. Officer Butler made friends with Charles Clark, a new transfer student from another local high school. They were both drummers who were accepted into the school band. On February 16, 1983, Jeff Larson and Charles auditioned for lead drummer with the band. The band Director, Alex Dubrowski, chose Jeff instead of Charles, and saw that Charles was visibly disappointed.

Charles went to a rock concert on February 19, 1983. He had been drinking before he arrived and bought five quaaludes at the concert. He took three of them during the evening and was treated by a concert medic for a bad drug reaction.

On March 17, 1983, the Centerville band's star trumpet player, Jason Johnson, collapsed at school during a morning band practice. Jason was rushed to the hospital by paramedics. Ms. Garcia called the hospital administrator, who told her that Jason's heart stopped enroute to the hospital and he was revived by the paramedics. The doctors determined that Jason drank a large amount of alcohol and took a depressant drug. They needed to know what drug Jason took to aid in his treatment. Ms. Garcia informed Officer Butler of Jason's critical condition, and asked her to find out what she could from the students.

Donna knew that Charles and Jason were friends and played in an off-campus rock band named "Warsaw." Right before lunch, Officer Butler told Charles that anyone with information about the drugs Jason took should come forward in order to help him. Donna also said it was important to find the source of the drugs to prevent further tragedies.

What should Charles do?

Discussion Dilemmas

1. a. Is it Charles' responsibility as a citizen to come forward and say who sold the drugs? Why or why not?
   b. Should the answer depend on whether he is absolutely sure who sold them to Jason?
   c. What other factors should be considered? Does Charles have any duty to friends to preserve their confidences?

2. a. What will happen if Charles says nothing at all?
   b. Can Charles say nothing to the authorities if he goes to the person who sold the drug and tells him or her what Officer Butler said?
   c. What further responsibility does Charles have if the dealer still refuses to come forward on his or her own?

3. Should Charles call the hospital anonymously and tell them what the drug is and what Jason drank with it? Should he call the police anonymously?

4. a. What responsibilities does Charles have towards Jason? Towards others in the school?
   b. If Jason Johnson gets worse before Charles says anything, is Charles then partly responsible for any permanent harm to Jason?
   c. Is Charles an accomplice to a crime if Jason lapses into a coma?

5. a. Has Charles been "trapped" by his friend, Donna, into talking?
   b. Has Donna done anything wrong by going undercover and deceiving Charles as to her real identity and purpose?
   c. How might Charles' response differ if he knew Donna was an undercover police officer?

6. a. Is it right for police to plant an undercover officer on campus to obtain evidence of a crime?
   b. Suppose the police had convinced Charles to work for them to find the drug dealer. Is it ever alright to use one person to betray the trust of another to catch a criminal?
   c. Does it make any difference if the crime were theft? Assault? Murder? Rape?

7. a. How can schools protect the safety of the majority and the privacy of individual students?
   b. When should school personnel bring police officers on campus?
   c. Should they be undercover or in uniform? Why?

8. What effect does it have on our society when each person decides what laws to break and which to obey? Is that where we are today with some laws? Which ones can you identify that are often broken?

9. If there are unpopular laws, what can be done to change them?

10. If unpopular laws are not changed, what effect do you believe it has on society? On individual citizens who dislike certain laws?

PART II: MOCK TRIAL MATERIALS

The Criminal Case Process

Every year, state and federal criminal justice systems handle thousands of criminal cases. Most cases are routine: a crime occurs, a suspect identified and arrested on a charge for which there is sufficient evidence of guilt. A trial does not take place if the defendant pleads guilty to the crime charged or to a lesser offense. Except for a vague notion that police departments are overworked, courts are overburdened and prisons are overcrowded, the general public is barely aware of the daily routine of criminal justice activity in progress.

What does capture public attention is the "big case." A sensational murder, an assassination attempt, or a multi-million dollar fraud case can make headlines in our daily newspapers for months. Reporters clamor for interviews with the prosecution and defense teams, "artists' renditions" of the day's courtroom events are featured on T.V. news shows, and the defendant's name becomes a household word.

Although these big cases are not typical, they do give us a dramatic glimpse of the criminal justice process. These cases introduce us to a mindboggling array of courthouse characters, legal terminology, procedural steps and crucial issues upon which the ultimate decision rests. At any point along the way, we might throw up our hands and mutter, "What's the point of all this...did he do it or didn't he do it?" Since no one can read the mind of a person accused of crime, and no one can peer back into the past to find out exactly what happened at the scene, we must use other methods to find the truth.

The Adversary System

Central to truth-finding in our criminal case process is the so-called adversarial process. In it, opposing attorneys help neutral fact-finders (the judge or jury) learn about, sift through and decide which facts of a particular case are true. Ultimately, the fact finder must also weigh the facts and come to a verdict.

To do this, the attorneys must be advocates. They are also adversaries. That is, they try to present facts in a light most favorable to their side and point out weaknesses in their opponents' case. Through well-planned strategies and legal arguments, they try to convince the court to see the "truth" as they do. In a criminal case, the opposing sides are the prosecution and the defense.

The basic goal of the prosecution is to protect society from crime by making sure the guilty are tried, convicted and punished. By filing charges against a particular defendant, the prosecutor is making a claim that the individual has committed a crime. At trial, the prosecutor must prove the claim beyond a reasonable doubt. The basic goal of the defense is to challenge the prosecutor's case by raising all reasonable doubts as to the defendant's guilt. Defense attorneys are also responsible for making sure that the defendant gets every right and benefit guaranteed under law and the Constitution.

By pitting these two sides against one another, it is believed that the truth will come out. For example, if the prosecution's case rests merely on an eyewitness identifying the defendant as the one who robbed a store, the defense might go to great lengths to question the memory or eyesight of the witness. This might be

done to challenge the witness' credibility or to present the judge and jury with the defense's viewpoint about what really happened. The defense can be assured of a similar strict examination of any evidence it produces. Under the adversary system, the judge or jury must decide which version is true.

The fact finder must go through this process with all the evidence produced at trial. Before the ultimate decision of whether a defendant is guilty or not can be determined, a lot of facts must be established and weighed. Are the witnesses believable? Are the lab tests accurate? Are the connections between the various pieces of evidence logical and supportable? What other explanations for the alleged events are possible? Indeed, the quest for truth enters into almost every nook and cranny of a criminal trial.

Because the adversarial process involves humans, it is not foolproof. Memories fail, witnesses see the same event in different ways, reasonable people differ about what is true. Sometimes, biases and prejudices arise, lies are told. In extreme cases, an advocate can go so far in trying to win that objective truth gets lost. An emotional argument could sway the jury in spite of the facts; important evidence could be concealed.

To protect against these problems, our criminal case process has evolved sophisticated checks and balances. Some protect the process itself, others protect the defendant. Judges and jurors can be removed for bias or prejudice. Witnesses are sworn to tell the truth and can be punished for lying if they don't. Criminal defendants in a serious case can count on representation by an attorney, a trial by jury, the right to confront accusers, a speedy and public trial, and the right to appeal. They are also protected against having to post an excessive amount for bail or having to testify against themselves. These protections are found or implied in the Constitution of the United States and in the constitutions and laws of the various states.

MOCK TRIAL COMPETITION RULES

Participants

Participants in the Mock Trial Competition must be senior high school students.* A Mock Trial team can consist of from 7 to 14 students.

In order to involve the maximum number of students, select 3 attorneys for prosecution, 3 for defense and two sets of witnesses--4 prosecution and 4 defense. This structure is not mandatory, however, and schools that wish to involve fewer students may have team members assume dual roles.

The role of clerk/bailiff will be played by a defense or prosecution witness whose side of the case is not being presented during that round of the competition. This person will assist the judge or act as timekeeper for the trial in which his or her school participates. (Please note: If all your team members assume two roles, you will need an extra person to assume the clerk/bailiff responsibilities.)

Although juries will not be used in the state finals, county competitions may involve students as jurors.

Conduct of Trial

All team members participating in a trial must be in the courtroom at the appointed time for the beginning of the round. This will be the first opportunity for prosecution witnesses to observe the defendant.

After the judge has delivered his or her introductory remarks, witnesses participating in the trial (other than the defendant) are to leave the courtroom until called to testify. Having testified, witnesses may remain in the courtroom to watch the proceedings.

The Mock Trial FACT SITUATION and WITNESS SHEETS provided in this packet will be used throughout the Competition. Those case materials comprise the sole source of information for testimony. Witnesses may not testify to any matter not directly stated in or reasonably implied from the official case materials.

Attorneys may produce physical evidence provided that the materials correspond to the descriptions of items given in the case materials. Neither team may introduce surprise witnesses. Attorneys may not conduct re-direct examination nor recall a witness. All witnesses must be called.

Time Limits

Each team will have a total of 35 minutes to present its case. Violating time limits will reduce the team's total score. Time limits for each type of presentation are listed below:

Opening & Closing Statements	-- 10 minutes for each team
Direct Examination	-- 15 minutes for each team
Cross-Examination	-- 10 minutes for each team

* Special junior high school competitions will be held in some areas.

Teams may divide the 10 minutes for opening and closing statements as desired (e.g., 3 minutes opening, 7 minutes closing). Time in each category may be allotted among team attorneys as they choose, but overall time limits for each category must be observed.

Judging

A judge or attorney serving as a judge for the competition will preside at each trial. Judges will advise participants of the rules and courtroom procedure prior to each trial. Validity of objections and outcome of the Competition will be left to the judge's discretion.

The judge will score both teams according to the judging criteria sheet in this packet. At the end of the presentations, the judge will render a verdict on the merits of the case and another on the performance of the participants. The performance decision will determine the winner of the round.

The Competition

In the Fall, schools will compete in county competitions. The winning teams from each county may choose to advance to the State Finals in Sacramento. The local competitions will vary in size from few to dozens of schools.

One week prior to the first round of the Competition, schools will be notified whether they will present the prosecution or defense side in Round I. Some schools may be asked to sit out for a round if an uneven number of schools participate. The schools drawing byes would automatically advance to and participate in the next round.

Additional assignments will be made after each round. Whenever possible, as schools advance, they will be assigned to present the opposite side of the case from that which they took in the previous round.

FORM AND SUBSTANCE OF A CRIMINAL TRIAL

All criminal offenses are precisely defined by law in the Penal Code. A trial tests whether the defendant has violated that Code. After hearing the evidence for both sides, a neutral party decides whether to convict or acquit the defendant.

Charges against the defendant are brought by a prosecutor. In California, the prosecutor is usually a member of the district attorney's staff. In the name of the people of the state, a prosecutor seeks to uphold public order by seeking convictions against defendants whom the prosecutor thinks are guilty.

Opposite the prosecutor is the defense attorney. To be sure that the defendant has a fair trial, the defense attorney presents the defendant's version of the alleged criminal activity. Thus, the defense attorney performs the crucial function of guarding against infringements of constitutional rights or other errors of law or proc

Either the defendant or prosecutor may request a jury trial. Juries consist of 6 to 12 members of the defendant's community, all of whom must agree in order to

reach a verdict. A jury drawn from the community gives ordinary people a voice in deciding guilt. A jury acts as the trier of fact. The jurors must decide what the defendant really did and why he or she did it. If a jury trial is waived, the judge has the job of making these decisions.

Some trials also raise issues of law. Judges alone rule on the proper interpretation of the law. Issues of law include such questions as the admissibility of evidence and the meaning of a statute. Legal, rather than factual, issues usually form the basis for an appeal.

When a verdict in a case becomes final, it settles findings of fact and points of law. A conviction stays on a person's record even though the person continues to claim innocence. An acquittal clears the defendant of the charges forever. The Double Jeopardy Clause of the Constitution prohibits trying a person twice on the same charges.

Elements of a Criminal Offense

The penal code generally defines two parts for every crime. These are the physical part and the mental part. Most crimes specify some physical act, such as firing a gun in a crowded room, and a culpable mental state. Intent to commit a crime or reckless disregard for the consequences of one's actions are culpable mental states. Bad thoughts alone, though, are not enough. A crime requires the union of thought and action.

The mental state requirements prevent convictions of an insane person. Such a person cannot form a criminal intent and should receive psychological treatment rather than punishment. Defenses of justification also rest on lack of bad motives. A person breaking into a burning house to rescue a baby has not committed a burglary.

The Presumption of Innocence

Our criminal justice system is based on the premise that allowing a guilty person to go free is better than putting an innocent person behind bars. For this reason, the prosecution bears a heavy burden of proof. Defendants are presumed innocent. The prosecution must convince the judge or jury of guilt beyond a reasonable doubt.

Despite its use in every criminal trial, the term "reasonable doubt" is very hard to define. The concept of reasonable doubt lies somewhere between probability of guilt and a lingering possible doubt of guilt. Reasonable doubt exists unless the trier of fact can say that he or she has an abiding conviction, to a moral certainty, of the truth of the charge.

A defendant may be found guilty "beyond a reasonable doubt" even though a possible doubt remains in the mind of the judge or juror. Conversely, triers of fact might return a verdict of not guilty while still believing that the defendant probably committed the crime.

Jurors must often reach verdicts despite contradictory evidence. Two witnesses might give different accounts of the same event. Sometimes a single witness will give a different account of the same event at different times. Such inconsistencies often result from human fallability rather than intentional lying. Jurors are instructed to apply their own best judgment in evaluating inconsistent testimony.

Evidence

The trier of fact must base a verdict solely on evidence produced at trial. Testimony of witnesses, physical objects, drawings and demonstrations can all be used as evidence. The rules of evidence determine which types of proof may be used in court. Rumors, hearsay and irrelevant statements are generally not admissible. They are too unreliable. Court cases have held that evidence obtained illegally must not be used in court.

RECOMMENDATIONS FOR USING THE MOCK TRIAL MATERIALS

While not identical to an actual trial, the Mock Trial procedure closely resembles the real thing. You will go through every major step of a criminal trial.

The information provided in these materials on conducting a Mock Trial supplies all of the instructions you will need to present your case. An attorney will work with your team to answer further questions about trial procedure or criminal law.

In preparing for a trial, you will probably learn more than you will need to know to present this year's case. The materials in this packet introduce you to a broad range of events that do not occur in all criminal trials. You may not need some of the procedures to present your case.

Suggestions for presentations are not intended as rigid requirements. Treat the "Forms of Objection" and other examples as guidelines which you may adjust to fit your style.

The Fact Situation and Witness Sheets provide the sole basis for all of the evidence that you may introduce at trial. Details stated in the Fact Situation are not open to dispute. If the Fact Situation describes a building as a run-down shack, you may not suggest that it has been recently painted and repaired. Points will be deducted for violations of this rule.

The Witness Sheets contain testimony that a witness will give in court. Statements which appear only in the witness sheets are not necessarily true. Witnesses may be honest, lying, confused, forgetful or mistaken. In giving their testimony, witnesses and their own attorneys should assert the accuracy of their version of the facts. Casting doubt on the story given in the Witness Sheets is the job of an attorney on cross-examination. One witness testifying that a shack had recently been painted and another denying that fact may both believe that they are being truthful. Perhaps one of them had simply gotten mixed up and looked at the wrong shack or made the observation at night. All witnesses must be called.

Each student should read all of the materials in this packet. Thorough familiarity with the instructions and facts of the case will increase your ability to make a convincing presentation at trial. Witnesses are not permitted to use notes at all. Attorneys may refer to their notes prepared before trial or written during trial. Relying excessively on notes, though, detracts from a presentation. Speaking off-the-cuff gives you extra flexibility to respond to surprises as the case unfolds. Be spontaneous!

ROLE DESCRIPTIONS

Attorneys

Attorneys control the presentation of evidence at trial and argue the merits of their side of the case. They do not themselves supply information about the alleged criminal activity. Instead, they introduce evidence and question witnesses to bring out the full story.

The Prosecutor presents the case for the state against the defendants. By questioning witnesses, you will try to convince the judge or jury that the defendants are guilty beyond a reasonable doubt. You will want to suggest a motive for the crime and will try to refute any defense alibis.

The Defense Attorney presents the case for the defendants. You will offer your own witnesses to present your client's version of the facts. You may undermine the prosecution's case by showing that the prosecution witnesses cannot be depended upon, or that their testimony makes no sense or is seriously inconsistent.

Student attorneys will:

- o conduct direct examination
- o conduct cross-examination
- o do the necessary research and be prepared to act as a substitute for any other attorneys
- o make opening and closing statements.

Each student attorney should take an active role in some part of the trial.

Witnesses

You will supply the facts in the case. Witnesses may testify only to facts stated in or reasonably implied from the Witness Sheets or Fact Situation. Suppose that your Witness Sheet states that you left the Ajax Store and walked to your car. On cross-examination, you are asked whether you left the store through the Washington or California Avenue exit. Without any additional facts upon which to base your answer, you could reasonably name either exit in your reply, probably the closest to your car. Practicing your testimony with your team's volunteer attorney will help to uncover the gaps in the official materials that you will need to fill for yourself.

Imagine, on the other hand, that your Witness Sheet included the statement that someone fired a shot through your closed curtains into your living room. If asked whether you saw the gunman, you would answer, "No." You could not reasonably claim to have a periscope on the roof or have glimpsed the person through a tear in the curtains. Neither fact could be found in or reasonably implied from the case materials.

If you are asked a question calling for an answer which cannot reasonably be implied from the materials provided, you must reply, "I don't know" or "I can't remember." (Note: Prosecution witnesses wishing to testify about the physical characteristics of the defendant must base their statements on the actual people playing the defendant on the day of the trial. Witnesses will have a chance to see each other before the trial begins.)

Court Clerk/Bailiff

The court clerk/bailiff aids the judge in conducting the trial. In an actual trial, the court clerk calls the court to order and swears in the witness to tell the truth. The bailiff watches over the defendant to protect the security of the courtroom.

Court clerk/bailiffs will meet with a staff person at the courthouse shortly before the trial begins. At that time, you will be assigned as a clerk, bailiff, or both, and you will proceed to your school's trial. Bailiffs will be given timing sheets.

When the judge arrives in the courtroom, introduce yourself and explain that you will assist as the court clerk or bailiff. If you are the only clerk/bailiff available for a courtroom, you will need to perform all of the duties listed below. If necessary, ask someone else sitting in the courtroom to get the witnesses from the hallway for you when they are called to the stand.

COURT CLERK:

When the Judge has announced that the trial shall begin, say:

> "All rise. Superior Court of the State of California, County of _____, Department _____, the Honorable _____ presiding, is now in session. Please be seated and come to order."

When the bailiff has brought a witness to testify, you must swear in the witness as follows:

> "You do solemnly affirm that the testimony you may give in the cause now pending before this court shall be the truth, the whole truth, and nothing but the truth."

BAILIFF:

Bring a stopwatch if you can get one. Mark down on the time sheet the time to the nearest one-half minute. Interruptions in the presentations do not count as time. For direct and cross-examination, record only time spent by attorneys asking questions and witnesses answering them. Don't include time when witnesses are coming into the courtroom, attorneys are making objections, judges are offering their observations, etc.

When a team has 2 minutes remaining in a category, raise two fingers so the judge and attorney can see you. With 1 minute remaining, raise one finger. If an attorney is questioning only the second or third witness on direct or cross-examination, announce that only 1 minute remains: "One minute, Your Honor." If time for a presentation runs out, announce "Time!"

At the end of the trial, tell the judge whether either team went more than one-half minute over time in any of the categories. As the judge prepares to leave after the trial, you should ask him or her to give you the judge rating sheet. Be sure to give the timing and rating sheets to the appropriate staff person.

TIME SHEET

_____ v. _____
(Prosecution--School Name) (Defense--School Name)

DATE: _____
COUNTY: _____
JUDGE: _____
BAILIFF: _____

PROSECUTION:		DEFENSE:	
Opening Statement	_____	Opening Statement	_____
Direct Exam (15 minutes)		Cross-Exam (10 minutes)	
John Maxwell	_____	John Maxwell	_____
Donna Butler	_____	Donna Butler	_____
Charles Clark	_____	Charles Clark	_____
Valerie Garcia	_____	Valerie Garcia	
TOTAL TIME	_____	TOTAL TIME	_____
Cross-Exam (10 minutes)		Direct Exam (15 minutes)	
Jeff Larson	_____	Jeff Larson	_____
Michelle Kim	_____	Michelle Kim	_____
Emily Larson	_____	Emily Larson	_____
Alex Dubrowski	_____	Alex Dubrowski	_____
TOTAL TIME	_____	TOTAL TIME	_____
Statements (10 minutes)		Statements (10 minutes)	
Opening Statement (from above)	_____	Opening Statement (from above)	_____
Closing Statement	_____	Closing Statement	_____
TOTAL TIME	_____	TOTAL TIME	_____

NOTE: ROUND OFF TIMES TO THE NEAREST ONE-HALF MINUTE.
Examples: 3 minutes, 10 seconds = 3 minutes; 4 minutes, 15 seconds = 4 1/2 minutes; 2 minutes, 45 seconds = 3 minutes.

ORDER OF EVENTS IN THE MOCK TRIAL

1. Court is called to order.
2. Attorneys present physical evidence for inspection.
3. Judge states charges against Defendant.
4. Prosecution delivers its opening statement.
5. Defense may choose to deliver its opening statement at this point or may wait to open after the Prosecution has delivered its case.
6. Prosecution calls its witnesses and conducts a direct examination.
7. After each Prosecution witness is called up and has been examined by the Prosecution, the Defense may cross-examine the witness.
8. Defense may deliver its opening statement.
9. Defense calls its witnesses and conducts a direct examination.
10. After each Defense witness is called up and has been examined by the Defense, the Prosecution may cross-examine the witness.
11. Prosecutor gives its closing statement.
12. Defense gives its closing statement.
13. Judge deliberates and reaches verdict.
14. Verdict is announced in court.
15. Defendant is sentenced or released.

PROCEDURES FOR PRESENTING YOUR CASE

Introduction of Physical Evidence

Attorneys may introduce physical exhibits, provided that the objects correspond to the description given in the case materials. Below are the steps to follow when introducing physical evidence (clothing, maps, diagrams, etc.).

Step 1 -- Present the item to an attorney for the opposing side prior to trial. If that attorney objects to use of the item, the judge will rule whether it fits the official description.

Step 2 -- When you first wish to introduce the item during trial, request permission from the judge: "Your Honor, I ask that this item be marked for identification as Exhibit #_____."

Step 3 -- Show the item to the witness on the stand. Ask the witness to explain it or answer questions about it.

Step 4 -- When finished using the item, give it to the judge to examine and hold until needed again by you or another attorney.

The Opening Statement

The opening statement outlines the case as you intend to present it. The prosecution delivers the first opening statement. A defense attorney may follow immediately or delay the opening statement until the prosecution has finished presenting witnesses. A good opening statement should:

- o explain what you plan to prove and how you will do it
- o present the events of the case in an orderly sequence that is easy to understand
- o suggest a motive or stress a lack of motive for the crime.

Begin your statement with a formal address to the judge:

"Your Honor, my name is (full name), the prosecutor representing the people of the State of California in this action"; OR

"Your Honor, my name is (full name), counsel for (defendant) in this action."

Proper phrasing includes:

"The evidence will indicate that..."
"The facts will show..."
"Witness (name) will be called to tell..."
"The defendant will testify that..."

Direct Examination

Attorneys conduct direct examination of their own witnesses to bring out the facts of the case. Direct examination should:

- o call for answers based on information provided in the case materials
- o reveal all of the facts favorable to your position
- o ask the witness to tell the story rather than using leading questions which call for "yes" or "no" answers (an opposing attorney may object to the use of leading questions on direct examination)
- o make the witness seem believable
- o keep the witness from rambling about unimportant matters.

Call for the witness with a formal request:

"Your Honor, I would like to call (name of witness) to the stand."

The witness will then be sworn in before testifying.

After the witness swears to tell the truth, you may wish to ask some introductory questions to make the witness feel comfortable. Appropriate inquiries include:

- o the witness' name
- o length of residence or present employment, if this information helps to establish the witness' credibility

- o further questions about the professional qualifications, if you wish to qualify the witness as an expert.

Examples of proper questions on direct examination:

"Could you please tell the court what occurred on __(date)__?"
"What happened after the defendant slapped you?"
"How long did you see...?"
"Did anyone do anything while you waited?"
"How long did you remain in that spot?"

Conclude your direct examination with:

"Thank you, Mr./Ms. __(witness' name)__. That will be all, Your Honor."
(The witness remains on the stand for cross-examination.)

Cross-Examination

Cross-examination follows the opposing attorney's direct examination of the witness. Attorneys conduct cross-examination to explore weaknesses in the opponent's case, test the witnesses' credibility, and establish some of the facts of the cross-examiner's case whenever possible. Cross examination should:

- o call for answers based on information given to Witness Sheets or Fact Situation
- o use leading questions which are designed to get "yes" and "no" answers
- o never give the witness a chance to unpleasantly surprise the attorney.

In an actual trial, cross-examination is restricted to the scope of issues raised on direct examination. Because Mock Trial attorneys are not permitted to call opposing witnesses as their own, the scope of cross-examination in a Mock Trial is not limited.

Examples of proper questions on cross-examination:

"Isn't it a fact that...?"
"Wouldn't you agree that...?"
"Don't you think that...?"
"When you spoke with your neighbor on the night of the murder, didn't you have on a red shirt?"

Cross-examination should conclude with:

"Thank you, Mr./Ms. __(name of witness)__. That will be all, Your Honor."

Closing Statements

A good closing statement summarizes the case in the light most favorable to your position. The prosecution delivers the first closing statement. The closing statement of the defense attorney concludes the presentations. A good closing statement should:

- o be emotionally charged and strongly appealing (unlike the calm opening statement)

- o emphasize the facts which support the claims of your side
- o summarize the favorable testimony
- o attempt to reconcile inconsistencies that might hurt your side
- o be prepared so that notes are barely necessary
- o be well organized (starting and ending with your strongest point helps to structure the presentation and give you a good introduction and conclusion)
- o (prosecution) emphasize that the state has proved guilt beyond a reasonable doubt
- o (defense) raise questions which suggest the continued existence of a reasonable doubt
- o synthesize what actually happened in court rather than being "pre-packaged."

Proper phrasing includes:

"The evidence has clearly shown that..."
"Based on this testimony, there can be no doubt that..."
"The prosecution has failed to prove that..."
"The defense would have you believe that..."

Conclude your closing statement with an appeal to convict or acquit the defendant.

RULES OF EVIDENCE SUMMARY

Criminal trials are conducted using strict rules of evidence to promote fairness. To carry on a Mock Trial, you will need to know a little about the system of evidence. All evidence will be admitted unless an attorney objects. Because the subject is so complex, you will not be expected to know its fine points. The purpose of using rules of evidence in the Competition is to structure the presentations to resemble those of an actual trial.

Almost every fact stated in the materials will be admissible under the rules of evidence. You may not have an opportunity to make any objections at all. Studying the rules will prepare you to make timely objections, avoid pitfalls in your own presentations, and appreciate some of the difficulties that arise in actual cases.

One objection available in the Competition which is not an ordinary rule of evidence allows you to stop an opposing witness from creating new facts. If you believe that a witness has gone beyond the information provided in the Fact Situation or Witness Sheets, use the following objection:

> "Objection, Your Honor. The witness is creating a material fact which is not in the record."

As with all objections, the judge will decide whether to allow the testimony, strike it, or simply note the objection for later consideration. Judges' rulings are final. You must keep your cool and continue the case even if you disagree.

Relevance

To be admissible, any offer of evidence must be relevant to an issue in the trial. This rule prevents confusion of the essential facts of the case with details which

do not make guilt more or less probable.

Either direct or circumstantial evidence may be admitted in court. Direct evidence proves the fact asserted without requiring an inference. A piece of circumstantial evidence is a fact which, if shown to exist, suggests the existence of an additional fact. The same evidence may be both direct and circumstantial depending on its use. A witness may say that she saw a man jump from a train. This is direct evidence that the man had been on the train. It is indirect evidence that the man had just held up the passengers.

To establish the relevance of circumstantial evidence, you may need to lay a foundation. If the opposing attorney objects to your offer of proof on the ground of relevance, the judge may ask you to explain how the offered proof makes guilt more or less probable. Your reply would lay a foundation.

Examples:

1. The defendant is charged with stealing a diamond ring. Evidence that the defendant owns a dog is probably not relevant and would not be admitted over objection of the opposing attorney.

2. In an assault and battery case, evidence that the victim had a limp is probably not relevant to the guilt of the defendant. Laying a foundation by suggesting that the victim fell rather than having been pushed might make the evidence admissible.

Form of Objection:

"Objection, Your Honor. This testimony is not relevant to the facts of this case. I move that it be stricken from the record."

"Objection, Your Honor. Counsel's question calls for irrelevant testimony."

Personal Knowledge

In addition to relevance, the only other hard and fast requirement for admitting testimony is that the witness must have a personal knowledge of the matter. Only if the witness has directly observed an event may the witness testify about it.

Witnesses will sometimes make inferences from what they did actually observe. An attorney may properly object to this type of testimony because the witness has no personal knowledge of the inferred fact.

Examples:

1. The witness heard on the radio that the victim had been shot on the night of March 3, 1981. The witness lacks personal knowledge of the shooting and cannot testify about it.

2. From around a corner, the witness heard a commotion. Upon investigating, the witness found the victim at the foot of the stairs, and saw the defendant on the landing, smirking. The witness cannot testify over objection that the defendant had pushed the victim down the stairs even though this inference seems obvious.

Form of Objection:

"Objection, Your Honor. The witness has no personal knowledge to answer that question."

"Your Honor, I move that the witness' testimony about _____ be stricken from the case because the witness has been shown not to have personal knowledge of the matter." (This motion would follow cross-examination of the witness which revealed the lack of a basis for a previous statement.)

Hearsay

An out-of-court statement that is offered to prove the truth of the contents of the statement is hearsay. Because they are very unreliable, these statements ordinarily may not be used to prove the truth of the witness' testimony. For reasons of necessity, a set of exceptions allows certain types of hearsay to be introduced. You do not need to know the exceptions. If an attorney makes a hearsay objection during the Competition, the judge will decide whether an exception applies.

Examples:

1. Joe is being tried for murdering Henry. The witness testifies, "Ellen told me that Joe killed Henry." This statement is hearsay and probably would not be admitted over an objection.

2. The defendant takes the stand. He testifies, "I yelled to Henry to get out of the way." Admissible. This is an out-of-court statement, but is not offered to prove the truth of its contents. Instead, it is being introduced to show that Joe had warned Henry by shouting (hearsay is a very tricky subject.)

Form of Objection:

"Objection, Your Honor. Counsel's question calls for hearsay."

"Objection, Your Honor. This testimony is hearsay. I move that it be stricken from the record."

Opinion

Witnesses may not normally give their opinions on the stand. Judges and juries must draw their own conclusions from the evidence. A witness may give an opinion if describing the facts would not be helpful. Estimates of the speed of a moving object or the source of a particular odor are allowable opinions.

Expert witnesses can give their opinions about matters within their special expertise. Before a person can give an opinion as an expert, the person must be shown to have special knowledge or training. If an expert appears in a Mock Trial, however, you should assume that both sides have stipulated (agreed) to the expert's qualifications. You will not need to qualify the witness as an expert.

Examples:

1. A coroner testifies that the victim had died by suffocation and was a compulsive gambler. Only the cause of death would be admissible, because a coroner is not an exper on anything having to do with gambling.

2. A taxi driver testifies that the defendant looked like the kind of guy who would shoot old ladies. Counsel could object to this testimony and the judge would require the witness to state the basis for his opinion.

Form of Objection:

"Objection, Your Honor. Counsel is asking the witness to give an opinion."

"Objection, Your Honor. The witness has given an opinion. I move that the testimony be stricken from the record."

Privileges

To promote certain important objectives unrelated to the trial, some witnesses cannot be compelled to testify about what they know. The Fifth Amendment of the Constitution permits all witnesses to remain silent rather than answer incriminating questions and allows criminal defendants to refuse to take the stand at all. (All witnesses in the Mock Trial must be called to testify.)

Other privileges apply to specific types of conversations. Uninhibited communication between lawyers and clients, for example, is considered more important than requiring lawyers to testify as to what their clients have told them in private. Likewise, doctors, priests, spouses and psychiatrists have limited privileges to remain silent regarding statements made in confidence to them.

Examples:

1. A witness is asked whether she helped the defendant to break into a house. The witness could remain silent rather than risk incriminating herself.

2. The prosecutor calls the defense attorney as a witness. The prosecutor then asks the attorney if he had seen his client break into a doctor's office on June 17, 1981. This question is proper because the privilege protects communication only.

Form of Objection:

"Objection, Your Honor. The answer to counsel's question would violate the lawyer-client (etc.) privilege."

Character Evidence

Witnesses generally cannot testify about a person's character unless character is in issue. Such evidence tends to add nothing to the crucial issues of the case. (The honesty of a witness is one aspect of character always in issue.)

In criminal trials, the defense may introduce evidence of the defendant's good character and, if relevant, show the bad character of a person important to the prosecution's case. Once the defense introduces evidence of character, the prosecution can try to prove the opposite. These exceptions are allowed in criminal trials as an extra protection against erroneous guilty verdicts.

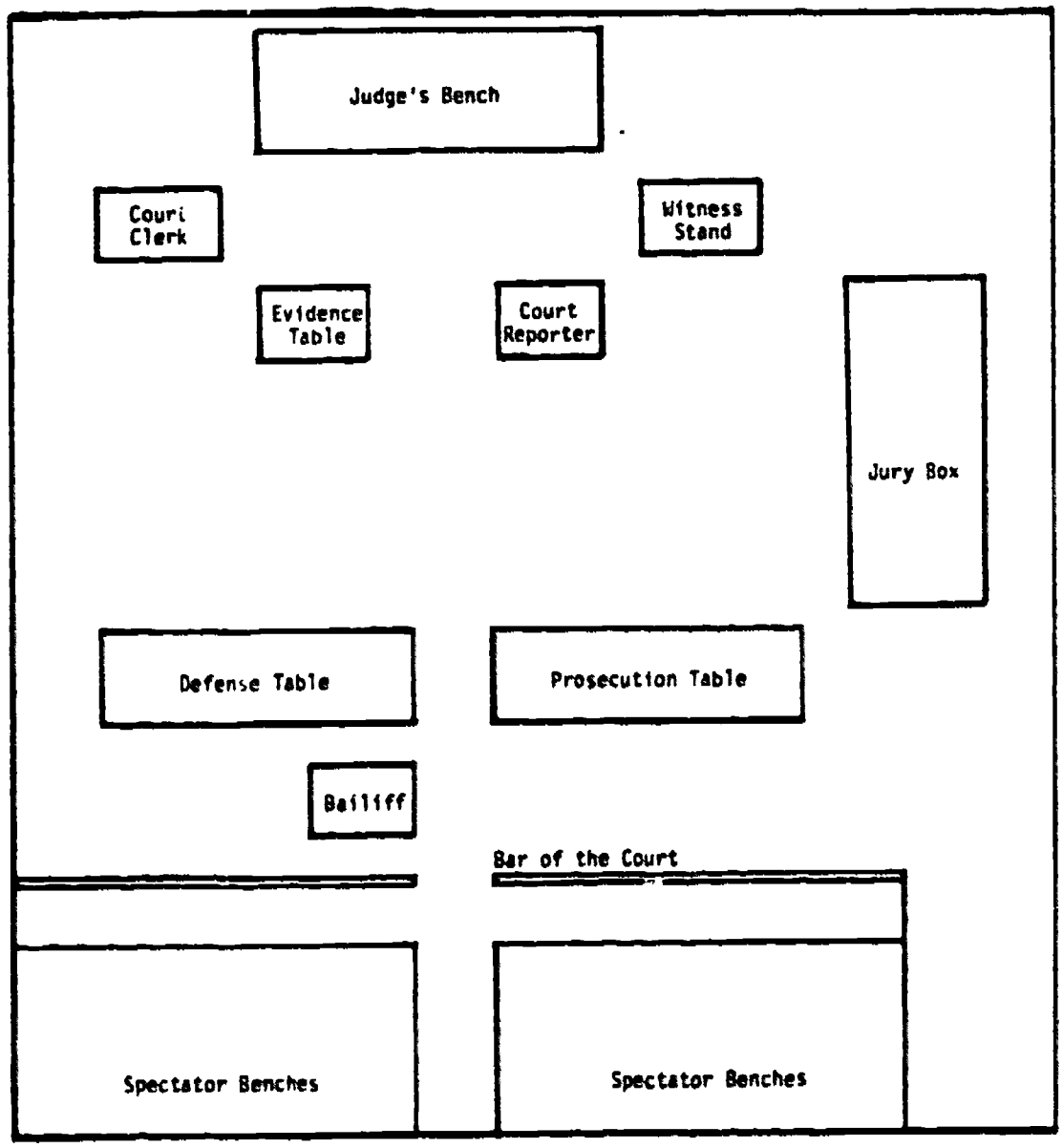
Examples:

1. The defendant's minister testifies that the defendant attends church every week and has a reputation in the community as a law-abiding person. This would be admissible.

2. The prosecutor calls the defendant's former landlady. She testifies that the defendant often stumbled in drunk at all hours of the night and threw wild parties. This would probably not be admissible unless the defendant had already introduced evidence of good character. Even then, the testimony might not be relevant.

Form of Objection:

"Objection, Your Honor. Character is not an issue here."



A TYPICAL COURTROOM

JUDGE'S PERFORMANCE RATING SHEET

Instructions: This rating sheet is to be used to score Mock Trial teams. For each of the 14 standards listed below, indicate a score from the following scale:

1 -- poor
2 -- below average
3 -- average
4 -- good
5 -- superior

Scoring of the presentation should be INDEPENDENT OF YOUR DECISION ON THE MERITS OF THE CASE. If both teams achieve the same total score, name as the winner the team which, in your judgment, did the best job. Then circle the winning team below.

PROSECUTION: _____ (school name) DEFENSE: _____ (school name)

STANDARDS	PROSECUTION	DEFENSE
ATTORNEYS: OPENING STATEMENT provided a clear and concise description of the anticipated presentation. ON DIRECT EXAMINATION attorneys brought out key information for their side of the case and kept witnesses from discussing irrelevancies. ON CROSS EXAMINATION attorneys exposed contradictions in testimony and weakened the other side's case without becoming antagonistic. IN QUESTIONING OF WITNESSES attorneys properly phrased questions and demonstrated a clear understanding of trial procedure. IN CLOSING STATEMENT the attorney made an organized and well-reasoned presentation emphasizing the strengths of his or her side of the case and addressing the flaws exposed by the opposing attorneys. UNDERSTANDING OF THE ISSUES AND LAW in the case was demonstrated by the attorneys. SPONTANIETY was demonstrated by attorneys in their ability to respond to witnesses and in the overall presentation of the case.		
WITNESSES: CHARACTERIZATIONS were believable and witness testimony was convincing. PREPARATION was evident in the manner witnesses handled questions posed to them by the attorneys. FAVORABLE TESTIMONY for their side was given by witnesses based upon the record or what could be reasonably implied from the Fact Situation and Witness Sheets (deduct points for deviation/ embellishment). SPONTANIETY was demonstrated by witnesses in their responses to questions.		
TEAM: COURTROOM DECORUM and courtesy were observed by team members and voices were clear and distinct. TIME LIMITS were observed (deduct points for presentations which went significantly over time). ALL TEAM MEMBERS were actively involved in the presentation of the case.		
TOTAL SCORE FOR TEAMS: (Maximum 70 Points)		

MOCK TRIAL CASE MATERIALS: People v. Larson

Centerville High School has been experiencing a serious drug problem. One student, who was driving under the influence of alcohol and quaaludes purchased from an unknown school source, died in an accident when he lost control of his car. Concerned about harm to any more teenagers, the authorities decide to enroll Donna Butler, a youthful-looking undercover police officer, to pose as a student at Centerville High starting on February 2, 1983. Only the principal, Valerie Garcia, was informed of the police undercover operation.

Centerville is a closed campus. Once the students drive their cars to school they cannot leave campus during school hours. Seniors with a special lunch pass are allowed to leave campus. However, a student who drives to school is free to go to his or her car at lunchtime as long as the car remains in the lot.

When Officer Butler started her assignment, the principal told her that she suspected one of the school band members of selling drugs on campus, but she had no real proof. Officer Butler made friends with Charles Clark, a new transfer student from another local high school. They were both drummers and were accepted into the school band. On February 16, 1983, Jeff Larson and Charles auditioned for lead drummer with the band. The band Director, Alex Dubrowski, chose Jeff instead of Charles, and saw that Charles was visibly disappointed.

Charles went to a rock concert on February 19, 1983. He had been drinking before he arrived and bought five quaaludes at the concert. He took three of them during the evening and was treated by a concert medic for a bad drug reaction.

On March 17, 1983, the Centerville band's star trumpet player, Jason Johnson, collapsed at school during a morning band practice. Jason was rushed to the hospital by paramedics. Ms. Garcia called the hospital administrator, who told her that Jason's heart stopped enroute to the hospital and he was revived by the paramedics. The doctors determined that Jason drank a large amount of alcohol and took a depressant drug. They needed to know what drug Jason took to aid in his treatment. Ms. Garcia informed Officer Butler of Jason's critical condition, and asked her to find out what she could from the students.

Donna knew that Charles and Jason were friends and played in an off-campus rock band named "Warsaw." Right before lunch, Officer Butler told Charles that anyone with information about the drugs Jason took should come forward in order to help him. Donna also said it was important to find the source of the drugs to prevent further tragedies.

At the end of lunch, Ms. Garcia discovered an anonymous note on her desk. The note read, "This letter is to inform you that Jeff Larson has quaaludes hidden in his car. He drives a green 1968 Volvo station wagon, and the license plate is YEZ 600. He's the one who's been selling drugs on campus."

Ms. Garcia called Officer Butler into her office and showed her the note. They immediately went to the school parking lot and found the car mentioned in the note. The school parking registration decal identified the car as belonging to Jeff Larson.

Ms. Garcia asked Officer Butler to search the car immediately. Jeff's car was locked, so Officer Butler asked the principal to get a wire clothes hanger while she waited at the car. When Ms. Garcia returned with the wire hanger, Officer Butler used it to open a wind-wing and unlock the driver's side door. She looked in the glove compartment first, but found nothing. She climbed over the seats and searched the interior of the car with no success. Officer Butler climbed out the rear tailgate door by unlocking the interior latch.

In the rear of the station wagon were two jackets, a sweater and a pair of tennis shoes. Officer Butler saw a spare tire well that was covered with a mat. She lifted the mat and discovered a plain blue daypack in the spare tire well. She opened the blue pack and found an aspirin bottle with 25 pills, wrapped in five separate aluminum foil bundles. Officer Butler opened one of the bundles of pills and told Ms. Garcia she believed they were quaaludes.

Officer Butler remained at the car while Ms. Garcia went to get Jeff Larson out of class. When Jeff entered the parking lot and saw that his car was open, he spontaneously said "Oh, no" to Ms. Garcia. Jeff led Ms. Garcia to the Volvo. Officer Butler identified herself as a police officer and asked Jeff to try on the blue pack. Jeff tried on the pack and Officer Butler observed that it seemed to fit him, as it was neither too big nor too small. She arrested Jeff for possession of drugs for sale and informed him of his rights.

Officer Butler took the pills to the hospital where they were identified as quaaludes. The doctors thanked her for her help and proceeded with treatment. Officer Butler then hand carried the pills to the police chemist for an official analysis.

Jason Johnson later regained consciousness. He remained hospitalized for a period of time. After questioning, it was clear that Jason had suffered memory loss regarding the entire incident and could not be called as a witness by either side.

A few hours after Jeff's arrest, Charles told Officer Butler he had written the note because he knew Jeff dealt drugs and kept them in his car.

Statement of Charges

Possession of a Controlled Substance--California Health & Safety Code §11377: Every person who possesses methaqualone (quaaludes) unless they have a physician's written prescription, shall be punished by imprisonment in county jail for not more than one year or imprisonment in state prison for 16 months, two years or three years.

Possession for Sale of a Controlled Substance--California Health & Safety Code §11378: Every person who possesses for sale methaqualone (quaaludes) shall be charged with a felony which shall be punished by imprisonment in state prison for not less than two years or more than ten.

Pre-Trial Motions Made

At a preliminary hearing prior to the Mock Trial, Jeff's attorney made a Penal Code § 1538.5 motion to suppress the quaaludes found in the backpack as evidence obtained in an illegal search. This Code section indicates that:

A defendant may move to suppress any evidence seized as a result of a search or seizure on the following ground: An unlawful search without a warrant is always unreasonable, unless getting a warrant is impossible or impractical under the circumstanc

The attorney arg - that Officer Butler needed a search warrant to search the car and daypack wit.ut Jeff's permission. The judge ruled against Jeff and held that the quaaludes could be admitted as evidence at the trial. The judge stated that Jeff's Fourth Amendment rights were not violated because the anonymous note and the fact that Jason was in tne hospital gave Officer Butler probable cause for an immediate search of Jeff's car. The judge admitted the note into evidence.

Only These Items May Be Used As Evidence:

1. Any solid colored blue pack (small daypack variety only) with shoulder straps only, that has no unique or identifiable characteristics. Donna Butler will bring the pack with her to the trial.

2. Aspirin bottles only, with a total of 24 tablets wrapped in five separate aluminum foil packages: four packages of five tablets each and one with four tablets. For purposes of identification, the aspirin bottle has Donna Butler's initials on it and the chemist's tag indicating analysis made on March 17. John Maxwell will bring them to trial.

3. Only the note reproduced in this packet may be introduced into evidence.

The Handwritten Note

THIS LETTER IS TO INFORM YOU THAT JEFF LARSON HAS QUAALUDES HIDDEN IN HIS CAR. HE DRIVES A GREEN 1968 VOLVO STATION WAGON, AND THE LICENSE PLATE IS 4E2-600. HE'S THE ONE WHO'S BEEN SELLING DRUGS ON CAMPUS.

THE WITNESS STATEMENTS

PROSECUTION WITNESS: John Maxwell

John Maxwell has been a police chemist for 15 years and was aware of the drug problem at Centerville High School.

Officer Butler delivered the 25 pills that she took from the blue pack to Maxwell. Her initials, D.B., appeared on the outside of the bottle for identification. Maxwell analyzed the pills, destroying one in the process of analysis. He will testify that, according to his analysis, the pills were methaqualone, also known as quaaludes.

After Maxwell finished his analysis, he put a tag on the pill bottle with the analysis date. He kept the bottle in his office safe, the pills remained in his custody until the trial.

PROSECUTION WITNESS: Donna Butler

Officer Donna Butler is 23 years old and has been on the Centerville police force for two years. Because of her youthful appearance, she was asked to act as an undercover officer to find the drug dealer at Centerville High. This was her first undercover drug assignment, and she was determined to do a good job.

Only the principal knew Officer Butler was an undercover officer. Ms. Garcia told her that she suspected a member of the band might be the source of the drugs, but she had no real proof. Officer Butler saw many students at school and in the band who appeared "stoned," but she was making no headway in her investigation.

On March 17, 1983, the principal called Officer Butler into her office and told her that Jason Johnson had been taken to the hospital in critical condition from a reaction to drugs and alcohol. The principal had spoken to the doctors, who were trying to determine exactly what drug Jason had taken in order to speed their treatment. Officer Butler left the principal's office and sought out Charles. She told him that anyone with information about the drugs Jason took should come forward to help him. Later, at about 1:00 PM, Officer Butler was again called to the principal's office and shown the note which stated drugs were in Jeff Larson's car. She was sure the note provided probable cause to search Jeff's car. She felt it was an emergency situation that justified an immediate warrantless search.

Officer Butler went with the principal to Jeff's car, saw it was locked and stayed at the car while the principal got a wire clothes hanger. When the principal returned, Officer Butler used the wire hanger to pry open the wind-wing window and unlock the driver's side door. She first looked in the glove compartment and saw nothing. She then climbed over the seat and searched the rest of the interior. Unlocking the interior tailgate latch, she climbed out the rear of the wagon. In the rear of the car, Officer Butler saw two sweaters, a jacket, a pair of tennis shoes and a mat covering the spare tire well. She lifted the spare tire mat and discovered a blue pack hidden underneath.

She found an aspirin bottle containing 25 pills wrapped in five separate luminum foil packages in the pack. Because of her extensive training in narcotics, she

recognized that the pills were most likely quaaludes packed for the purpose of sale. Officer Butler, anxious to determine what the drug was so the hospital could treat Jason, chose not to preserve any fingerprints. She did, however, put her initials on the bottle for identification.

Officer Butler remained at the car while Ms. Garcia got Jeff out of class and brought him to the car. Officer Butler identified herself as a police officer and asked Jeff to try on the blue pack. The pack seemed to fit, as it was neither too big nor too small. Butler arrested Jeff, advised him of his rights, and turned him over to other officers to be taken to jail and booked. Jeff told Officer Butler at the time that it sounded like he was in trouble and asked for an attorney before he said anything. Officer Butler rushed the pill bottle to the hospital to aid Jason, and then gave it to John Maxwell, the police chemist, for official analysis.

PROSECUTION WITNESS: Charles Clark

Charles Clark is 17 years old and a junior at Centerville High School. He recently transferred from a local high school in the same community. Charles and Jason Johnson have been friends for two years, as they both play in the same off-campus rock band, "Warsaw."

Charles started at Centerville High School on February 2, 1983. That same week he met Donna Butler. They were both drummers and were accepted into the school band. Shortly thereafter, he auditioned for the lead drummer spot, but Jeff Larson was chosen over him. Charles was disappointed he did not get the lead spot, because he wanted to become a professional drummer and knew the position would offer him better training and exposure.

After Jeff was arrested, Charles told Officer Butler that he bought five quaaludes for $25 from Jeff at a rock concert on February 19, 1983. When Charles bought the quaaludes, Jeff said he had to go to his Volvo to get them, and he came back ten minutes later. Charles had been drinking heavily prior to the concert, and took two pills immediately. He took another pill soon afterward. The quaaludes and alcohol combined to give Charles such a bad drug reaction he got nauseous and began to shake uncontrollably and had to be treated by a concert medic. He threw the other two pills away in disgust.

Charles never saw Jeff with any drugs at school. When Donna told Charles how ill Jason was, his conscience began to bother him so he wrote the note to the principal hoping the information he supplied would aid Jason's recovery.

Three days after the arrest, Charles went with Officer Butler to John Maxwell's office. He recognized that the pills taken from Jeff's car were wrapped in the same manner as those Jeff had sold him.

PROSECUTION WITNESS: Valerie Garcia

Ms. Garcia has been the principal at Centerville High School for five years. She was very worried about the drug and alcohol problems on campus, and so she agreed to let undercover officer Donna Butler enroll as a student.

Ms. Garcia has known Jeff Larson since he started Centerville as a freshman and said Jeff was well liked by the students and had never been in trouble before.

On March 17, at about 10:30 AM, Ms. Garcia learned that Jason Johnson had collapsed and was taken to the hospital. She called the hospital administrator, who told her that Jason was in critical condition from ingesting a combination of alcohol and drugs and that the doctors were still working on identification of just what drug he had taken. Ms. Garcia immediately called Officer Butler into her office, informed her of the situation and asked her to find out what she could from the students.

At about 1:00 PM, Ms. Garcia went into her office after lunch and found an anonymous handwritten note on her desk. The note read:

> "Th[illegible]s to inform you that Jeff Larson has quaaludes hidden in his car. He drives a green 1968 Volvo station wagon and the license plate is YEZ 600. He's the one who's been selling drugs on campus."

She immediately called Officer Butler into her office and showed her the note. They then went to the described car.

Ms. Garcia asked Officer Butler to search the locked car. At the officer's request, Ms. Garcia got a wire clothes hanger while Officer Butler remained at the car. The principal then watched the officer open the wind-wing with the wire hanger and search the car. There were assorted items in the back of the station wagon, and inside the spare tire well was a blue daypack with an aspirin bottle containing 25 pills wrapped in five bundles.

Ms. Garcia went to get Jeff Larson out of class while Officer Butler again waited at the car. When Jeff Larson saw the tailgate of his car was open, he spontaneously said to Ms. Garcia: "Oh, no." When they arrived at the car, Officer Butler identified herself as a police officer and asked Jeff to try on the blue pack. Ms. Garcia observed that the pack fit Jeff. Ms. Garcia has seen Jeff drive this 1968 Volvo station wagon to school, but cannot say if this particular pack was Jeff's. After Jeff Larson's arrest, Ms. Garcia did notice an improvement in the drug situation at school, but said she still observes drug activity.

DEFENSE WITNESS: Jeff Larson

Jeff Larson is an 18-year-old senior at Centerville High School. His parents gave him their old green 1968 Volvo station wagon for his 16th birthday. Jeff drives various high school students to and from school every day. On March 17, 1983, Jeff picked up four friends, drove to Centerville High School, and parked his car in the school parking lot. On this day he was not certain if any of his friends left their packs or any other items in his car. Sometimes, his friends put their packs in the spare tire well under a mat in the rear of the station wagon to keep their things safe.

Jeff was in class when the principal asked him to come with her to his car. He wondered why she wanted to go there, but he went along. Jeff will testify that he said "Oh, no" to Ms. Garcia because he thought someone had broken into his car again. When they arrived at the car, Donna Butler identified herself as an undercover police officer. Officer Butler asked him to try on the blue pack, and she arrested him for possessing quaaludes for sale.

Jeff did not usually lock his Volvo, but since his blue pack was recently stolen from his car, he has locked his doors. Jeff denies the pack held as evidence is

his. He says it must belong to one of his friends who store their packs in the rear of his car. Although there were no identifying marks and the pack was empty except for the pills, Officer Butler still arrested him.

Jeff will testify that anyone could have gotten into his car during lunchtime using a wire clothes hanger. Jeff said he had even used one when he had locked his keys in his car once. Jeff denies ever selling drugs to Charles Clark or any other student.

DEFENSE WITNESS: Michelle Kim

Michelle Kim is 16 years old and a junior at Centerville High School. She has known Jeff for ten years; they are next door neighbors and their parents are good friends. Ever since Jeff got his car, he has picked up Michelle first each morning on the way to school. Michelle and Jeff are good friends and like to share confidences. Michelle says Jeff often gives students who are walking along the road a ride to school.

Michelle was shocked to hear about Jeff's arrest, because she has seen Jeff smoking marijuana but never seen him with pills of any kind. In fact, Michelle said Jeff was upset that Jason was in the hospital.

Michelle says Jeff's friends sometimes throw their packs and other school stuff in the storage area behind the rear seat of his car. Michelle saw miscellaneous junk in the back of the car when she threw her things in.

DEFENSE WITNESS: Emily Larson

Emily Larson is Jeff Larson's mother. She has four teenagers, including Jeff, so there are lots of daypacks around their house. Ms. Larson is divorced and works as a newspaper editor. She supports Jeff and pays for his gas and clothes, gives him money for dates and pays for all his other expenses.

Ms. Larson says Jeff is a splendid son. He has many friends and drives various people to school each day. She says that Jeff drives Michelle Kim, their neighbor, to school every day. Ms. Larson often sees coats and jackets, other people's packs, and various school stuff left in Jeff's car when he comes home.

Ms. Larson will testify that this particular blue pack is not her son's and that she has never seen it before. She says she knows this because she buys all her children's school supplies, and she did not buy the pack in question.

DEFENSE WITNESS: Alex Dubrowski

Alex Dubrowski has been Centerville's band Director for 10 years. In February, 1983, he announced auditions for a lead drummer who would play major solos during the year. Jeff Larson was eventually chosen. Mr. Dubrowski had many applicants, including Charles Clark, who seemed very disappointed not to be selected.

Alex Dubrowski likes Jeff, a hard worker who always showed up for practice. Mr. Dubrowski said Jeff never came to band sessions drunk or appeared to be on any kind of drugs, and that Jeff always behaved in an alert and responsible manner.

INTRODUCTION TO EXERCISES

This Mock Trial packet contains sufficient information to enable you to prepare students to participate in the Competition. You may wish to supplement these materials with other sources to give students a fuller appreciation of trial procedure.

A Mock Trial Coordinator in your area will assign a local attorney to work with your students. All advisors are encouraged to avail themselves of the volunteer attorney's skills and expertise to answer questions, prepare for trial, and debrief the participants after each round. The attorneys can help to enliven the sometimes dry official descriptions of courtroom procedures.

Participating students should read the entire packet of mock trial materials. A copy for each student is optimal. All participants should be encouraged to read the entire set of materials, since the team will act as a unit rather than a collection of unrelated individuals.

The next few pages of this packet contain exercises designed to review the student materials. Involving the assisting attorney in these exercises maximizes their instructional potential.

This packet also includes a debriefing guide for use with the team and attorney after a round. The debriefing session is essential to highlight the educational aspects of the Mock Trial Competition. Taking the class to an actual trial is an excellent way to teach them about the legal system and prepare them for the Mock Trial.

EXERCISE: Rules of Evidence

INSTRUCTIONS: For each situation described below, explain whether you would object to admission of the evidence. If so, on what grounds would you make your objection? If you were offering the evidence can you think of a way to get it in despite objection?

1. Doug is on trial for auto theft. As an alibi, Doug testifies, "Cindy told me that Jim had stolen that car for a joy ride. She never touched it."

2. Trial for arson. A witness for the defense testifies that the defendant was with her on the night of the crime. The prosecutor asks, "Isn't it true that you used cocaine when you were in college three years ago?"

3. Mr. Wirtz, an English teacher who knew the defendant since high school, testifies for the prosecution that Joe has deep psychological problems.

4. On direct examination, the defense attorney asks, "You could hear the noise from the next apartment very clearly, couldn't you?"

5. The witness, a waitress, testifies that the bartender had mentioned to her that the defendant had ordered five shots of whiskey on the night of the crime.

6. Police officer Jones testifies that when he entered the victim's apartment, he saw the defendant trying to climb out a window.

7. The prosecutor asks the witness, "Didn't you tell the defendant's attorney that you had seen the defendant take the money?"

8. Sally has never seen Amy with her son. Can Sally testify that Amy is a horrible mother?

9. Trial for embezzlement. The defense introduces a diploma to show that the defendant graduated from high school.

10. The prosecution calls a witness to testify that the defendant had shoplifted for years before being arrested for grand theft.

EXERCISE: The Steps in a Criminal Trial

INSTRUCTIONS: Re-order the following sentences in the order that the events would occur in a real trial.

Facts of the Case: Mark is on trial for murder. His attorney is Ms. Heath. The prosecuting attorney is Mr. Stevens. Judge Kelly is presiding.

The Trial

a. Mr. Stevens delivers his closing argument.

b. Ms. Heath cross-examines the prosecution witness.

c. Judge Kelly gives the jury their instructions.

d. Mr. Stevens examines a prosecution witness.

e. Ms. Heath gives her opening statement.*

f. The jury deliberates, makes its decision, and returns to the courtroom.

g. Mr. Stevens cross-examines the defense witness.

h. Court is called to order.

i. Mr. Stevens gives the prosecution's opening statement.

j. Judge Kelly releases or sentences the defendants.

k. Ms. Heath delivers her closing argument.

l. Ms. Heath conducts her direct examination of a defense witness.

___ ___ ___ ___ ___ ___ ___ ___ ___ ___ ___ ___

1 2 3 4 5 6 7 8 9 10 11 12

* "e" can be used in one of two places.

EXERCISE: Courtroom Duties

INSTRUCTIONS: Place the letter for each person in the courtroom in the blank for each duty. Some people have several duties.

A. BAILIFF

B. PROSECUTOR

C. JUDGE

D. COURT CLERK

E. JURY

F. DEFENDANT

G. DEFENSE ATTORNEY

H. WITNESS

1.____ Announces that court is in session.

2.____ Rules on legal issues in the case.

3.____ Tries to show that a reasonable doubt of guilt still exists at the end of the trial.

4.____ Guards the defendant.

5.____ Gives an account of what happened.

6.____ Maintains order in the courtroom.

7.____ Has been accused of breaking the law.

8.____ Introduces evidence of guilt.

9.____ Decides the factual issues in the case.

10.____ Delivers the first closing statement.

11.____ Sentences guilty defendants.

12.____ Swears in the witnesses.

13.____ Can be cross-examined.

14.____ Delivers the last opening statement.

15.____ Can't be forced to testify.

ANSWERS TO EXERCISES

Rules of Evidence

1. Hearsay. Cindy's out-of-court statement [illegible] the car is being offered to prove that he and not the defendant took the [illegible]r. Cindy should testify to this herself.

2. Relevance. The use of cocaine three years ago has nothing to do with the facts of the case or the witness' credibility. This question was probably intended to harass or embarrass the witness and is entirely improper.

3. Opinion. An English teacher is not an expert in psychological matters. The witness perhaps could testify to bizarre things that Joe had done or other indicators of psychological problems.

4. Leading Question. On direct examination an attorney must allow the witness to tell his or her own story. The attorney could ask, "How well could you hear the noise from the apartment next door?" The original question would be proper on cross-examination.

5. Hearsay. The bartender's out-of-court statement is being offered to prove that the defendant had been drinking heavily. Introduce the bartender as a witness or ask the waitress if she had noticed how much the defendant had been drinking.

6. This is a proper bit of testimony, the more the better.

7. Privilege. The lawyer-client privilege protects from disclosure statements about the case made to a client's lawyer. Ask the witness whether she had seen the defendant take the money.

8. Personal Knowledge. Sally doesn't appear to have any basis for claiming that Amy is a terrible mother. Try to establish that Sally knows of Amy's poor parenting, perhaps by having seen scars on the child and having seen the child lightly clothed on cold winter days.

9. Relevance. Graduation from high school has nothing to do with stealing money that the defendant had been trusted with. If the defense is trying to show good character, something more convincing than a high school diploma is needed.

10. Character Evidence. Unless the defense has already produced evidence of good character, the prosecution cannot offer this testimony.

NOTE: For almost any offer of evidence taken out of context, relevance may not be clear.

Steps in a Criminal Trial

H	I	E*	D	B	E*/L	G	A	K	C	F	J
1	2	3	4	5	6	7	8	9	10	11	12

* defense may give opening statement in either spot.

Courtroom Duties

1. D
2. C
3. G
4. A
5. H
6. A
7. F
8. B
9. E
10. B
11. C
12. D
13. H
14. G
15. F

PART III--MOOT COURT

The Moot Court Section utilizes the facts from People v. Larson, and assumes the defendant has lost his case at the trial level and is now appealing the judge's decision to a higher level (an appellate court).* The basis for the appeal is the law regarding the search and seizure issue which is established by the Fourth Amendment to the United States Constitution and U.S. Supreme Court rulings on specific cases.

The Fourth Amendment reads: "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the places to be searched and the persons or things to be seized."

The United States Supreme Court has interpreted the Fourth Amendment to require police officers to obtain prior approval from a judge in the form of a search warrant before they conduct a search. However, there are some generally recognized exceptions to the warrant requirement, and if it can be proved that the search fits into one of these categories, it may be upheld as a reasonable search.

Searching Without a Warrant: There are various exceptions to the warrant requirement, such as a search incidental to a lawful arrest, plain view, a consent search, a search in an emergency and the automobile exception. The exceptions to requiring a police officer to obtain a search warrant prior to conducting a search were created because the Fourth Amendment reflects a balancing test between two competing interests. On the one side, society has an interest in maintaining law and order. On the other side, people have an interest in privacy and being let alone to be secure in their persons, papers and effects.

Therefore, when an officer has searched someone or something without a warrant, the judge must decide if the search was legal by balancing these competing interests. Thus the school's interest in maintaining an environment free of dangerous drugs may outweigh a student's right to privacy in his or her car and backpack. A court might reason that the need to deter unreasonable searches by officers is greater when students are the victims and there is a danger of more harm occurring. However, a court might also reason that a student's interest in the privacy of their car outweighs the interest in crime control.

The element of probable cause is crucial to the outcome of this case, as the legality of a warrantless search of a car and any containers that are found in it, will be upheld if an officer had probable cause to believe the car contained contraband drugs or other evidence of a crime. The United States Supreme Court has defined probable cause as follows: "Facts and circumstances within the officer's knowledge that would lead a reasonable person to believe a crime has been committed." It is, therefore, very important to realize that probable cause has to exist prior to the search, and that an illegal search can never be made legal by whatever evidence it turns up.

---

* THIS ASSUMPTION HAS NO BEARING ON THE PRESENTATION OF THE MOCK TRIAL CASE AND MAY NOT BE REFERRED TO IN COURT.

In many of the established exceptions to the search warrant requirement, there is a unifying theme of some sort of exigency or emergency situation that necessitates immediate action by a police officer, but the specific reason for each of the exceptions varies.

The automobile exception: The automobile exception was adopted by the court because of the inherent mobility of cars and the frequent need for quick police action in searching them. However, the automobile exception was also based on the theory that people do not expect as much privacy in their cars, since much of the car and its contents are visible at all times.

The automobile exception also requires that officers have probable cause to search a vehicle before they search the car or its contents. Probable cause is mentioned in the warrant clause of the Fourth Amendment because the Constitution's authors were very concerned about the people's right to be secure and to be safeguarded from general or random searches and seizures without any reason.

Court cases have held that evidence obtained illegally must not be used in court. This exclusionary rule is designed to protect the constitutional rights of all Americans by insuring that the government obey its own laws. Therefore, if evidence has been obtained in an unconstitutional way, it will be suppressed or excluded from use at the defendant's trial.

Issues: The appellate issue in this Moot Court case is whether Officer Butler violated Jeff Larson's Fourth Amendment rights when she searched his car and backpack. Issues the court must decide include:

- Based upon the totality of the facts and circumstances, including the anonymous note, did Officer Butler have probable cause to believe that the defendant's car contained contraband or evidence of a crime?

- Based upon the circumstances of this case, is Officer Butler's search reasonable under one of the recognized exceptions to the warrant requirement of the Fourth Amendment or under some other theory?

Researching the Case: Before starting any research problem, it is important to design a research strategy. The following tips are extended to help a student read law cases:

1. Read each case carefully for the facts involved, take notes on each specific fact situation, and then compare it to the hypothetical case.

2. Look for patterns that are either similar to or different from your case, and then see why the court decided the way it did using those specific facts.

3. Often a court will use language from other cases, or the same reasoning from one case to another. This kind of reasoning by analogy is how to apply the facts of different cases to your case.

4. Look to see what social interests are involved and whether the court would apply the same standard to minors as to adults.

5. In Fourth Amendment law especially, cases often cannot be easily reconciled, and similar facts may produce different decisions. Therefore, look for the case closest to your case's fact pattern.

6. Sometimes the Supreme Court may overrule or reject the reasoning of a previous court. When this occurs, the new rule announced by the more recent case replaces the earlier rule.

Moot Court Directions

1. After reading the preceding materials, select students to play the following roles:

   - 1 Chief Justice of the Supreme Court, who will preside over the Court;
   - 8 Associate Justices of the Supreme Court;
   - 2 Attorneys for the State of California (Respondent), who must try to convince the Court that the trial judge correctly decided Jeff Larson was guilty;
   - 2 Attorneys for Jeff Larson (Appellant), who must try to convince the court that the trial judge erred in allowing illegally seized evidence to be admitted at the trial;
   - 1 Timekeeper.

   The rest of the class will be observers; watch and listen carefully because you will be asked to vote on which side was more persuasive. Schedule the actual court arguments for a future date, so that all involved parties will have some opportunity to think about the case and prepare their arguments.

2. On the day the Court will hear oral arguments, each team of attorneys will have 15 minutes to argue its side of the case. Five minutes of the 15 are used for rebuttal arguments. Appellants speak first and then the Respondents. The attorneys should be well prepared, and may use notes when presenting their arguments. The two attorneys on a team should work together in planning which parts of their argument will be covered by whom.

   When the attorney argues before the Court, any of the Justices may interrupt to ask a question that he or she feels will help make the arguments clearer. The Justice may ask hypothetical "what if" questions and can even raise a point for the other side and ask, "How would you answer that, Counsel?" If two or more Justices interrupt at the same time, the Chief Justice will point to the Justice whose turn it will be to talk first. The purpose of the Justices' questions is to help each of them decide how to rule in this case. The job of the attorneys, of course, will be to persuade the Justices that the only reasonable resolution of the issue is to rule in their favor.

   The timekeeper should signal when five minutes of the attorneys' time remains, and when one minute remains. At the end of ten minutes, the argument must stop, unless the Chief Justice allows the attorney to finish answering a question.

   At the end of the four attorneys' initial presentations, each side will have five minutes for Rebuttal. Then, the Supreme Court will adjourn. While the Justices meet to discuss the case, the class may also wish to discuss the presentations and vote on which side had the stronger arguments. Set a time limit for discussion.

   The students should remember that as Supreme Court Justices they would be making law which would affect over 200 million Americans for a long time. It

is not their personal opinion that is important here, but their best legal judgment as to the meaning of the constitutional right to be free of unreasonable searches and seizures as applied in this case. When discussion time is over, the Justices are to take a vote. In order to make a binding decision, at least five Justices must agree on the decision, although they need not all agree with the reasons for the decision.

If there is time, the Justices should each jot down the reasons for their decision and explain them to the rest of the class.

3. The Chief Justice should announce the results to the class as follows:

"It is the opinion of this Court, by a ___to___ vote, that the search of the car was legal/illegal."

If possible, the Justices should each be given a chance to explain the reasons for their decisions. Class discussion should follow.

Cases

All of the legal research necessary to prepare a case for either the appellant (defendant) or the respondent (state) can be found in and is limited to the following summary of cases. Each case includes a description of the facts, how the Supreme Court ruled and the rationale for its decision. Teachers may wish to stress legal research and have students visit a law library and read the full opinions in the cases cited.

1. Carroll v. United States, 267 U.S. 132 (1925)

Facts: Prohibition agents had followed the Carroll Brothers on previous occasions, and they were known bootleggers, having offered to sell illegal liquor to the agents a few months earlier. The officers saw the defendants driving on the highway, and asked them to stop their car. The police searched the roadster without a warrant, ripped open the upholstery, and found 90 bottles of liquor in the rumble seat. The Carroll Brothers were arrested for selling bootleg whiskey.

Rule: Police officers who have probable cause to stop a car on a public highway may search the vehicle for contraband without a warrant.

Rationale: Because of the inherent mobility of cars, and because the officers had probable cause to believe there was evidence of crime in the car, the warrantless search is legal. This case created the "automobile exception" to the search warrant requirement, on the rationale of an exigent circumstance of losing evidence as the car could drive away if the police had to wait to get a warrant.

The Supreme Court also reasoned in the Carroll case that an automobile's mobility may make the warrantless search reasonable, while the same search of a home, store or other property would require a warrant. This reasoning applies to movable cars stopped on a highway, where there is danger evidence will be destroyed.

2. Chambers v. Maroney, 399 U.S. 42 (1970)

Facts: A witness to an armed robbery of a service station described a car he saw driving away from the robbery. Chambers and three other men were arrested an hour later when the car they were driving matched the description given by the witness. Officers drove the car to police headquarters, searched the car without a warrant and found two revolvers concealed in a compartment under the dashboard.

Rule: A seizure and subsequent search of an automobile without a warrant at the police station is valid, when the car could have been searched on the highway. There is no difference in the intrusion into privacy between seizing a car and waiting to get a warrant from a judge if both are legal.

Rationale: This case reaffirms the Carroll rule that cars, because of their mobility, can be searched without a warrant. Because the police had probable cause to believe the car had been involved in a crime, they could have searched the car on the highway without a warrant. A warrantless search can then take place later at the police station, since if a warrantless seizure of the car is legal, so is a warrantless search.

3. Coolidge v. New Hampshire, 403 U.S. 443 (1971)

Facts: The defendant was arrested in his home, and taken to jail. Officers had probable cause to believe that the car parked in the driveway contained evidence of a crime. They seized the car and took it to the police station where they searched it without first obtaining a warrant.

Rule: The car search at the police station was illegal because the original seizure of the car was illegal. The automobile exception does not apply here, since the search warrant was invalid because it had been issued by the Attorney General, who has no power to issue warrants, instead of a judge, who does.

Rationale: The police officers had plenty of time to get a search warrant from a judge before they seized Coolidge's car as they had advance notice they would find evidence. Therefore, there was no risk of destruction of evidence or any other circumstance making it impossible to obtain a warrant.

4. United States v. Chadwick, 433 U.S. 1 (1977)

Facts: Defendants took a cross-country train trip from Los Angeles carrying a double-locked footlocker. Federal agents in Boston used a trained dog to sniff the locker and found marijuana. Chadwick put the locker into a friend's car trunk. Before the engine was started and while the trunk was still open, the suspects were arrested and the footlocker was seized. Two hours later, the agents opened the locker at the police station without obtaining the owner's consent or getting a search warrant.

Rule: The Fourth Amendment protects legitimate expectations of privacy in personal luggage. The search of the locker is invalid without a warrant due to the absence of any risk of the evidence being lost or destroyed.

Rationale: Warrantless searches of luggage cannot be justified just because the baggage is found in an automobile. The footlocker's brief contact with the defendant's car did not make this an automobile search. A person's expectation of privacy in personal luggage is greater than in an automobile. The mobility of luggage does not justify an exception to the warrant requirement. Luggage contents are also not open to public view, and are a repository for personal effects.

5. Arkansas v. Sanders, 442 U.S. 753 (1979)

Facts: Officers had a tip that Sanders would arrive at the airport with a green suitcase containing marijuana. Sanders took his suitcase and put it into the trunk of a taxi and drove away. Officers stopped the car several blocks from the airport and opened the suitcase without asking permission or getting a warrant.

Rule: The "automobile exception" to the warrant requirement does not apply to a warrantless search of personal luggage merely because it was located in a car lawfully stopped by the police.

Rationale: A suitcase taken from an automobile stopped on the highway has the same expectation of privacy as luggage taken from other locations. The seizure of a suitcase is different from that of an automobile, as a suitcase is not inherently mobile and has a higher expectation of privacy once police have seized the luggage and it is in their control. They need to get a warrant from a judge before they can search it.

6. Robbins v. California, 453 U.S. 420 (1981)

Facts: Highway Patrol officers stopped Robbins' car for driving erratically and smelled marijuana smoke when he opened the car door. Officers searched the car and found two opaque plastic packages in the trunk. They unwrapped the packages without a warrant and found bricks of marijuana.

Rule: A closed piece of luggage found in a lawfully searched car is protected to the same extent as closed pieces of luggage found anywhere else.

Rationale: There is no difference between the constitutional protection given closed containers found in a lawful car search. Suitcases, cardboard boxes and plastic bags are all protected equally. Unless the contents of a container are in "plain view" or the container "announces" its contents (like a gun case), it carries a reasonable expectation of privacy. This case reaffirms the rule in Chadwick and Sanders that the automobile exception does not justify a warrantless search of a closed container found in a car.

7. United States v. Ross, 456 U.S. 798 (1982)

Facts: Police had information from an informant that Ross was selling narcotics out of his car, and they followed him and arrested him while he was driving. In the trunk they found a closed paper bag containing heroin which they opened without a warrant.

Rule: Officers who legitimately stop an automobile which they have probable cause to believe has contraband concealed somewhere, may conduct a warrantless search of every part of the car including all containers or packages that may conceal the object of the search.

Rationale: The automobile exception in Carroll extends to all containers and packages found inside the vehicle. Since the informant in the case had been proven reliable before, there was probable cause to search the car and its contents. The search is not unreasonable if it is based on objective facts that would allow a judge to issue a warrant, even if a warrant was not actually obtained.

When an otherwise permissible search of an automobile is underway, distinctions between glove compartments, upholstered seats, trunks and closed containers gives way to the interest in carrying out a prompt and efficient search. To this extent, the reasoning in Arkansas v. Sanders and Robbins v. California is rejected.

8. Illinois v. Gates, 103 S. Ct. 2317 (1983)

Facts: Police received an anonymous letter that Lance and Susan Gates were selling drugs out of their home in Illinois, and that they drove to Florida to buy them. After independently verifying information contained in the letter by separate state and federal investigations, police obtained a search warrant for the car and house. When the Gates' returned from Florida, officers searched the house and the car and found 350 pounds of marijuana.

Rule: An anonymous informant's tip can establish probable cause if in the "totality of the circumstances" a judge believes there is a fair probability that evidence of a crime will be found in a particular place.

Rationale: An anonymous letter standing alone is never enough for a judge to establish probable cause to issue a search warrant. Because the anonymous letter was combined with independent investigative police work that corroborated the letter's information, the search warrant was valid.

HOW TO USE A LAW LIBRARY

Lawyers who argue a case all have one thing in common. Each has spent many long hours in a law library carefully researching every detail of his or her case. Knowing how to use a law library may be the most important tool a lawyer has. With it he or she can become knowledgeable in almost any field of law.

Most counties have law libraries which are open to the public in or near their court houses, as do many colleges and law schools. After you have located a nearby law library, be sure to call ahead to find out when it is open, if you can use its facilities, and if there are any special rules you will have to follow. You or your teacher might be able to arrange for the librarian to give you a tour of the library, too.

Once you are inside a law library, there are four basic methods you can use to find and research an area of the law.

The Topic Method

The first method involves looking through various types of legal encyclopedias and digests for the names and citations of cases involving a particular subject or topic. This is known as the topic method. It should be used when you want to research a topic, like searches and seizures, but do not know the names of the cases you want to read.

Legal encyclopedias provide an excellent source of background information on almost every area of law. In addition to having a summary of the law in these areas, the legal encyclopedias contain the names of the most important cases decided in each area. The cases are both federal and state, depending on which encyclopedia you use. The two most widely used are called American Jurisprudence, Second Edition, Am. Jur. 2d, and Corpus Juris Secundum (C.J.S.). Both contain federal and state decisions.

These entries contain summaries of the law in the various areas. Along with each summary are a number of footnotes which contain the names and citations of the leading cases in the area of law you are researching. You should copy down the ones you will be most interested in. Be sure to copy the numbers and letters which follow the case names too. They are the citations and their importance will be discussed later.

Before you put the volume back on the shelf, make sure you turn to the back cover of the hardback volume. There you will find a paperback stuffed into a pocket. This paperback contains many cases which have been decided more recently, and any changes in the law which have occurred since the publishing of the main volume. Look through this pamphlet, known as the supplement or pocket part, for the section which corresponds with the one you were reading in the main volume. See if there have been any more recent cases or changes in the law. This process is known as up-dating your search. It should be used with every resource book in the law library.

A second source for background information and names of cases in various areas of the law is a digest. A digest is a multi-volumed series of books which contain a paragraph or two about each case decided in almost every area of the law. These paragraphs are the publisher's opinion of the law decided upon by the court in the various opinions. They are not officially accurate.

If you want to find a United States Supreme Court opinion, the two best digests you can look through are the:

1. U.S. Supreme Court Digest
2. Lawyer's Edition, U.S. Supreme Court Reports Digest

Each digest is arranged by topics. There are two good ways of looking for cases in a digest. The first is to look through the Table of Contents for categories you may be interested in. Table of Contents are located at the front of the set of volumes, and at the beginning of each broad topic, such as Constitutional Law. This is known as the topic approach. You would then look through each possible topic for cases that might interest you.

Descriptive Word Method

A second way to find cases you are interested in is by looking in indexes of these same volumes under words which describe your topic. This is known as the descriptive word method.

To use this method you should make a list of every word or topic which could describe your topic. Once you have made such a list, you go to the "Descriptive Word Index" of a digest and look under each word. Then turn to the correct section of the digest.

Case Method

The other general method for researching an area of the law is used when you know the name of a case in that area. This is known as the case method.

If you do not know the citation of the case you want to look up, the first place to look is in the TABLE OF CASES of a legal digest. These tables, arranged alphabetically, contain the name and citation of every case mentioned in the entire digest. Be certain to update your research if you do not find the name of your case in its proper place. Once you know the citation it should be easy for you to find the case itself by using the method outlined above. If you know the citation and the name of the case, you can turn directly to the case and begin reading.

After you have finished reading the case you are interested in, you can do further research by turning to the beginning of the opinion. There you will find the headnotes and "Key Numbers" (if you are using the West Publication). These headnotes and "Key Numbers" refer to sections in the digests which contain information on the same subject.

Each state also has its own set of reporters, digests, and sometimes encyclopedias. In addition there are digests and reporters for the federal court system, and for the United States Supreme Court. If you want to find them, or the abbreviations for them, ask your law librarian for help.

Word and Phrases

The fourth way to research a topic of law is to use the set of volumes called Words and Phrases. It can be used to find cases which define and discuss legally important words and phrases.

The 46 volumes of this set of books are arranged alphabetically by the particular word or phrase you might be interested in. Below each phrase you will find short paragraphs from cases which have mentioned the key words. Unfortunately, the paragraphs are not always arranged in any particular order under the categories you look in. Because of this you must look through all of them to see if any interesting cases appear. Once again, you should update your search by checking the pocket parts at the rear of the volume for any new cases.

Locating the Cases

Once you have found the names of the cases you wish to look up and read, you are ready to search for them. This is where the citation comes into use. A citation contains the numbers and letters after the names of the case. For example, in the United States v. Ross decision, the complete citation is: 456 U.S. 798, 102 S.Ct. 2157, 72 L.Ed. 2d 592 (1982). It directs you to the proper series of books, or reporters, the proper volume number and the correct page of the volume where the decision you are interested in is located.

Let us say that you were most interested in the United States v. Ross decision. The complete citation means: United States v. Ross is the name of the case; 456 U.S. 798 means that the case is located in volume 456 of the reporter United States Reports at page 798; it is also located at volume 102 of U.S. Supreme Court Reports at page 2157; and in volume 72 of Lawyers Edition, U. S. Supreme Court Reports at page 572; 1982 is the year of the decision.

Each of the references listed above is to a different set of reporters. All contain the same case. United States Reports is the only official one, however. In other words, it is the only one that is officially accurate. However, because it is also the slowest to be published, most libraries contain at least one of two other reporters which are unofficial, but which are published more quickly.

SUGGESTIONS FOR DEBRIEFING

The following are some questions to be used to lead into a debriefing discussion.

I. Some pivotal questions that might be used to promote class discussion and student analysis are presented below:

- o Who are the major characters or participants in a trial? Moot court?
- o What do you think is the purpose or function of each? Explain the importance of each.
- o How are the functions of each participant related?
- o What are the major events (parts) in a trial?
- o Why is the sequence or order of events in a trial important?
- o What legal questions or issues were raised by the case? By the moot court?
- o Did you feel the judge was fair? Why or why not?
- o Did you agree with the verdict in the moot court? In the mock trial?

II. For further study and discussion:

- o How did the mock trial case differ from an appeals case? A civil case?
- o How does our trial system help insure a defendant a fair trial?
- o What changes, if any, would you recommend be made in the system?

A QUESTION OF JUSTICE

As a classroom exercise, ask yourself whether justice has been done in People v. Larson, by considering the following quotations from selected Supreme Court cases and other sources. Pick one quote that you agree or disagree with and write a short essay using the facts of People v. Larson to support your position.

"It is idle to talk about civil liberties to adults who were systematically taught in adolescence that they had none, and it is sheer hypocrisy to call such people freedom-loving."

—Friedenberg, The Dignity of Youth and Other Atavisms, 93 (1965)

"The Fourth Amendment protects people, not places."

—United States v. Katz, 389 U.S. 347, 351 (1967)

"Minors are persons under our constitution possessed of fundamental rights which the state must respect."

—Tinker v. Des Moines School District, 393 U.S. 503, 511 (1969)

"Justice should not be compromised by the well-intentioned aims to correct transgressing youths and the rehabilitative value of treating juveniles with fairness must not be underrated."

—In Re Gault, 387 U.S. 1,18 (1967)

"The selling of drugs to children will not be tolerated in this community. People who stick with the public schools will now know that the courts have given their approval to a program designed to protect young people."

—KFWB Editorial Expressing Approval of Undercover Officers in Public Schools (1980)

"Crime is contagious. If the government becomes a law breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy."

--Olmstead v. United States, 277 U.S. 438, 462 (1928)

"The criminal is to go free because the constable blundered."

--People v. DeFore, 242 N.Y. 13 (1926)