

Mr. Portteus' Social Studies Classes Round 3

Hello All:

In this packet of awesomeness, you will find work for roughly about two weeks of work. It will last from May 6-May 22nd. You will be graded for accuracy according to the rubric established by the teachers. The goal of the work is to be done a little at a time. **You should be spending roughly 25-30 mins a day on the work here.** This is not meant for you to stay up late like you are binge watching shows on Netflix!! You need to work on this a little at a time!

This time around for some of the classes you will find notes printed and attached with it is a worksheet that you must complete! You will be required to read the notes and write test questions for several sets of notes. If you find that in your assignment follow the directions given. **If you can attend the weekly check-ins and ask questions!!**

I will be holding office hours from 1-3 pm every day in addition to the weekly check-ins. The office hours work as follows: If you have a question email me, if you need a face to face email me and I will setup a hangout for us to talk it through. As always you can email me at William.Portteus@leona-group.com

Please stay safe and work diligently as you can. I know this is a very difficult situation and that these are trying times but as Winston Churchill once said ***“All the great things are simple, and many can be expressed in a single word: freedom; justice; honor; duty; mercy; hope.”***

Take care all and as always if you have questions, comments and concerns please let me know.

Name: _____ period: _____

Notes Assignment : Trial Process

Directions: Since I cannot direct teach you over the duration of the stay at home order, your job is to look at the slides attached and write possible test questions. You will write the question and when we start our class meetings, we will discuss them as a class. I will also ask you questions to check for understanding. All of this is for a grade!! So, take your time on the assignment! This assignment should be spread over the duration of the extension. This activity should take no less than an hour. **Please make sure you include the answer to the question! You will be asking them on the calls!!**

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American History: You need to write a total of 25 questions

Intro to Law: you will need to write a total of 30 questions.

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Trials and the Judicial System

The Function of Trial Courts

- Trial courts are places that the truth comes out.
 - Whether someone has committed a crime or not
- ***Criminal trial courts- hears cases about crimes like burglary, murder, or driving under the influence of alcohol or drugs.***
- Judges or juries determine the facts of the case.
 - Apply the relevant law
- There are two types of courts
 - Federal Courts
 - US District Courts
 - State trial courts



Jurisdiction



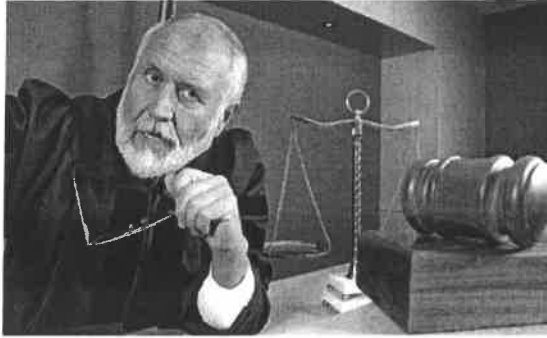
- Trial courts have original jurisdiction over criminal cases and disputes
 - Means this is where the trial process starts
- Before a case makes it to court a law must be broken or a person causes damage to another.
 - No case if nothing happened

Adversarial Systems

- The U.S. system of trial is an ***Adversarial System***.
 - *A contest between two opposing parties*
- Lawyers present their cases, call witnesses, and present evidence
- Judges and juries then listen to the case
 - They do not question or gather evidence
 - They are impartial and make decisions based on the facts



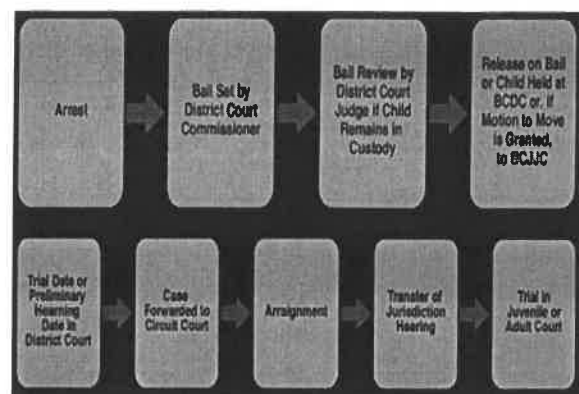
Inquisitorial System



- Judges in this system play a more active role
 - Gather evidence and presenting evidence.
 - Not used in the U.S.
- Some believe the adversarial system is the best way to find the truth
 - Judge and jury can determine the truth
 - As long as opposing parties provide a good case
- Not the best method
 - Compared to a battle with winners and losers

The Trial Process

- Trial courts listen to testimony, consider evidence and decide the facts.
- To make sure it's a fair certain legal principles are used:
 - How evidence is presented
 - How the judge and jury considers the evidence
 - And makes a decision
- In a criminal case must have beyond reasonable doubt.



Roles in a Trial



- In trial there are two parties to each case.
- In a civil trial:
 - Plaintiff- person who brings suit in court
 - Prosecutor- an attorney who represents the government in a criminal case
 - Defendant- the person against whom a civil or criminal suit is brought in court

Judges and Juries OH MY!

- They are essential parts of our legal system
- Judge presides over the trial
 - Protecting the rights of those involved
 - Also make sure the rules of evidence and trial procedures are followed
- Without juries, a judge determines the facts of the case.



Juries



- Is a group of citizens who are sworn to give a verdict based on the evidence given to them
- The judge instructs the jury to the law involved in the case
 - They then render a verdict
- The judge sentences individuals committing a crime

Attorneys and Roles

- Each party in a case may have attorneys
 - Represent the plaintiff and defendant
 - They collect evidence that supports their side of the case
- The Sixth Amendment guarantees the defendant the right to have "assistance of counsel"
 - Means the accused has the right to an attorney
 - Gideon v. Wainwright
- This case caused the creation of public defenders
 - Attorney who works for the state and defends those who cannot afford an attorney
- Witnesses are crucial to trials



Settling Cases Without Trial



- Most legal cases never make it to trial
- Civil cases end in out of court settlements
 - Agreements between the two parties about how to resolve an issue
- Criminal cases usually end in a plea-bargain
 - Agreement between the prosecutor and defendant
 - Disposes of the case without trial
 - Typically the defendant pleads guilty to a lesser crime in exchange for not being tried for a higher crime.

Problems of the Plea-Bargain

- Supporters of the system say they are efficient and save the Government \$\$\$\$
 - Especially when the guilt of defendant is obvious
 - Courts have a tremendous volume of cases and it lightens the load
- Those against say that it allows:
 - Criminals to get off lightly
 - Encourages people to give up their right to trial



Juries



- They serve an important role in our legal system
 - Right to jury trial in the Constitution
- When private citizens serve on juries:
 - Help create justice
 - Overseeing the judicial branch
 - Serve to protect the rights of both parties
 - Make it more likely to be impartial
 - Give people a voice in government (more democratic)
 - Promote a sense of fairness
 - Regular people participate

How a Jury Works

- Some states and the federal government use a **Grand Jury**.
 - *A group that hears the charges against a suspect and decides whether there is sufficient evidence to bring the person to trial*
 - Is a group of 16-23
- The Constitution requires a grand jury indictment (formal charge) for all serious crimes
- Half the states use a grand jury system (Ohio uses it)
- The Grand Jury is seen as the guardian of people's rights



The Right to a Jury



- The Sixth Amendment guarantees the right to a jury trial in criminal cases
 - Applies to both federal and state cases
- The Seventh Amendment guarantees the right to jury trial in civil cases
 - In federal civil cases only not to the states
 - Many states still guarantee this right
- The Constitution protects this right but it does not mean that a jury is required
 - Civil cases either the defendant or plaintiff requests a jury
 - Criminal it is up to the accused

Jury Service

- One of the most powerful actions a citizen can participate in
- Jury service is a civic duty
- To serve you must be:
 - 18 years old
 - Speak and understand English
 - U.S. Citizen
 - Resident of the state
- In most states convicted felons cannot serve
- People are excused if they can show "undue hardship or extreme inconvenience"



Jury Service Continued



- American's believe they have a right to a "jury of their peers"
 - Not stated in the Constitution directly
 - Does say people have the right to an impartial jury from the sate the crime was allegedly committed.
- Juries should reflect the diversity of the community

Jury Service Problems

- When juries began only white men who owned property could serve
- The Civil Rights Act of 1875 extended this right to African Americans to serve on juries (including basic civil rights)
 - In the years that followed the Supreme Court ruled inconsistently in interpreting the law
 - Allowing for a person from a minority group to be tried by an all white jury
- This battle continued for decades



Hernandez v. Texas



- The Supreme Court heard a case in 1954
- Pedro Hernandez was a migrant worker convicted of murder
- He was convicted by an all white jury
- His legal team showed evidence that no Mexican American had served on a jury in 25 years
 - Forced a new trial
- The Court made clear you cannot exclude a jury member based solely on race, ethnicity, gender

Types of Cases That Are Appealed

- An individual who loses a case may wish to appeal that decision
- In a criminal case someone convicted can appeal the verdict or the imposed sentence
 - Not every case can be appealed
- A successful appeal proves that the trial was unfair or law was applied incorrectly.



Errors of Law



- Questions about the facts of a case are decided at trial
- Trial judges and juries:
 - Hear testimony
 - Review evidence
 - Determine the credibility of a witness
- Appellate courts seldom reconsider a trial courts verdict
 - Focus on deciding legal questions that arise in trials

Error of Law Continued

- Appeals are possible when the losing party can claim that the trial court mad an error of law.
- An error of law occurs when a judge makes a mistake about the law applicable to the case
 - Giving the wrong instructions to a jury
 - Allowing evidence that should be rule inadmissible
- However, when an error of law affects the outcome of a case then it can be appealed



Procedural Due Process



- The fair administration of justice is called ***Procedural Due Process***
 - Fair procedures help prevent unreasonable decisions
- Due process makes sure that police, lawyers, judges and jurors most follow basic procedures
 - Regardless of the defendant
- The Constitution provides several guarantees to ensure fair trials.
- If a guarantee is violated one can appeal

Due Process Rights

- These can be found in the Bill of Rights
 - Amendments 4th-6th and 8th.
- These rights include:
 - Right to be notified of charges
 - The right to a speedy trial
 - Right to an impartial jury
 - The right to confront witnesses
 - The right not to be tried for the same crime twice (Double-jeopardy)
 - The right to be free from self-incrimination



Procedures at an Appeals Court



- One party presents arguments asking the court to review the decision of the trial court
- The other presents arguments supporting the decision
- There are:
 - No juries or witnesses
 - No new evidence
- Only lawyers appear before a judge to make their case

The Make-Up of an Appellate Court

- Usually a panel of judges or justices are present
 - Also known as Appellate Judges
 - May consist of three or more judges
- May decide an appeal in one of three ways
 - It may uphold the trial decision
 - Reverse the verdict
 - Send it back to the lower courts to be tried again
- They will issue a written opinion explaining the ruling



Written Opinions

FEDERAL TRADE COMMISSION

16 CFR Part 312

RIN 3084-AB20

Children's Online Privacy Protection Rule

AGENCY: Federal Trade Commission.

ACTION: Correcting amendment.

SUMMARY: The Federal Trade Commission published final rule amendments to the Children's Online Privacy Protection Rule on January 17, 2013 to update the requirements set forth in the notice, parental consent, confidentiality and security, and safe harbor provisions. This document makes a technical correction in that final rule.

DATES: Effective on December 20, 2013.

- If the judges disagree on a decision two or more opinions can be written
- The majority opinion states the decision of the court
- Judges disagreeing with the opinion issue a Dissenting Opinion
- A Concurring Opinion is where a judge agrees with the ruling but for different reasons
- Unless appealed to the Supreme Court an appeals court's ruling is final

Precedent and Stare Decisions

- When an appeals court decides a case one of the things judges consider is precedent
 - Are legal principles created by an appellate court that lower courts must follow on similar cases
- Example: *Texas v. Johnson*
 - Ruled that flag burning is protected free speech
 - Thus ruling that laws that prohibit flag burning are illegal in similar circumstances
- Stare Decisis- Latin for let the decision stand
 - It is important in our legal system to follow precedent
 - Leads to stability
- Precedents apply to all courts
 - Not binding on federal trial
- Appellate courts have the right and power to change precedent



First Amendment Activity

- You will get into groups of two read the cases on p. 401 and answer the questions at the bottom.

Local, State, Federal Courts



- Most people think of discrete political units when they think of the word ***jurisdiction***
 - In the court system it means the courts authority to decide a case.
- Each state and D.C. has a court system.
 - Federal court system
 - Military courts
 - Tribal courts
- Each state has a federal and state court system

Jurisdiction

- Every state has a trial court system and appeals courts
- Cases must start in original jurisdiction
 - Decisions can be appealed with courts with appellate jurisdiction
 - Includes Courts of Appeals and Supreme Courts



Federal Courts



- Considered to be courts with limited jurisdiction
 - Can only cases that raise questions about a federal statute or federal constitution
 - Can hear certain state law disputes when litigants are from different states

State Courts

- Considered courts of general jurisdiction
 - Able to hear a variety of cases
 - State or local law
 - State Constitution
 - Federal law and federal constitution
- There are only few types of federal cases that have to be heard in federal courts
 - Bankruptcy and maritime



State and Local Courts



- Interpret and apply state and local laws
 - Criminal
 - Family contract
 - Juvenile law cases
- Local courts are part of the state court system
 - Decide cases involving local law
- Cases involving many but not all federal laws can also be tried in the state courts

Jurisdiction of State Courts

- Each state has its own court system
 - Where most legal matters are tried
- State courts can hear a wide variety of cases
 - Involving state and local laws
 - State and federal constitution
- All of this allows states to have what is known as general jurisdiction.
 - State courts handle 103 million cases



State Trial and Appeals Courts



- State courts differ in their structure
- Have three types of courts:
 - Minor courts
 - General trial courts
 - Appeals courts
- Minor courts
 - Specialized to deal with specific legal issues
 - Family, traffic, juvenile etc.
- General trial courts
 - Can hear a wide range of civil and criminal cases
- Small claims court
 - Deal with small amounts of money
- Probate courts
 - Handle wills

Judges

- Currently 30,000 state court judges
- Judges are selected in 4 different types of ways
 - Popular election
 - Election by legislature
 - Appointment by Governor
 - Combination of all the above
- In most states judges are elected (Ohio)
- In all states judges serve a limited term
 - May be re-elected or appointed when term expires



Problems with Judges



- People disagree on what is the best way to chose judges
- Popular election supporters
 - Allows for people to directly elect judges
 - It ensures accountability
- Opponents believe
 - That the judges cant be impartial due to raising of funds for elections
- To combat this some states use Merit Selection
 - Use a panel of lawyers, judges and others decide names and pass the list to the governor
 - Some states use a blended system
 - Judges are appointed then are up for reelection

Federal Courts

- Article III of the Constitution sets out the basic structure of the federal court system
 - Creates the Supreme court and the power create lower courts
- Courts include:
 - Federal District courts
 - Federal Courts of Appeals
 - The United States Court of International Trade



Federal Jurisdiction



- Considered to be courts of limited jurisdiction
 - Can only hear cases that raise questions about a federal law or constitution
 - Federal courts can sometimes decide cases that deal with state law if parties to the case are from different states
 - Also if a large amount of money is involved

Federal Trials and Appeals Courts

- Congress has divided the United States into 94 federal districts
 - With a trial court known as Federal District Court
 - Handle both criminal and civil cases
 - Also have tax and bankruptcy courts
- Trial courts are grouped into 12 regional courts
 - Each of which has a federal court of appeals (known as a US Circuit Court)



Courts of Appeal



- Federal courts of appeal handle:
 - Appeals of trial court decisions within their circuits
 - Determine if district court judges applied the law correctly
- There is a federal court of appeals that only hears appeals for special cases
 - International trade
 - Patent law
 - Money claims against the federal government
 - Veteran's issues
- Congress felt federal judges would develop expertise

Federal Judges

- There are 852 federal judges in the US
- They are appointed by the president and confirmed by the Senate.
- They serve until they:
 - Retire
 - Resign
 - Die in office
- Federal judges have to be impeached for removal



Name: _____ period: _____

Notes Assignment : Sentencing

Directions: Since I cannot direct teach you over the duration of the stay at home order, your job is to look at the slides attached and write possible test questions. You will write the question and when we start our class meetings, we will discuss them as a class. I will also ask you questions to check for understanding. All of this is for a grade!! So, take your time on the assignment! This assignment should be spread over the duration of the extension. This activity should take no less than an hour. **Please make sure you include the answer to the question! You will be asking them on the calls!!**

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Sentencing

How will you be judged

Sentence Hearing: 1450

Defendant was caught shoplifting from Jasmine's Clothing Store. The defendant stole several items of clothing, including a \$45 sweater and a \$65 pair of pants. This is the defendant's first offense. The store owner is asking for full restitution of the items in question.

Prosecutor: What are the recommendations of the state.

Defense: What are the recommendations by the defense

Suspended Sentence

- Sentence is given but does not have to be served at the time imposed.
- They may have to serve the sentence if they are arrested on another charge or violate their probation.



Types of Suspended Sentence

- **Unconditionally suspended sentence:**
 - Ends the courts involvement in the sentence
 - Charge appears on the persons record but no jail time
- **Conditionally suspended sentence:**
 - Withholds execution of the sentence as long as they meet good behavior and do not break another law.

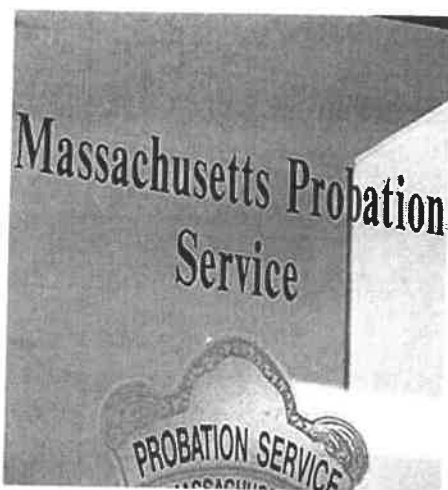
Sentence Hearing 1451A

The defendant was arrested for drunk driving on Centennial Road. The defendant was driving radically and was speeding. The defendant was clocked going 15mph over the designated speed limit. This is the first offense for the defendant.

Prosecution: What is the recommendation

Defense: What is the recommendation

Probation



- The defendant is released to the supervision of a probation officer after agreeing to follow certain conditions including:
 - Getting a job
 - Staying drug free
 - Not traveling outside of the area during the probation period.

Sentence Hearing 1452B

The defendant a member of the business community has been convicted for Fraud and Securities violations. The Defendant has been convicted of insider trading and violation of ethics by taking people's money The total worth of the money stolen is \$26million. The defendant has agreed to make restitution in the amount of \$10million

Prosecution: Recommendation?

Defense: Recommendation ?

Home Confinement

- The defendant is sentenced to serve the term at home.
- Allowed to leave for:
 - Dr.'s Appointments
 - Work
 - School
- Sometimes required to wear an electronic monitoring device
- Monitored by probation Officer



Types

- **Pretrial** programs use home confinement as an alternative to detention to ensure that individuals appear in court.
- **Postadjudication** programs use home confinement as a sanction that is more severe than regular supervision but less restrictive than incarceration

Hearing 1426

The defendant was caught speeding and running a traffic light on the corner of Sylvania and King. The defendant was going over 20mph through the intersection. The police say that the defendant was driving dangerously.

Prosecution: Recommendation

Defense: Recommendation

Fine



- The defendant must pay the government an amount of money set by the court.

Hearing 1569

The defendant a large pharmaceutical company was found negligent in a bad packaging that resulted in the death of 4 children. The plaintiffs are not seeking a dollar amount but an apology from the pharmaceutical company.

Plaintiff: Recommendation

Defense: Recommendation

Restitution

- The defendant is required to pay back or make up for whatever loss or injury was caused to the victim of the crime



Hearing 1345

The defendant has been convicted of armed robbery and is ready to be released back into society. He has finished 6 months of a five year sentence. He is being brought to the courtroom today to have a hearing about what is to happen to the defendant.

Prosecutor: Recommendations

Defense: Recommendations

Work Release



- The defendant is allowed to work in the community but must return to prison at night or on the weekend

Hearing 1458

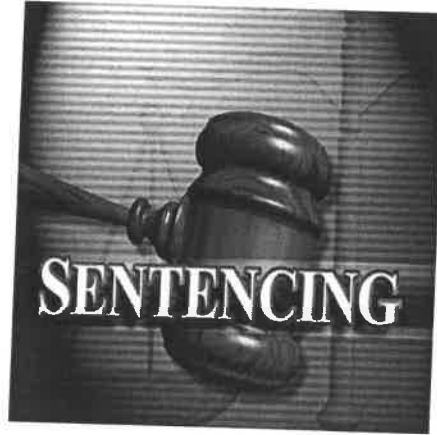
The defendant has been convicted of armed robbery. This is his 5th offense in the last 6 years. The other crimes include petty theft and shoplifting. The defendant has stolen from his family and others in his neighborhood. He has been convicted of aggravated robbery.

Defense: Recommendation

Prosecution: Recommendation

Imprisonment

- The defendant is sentenced to a term in jail.
- Some states require that a definite sentence be given, in which case the judge specifies the exact amount of time to be served.
- Some states provide for an **Intermediate Term**
 - The sentence is stated not as a specific number of years but a minimum or maximum
 - Some cases will allow misdemeanors sentences on the weekends



Hearing 1754M

The defendant has been convicted of murder 1. The defendant has been convicted of murdering three people in a convince store robbery. The defendant walked into the store and held up the clerk. The clerk was emptying the register when a customer attempted to be a hero. The defendant shot the customer, then shot another customer in the store and finally the clerk. All of which was caught on tape.

Prosecution: Recommendation

Defense: Recommendation

Death



- The defendant is sentenced to die for his or her crime.
- In many states and in the federal court system, judges have the option of handing down the penalty for the most heinous offenses

What juries and judges are to consider

- | | |
|---|--|
| <ul style="list-style-type: none"> • Aggravating Circumstances: factors that suggest a more severe punishment is appropriate <ul style="list-style-type: none"> • Particularly: <ul style="list-style-type: none"> • Gruesome murders • Crimes involving children • Previous convictions | <ul style="list-style-type: none"> • Mitigating Circumstances: factors that suggest that a less severe punishment is appropriate <ul style="list-style-type: none"> • Examples include: <ul style="list-style-type: none"> • The defendant's age • No criminal record • Abuse |
|---|--|

The Purpose of Punishment

- One time the purpose of punishment was **retribution**
 - An eye for an eye and a tooth for a tooth
- Instead the individual taking revenge society does
- **Deterrence:** the idea is that by punishing the criminal for their crime causes them not to want to commit the crime but also keeps others from wanting to commit the crime.

Purpose continued

- **Rehabilitation:** helping a convicted persons change their behavior so that they can lead a useful and productive lives.
 - They can overcome the problems that brought them there
 - Psychological
 - Social
 - Educational
- **Incapacitation:** this means that the criminal is physically separated from the community and the community is protected
 - No threat to society

Parole

- The actual length of the sentence depends whether parole is granted to the defendant.
 - Parole is a right not a privilege
 - Not every inmate that goes before a parole board does not receive parole
 - No parole in Federal



The Death Penalty

- The most serious punishment that one can get.
- The first person to be executed was by hanging in 1630
- Was reserved for certain minor crimes but by 1977 it was only for murder
 - Could not execute for rape



Capital Punishment Cases

See Handout

- *Furman V. Georgia*
- *Gregg V. Georgia*
- *Woodson V. North Carolina*
- *Witherspoon V. Illinois*
- *Coker v. Georgia*
- *Edmund v. Florida*
- *Ford v. Wainwright*
- *Herrera v. Collins*
- *Atkins v. Virginia*
- *Roper v. Simmons*

NAME: _____ DATE: _____ PERIOD: _____

PERSONAL LAW

The Trial Process – Worksheet

Directions: After taking notes use them to answer the following questions in complete sentences.

1. What is the purpose of a trial?

2. Describe at least one alternative to the trial process.

3. List three kinds of evidence and tell the difference.

4. Explain the "burden of proof" rule for a civil case.
 - How does this differ from a criminal case?

 - Who has the "burden of proof" in most cases?

5. Name the parties to a case in a civil trial.

6. Name the parties to a case in a criminal trial.

7. Explain the roles of the following persons at a trial:
 - Attorneys:

 - Judge:

 - Jury:

NAME: _____ DATE: _____ PERIOD: _____

Steps in a Trial – Worksheet

Place the following steps (letters "a" through "n") in a trial in order next to the numbers.

- | ORDER | STEPS IN A TRIAL |
|--------------|--|
| 1. _____ | a. closing argument by the plaintiff's attorney or prosecutor |
| 2. _____ | b. opening argument by the plaintiff's attorney or prosecutor |
| 3. _____ | c. closing argument by defendant's attorney |
| 4. _____ | d. opening argument by defendant's attorney |
| 5. _____ | e. cross examination of plaintiff's or prosecutor's witnesses |
| 6. _____ | f. direct examination of plaintiff's or prosecutor's witnesses |
| 7. _____ | g. cross examination of defendant's witnesses |
| 8. _____ | h. direct examination of defendant's witnesses |
| 9. _____ | i. opening of the court |
| 10. _____ | j. verdict |
| 11. _____ | k. rebuttal argument by plaintiff's attorney or prosecutor |
| 12. _____ | l. swearing in of the jury |
| 13. _____ | m. deliberations by the jury |
| 14. _____ | n. judge's final instructions to the jury |
-

Name: _____ period: _____

MOCK TRIAL ASSIGNMENT



Role Assigned: *Prosecutor*

Directions: I will assign the role of either the defense attorney or prosecution for one of the cases assigned to you. Your job is to answer the following questions in complete sentences. This will be instead of you conducting a mock trial.

1. What role was assigned to you? Will this be difficult or easy explain?
2. What are the facts of the case?
3. What relevant information is provided? How helpful is it?
4. What irrelevant information is provided? How unhelpful is it?

Name: _____ period: _____

5. Who are your witnesses? What information do they provide?

6. Write 10 questions for each witness that you would ask. (using your role, you choose)
Include their possible answers to them.

Format

Witness Name:

Questions:

Name: _____ period: _____

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Witness Name:

Questions:

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Name: _____ period: _____

7. What is your closing argument you would give?

8. What do you think the result of the case would be if it went to trial? Explain

9. What witnesses would you use and why?

10. What witnesses would help and hurt your case explain?

Name: _____ period: _____

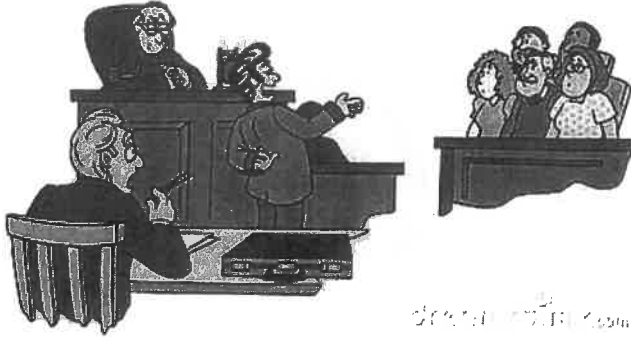
11. What do you think of the Trial Process? Why or why wouldn't you like to be attorney? Explain.

12. What is the potential impact of your case on future cases? Explain.

Name: _____ period: _____

Name: _____ period: _____

MOCK TRIAL ASSIGNMENT



Role Assigned: *Defense*

Directions: I will assign the role of either the defense attorney or prosecution for one of the cases assigned to you. Your job is to answer the following questions in complete sentences. This will be instead of you conducting a mock trial.

1. What role was assigned to you? Will this be difficult or easy explain?
2. What are the facts of the case?
3. What relevant information is provided? How helpful is it?
4. What irrelevant information is provided? How unhelpful is it?

Name: _____ period: _____

5. Who are your witnesses? What information do they provide?

6. Write 10 questions for each witness that you would ask. (using your role, you choose)
Include their possible answers to them.

Format

Witness Name:

Questions:

Name: _____ period: _____

Format

Witness Name:

Questions:

Format

Witness Name:

Questions:

Name: _____ period: _____

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Witness Name:

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Name: _____ period: _____

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Witness Name:

Questions:

Format

Witness Name:

Questions:

Name: _____ period: _____

7. What is your closing argument you would give?

8. What do you think the result of the case would be if it went to trial? Explain

9. What witnesses would you use and why?

10. What witnesses would help and hurt your case explain?

Name: _____ period: _____

11. What do you think of the Trial Process? Why or why wouldn't you like to be attorney? Explain.

12. What is the potential impact of your case on future cases? Explain.

]

Name: _____ period: _____



**Criminal Mock Trial
District Court**

State)
Prosecution)
)
v.)
)
Anderson)
Defendant)

Facts

On February 7, 2003, a University of Minnesota police officer stopped a motor vehicle traveling eastbound on University Avenue S.E. near Walnut Street in Minneapolis because he believed the driver failed to move a lane away from the parked squad car in violation of Minn.Stat. 169.18, subd.11, which requires motorists to move "a lane away" from stopped emergency vehicles. The driver has been charged with violating this law.

Minn. Stat. 169.18, subd.11 (2002) reads:

"When approaching and before passing an authorized emergency vehicle that is parked or otherwise stopped on or next to a street or highway having two or more lanes in the same direction, the driver of the vehicle shall safely move the vehicle to a lane away from the emergency vehicle."

This law, called the "Ted Foss Move Over Law" was passed by the Minnesota Legislature in 2002. Ted Foss was a State Trooper who was killed when a semi-truck accidentally crashed into his squad car and another car stopped on the side of the road.

To keep public safety personnel safe, the law requires drivers to move their cars a lane over when they are driving near an officer who is making a traffic stop.

Issue:

Did the defendant move over the required lanes when passing an emergency vehicle?

Defense:

Defendant Anderson believed he was obeying the law when he changed to the center lane while driving around the squad car.



Officer Jordon Yang, City Police Officer

State v. Anderson

Prosecution Witness Statement

I have been a police officer for seven years. On February 7, I stopped a car traveling east on University Ave. S.E. near Walnut Street. At this location, University Avenue is a one-way street with three lanes of traffic and a paved bicycle lane next to the right curb. The car pulled over to the right and stopped close to the curb. I stopped my squad car behind the car. Part of my squad car partially occupied the right lane of traffic. My flashing lights were on. I got out of my car and went to talk to the driver of the stopped car.

As I was walking back to my car after giving the driver a warning, I saw a second car driving toward me in the center lane of University Avenue. This car, driven by the defendant Matthew Anderson, had signaled a lane change and moved into the center lane to avoid me and my squad car.

I thought Mr. Anderson passed too close to me, in violation of Statute 169.18, subd. 11, because I thought it was illegal for him to pass my stopped squad car without leaving a "buffer lane of traffic" between my car and his car. I immediately got into my squad car and followed Anderson, pulling him over to give him a ticket.

Al Schriver, driver of the first car

State v. Anderson

Prosecution Witness Statement

I was headed east on University Avenue near Walnut Street on February 7 when I noticed a squad car behind me. The emergency lights were flashing. I quickly pulled over to the right side of the road, next to the curb. The officer pulled in behind me and parked. I parked my car as close to the curb as I could get. The squad car extended into the traffic lane a little bit.

The officer walked up to my car and talked to me. He explained that the air freshener hanging from my rear view mirror obstructed my view and that it is against the law. I was very relieved that he gave me a warning and not a ticket.

I was watching in the rear view mirror as he walked back to his squad car. I noticed another car change lanes from the right to the middle lane to get around us. After the car passed, the police officer pulled into the traffic lane. He followed the other car for a short while and then turned on his flashing lights and pulled him over. A few moments later, I drove by them both.



Matthew Anderson, Defendant

State v. Anderson

Defense Witness Statement

I was driving east on University Avenue. I was traveling in the right lane. Near the intersection of Walnut and University I saw a squad car about a half block ahead on the right side of the road. The police had pulled someone over. The squad car was sticking out a bit into the right lane and the emergency lights were flashing. I turned on my left signal and moved into the center lane to safely drive around the police car and the stopped car.

The next time I looked in my rear view mirror, I noticed the squad car's flashing lights. I immediately pulled over. I wasn't even sure that the police were stopping me. I did not know what I had done wrong. The police officer gave me a ticket for not moving over another lane.

I know that there is a state law that requires that drivers move over so that police officers don't get hurt. I thought that I was obeying the law. I believe I am not guilty because I was in the "lane away" even though it wasn't in the furthest lane.

Aiden Martinez, bicyclist

State v. Anderson

Defense Witness Statement

I am a student at the University. I was riding my bike east on University Avenue on February 7, an unusually nice winter day. I was riding in the bike lane on the right side of the road. Just before I reached Walnut Street, I had to slow down because there was a squad car parked behind another car and they were both parked in the bike lane. The squad car stuck out a bit into the traffic lane but the other car was close to the curb. When I turned my head to see if it was safe to move into the lane of traffic to get around the cars, I had to wait for a car driven by the defendant as it changed lanes to move from the right lane into the center lane so that it could drive around the cars. After the defendant's car went by me, I drove around the cars.

Moments later the squad car passed me with its emergency lights on. I was pretty surprised to see the officer pull the defendant over. I didn't see what happened next.



After Evidence Is Presented

Members of the jury, you have heard all of the testimony concerning this case. It is now up to you to determine the facts. You, and you alone, are the judges of the facts. You will then have to apply the facts to the law as I give it to you.

The prosecution must set out such a convincing case against the defendant that the jury believes “beyond a reasonable doubt” that the defendant is guilty.

The Law: Minnesota Statute §169.18 (2002)

When approaching and before passing an authorized emergency vehicle that is parked or otherwise stopped on or next to a street or highway having two or more lanes in the same direction, the driver of the vehicle shall safely move the vehicle to a lane away from the emergency vehicle.



Criminal Mock Trial District Court

State)
Prosecution)
)
v.)
)
Alli)
Defendant)

Facts

There has been an increase in drug abuse in Jackson School. Three students were recently caught possessing large amounts of marijuana and other drugs with intent to sell to other students. They are currently being held in a juvenile detention center.

The school administrators hired an investigator to look into the problem. The investigator, Norman Tilman, decided random searches of lockers and student belongings would reduce the problem.

Mr. Tilman performed the searches for many days and found no signs of drugs. On Tuesday, April 22, Mr. Tilman began another search. The lockers, backpacks, and purses of ten students were searched. Matt and Alli were two of the students whose belongings were searched. Mr. Tilman searched Alli's backpack which she had purchased at a garage sale on Saturday, April 19. Mr. Tilman found a small amount of marijuana in a zippered compartment on the inside of the backpack. Alli claims to know nothing about the marijuana. She is now being charged with possession of marijuana.

Issue:

Did the marijuana in Alli's backpack belong to her?

Defense:

Alli purchased the backpack from people who had been known to use marijuana in the past. Alli claims the marijuana must have been placed in the backpack before she purchased it and that she knows nothing about it.



Mr. Tilman, Private Investigator

Mini-Mock Trial *State v. Alli*
Prosecution Witness Statement

I have been a private investigator for ten years. Before that, I was a police officer for seven years. In the last five years, I have worked with many schools in trying to solve the drug problems. I recommended to the administrators at Jackson School to start searching the lockers and student belongings. I believe this helps to reduce the drug use in the schools.

On April 22, I was searching ten students' lockers and belongings. When I reached Alli's backpack, I found a small amount of marijuana in a zippered compartment in the inside of the backpack. It was a good place to hide the marijuana, because the inside compartment is hard to see and I almost missed it. I asked Alli if the marijuana was hers. She said she didn't know anything about the stuff. She was very embarrassed.



Matt, Classmate

Mini-Mock Trial *State v. Alli*
Prosecution Witness Statement

I was one of the ten students in the search. Mr. Tilman went through my locker and my backpack before he searched Alli's things. I was standing next to Alli. She seemed nervous when Mr. Tilman started the search. I saw Mr. Tilman pull the marijuana out of Alli's backpack. She said "Oh no!" and then said she didn't know anything about it.

I have been going to school with Alli since I moved to this city four years ago. As far as I know, Alli has never been in trouble. She has a few friends who get into trouble, but she's a good kid.



Sandy, Science Partner

Mini-Mock Trial *State v. Alli*
Prosecution Witness Statement

I am Alli's science partner. We do all of our experiments together. Recently, Alli hasn't been completing her parts of the assignments. She blames it on all of the other school activities she is involved in. I think she has some other problems. She seems confused when she is in class. In fact, last week, she made some mistakes in a chemistry experiment which caused a small explosion. No one was hurt and there was no danger, but I was pretty scared. Alli and I have been friends for a long time.



Alli, Defendant

Mini-Mock Trial *State v. Alli*
Defense Witness Statement

I know nothing about the marijuana that was found in my backpack on April 22. I purchased the backpack at a garage sale on Saturday, April 19. The sale was at the house of a group of adults who have lived there since they graduated from college in 1976. I went to the sale with my cousin, Rob, who lives next door to the house. The backpack was in good shape, and very cheap, so I bought it. I never dreamed it would get me into this much trouble.

I am a good kid. I have never been in trouble before, except for being asked to leave class because I was talking too much. I am involved in lots of extra activities. I am on the dance line, play clarinet in the band, and am a member of the girls track team. I work part time at a neighborhood grocery store.



Rob, Alli's Cousin

Mini-Mock Trial *State v. Alli*
Defense Witness Statement

I was with Alli when she bought the backpack. We found it at a garage sale next door to my house. The house is owned by a bunch of adults who used to be "hippies." I remember when they had lots of very loud parties that would end when the police came to break them up. Once my mom helped one of the men fix the lawnmower and they offered her some marijuana as a thank you.

My cousin never gets into trouble. She doesn't use drugs.



Ms. Swanson, Band Director

Mini-Mock Trial *State v. Alli*
Defense Witness Statement

I am the band director. I have had Alli in my music class and in the band for several years. She is very talented and hard working. She spends much of her free time practicing with a few of the other students. I have noticed recently that she seems a bit distracted, but that's normal in the spring. I don't think Alli uses drugs.



After Evidence Is Presented

Members of the jury, you have heard all of the testimony concerning this case. It is now up to you to determine the facts. You, and you alone, are the judges of the facts. You will then have to apply the facts to the law as I give it to you.

The prosecution must set out such a convincing case against the defendant that the jury believes “beyond a reasonable doubt” that the defendant is guilty.

The Law

It is a petty misdemeanor to possess or give away a small amount of marijuana. The law defines a small amount of marijuana as 42.5 grams (approximately 1.5 ounces) or less. For the first offense, the court may fine the person up to \$300 and require him or her to participate in a drug rehabilitation program.



Reckless/Careless Driving Mock Trial
District Court

State)
Prosecutor)
v.)
Max Paulson)
Defendant)

Facts

On April 23 at approximately 7 p.m., an automobile driven by Max Paulson made a left turn from the northbound lane of Elm Street to Third Avenue, colliding in the crosswalk with a bicycle ridden by Sam Smith, throwing Sam Smith across the street, breaking his leg. Max Paulson is charged with violating Minn. Stat. 169.13 Reckless or Careless Driving.



Officer Mike Rudy

Mini-Mock Trial *State of Minnesota v. Max Paulson*
Prosecution Witness Statement

The intersection of Elm Street and Third Avenue is probably the busiest intersection in our town. There are a lot of cars and a lot of people on the sidewalk and shopping in the nearby stores. Because of this, the city council decided last year that bicycling on the sidewalk is not safe in the downtown area. Signs saying "No bicycles on the sidewalk" were placed on every other block. There is not one on the intersection of Elm and Third, but there is one at Elm and Second. There is also a manufacturing plant nearby that causes major traffic and safety problems. The folks who work there race to get home and sometimes are not careful about watching for pedestrians in the crosswalk. We have had several near accidents recently. On April 23, Max Paulson was driving home after work. Like all of the rest, he was in a hurry to make the turn onto Third Avenue. He made a turn between two cars that required him to accelerate very quickly to get out of the way of the oncoming traffic. The accident investigation found black tire marks on Elm Street where he started his turn. There was no evidence that he tried to slow down before he hit the bicyclist. The force threw the bicyclist across the street. I was in my squad car waiting to enter Third from a parking lot.



Sam Smith, Accident Victim

Mini-Mock Trial *State of Minnesota v. Max Paulson*
Prosecution Witness Statement

I am 17 years old. On April 23, I was riding my bike south on the sidewalk on Elm Street. I was in a hurry because it was starting to get dark and I don't have a light on my bike. I rode past the Speedy Mart, the hardware store and the drug store. I was riding on the sidewalk because the traffic was heavy. There were a few people walking on the sidewalk so I had to weave in and out so I wouldn't hit them. When I looked at the traffic light it was green so I rode into the intersection in the crosswalk. Before I knew it, I was hit by a car that was turning from Elm Street onto 3rd Avenue. I only remember thinking "I'm gonna die." I woke up in the ambulance with a badly broken leg. I had surgery to put pins in my leg to help it heal. It still hurts sometimes.



Eric Featherstone

Mini-Mock Trial *State of Minnesota v. Max Paulson*
Prosecution Witness Statement

I was riding bikes with my friend Sam Smith. It was starting to get dark so we decided to head home. We rode together from the park down Second Avenue toward Elm Street. At Elm Street we separated. Sam turned right, and I turned left. I didn't know anything had happened to Sam until I got home and his dad called me to see if Sam was at my house. I guess the hospital called his dad a couple of minutes later.



Max Paulson, Defendant

Mini-Mock Trial *State of Minnesota v. Max Paulson*
Defense Witness Statement

I am 19 years old. I am a good driver. I have never had a ticket or been involved in a car accident. On April 23 I was driving home from work on Elm Street, going north. I got to 3rd Avenue and signaled my left turn as I do every day. There were a lot of cars driving south on Elm. I waited a long time for an opening. Finally, a gap in the traffic occurred letting me turn left. It was only a brief break in the traffic so I made a quick turn. I was surprised, and frankly somewhat embarrassed, when my tires squealed because of my quick turn. The next thing I remember is hitting this bike that came out of nowhere. I mean, one minute I looked and the intersection was clear and the next minute I hit a bike. I am very sorry, but I think the bicyclist is partly to blame.



Sara Firestone

Mini-Mock Trial *State of Minnesota v. Max Paulson*
Defense Witness Statement

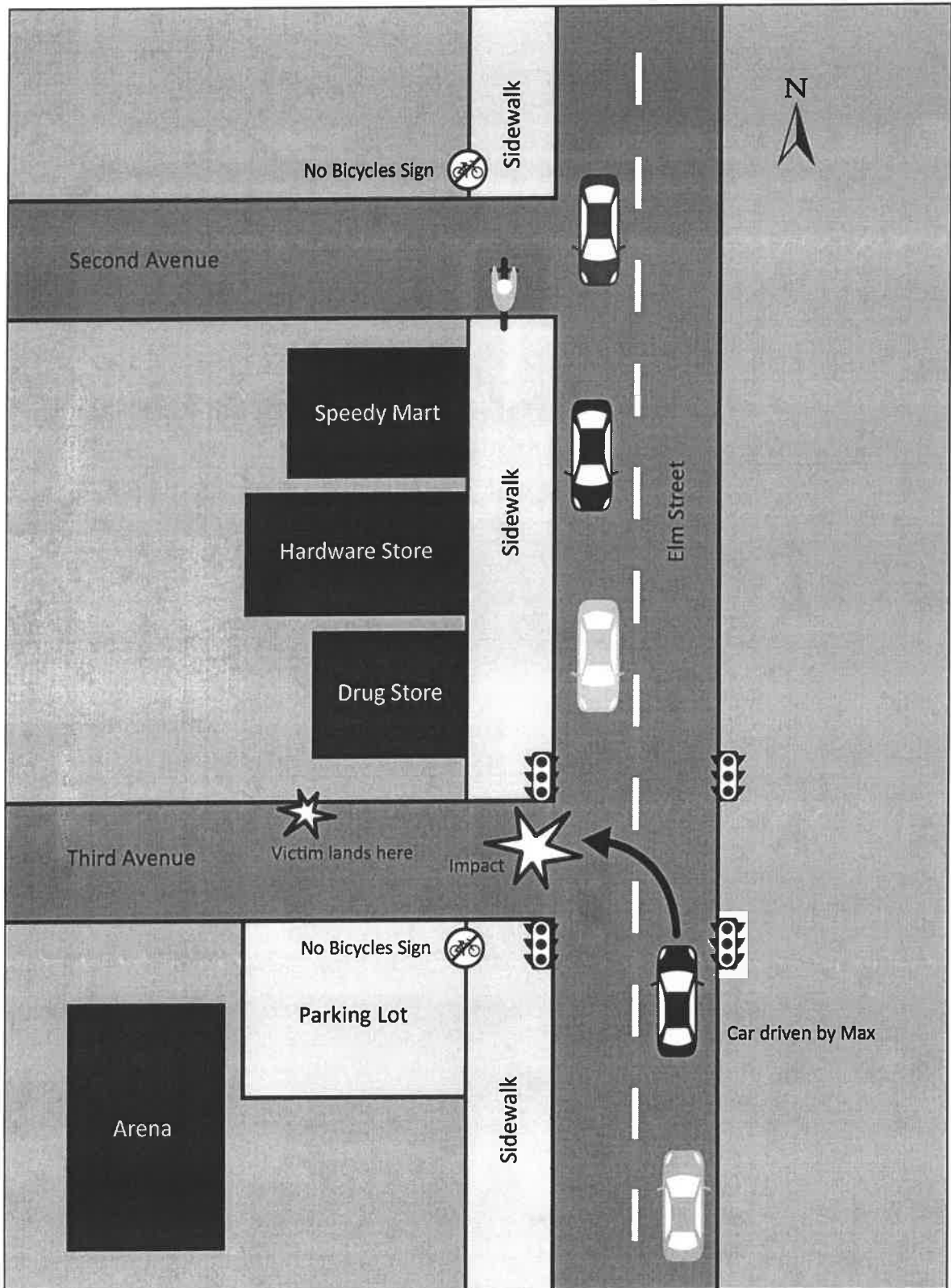
I was shopping on April 23 just after dinner. I picked up a few items at the Speedy Mart and a prescription at the drug store. When I came out of the drug store I was nearly hit by a bike driven by Sam Smith. Sam was riding on the sidewalk in a fast, rather reckless manner. I didn't think it was legal to ride bikes on the sidewalk downtown. I think I have seen some signs about it. Sam raced by me and entered the intersection, riding in the crosswalk. The light was green. There was a lot of traffic, especially on Elm Street. I heard the tires of a car squeal as it turned from Elm onto 3rd Avenue and hit him. He was thrown across the street, almost hitting a light pole. I ran inside to call 911. Sam was not wearing reflective clothing. I remember thinking that because I had just purchased some reflector tape to put on the jacket that my daughter wears when she rides her bike.



Cynthia Murray

Mini-Mock Trial *State of Minnesota v. Max Paulson*
Defense Witness Statement

I am the director of the Minnesota Bike Safety Project. As part of my job, I run a bike camp where young people learn how to ride their bikes safely. I have been doing this for seven years. During the camp, we focus on the rules of the road, which include getting off of your bike and walking when you are going to cross the street in a pedestrian crosswalk. Also, under Minnesota law, a person may not ride a bike upon a sidewalk within a business district unless permitted by local authorities. If a person doesn't obey the bike laws, he or she can be given a ticket, much like a driver of a car gets a ticket.





Before Evidence Is Presented

Members of the jury, you are to decide this case solely on the evidence presented here in the courtroom. This evidence includes the testimony of witnesses and any documents that are entered into the court record. You will not use any objections made by the lawyers and arguments concerning the objections, testimony that the court tells you to disregard, or anything you may have seen or heard outside the courtroom.

During this trial you are going to hear testimony of witnesses, and you will have to make judgments about the believability of the witnesses. I ask you to be patient, and listen carefully to the testimony of all the witnesses, and keep it all in mind until you hear the entire case. In making your decision, rely on your own experience, your own judgment, and your own common sense.

If at any time during the trial you are unable to hear, please raise your hand. The parties will be asked to speak up.

After Evidence Is Presented

Members of the jury, you have heard all of the testimony concerning this case. It is now up to you to determine the facts. You, and you alone, are the judges of the facts. You will then have to apply the facts to the law as I give it to you.

The law in this case involves: ►

If you find Mr. Paulson guilty of Reckless or Careless Driving you will be finding in favor of the State. If you find Mr. Paulson not guilty of Reckless or Careless Driving, you will be finding in favor of Mr. Paulson. You must all agree on the verdict.

Minnesota Statute 169.13 Reckless or Careless Driving

Subdivision 1

Reckless driving.

Any person who drives any vehicle in such a manner as to indicate either a willful or a wanton disregard for the safety of persons or property is guilty of reckless driving and such reckless driving is a misdemeanor.

Subdivision 2

Careless driving.

Any person who operates or halts any vehicle upon any street or highway carelessly or heedlessly in disregard of the rights of others, or in a manner that endangers or is likely to endanger any property or any person, including the driver or passengers of the vehicle, is guilty of a misdemeanor.

Minnesota Statute 609.02 Definitions

Subdivision 1 Misdemeanor.

“Misdemeanor” means a crime for which a sentence of not more than 90 days or a fine of not more than \$1,000, or both, may be imposed.



M.S.A. 169.13 Reckless Driving

If you find that each of these three elements has been proved beyond a reasonable doubt, defendant is guilty of reckless driving. If you find that any of these elements has not been so proved, defendant is not guilty.

- Defendant was the driver of a vehicle.
- Manner in which defendant drove the vehicle indicated either a willful or wanton disregard for the safety of either persons or property. This means conscious and intentional driving which defendant knows, or should know, creates an unreasonable risk of harm to others. Defendant need not have intended, however, to cause harm.
- Defendant's act took place on April 23 in the State of Minnesota.

M.S.A. 169.13 Careless Driving

If you find that each of these three elements has been proved beyond a reasonable doubt, defendant is guilty of careless driving. If you find that any of these elements has not been so proved, defendant is not guilty.

- Defendant operated a vehicle.
- Defendant drove the vehicle carelessly or heedlessly in disregard of the rights of others, or in a manner that endangers or is likely to endanger any property or any person, including the driver. [That is to say that defendant was negligent in the operation of the vehicle. The defendant was negligent if the defendant failed to use such care as a reasonable person would use under similar circumstances.]
- Defendant's act took place on April 23 in the State of Minnesota.

©



**Criminal Mock Trial
District Court**

State)
Prosecution)
)
v.)
)
Alli)
Defendant)

Facts

There has been an increase in drug abuse in Jackson School. Three students were recently caught possessing large amounts of marijuana and other drugs with intent to sell to other students. They are currently being held in a juvenile detention center.

The school administrators hired an investigator to look into the problem. The investigator, Norman Tilman, decided random searches of lockers and student belongings would reduce the problem.

Mr. Tilman performed the searches for many days and found no signs of drugs. On Tuesday, April 22, Mr. Tilman began another search. The lockers, backpacks, and purses of ten students were searched. Matt and Alli were two of the students whose belongings were searched. Mr. Tilman searched Alli's backpack which she had purchased at a garage sale on Saturday, April 19. Mr. Tilman found a small amount of marijuana in a zippered compartment on the inside of the backpack. Alli claims to know nothing about the marijuana. She is now being charged with possession of marijuana.

Issue:

Did the marijuana in Alli's backpack belong to her?

Defense:

Alli purchased the backpack from people who had been known to use marijuana in the past. Alli claims the marijuana must have been placed in the backpack before she purchased it and that she knows nothing about it.



Mr. Tilman, Private Investigator

Mini-Mock Trial *State v. Alli*
Prosecution Witness Statement

I have been a private investigator for ten years. Before that, I was a police officer for seven years. In the last five years, I have worked with many schools in trying to solve the drug problems. I recommended to the administrators at Jackson School to start searching the lockers and student belongings. I believe this helps to reduce the drug use in the schools.

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Matt, Classmate

Mini-Mock Trial *State v. Alli*
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I was one of the ten students in the search. Mr. Tilman went through my locker and my backpack before he searched Alli's things. I was standing next to Alli. She seemed nervous when Mr. Tilman started the search. I saw Mr. Tilman pull the marijuana out of Alli's backpack. She said "Oh no!" and then said she didn't know anything about it.

I have been going to school with Alli since I moved to this city four years ago. As far as I know, Alli has never been in trouble. She has a few friends who get into trouble, but she's a good kid.



Sandy, Science Partner

Mini-Mock Trial *State v. Alli*
Prosecution Witness Statement

I am Alli's science partner. We do all of our experiments together. Recently, Alli hasn't been completing her parts of the assignments. She blames it on all of the other school activities she is involved in. I think she has some other problems. She seems confused when she is in class. In fact, last week, she made some mistakes in a chemistry experiment which caused a small explosion. No one was hurt and there was no danger, but I was pretty scared. Alli and I have been friends for a long time.



Alli, Defendant

Mini-Mock Trial *State v. Alli*
Defense Witness Statement

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I am a good kid. I have never been in trouble before, except for being asked to leave class because I was talking too much. I am involved in lots of extra activities. I am on the dance line, play clarinet in the band, and am a member of the girls track team. I work part time at a neighborhood grocery store.



Rob, Alli's Cousin

Mini-Mock Trial *State v. Alli*
Defense Witness Statement

I was with Alli when she bought the backpack. We found it at a garage sale next door to my house. The house is owned by a bunch of adults who used to be "hippies." I remember when they had lots of very loud parties that would end when the police came to break them up. Once my mom helped one of the men fix the lawnmower and they offered her some marijuana as a thank you.

My cousin never gets into trouble. She doesn't use drugs.



Ms. Swanson, Band Director

Mini-Mock Trial *State v. Alli*
Defense Witness Statement

I am the band director. I have had Alli in my music class and in the band for several years. She is very talented and hard working. She spends much of her free time practicing with a few of the other students. I have noticed recently that she seems a bit distracted, but that's normal in the spring. I don't think Alli uses drugs.



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