



Constitutional  
Rights  
Foundation  
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# *People v. Hayes*

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A Murder Trial

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**Featuring a pretrial argument on the Fifth Amendment**

OFFICIAL MATERIALS FOR  
THE CALIFORNIA MOCK TRIAL COMPETITION  
A Program of Constitutional Rights Foundation

Co-Sponsored by:  
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Alameda	Los Angeles	Nevada	San Joaquin	Stanislaus
Butte	Madera	Orange	San Luis Obispo	Tulare
Contra Costa	Marin	Placer	San Mateo	Ventura
El Dorado	Mendocino	Riverside	Santa Barbara	Yolo
Fresno	Merced	Sacramento	Santa Clara	
Imperial	Mono	San Bernardino	Santa Cruz	
Kern	Monterey	San Diego	Shasta	
Lake	Napa	San Francisco	Sonoma	

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## PROGRAM OBJECTIVES

**For the students**, the Mock Trial program will:

1. Increase proficiency in basic skills (reading and speaking), critical-thinking skills (analyzing and reasoning), and interpersonal skills (listening and cooperating).
2. Develop an understanding of the link between our Constitution, our courts, and our legal system.
3. Provide the opportunity for interaction with positive adult role models in the legal community.

**For the school**, the program will:

1. Provide an opportunity for students to study key legal concepts and issues.
2. Promote cooperation and healthy academic competition among students of varying abilities and interests.
3. Demonstrate the achievements of young people to the community.
4. Provide a hands-on experience outside the classroom from which students can learn about law, society, and themselves.
5. Provide a challenging and rewarding experience for teachers.

## CODE OF ETHICS

All participants in the Mock Trial competition must follow all rules and regulations as specified in the California Mock Trial materials or disseminated by CRF staff or County Coordinators. Failure of any member or affiliate of a team to adhere to the rules may result in disqualification of that team.

All participants also must adhere to the same high standards of scholarship that are expected of students in their academic performance. Plagiarism\* and scouting of any kind is unacceptable. Students' written and oral work must be their own.

In their relations with other teams and individuals, students must make a commitment to good sportsmanship in both victory and defeat.

Encouraging adherence to these high principles is the responsibility of each team member and teacher sponsor. Any matter that arises regarding this code will be referred to the teacher sponsor of the team involved.

\*Webster's Dictionary defines plagiarism as, "to steal the words, ideas, etc. of another and use them as one's own."

## 2015-2016 CALIFORNIA MOCK TRIAL PROGRAM

Each year, Constitutional Rights Foundation creates the Mock Trial for students across the state of California. The case provides students an opportunity to wrestle with large societal problems within a structured forum and strives to provide a powerful and timely educational experience. It is our goal that students will conduct a cooperative, vigorous, and comprehensive analysis of these materials with the careful guidance of teachers and coaches.

The lesson and resources included in this packet offer schools and teachers additional methods to expand and deepen the educational value of the Mock Trial experience. We encourage all participants to share these resources with their colleagues for implementation in the classroom. We hope that by participating in the lesson and the Mock Trial program, students will develop a greater capacity to deal with the many important issues identified in *People v. Hayes*.

The following lesson concerns the 5<sup>th</sup> Amendment, in the lesson, students examine the 5<sup>th</sup> Amendment and its application to confessions and interrogations. In the activity, students analyze case scenarios and use case precedent to determine if the scenario violated the defendants 5<sup>th</sup> amendment rights. This lesson is for information purposes only and cannot be used in the competitions' pretrial argument.

### CLASSROOM DISCUSSION MATERIALS

#### Interrogation and Confessions

*We have learned the lesson of history, ancient and modern, that a system of criminal law enforcement which comes to depend on the "confession" will, in the long run, be less reliable and more subject to abuses than a system which depends on extrinsic evidence independently secured through skillful investigation.*

— Justice Arthur Goldberg, *Escobedo v. Illinois* (1964)

Another important area of criminal procedure comes from the Fifth Amendment to the U.S. Constitution. Part of this amendment says "(no) person . . . shall be compelled in any criminal case to be a witness against himself. . . ." This means that unless you agree to talk to the police, they may not force you to answer questions about a crime they think you committed. Unlike the Fourth Amendment, which balances your right to privacy against the police's need to act, your Fifth Amendment right not to talk to police is absolute. If you invoke it, the police may not legally make you talk.

The Supreme Court did not apply the Fifth Amendment to the states until 1964. But even before this, it struck down cases where confessions were not made voluntarily. The court determined that these cases violated the due process clause of the 14th Amendment. This clause declares that no "State shall deprive any person of life, liberty, or property, without due process of law. . . ." Due process of law guarantees fair procedures and

basic liberties. Among the cases that the court struck down as violating due process were:

- ***Brown v. Mississippi (1936)***. Trying to get a confession, deputies hung the defendant from a tree twice. Then they whipped him. Whipping him a second time, they told him they would not stop until he confessed, which he finally did. Then they took him to jail.
- ***Ward v. Texas (1942)***. So that no friend or attorney could contact the defendant, the police took him out of the county to three different jails in three days. Questioned continuously, the defendant at one point said he would make whatever statement the police wanted even though he claimed not to have committed the crime. Finally, he confessed.
- ***Ashcraft v. Tennessee (1944)***. Police put the defendant in an interrogation room on Saturday night at 7 p.m. and questioned him in relays so they would not get tired. On Monday at 9:30 a.m., the defendant confessed. During the 36-hour interrogation, police had given the defendant only one five-minute break.
- ***Malinski v. New York (1945)***. Instead of taking the defendant to jail, police took him to a hotel room. They told him to remove his clothes. They questioned him for three hours while he was naked. Then, allowing him to put on his underwear, they questioned him for seven more hours until he confessed. Then, after letting him dress, they took him to jail.
- ***Leyra v. Denno (1954)***. After questioning the defendant for days and allowing him little sleep, police brought in a doctor trained in hypnosis. The police had wired the room so they could listen in. During his one-and-one-half hour visit, the doctor repeatedly suggested that the defendant confess. Eventually the defendant did. The doctor then brought officers into the room and had the defendant repeat the confession.
- ***Spano v. New York (1959)***. Although the defendant refused to talk and asked for his lawyer, police continued to question him for eight straight hours. Police sent in a childhood friend, a policeman with four children, who falsely told the defendant he would be fired unless the defendant confessed, which he ultimately did.
- ***Lynum v. Illinois (1963)***. Police told the defendant that if she confessed, nothing would happen to her, but if she did not, her children would be taken away from her. She confessed.

It wasn't until 1964, in *Malloy v. Hogan*, that the Supreme Court ruled that the Fifth Amendment protection against self-incrimination applied to the states. But courts still faced the difficult task of determining on a case-by-case basis whether confessions were coerced or voluntary. So in 1966, in the landmark case of *Miranda v. Arizona*, the Supreme Court laid down clearer guidelines for police and courts to follow.

## ***Miranda v. Arizona* (1966)**

In this case, Ernesto Miranda was arrested at his home and taken to a police station. A witness identified him, and two detectives took him into a special room. After two hours of interrogation, the officers got Miranda to sign a written confession.

At his trial, Miranda was convicted of kidnapping and rape and was sentenced to 20 to 30 years in prison. But police had never told him of his right not to talk to them. He had never been told of his right to a lawyer. These rights are guaranteed by the Fifth and Sixth amendments. When the Supreme Court heard this case, it decided that any interrogation of suspects in custody is unconstitutional unless the police clearly tell suspects before any questioning begins that:

- They have the right to remain silent.
- Anything they say may be used against them in court.
- They have a right to a lawyer.
- If they want a lawyer but can't afford one, the court will appoint one before any questioning.

Also, after giving these warnings, police may not go on interrogating unless suspects “knowingly and intelligently” waive their rights. That is, suspects must completely understand their rights and waive them. If police fail to do this, nothing that suspects say can be introduced as evidence against them at their trials.

The Supreme Court believed that police questioning of suspects in the station house was inherently coercive. In other words, the court believed that the station house surroundings and police interrogation put tremendous pressure on suspects to say what the police wanted them to say. It felt that the only way to prevent coerced confessions was to make sure suspects knew their rights. Thus police need to tell suspects that they do not have to say anything and that they can have a lawyer with them during questioning. The court concluded that if police do not give a suspect this information, they violate the suspect's Fifth Amendment rights.

### **For Discussion and Writing**

1. The article lists six Supreme Court decisions invalidating confessions because they violated due process — *Brown*, *Ward*, *Ashcraft*, *Malinski*, *Leyra*, *Spano*, and *Lynum*. Would you trust the confessions as being reliable in any of these cases? Explain. Would you consider any of the confessions voluntary? Why or why not?
2. What does the quotation (at the beginning of the article) from Supreme Court Justice Arthur J. Goldberg mean? Do you agree? Why or why not?
3. What are the *Miranda* warnings? When do police have to give these warnings? What are the warnings supposed to prevent? Do you agree with the decision in *Miranda*? Explain.

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## Class Activity: Taking the Fifth

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In this activity, students use their knowledge of the Fifth Amendment to argue actual cases that have come before the Supreme Court.

1. Form triads. Each student in each triad should be assigned a number — one, two, or three. All ones will role play a justice of the Supreme Court. All twos will role play defense attorneys. All threes will role play attorneys for the government. Each triad should be assigned one of the cases below — a, b, c, d, e, f, g, or h.
2. The class should regroup so students can consult with one another while preparing for the role play. Students arguing for the government should sit on one side of the room, students arguing for the defendants on the other side, and the student justices in front. Each group should follow its group's instructions, listed below.
3. Regroup into triads and begin the role play. The defense will present its case first. Each side will have two minutes to make its presentation. The justice can interrupt to ask questions. After both sides present, each justice should stand and prepare to present a decision on the case.
4. When every justice is ready, go around the room and have each justice read the facts of the case and present his or her decision and reasons for it.
5. Conclude the activity with a discussion using the debriefing questions below.

### Attorneys' Instructions

As attorneys, you are responsible for presenting the court with sound arguments supporting your side.

If you represent the government, you will argue that the incriminating statements should be allowed in evidence at the trial.

If you represent the defendant, you will argue that the incriminating statements should be excluded at trial.

Carefully read your case. Then review the section above on *Miranda* and the cases following it. How do these cases apply to your case?

To prepare your argument, write a clear, brief statement of your position. Include:

- At least one fact from the case that supports your position.
- An explanation of how that fact supports your position.
- One previous court decision that supports your position.

- An explanation of how that decision supports your position.
- One reason why your position is fair to the government or defendant.
- One reason why a court decision in your favor will benefit society.

Make an outline ordering this information so that you can include all of it in a two-minute presentation.

### Justices' Instructions

When preparing to hear arguments, Supreme Court justices review the cases and the law with their clerks and develop questions they want to ask the attorneys. Working with other justices, read each case. Take notes while you discuss the following:

- How do *Miranda* and the cases following it apply to your case?
- What questions would you like to ask the attorneys about your case?

Remember: When you decide your case, you must consider the previous Supreme Court cases interpreting the Fifth Amendment, but you are not bound by them.

## Cases

The issue in each case is the same: **Can the defendant's confession or incriminating statements be introduced in evidence at the trial?**

- Yarborough v. Alvarado (2004)***. Police ask 17-year-old Alvarado to come to the police station for an interview with a detective. His parents bring him and wait for him. For two hours, the detective questions him about a shooting. Twice during the interview, the detective asks Alvarado if he needs a break. Alvarado confesses to being involved in the shooting. The detective lets Alvarado go home with his parents.
- Illinois v. Perkins (1990)***. Police suspect that Perkins, an inmate in jail on another charge, has committed a murder. They put an undercover agent in Perkins' cell. After gaining Perkins' trust, the agent asks him if he has ever killed anyone. Perkins confesses to the murder.
- Duckworth v. Eagan (1989)***. Duckworth confessed to a crime after receiving *Miranda* warnings from police. Police had deviated from the standard warnings in one way. They had told Duckworth: "You have a right to talk to a lawyer for advice before we ask you any questions, and to have him with you during questioning. You have this right to the advice and presence of a lawyer even if you cannot afford to hire one. *We have no way of giving you a lawyer, but one will be appointed for you, if you wish, if and when you go to court.* If you wish to answer questions now without a lawyer present, you have the right to stop answering questions at any time. You also

have the right to stop answering at any time until you've talked to a lawyer." (Emphasis added.)

- d. ***Arizona v. Mauro (1987)***. Arrested for killing his son, Mauro declined to answer any questions without a lawyer. The police let his wife in to talk with him, but they conspicuously placed a tape recorder on the table between them, which recorded incriminating statements.
- e. ***Edwards v. Arizona (1981)***. Arrested for burglary, robbery, and murder, Edwards was read his rights and said he was willing to answer questions. While being questioned, he said he wanted to make a deal, but first he wanted an attorney. He was returned to his cell. The next day, other officers saw Edwards and got him to waive his Miranda rights and confess.
- f. ***Fare v. Michael C. (1979)***. Police gave *Miranda* warnings to Michael, a 16-year-old boy accused of murder. When asked if he wanted a lawyer during the interrogation, Michael asked if instead he could call his probation officer. When the police told him they would not call the probation officer right away, Michael somewhat reluctantly agreed to talk and eventually incriminated himself.
- g. ***Oregon v. Mathiason (1977)***. Weeks after a burglary, police sent Mathiason a note asking him to call. He called and made an appointment at his convenience to come into the station. On his arrival, an officer informed him he was not under arrest, but led him into a conference room. The officer falsely told Mathiason that police had found his fingerprints at the burglary scene. Mathiason confessed to the crime. The officer then let Mathiason leave without arresting him that day.
- h. ***Beckwith v. U.S. (1976)***. Arriving at Beckwith's house at 8 a.m., IRS agents asked Beckwith if they could ask him some questions. He invited them in and they interviewed him for three hours. During the interview, he made incriminating statements. He was later arrested for tax fraud.

### Debriefing Questions

1. Which of the justices' decisions expand the *Miranda* decision? Which restrict it? Why?
2. What were some strong arguments presented by the attorneys for the government for each case? What arguments would have improved their cases?
3. What were some strong arguments presented by the attorneys for the defendants? What arguments would have improved their cases?
4. What were some key questions asked by the justices? What other questions should they have asked?
5. Which decisions do you agree with? Why?

## INTRODUCTION TO 2015-2016 MOCK TRIAL COMPETITION

This packet contains the official materials required by student teams to prepare for the 35th Annual California Mock Trial Competition. In preparation for their trials, participants will use information included in the *People v. Hayes* case packet (except for the classroom discussion materials). The competition is sponsored and administered by Constitutional Rights Foundation. The program is co-sponsored by the Daily Journal Corporation and American Board of Trial Advocates.

Each participating county will sponsor a local competition and declare a winning team from the competing high schools. The winning team from each county will be invited to compete in the state finals in Sacramento, March 18–20, 2016. In May, the winning team from the state competition will be eligible to represent California at the National High School Mock Trial Championship in Boise, Idaho, May 12–16, 2016.

The Mock Trial is designed to clarify the workings of our legal institutions for young people. As student teams study a hypothetical case, conduct legal research, and receive guidance from volunteer attorneys in courtroom procedure and trial preparation, they learn about our judicial system. During Mock Trials, students portray each of the principals in the cast of courtroom characters, including counsel, witnesses, court clerks, and bailiffs. Students also argue a pretrial motion. The motion has a direct bearing on the evidence that can be used at trial.

During all Mock Trials, students present their cases in courtrooms before actual judges and attorneys. As teams represent the prosecution and defense arguments over the course of the competition, the students must prepare a case for both sides, thereby gaining a comprehensive understanding of the pertinent legal and factual issues.

Because of the differences that exist in human perception, a subjective quality is present in the scoring of the Mock Trial, as with all legal proceedings. Even with rules and evaluation criteria for guidance, no judge or attorney scorer will evaluate the same performance in the same way. While we do everything possible to maintain consistency in scoring, every trial will be conducted differently, and we encourage all participants to be prepared to adjust their presentations accordingly. Remember that the judging and scoring results in each trial are final.

### IMPORTANT

Visit our Facebook page (CRF California Mock Trial) and Twitter (@camocktrial) for all program and case updates  
[www.crf-usa.org](http://www.crf-usa.org)

# CALIFORNIA MOCK TRIAL FACT SITUATION

Central Coast University (CCU), located along the central coast of California in Anderson, is a private school with fewer than 6,000 students. Anderson has a population of less than 90,000 people, who reside mostly in single-family homes on large plots of land, many of which are surrounded by acres of farmland. This farming community is the source of a wide range of agricultural products, including: almonds, fruits, vegetables, flowers, and cotton. CCU is known for its agriculture and life science program, which is ranked third in the nation.

The university owns 3,000 acres of land in Anderson. This land includes the college campus, state-of-the-art sports facilities, student housing, a small grocery store, a restaurant, and over one thousand acres of farmland. The university property is so large that it has its own security department to patrol the campus as well as the surrounding neighborhoods.

Jamie Hayes, a student at CCU, began college in August of 2013. Jamie came to CCU on a track scholarship. During high school, Jamie placed second in pole-vaulting at the Track and Field State Championships.

Most CCU sports teams have off-campus houses located on university owned land. The track team's house was located four blocks from campus on the 2400 block of Lotus Avenue before the team's housing privileges were revoked. Many of the upperclassmen lived in the house, including Casey Barns, the co-captain of the track team.

One week before the start of the school year, all of the sports teams would participate in conditioning week. During conditioning week, the coaches would require the athletes to exercise all day for five days with very little rest. After practice, the upperclassmen would often make the rookies complete embarrassing and degrading tasks. Although CCU had taken a strong stance against hazing in recent years, many teams were able to get away with these forms of embarrassment because teammates were sworn to secrecy. Nevertheless, several upperclassmen on the track team were on a two-year probation due to an incident that occurred in 2012.

In September of 2012, the rookies were kidnapped and forced to drink one gallon of a spicy drink made of ketchup and Tabasco sauce, which was called the "ball of fire." Those that were unable to finish the challenge were publicly humiliated the next morning during conditioning practice. One of the rookies finished the "ball of fire" and became violently ill because of an allergic reaction. When the student arrived at the hospital and it was revealed that this was part of a hazing ritual, several track team members were suspended for 90 days, followed by a two-year probation, with the possibility of expulsion if there were any further hazing incidents.

During the 2013-2014 school year, campus security was called to the track team's house in response to four reported incidents. Each time, campus security guards, Lee Valdez and Sam Spencer, were on duty.

1 On April 3, 2014, Lee Valdez and Sam Spencer responded to a routine call  
2 for domestic disturbance. When they arrived at the track team’s house, they  
3 found several people fighting on the front lawn. After the security guards  
4 called the police for back up, they stepped in and broke up the fight.  
5

6 Two days after the incident, the security office received an anonymous  
7 letter in the mail. The letter stated, “Valdez, watch out! We know you want  
8 us out, and we are gonna stand up and fight.”  
9

10 On May 15, 2014 at 10:45 p.m., Lee Valdez and Sam Spencer were called to  
11 2200 block of Lotus Avenue to investigate a reported theft from several  
12 vehicles. After calling the police, Sam Spencer stayed near the cars, and Lee  
13 Valdez began walking east on Lotus Avenue.  
14

15 Across the street from the track team’s house, Lee Valdez saw someone in a  
16 hooded sweatshirt, holding what appeared to be a screwdriver in one hand.  
17 Lee Valdez radioed for back up. Then, Lee Valdez approached the suspect,  
18 who was Casey Barns.  
19

20 Jamie Hayes was at a party at the track team’s house and heard Lee Valdez  
21 and Casey Barns arguing and saw a brief struggle. When Jamie Hayes saw  
22 Lee Valdez pin Casey Barns to the ground, Jamie grabbed a baseball bat and  
23 ran towards them.  
24

25 Jamie Hayes struck Lee Valdez across the side of the head with the bat. Lee  
26 Valdez was knocked out and immediately fell into a coma. Two weeks later,  
27 on May 29, Lee Valdez died from an aneurysm that was the result of the  
28 previous head trauma.  
29  
30

## 31 **STATEMENT OF CHARGES**

### 32 **Count One**

33 The defendant is charged with murder, which is the unlawful killing of  
34 another human being with malice aforethought, or in the alternative,  
35 voluntary manslaughter. (*See Sources to view jury instructions.*)  
36  
37

### 38 **PHYSICAL EVIDENCE**

39 Only the following physical evidence may be introduced at trial. The  
40 prosecution is responsible for bringing:

- 41 1. Exhibit A, Diagram of the Area Surrounding 2400 Block of Lotus Avenue
- 42 2. Exhibit B, Anonymous Letter Mailed to the Campus Security Office

43 \*ALL reproductions can be as small as the original found in this document  
44 but no larger than 22x28 inches.  
45

### 46 **STIPULATIONS**

47 Stipulations shall be considered part of the record. Prosecution and defense  
48 stipulate to the following:

- 49 1. At the time of arrest, there was sufficient probable cause to arrest Jamie  
50 Hayes for assaulting Lee Valdez.
- 51 2. All physical evidence and witnesses found in this case, but not made  
52 physically available for trial, are unavailable and their availability may  
53 not be questioned.

- 1 3. The anonymous letter mailed to campus security office was postmarked
- 2 April 4 from Anderson, California, and received by the office on April 5.
- 3 4. Beyond what's stated in the witness statements, no other forensic
- 4 evidence was found in this case.
- 5 5. All witness statements were taken in a timely manner.
- 6 6. Gail Green and Dakota Kim are qualified expert witnesses and can
- 7 testify to each other's statements and relevant information they would
- 8 have reasonable knowledge of from the fact situation, witness
- 9 statements and stipulations. The two handwriting examples and the
- 10 three disposal examples provided to the experts are verified examples
- 11 belonging to their respective authors.
- 12 7. Both Jamie Hayes and Alex Rosales are administrators on the CCU
- 13 Against Police Brutality Twitter account.
- 14 8. If the defense's pretrial motion is granted, the bracketed information is
- 15 excluded from trial, and it may not be used for any purpose. However,
- 16 in middle school trials the evidence may be used at trial.
- 17

## 1 LEGAL AUTHORITIES AND PRETRIAL ARGUMENTS

2  
3 This section contains materials and procedures for the preparation of a  
4 pretrial motion on an important legal issue, as well as the legal authorities  
5 and jury instructions for the case-in-chief.

6  
7 The judge’s ruling on the pretrial motion will have direct bearing on the  
8 possible outcome of the trial. The pretrial motion is designed to help  
9 students learn about the legal process and legal reasoning. Students will  
10 learn how to draw analogies, distinguish a variety of factual situations, and  
11 analyze and debate constitutional issues.

12  
13 The pretrial issue involves the Fifth Amendment protection against self-  
14 incrimination. The question is whether Jamie Hayes’s statement, “Valdez is  
15 a jerk. He got what he deserved,” was involuntary. If Jamie’s statement was  
16 involuntary, admission of the statement at trial would violate Jamie’s  
17 constitutional rights, and therefore, it may not be used. This is the only  
18 issue at pretrial.

19  
20 The Fifth Amendment protection against self-incrimination ensures a  
21 suspect’s right to a fair trial by excluding involuntary statements made by a  
22 suspect to government actors and giving suspects the right to refuse to  
23 incriminate themselves, including the right not to testify as witnesses  
24 against themselves. In addition, the Supreme Court held in *Miranda v.*  
25 *Arizona* that suspects in custody must be given *Miranda* warnings prior to  
26 interrogation, or else statements made will not be admissible in court. These  
27 warnings include the right to remain silent, that their statements will be  
28 used against them, the right to have an attorney present during  
29 interrogation, and the right to have an attorney provided by the state.

30  
31 Here, we will focus on the voluntariness standard. Since Jamie Hayes’s  
32 statement was made at the police station after *Miranda* warnings were  
33 given, but Jamie did not invoke the right to have an attorney present during  
34 interrogation, the issue is whether or not Jamie’s statement was  
35 involuntary. The California Supreme Court has defined an involuntary  
36 statement as “...the product of coercion or, more generally,  
37 ‘overreaching’; involuntariness requires coercive activity on the part of the  
38 state or its agents; and such activity must be, as it were, the ‘proximate  
39 cause’ of the statement in question, and not merely a cause in fact.” *People*  
40 *v. Mickey*, 818 P.2d 84 (Cal. 1991). When determining if the police behavior  
41 was coercive, the court will look at several factors, such as personal  
42 characteristics of the suspect, the pressure applied by police during  
43 questioning, fatigue resulting from length of interrogation and time of night,  
44 and the use of lies to manipulate the suspect’s sympathies.

45  
46 The sources cited below will help you determine whether using Jamie  
47 Hayes’s statement at trial is constitutional. For mock trials without pretrial  
48 hearing, the statement is presumed voluntary, and the use of the statement  
49 at trial is constitutional. The pretrial motion is the only allowable motion for  
50 the purposes of this competition.

## 1 PRETRIAL ARGUMENTS

2 Prosecution will argue that the statement made by Jamie Hayes was  
3 voluntary. Jamie was taken into custody at approximately 11:30 p.m. on  
4 Thursday, May 15, 2014, and the interrogation began after Jamie was  
5 booked at the station for suspicion of assault with a deadly weapon. Jamie  
6 was read Miranda warnings when taken into custody. Detective Thomas  
7 began questioning Jamie at approximately 1:00 a.m., and Jamie voluntarily  
8 answered questions about the incident that had occurred that night.  
9 Detective Thomas continued the interrogation, and at no point did Jamie  
10 invoke the right to counsel or the right to silence. Jamie is an intelligent  
11 college student whose mother works in law enforcement. Jamie appeared  
12 well rested and was not mistreated during questioning. Detective Thomas  
13 offered Jamie water and crackers, and they took a couple of restroom  
14 breaks. Jamie never asked Detective Thomas to stop and never asked to  
15 make a phone call. In addition, Detective Thomas was the only officer  
16 conducting the interrogation and was present during the entire process.  
17 When Jamie yelled, “Valdez is a jerk. He got what he deserved,” Detective  
18 Thomas noticed Jamie had become irritated and shortly thereafter,  
19 questioning was ceased.

20  
21 Defense will argue that the statement made by Jamie Hayes at the police  
22 station was involuntary and should be excluded. Detective Thomas took  
23 Jamie into custody at approximately 11:30 p.m. on Thursday, May 15, 2014,  
24 and they proceeded to the police station for questioning. Then, Detective  
25 Thomas interrogated Jamie from 1:00 a.m. until 5:00 p.m. on Friday, May  
26 16. For the first hour of the interrogation, Jamie willingly answered  
27 questions about the events that night. After that, Detective Thomas spent  
28 the remaining 15 hours trying to get Jamie to admit that the act was  
29 intentional and committed with motive. Out of desperation for the  
30 questioning to end, Jamie blurted out, “Valdez is a jerk. He got what he  
31 deserved.” In addition, Defense should point out that all of the relevant  
32 factors are present to show Detective Thomas coerced Jamie’s statement.  
33 Jamie was barely 18 years old at the time with no criminal history and was  
34 being questioned relentlessly by Detective Thomas, who was a very  
35 experienced veteran of the police department. Jamie was in an interrogation  
36 room at the police station for 16 consecutive hours, under bright lights,  
37 unable to sleep, unable to communicate with the outside world, only  
38 offered water and crackers, and Detective Thomas was questioning Jamie  
39 inches from Jamie’s face. Detective Thomas said that Jamie’s mom’s boss at  
40 the police department had been notified, and she would be humiliated at  
41 work if Jamie didn’t cooperate. Given Jamie’s close relationship with her,  
42 this dishonest manipulation of Jamie’s sympathies was coercive and caused  
43 Jamie’s involuntary statement.

## 44 45 SOURCES

46 The sources for the pretrial motion arguments are a “closed library,” which  
47 means that Mock Trial participants may only use the materials provided in  
48 this case packet. The materials include excerpts from the U.S. Constitution,  
49 the California Constitution, the California Penal Code, edited court opinions,  
50 the Mock Trial Fact Situation, and all relevant testimony to be found in the  
51 Witness Statements.

1 The U.S. Constitution, U.S. Supreme Court holdings, and California  
2 Supreme Court and California Appellate Court holdings are all binding and  
3 must be followed by California trial courts. All other cases are not binding  
4 but are persuasive authority. In developing arguments for this Mock Trial,  
5 both sides should compare or distinguish the facts in the cited cases from  
6 one another and from the facts in *People v. Hayes*.

## 7 8 **LEGAL AUTHORITIES**

### 9 10 **U.S. Constitution**

#### 11 *Amendment V*

12 No person shall be held to answer for a capital, or otherwise infamous  
13 crime, unless on a presentment or indictment of a Grand Jury, except in  
14 cases arising in the land or naval forces, or in the Militia, when in actual  
15 service in time of War or public danger; nor shall any person be subject for  
16 the same offence to be twice put in jeopardy of life or limb; nor shall be  
17 compelled in any criminal case to be a witness against himself, nor be  
18 deprived of life, liberty, or property, without due process of law; nor shall  
19 private property be taken for public use, without just compensation.

#### 20 21 *Amendment XIV*

22 Section 1. All persons born or naturalized in the United States, and subject  
23 to the jurisdiction thereof, are citizens of the United States and of the States  
24 wherein they reside. No State shall make or enforce any law which shall  
25 abridge the privileges or immunities of citizens of the United States; nor  
26 shall any State deprive any person of life, liberty, or property, without due  
27 process of law; nor deny to any person within its jurisdiction the equal  
28 protection of the laws.

### 29 30 **California Constitution**

#### 31 Article I

32 Section 15, the defendant in a criminal cause has the right to a speedy  
33 public trial, to compel attendance of witnesses in the defendant's behalf, to  
34 have the assistance of counsel for the defendant's defense, to be personally  
35 present with counsel, and to be confronted with the witnesses against the  
36 defendant. The Legislature may provide for the deposition of a witness in  
37 the presence of the defendant and the defendant's counsel. Persons may not  
38 twice be put in jeopardy for the same offense, be compelled in a criminal  
39 cause to be a witness against themselves, or be deprived of life, liberty, or  
40 property without due process of law.

#### 41 42 **Statutory**

##### 43 **Pen. Code Sec. 187 (Second Degree Murder)**

44 Murder is the unlawful killing of a human being with malice aforethought.

##### 45 46 **Pen. Code Sec. 188 (Definition of Malice)**

47 Malice may be *express* (with intent to kill) or *implied* (with circumstances  
48 that show an abandoned or malignant heart).

##### 49 50 **Pen. Code Sec. 192. (Definition of Manslaughter)**

51 Manslaughter is the unlawful killing of a human being without  
52 malice.

1 **Jury Instructions**

2  
3 **CALCRIM 223 (Direct and Circumstantial Evidence)**

4 Facts may be proved by direct or circumstantial evidence or by a  
5 combination of both. *Direct evidence* can prove a fact by itself. For example,  
6 if a witness testifies he saw it raining outside before he came into the  
7 courthouse, that testimony is direct evidence that it was raining.

8 *Circumstantial evidence* also may be called indirect evidence. Circumstantial  
9 evidence does not directly prove the fact to be decided, but is evidence of  
10 another fact or group of facts from which you may logically and reasonably  
11 conclude the truth of the fact in question. For example, if a witness testifies  
12 that he saw someone come inside wearing a raincoat covered with drops of  
13 water, that testimony is circumstantial evidence because it may support a  
14 conclusion that it was raining outside.

15  
16 Both direct and circumstantial evidence are acceptable types of evidence to  
17 prove or disprove the elements of a charge, including intent and mental  
18 state and acts necessary to a conviction, and neither is necessarily more  
19 reliable than the other. Neither is entitled to any greater weight than the  
20 other. You must decide whether a fact in issue has been proved based on all  
21 the evidence.

22  
23 **CALCRIM 224 (Circumstantial Evidence: Sufficiency of Evidence)**

24 Before you may rely on circumstantial evidence to conclude that a fact  
25 necessary to find the defendant guilty has been proved, you must be  
26 convinced that the People have proved each fact essential to that conclusion  
27 beyond a reasonable doubt.

28  
29 Also, before you may rely on circumstantial evidence to find the defendant  
30 guilty, you must be convinced that the only reasonable conclusion  
31 supported by the circumstantial evidence is that the defendant is guilty. If  
32 you can draw two or more reasonable conclusions from the circumstantial  
33 evidence and one of those reasonable conclusions points to innocence and  
34 another to guilt, you must accept the one that points to innocence.

35 However, when considering circumstantial evidence, you must accept only  
36 reasonable conclusions and reject any that are unreasonable.

37  
38 **CALCRIM 500 (Homicide)**

39 Homicide is the killing of one human being by another. Murder and  
40 manslaughter are types of homicide. The defendant, Jamie Hayes, is  
41 charged with murder and manslaughter. Manslaughter is a lesser offense to  
42 murder.

43  
44 A homicide can be lawful or unlawful. If a person kills with a legally valid  
45 excuse or justification, the killing is lawful and he or she has not committed  
46 a crime. If there is no legally valid excuse or justification, the killing is  
47 unlawful and, depending on the circumstances, the person is guilty of either  
48 murder or manslaughter. You must decide whether the killing in this case  
49 was unlawful and, if so, what specific crime was committed.

1 **CALCRIM 505 (Justifiable Homicide: Defense of Another)**

2 The defendant is not guilty of murder or manslaughter if he or she was  
3 justified in killing someone in defense of another. Defendant Hayes acted in  
4 lawful defense of Casey Barns if:

5 (1) Hayes reasonably believed that Barns was in imminent danger of being  
6 killed or suffering great bodily injury;

7 (2) Hayes reasonably believed that the immediate use of deadly force was  
8 necessary to defend against that danger;

9 AND

10 (3) Hayes used no more force than was reasonably necessary to defend  
11 against that danger.

12  
13 Belief in future harm is not sufficient....

14  
15 When deciding whether Hayes’s beliefs were reasonable, consider all the  
16 circumstances as they were known to and appeared to the defendant and  
17 consider what a reasonable person in a similar situation with similar  
18 knowledge would have believed. If Hayes’s beliefs were reasonable, the  
19 danger does not need to have actually existed.

20  
21 **CALCRIM 520 (Jury Instructions)**

22 The defendant acted with *implied malice* if

23 (1) he or she intentionally committed an act;

24 (2) the natural and probable consequences of the act were dangerous to  
25 human life;

26 (3) at the time he or she acted, he or she knew his or her act was dangerous  
27 to human life;

28 AND

29 (4) he or she deliberately acted with conscious disregard for human life.

30  
31 **CALCRIM 571 (Voluntary Manslaughter: Imperfect Defense of Another)**

32 A killing that would otherwise be murder is reduced to voluntary  
33 manslaughter if the defendant killed a person because he or she acted in  
34 imperfect defense of another. If you conclude Jamie Hayes acted in  
35 complete defense of Casey Barns, his or her action was lawful and you must  
36 find him or her not guilty of any crime. The difference between complete  
37 defense of another and imperfect defense of another depends on whether  
38 the defendant’s belief in the need to use deadly force was reasonable.  
39 Hayes acted in imperfect defense of Barns if the *Prosecution* proves beyond  
40 a reasonable doubt that:

41 (1) Hayes *actually* believed that Casey Barns was in imminent danger of  
42 being killed or suffering great bodily injury;

43 AND

44 (2) Hayes *actually* believed that the immediate use of deadly force was  
45 *necessary* to defend against the danger;

46 BUT

47 (3) At least one of those beliefs was unreasonable.

48  
49 Belief in future harm is not sufficient, no matter how great or how likely the  
50 harm is believed to be. In evaluating Hayes’s beliefs, consider all the  
51 circumstances as they were known and appeared to Hayes.

1 CASE LAW

2  
3 FEDERAL CASES

4 ***Ashcraft v. Tennessee*, 322 U.S. 143 (1944)**

5 **Facts:** When a defendant was arrested and charged with hiring someone to  
6 murder his wife, the police interrogated him for 36 hours. Starting at 7:00  
7 p.m. on Saturday and ending at 6:00 a.m. on Monday, the police used relays  
8 of experienced investigators and lawyers to interrogate him and did not  
9 allow him to communicate with anyone else.

10 **Issue:** Was the defendant’s confession voluntary?

11 **Holding:** No, the confession was deemed involuntary and inadmissible  
12 because a 36-hour interrogation, without sleep or rest, is inherently  
13 coercive.

14 ***Blackburn v. State of Alabama*, 361 U.S. 199 (1960)**

15 **Facts:** The defendant who was on an unauthorized absence from a  
16 veterans' hospital where he had been classified as 100% “incompetent”  
17 (i.e., mentally incompetent) signed a confession written by police  
18 confessing to a robbery after an eight or nine hour interrogation. The  
19 interrogation was conducted by three police officers in a tiny room that was  
20 only four feet by six feet. The defendant was unable to communicate with  
21 friends, relatives, or legal counsel.

22 **Issue:** Was the defendant’s confession voluntary?

23 **Holding:** No, the confession was deemed involuntary and inadmissible  
24 based on a totality of the circumstances. The defendant, who was ignorant  
25 of his rights, incompetent, and cut off of all moral support from his family,  
26 friends, and relatives, was mentally coerced by the police officers.

27 ***Colorado v. Connelly*, 479 U.S. 157 (1986)**

28 **Facts:** A defendant with a history of mental illness approached a police  
29 officer and told the officer that he murdered someone and wanted to talk  
30 about the murder. The police read him the *Miranda* warnings, and the  
31 defendant made a confession.

32 **Issue:** Was the defendant’s confession voluntary?

33 **Holding:** Yes, the confession was deemed voluntary because there was no  
34 police wrongdoing or coercion, and although the mental condition of a  
35 defendant is a significant factor in determining voluntariness, mental  
36 condition alone cannot make an otherwise voluntary statement involuntary.

37 ***Cunningham v. City of Wenatchee*, 345 F.3d 802 (9th Cir. 2003)**

38 **Facts:** A defendant confessed to committing sexual abuse during an eight-  
39 hour interrogation. During the interrogation officers continued to question  
40 the defendant after the defendant claimed that he was innocent, and the  
41 officers recited the possible sentence the defendant would get if found  
42 guilty. The officers did not refuse to give the defendant a break for food or  
43 water, and neither did they yell at him or use the threat of violence.

44 **Issue:** Was the defendant’s confession voluntary?

45 **Holding:** Yes, the interrogation did not undermine the defendant’s free will,  
46 and mere emotionalism and confusion of the defendant is not enough to  
47 make a confession involuntary. In addition, continuing to question the

1 defendant after the defendant claims he is innocent is not coercive; it is  
2 sometimes necessary to achieve the truth. And during interrogation, police  
3 officers are allowed to recite the possible sentence the defendant would get  
4 if found guilty.

5 ***Gallegos v. Colorado, 370 U.S. 49 (1962)***

6 Facts: A 14-year-old boy confessed to assault and robbery after being held  
7 for five days without speaking to his parents or an adult friend, without  
8 being advised by a lawyer, and without being brought before a judge.

9 **Issue:** Was the confession voluntary?

10 **Holding:** No, the confession was involuntary, even though the boy had  
11 made earlier confessions. The age of the defendant is a crucial factor in  
12 examining if a statement is voluntary because a 14-year-old boy, no matter  
13 how sophisticated, is not likely to understand what may happen if he makes  
14 himself available to the police without counsel.

15 ***Haynes v. State of Washington, 373 U.S. 503 (1963)***

16 **Facts:** A defendant accused of robbery made a written confession after  
17 being held by the police for 16 hours and being told that he could not  
18 communicate with anyone, including his wife or his attorney, until he  
19 cooperated with police. At first, the defendant resisted making a confession,  
20 and he only gave a confession after the police told him he couldn't call his  
21 wife until he signed the confession.

22 **Issue:** Was the confession voluntary?

23 **Holding:** No, the confession was involuntary. Even though the police gave  
24 the defendant *Miranda* warnings, the defendant's confession was obtained  
25 in an atmosphere of substantial coercion and inducement created by  
26 statements and actions of state authorities, which violated the defendants  
27 due process rights. The true test of admissibility is that the confession is  
28 made freely, voluntarily and without compulsion or inducement of any sort,  
29 therefore the confession was involuntary.

30 ***Spano v. New York, 360 U.S. 315 (1959)***

31 **Facts:** A 25 year-old defendant, born in Italy with no criminal past and an  
32 eighth grade education, was accused of committing first degree murder. The  
33 defendant retained counsel, and with counsel surrendered at the police  
34 station and was left in police custody with instructions from counsel not to  
35 answer any questions. Several times during the eight-hour interrogation, the  
36 defendant told police to contact his attorney and the police denied his  
37 requests. Finally, police used the defendant's good friend who was  
38 attending the police academy and who had three kids and a pregnant wife  
39 to tell the defendant that his job was going to be in trouble if the defendant  
40 did not confess. The friend tried three times to get the defendant to confess  
41 and after each attempt, the defendant requested his attorney. After the  
42 fourth attempt, the defendant made a confession.

43 **Issue:** Was the defendant's statements voluntary?

44 **Holding:** No, the statements were involuntary under the totality of the  
45 circumstances. Although the police did not use threats, the interrogation  
46 occurred for eight hours into the early morning and the defendant's will  
47 was overborne by official pressure, fatigue, and sympathy falsely aroused  
48 to manipulate the defendant's sympathies.

1    **STATE CASES**

2    *People v. Musselwhite*, 954 P.2d 475 (Cal. 1998)

3    **Facts:** Police led the defendant to believe he was not a suspect in the  
4    murder they were questioning him about, promised him that his  
5    cooperation would result in lenient treatment, suggested that *Miranda*  
6    waiver was an unimportant technicality, and continued questioning after  
7    the defendant said, “I don’t want to talk about this.” After defendant  
8    waived his *Miranda* rights, the police lied about the evidence and refused to  
9    let him speak to his wife; ultimately resulting in his confession.

10   **Issue:** Was the defendant’s confession voluntary?

11   **Holding:** Yes, the waiver was voluntary because the use of lies by police  
12   was not the proximate cause of the confession. Police deception is only one  
13   factor to be examined when looking at the totality of the circumstances, and  
14   in this instance, the lies were too brief and insubstantial to qualify as  
15   inducement.

16   *People v. Smith*, 150 P.3d 1224 (Cal. 2007)

17   **Facts:** A defendant with a history of psychological problems confessed to  
18   police after the police confirmed the defendant’s assumption that it could  
19   take a week to be appointed an attorney, the police did not re-administer  
20   *Miranda* warnings before his second interview, and a police officer  
21   administered a fake test on the defendant that the officer lead the defendant  
22   to believe would determine if he had recently fired a gun.

23   **Issue:** Was the defendant’s confession deemed voluntary?

24   **Holding:** Yes, a claim that the defendant’s psychological state opened him  
25   up to coercion is not enough to deem a confession involuntary. The police  
26   were only obligated to read him his rights, not to correct his assumption  
27   that it could take a week to be appointed an attorney, and psychological  
28   ploys used by police are only coercive were they produce statements that  
29   are involuntary and unreliable.

30   *State v. Brown*, 173 P.3d 612 (Kan. 2007)

31   **Facts:** A 21 year-old defendant confessed when he was held in an  
32   interrogation room for 12 hours, handcuffed to the table, interviewed for  
33   nearly five hours, and denied contact with the outside world. In between  
34   questioning, the defendant napped, took restroom breaks, and ate.

35   **Issue:** Was the defendant’s confession deemed voluntary?

36   **Holding:** Yes, the confession was voluntary because the officers' denials of  
37   defendant's requests for contact with the outside world occurred when the  
38   timing and context suggested a motivation for gathering information. The  
39   court also made a distinction between the number of hours of confinement  
40   and the number of hours of interrogation, paying attention to factors such  
41   as whether there were significant breaks in questioning between the time of  
42   interrogation.

43  
44  
45  
46  
47  
48

## WITNESS STATEMENTS

### Prosecution Witness: Terry Thomas (Detective)

My name is Terry Thomas, and I am 45 years old. I have been working as a police officer for 15 years, and for the past five years, I have been a detective for the Anderson Police Department.

On May 15, 2014, at 11:05 p.m., I was called to the scene of an incident at the 2400 block of Lotus Avenue. Lotus Avenue is a main street where Central Coast University's dorms and team houses are located.

When I arrived, I found that two suspects were detained, and the paramedics had arrived to take Lee Valdez, a campus security guard, to the hospital. Sam Spencer, Valdez's partner, immediately gave me a report. Spencer reported that Valdez was struck in the head with a baseball bat when he was trying to restrain Casey Barns, a suspect in the recent theft of vehicles on the 2200 block of Lotus Avenue. According to Spencer, Valdez was suspicious because he found Barns walking two blocks away from where the car break-ins were reported, wearing a dark hooded sweatshirt with the hood up, and carrying a screwdriver. Spencer found the screwdriver three feet away from Valdez on the sidewalk.

Within a few minutes, I received word over the radio from a fellow Anderson police officer that they had the theft suspect in custody. After hearing the news, I asked Spencer to remove Barns's handcuffs, and I questioned Barns immediately. Barns explained that Jamie Hayes hit Valdez with the baseball bat because Valdez tackled Barns and put Barns in a chokehold with his baton. There were no visible marks on Barns's neck or body at the time of my interview. I asked if Barns needed medical attention, and Barns declined.

At that point, I had probable cause to arrest Jamie Hayes for assaulting Lee Valdez. After reading Hayes the Miranda warnings, I placed Hayes in the back of the police car, and we went to the station for questioning. Next, I booked Hayes for assault with a deadly weapon, and at approximately 1:00 a.m., I began the interrogation process.

During interrogation, Hayes explained to me that Valdez tackled Barns to the ground and was strangling Casey with a baton; so, Hayes hit Valdez with a baseball bat. Hayes also claimed to have heard Barns screaming for help from the porch of the track team's house and to have had an unobstructed view of both of them during the entire altercation.

When I was at the scene of the incident, I made some routine observations: the incident occurred about 20 yards away from the track team's front porch, on the opposite side of the street; the neighborhood was relatively quiet; the street was well-lit, with a large street light in the middle of each block and a near full moon, as the moon was full the night before; and there were no cars parked in front of the house on either side of the street. Based

1 on these observations, I concluded that Jamie could have heard and seen  
2 Valdez and Barns’s altercation from the porch.

3  
4 After hearing Jamie’s version of the incident, I followed up with questions  
5 regarding Jamie’s prior relationship with Barns and Valdez. Although Hayes  
6 admitted to knowing Barns very well because they were teammates, Hayes  
7 claimed to only know Valdez’s face but not his name. When asked if Hayes  
8 had any previous problems with Valdez, Hayes answered, “Not that I  
9 recall.” At that point, Hayes became uncooperative.

10  
11 I continued to question Hayes because I felt there was more to the story  
12 than what Jamie was willing to tell. I had interrogated Hayes from 1:00 a.m.  
13 until 5:00 p.m. on Friday, May 16. Although we did not sleep, I did offer  
14 Hayes water and crackers, and we took a couple of restroom breaks. I was  
15 in the interrogation room with Jamie more or less the entire time. At one  
16 point, Hayes told me that Hayes’s mother worked for the Madison police.

17  
18 [Shortly before 5:00 p.m., I spoke off the cuff that I had contacted Hayes’s  
19 mother’s boss about this investigation and that I had hoped this wouldn’t  
20 cause her problems at work. I thought that would help garner Hayes’s  
21 cooperation. Hayes showed the first visible signs of frustration. In response  
22 to a question, Hayes blurted out, “Valdez is a jerk. He got what he  
23 deserved.” I could hear the anger in Jamie’s voice. I asked Hayes to tell me  
24 exactly what that statement meant, but Hayes refused to answer.]

25  
26 Eventually, Jamie said that there was nothing more to talk about, and I  
27 knew everything. I decided to call it a night, and I returned Jamie to a  
28 holding cell for some much needed sleep.

29  
30 On Monday, May 19, Casey posted bail for Jamie. That day, I began my  
31 investigation of Jamie Hayes and Casey Barns to see if I could find any  
32 motive for assaulting Valdez.

33  
34 As part of my investigative process, I always start with social media.  
35 Casey’s social media accounts were inactive, while Jamie’s accounts were  
36 very active in recent months. I noticed that Jamie had displayed some  
37 behavior critical of law enforcement. Jamie was frequently re-tweeting  
38 statements made by political activist groups speaking out against excessive  
39 use of force and police targeting young adults. Jamie also was actively  
40 participating in a Twitter account called “CCU Against Police Brutality.”

41  
42 I found a tweet that caught my attention from April 3 at 11:30 p.m. CCU  
43 Against Police Brutality tweeted, “Law Enforcement has gone too far. We  
44 need to stand up and fight.” I had a feeling that Jamie may have been  
45 connected to the tweet, so I continued my investigation.

46  
47 To verify who was the administrator on the CCU Against Police Brutality  
48 Twitter account, I got a court order to seize the records directly from  
49 Twitter. Twitter was able to verify that Jamie Hayes was, in fact, an  
50 administrator on the account; however, there was another administrator,  
51 Alex Rosales, who was also on the track team at Central Coast University.

1 On May 25, I went to Alex Rosales’s dorm to ask Rosales some questions.  
2 Rosales verified that Jamie was very active in the group on campus against  
3 police brutality. In regards to the Twitter account, CCU Against Police  
4 Brutality, Rosales did not deny involvement, but Rosales did deny tweeting  
5 on April 3.

6  
7 That same day, I went to the track team’s house to speak with Casey Barns  
8 again. When asked about CCU Against Police Brutality, Barns denied any  
9 involvement. When I asked about Barns’s prior relationship with Valdez,  
10 Barns admitted they had a history of not getting along, and Barns also said  
11 that most of the track team disliked Valdez. When asked about Jamie  
12 Hayes, Barns claimed they have barely ever talked to each other, and they  
13 didn’t know each other very well.

14  
15 The next day, I visited Lou Williams, the Director of Campus Security. Lou  
16 Williams told me that campus administration was concerned about CCU  
17 Against Police Brutality, and they had a sharp eye on the students  
18 organizing the rallies and their social media accounts.

19  
20 We also spoke about a letter that was received by the security office on  
21 April 5, regarding Valdez. The envelope was postmarked on April 4 from  
22 Anderson, California, and had no return address. On the envelope the  
23 security office’s address was in a typed font. The letter was handwritten on  
24 a torn piece of 8.5x11 inch notebook paper and said, “Valdez, watch out!  
25 We know you want us out, and we are gonna stand up and fight.” I  
26 immediately booked the letter into evidence and brought it to our forensic  
27 lab for examination. The forensic lab determined that there were no identifiable  
28 characteristics; the letter did not contain any fingerprints, hair samples, or  
29 other traces of DNA. I could not help but notice the similarity between CCU  
30 Against Police Brutality’s tweet and the letter, so I collected a handwriting  
31 sample from Jamie and Alex to give to our document examiner, Dakota  
32 Kim.

33  
34 On May 29, while Hayes was awaiting trial, we received word that Lee  
35 Valdez had died as a result of his injuries. That same day, I went to Jamie  
36 Hayes’s dorm and made the second arrest. Based on my prior interrogation  
37 of Jamie and the results of my investigation, I believed that Hayes was not  
38 merely acting in Casey Barns’s defense. After I booked Hayes for homicide  
39 and Mirandized Hayes again, I asked more questions about the incident and  
40 the events leading up to the incident, but Hayes kept insisting that I knew  
41 everything.

## WITNESS STATEMENT

### **Prosecution Witness: Lou Williams (Director of Campus Security)**

My name is Lou Williams, and I am a 62-year-old retired Anderson police officer. I served 25 years on the force, and after a few months of retirement, I went to work at CCU. I have worked for CCU for the past 11 years, seven of which I have been the Director of Campus Security.

Campus security is privately operated by the university and consists of 20 security guards, three shift supervisors, and one director. At any given time, we have approximately eight security guards on duty, and two to three on call. Our job duties include: patrolling the building entrances to ensure that all guests check in with administration, patrolling the parking lot to ensure vehicle safety, and responding to reports of suspicious activity or incidents on university property. We use segways, golf carts, and cars to patrol due to the size and nature of the campus.

The California Bureau of Security and Investigative Services licenses all of our campus security guards. I ensure that all continuing education requirements are met for each guard to remain in good standing with the bureau. Their primary responsibility is to protect students, faculty, and guests; prevent violations of the law and school policies; and observe and report all incidents. Each of our 24 guards are licensed to and do carry a firearm, a standard-issued retractable baton, and handcuffs.

When an incident occurs, our guards are trained to assess the situation, call the local police if needed, and ensure that the situation is resolved as safely as possible. Some of the typical situations we handle are: theft, assault, and domestic disturbances, both on campus and in the nearby residential area.

Recent national newsworthy events involving police brutality raised some concerns amongst our students. There were two rallies on campus about excessive use of force by law enforcement, and our security guards have noticed a change in the students' attitudes towards their authority. After meeting with campus administration, I decided to conduct monthly training meetings with my staff on how to deescalate tense situations.

Lee Valdez had been working for campus security for 18 months when he died at the age of 28. When we hired Valdez, he had three years of security experience working at a bank in Southern California. He had respectable credentials, and based on his references, it appeared that he would make a great security guard.

During Valdez's time of employment, we received two written complaints regarding his interactions with students. Both complaints concerned his temperament, stating that he "went too far" and that he was "out of control." After the first incident, a verbal warning was given to Valdez. There was a second incident, which alleged unnecessary violence by Valdez, however our internal investigation could not corroborate the complaint. I decided to keep an eye on him to determine if further training

1 was required, as I do when I receive any complaint about one of my  
2 officers.

3  
4 On September 4, 2013, upperclassmen in the track and field house were  
5 reportedly throwing eggs at the rookies in the front yard. We decided not to  
6 report it to campus administration because we could not confirm it was  
7 true, and we knew some of them were already on probation for hazing.

8  
9 Then, on November 15, 2013, a dozen or so people were on the front porch  
10 making noise at 1:00 in the morning, and Casey Barns and Valdez had an  
11 argument. The next day, Casey filed the first of the two complaints I  
12 discussed above that Valdez was acting outside of his authority and went  
13 too far.

14  
15 The third incident was on January 23, 2014. The track team had a party  
16 with over 300 people, and it took six of our guards more than two hours to  
17 break up the party. Several students were reported for disrespectful  
18 behavior, including pushing, spitting, and making offensive comments.

19  
20 During the most recent incident, on April 3, 2014, Valdez and Spencer  
21 responded to a call that there was a fight on the front lawn of the track  
22 house between the team and some local teenagers. The fight escalated  
23 quickly, and our guards had to step in to break it up. The following day,  
24 several team members filed a written complaint, including Barns's second  
25 such complaint, alleging that Valdez abused his power and was violent. We  
26 had five reported injuries, and we found a knife and a sharp stick at the  
27 scene of the fight. Our department was on high alert after that day.

28  
29 On April 5, 2014, our office received an anonymous letter on notebook  
30 paper. The letter was postmarked April 4 and had no return address. The  
31 envelope was printed in a typed font and addressed to the campus security  
32 office. The note inside contained what seemed to be a threat, saying,  
33 "Valdez, watch out! We know you want us out, and we are gonna stand up  
34 and fight." We immediately notified campus administration, and the letter  
35 was investigated.

36  
37 Though we could not prove it, we were suspicious of the track team  
38 because some members had several run-ins with Valdez and his partner,  
39 Sam Spencer. Valdez and Spencer responded to noise complaints at that  
40 house often because they had parties regularly. During the 2013-2014 school  
41 year, there were four occasions where Valdez and Spencer filed incident  
42 reports.

43  
44 In regards to May 15, 2014, the night that Valdez was injured, I had  
45 received a call at 10:45 p.m. that someone had broken the windows of  
46 several cars on the 2200 block of Lotus Avenue. I radioed Valdez and  
47 Spencer to respond immediately to the report. After they responded, I heard  
48 Valdez on the radio that he saw a suspect walking on the 2400 block of  
49 Lotus Avenue, wearing a dark-hooded sweatshirt with the hood up and  
50 carrying what appeared to be a screwdriver.

1 In light of recent events, many of the local police agencies are putting body  
2 cameras on their officers. Although we do not have cameras, I decided to  
3 change our protocol to ensure our guards and students are as safe as  
4 possible. I have trained my guards to keep the radio on, using the lock  
5 mode, when they are dealing with escalated situations. That way, we can  
6 hear everything and respond accordingly.

7  
8 Over the radio, I heard Valdez call out for the suspect to freeze, and the  
9 suspect responded, “What do you want from me now?” That was when  
10 Valdez replied, “Put your hands where I can see them, Barns.”

11  
12 I became alarmed, and the radio cut out. So, I grabbed my things and  
13 headed out of my office. Before I could reach the parking lot, Spencer  
14 radioed me to call for an ambulance because Valdez was in need of medical  
15 assistance. I called 9-1-1 as I drove towards the scene of the incident.

## WITNESS STATEMENT

### Prosecution Witness: Sam Spencer (Campus Security Guard)

1  
2  
3  
4 My name is Sam Spencer, and I am a 39-year-old security guard. I have  
5 been working for Central Coast University for nearly five years. Lee Valdez  
6 was my partner for the 18 months that he was employed by the university  
7 before his tragic death. As partners, our schedules were nearly always the  
8 same, and we worked a rotation, where we would be stationed in the same  
9 general area at any given time to serve as backup for one another when  
10 needed.

11  
12 Because we were partners, I knew Valdez very well. Valdez was young and  
13 single. He spent most of his time working, but when he was not working,  
14 he was often volunteering at a local boy's home, where he mentored at-risk  
15 youth. Valdez had a rough childhood, and told me he was committed to  
16 helping others like him. He was one of the most passionate and loyal people  
17 I have ever had the pleasure of working with.

18  
19 I did witness Valdez lose his temper a couple of times. Some people thought  
20 of him as a "hot head," but that was not the case at all. By losing his  
21 temper, I mean that he would yell at students or take things a little too far.  
22 Once I saw him get in someone's face because they didn't throw their trash  
23 in the trashcan. I think he would just get caught up in the moment because  
24 he was young and believed the students were not taking him seriously, but  
25 he never crossed the line.

26  
27 Valdez and I worked the night shift, so we would start work at 7:00 p.m.  
28 and work until 4:00 a.m. Most of our time was spent patrolling Lotus  
29 Avenue, which is where the majority of the student housing is located. Most  
30 of the students knew us by name and respected our rules. However, we did  
31 have problems with a handful of students, especially some of the sports  
32 teams.

33  
34 One team in particular has caused trouble in recent years: the track team.  
35 Valdez and I would check up on their house multiple times a night, and on  
36 Thursdays we would stay nearby because they always had parties. Often,  
37 the neighbors would get fed up with all of the noise and call the security  
38 hotline. The supervisor on duty, who was usually Lou Williams, would then  
39 radio us to respond to the complaint.

40  
41 Although we had numerous interactions with the track team's house,  
42 Valdez and I only filed four official incident reports during the 2013-2014  
43 school year. I don't remember the exact dates, but I am sure that Lou  
44 Williams can get that information if needed.

45  
46 One time in September, during conditioning week, there were reports that  
47 the upperclassmen were throwing eggs at the rookies in the front yard. By  
48 the time we responded to the call, the rookies were no longer there. We  
49 couldn't confirm it happened because none of the witnesses would come  
50 forward, but based on the eggshells all over the lawn, we were sure it was  
51 true.

1 Another time, there was a huge party with more than 300 students that took  
2 us a couple of hours to break up. From what I can remember, several  
3 students were acting very disrespectful to all of the security guards, spitting  
4 and pushing and calling us names.  
5

6 One incident of importance on April 3, 2014, started as a routine noise  
7 disturbance call but quickly escalated when Valdez and Casey Barns had an  
8 argument. That was the first time I saw Valdez get really angry. I didn't  
9 blame him because Casey Barns was mouthing off. Barns has no respect for  
10 authority. I know that Barns filed a complaint the next day, but Valdez did  
11 nothing wrong.  
12

13 Barns was provoking Valdez. Barns said something like "Get out of here,  
14 loser" and "You are nothing but a wanna-be." I also remember Barns calling  
15 us "mall cops." When Barns stepped into the front doors of the house,  
16 Valdez stepped in towards Barns and said, "You need to learn to respect  
17 authority. We can have this entire team expelled with one phone call." After  
18 that, Barns would make derogatory comments every time we passed by, like  
19 "I smell fake bacon."  
20

21 The last incident report we filed before Valdez's death involved the fight  
22 between the track team and some local teenagers. We arrived and found six  
23 or seven kids fighting on the front lawn. Valdez and I had to step in to  
24 break it up. People were getting seriously injured. We also involved the  
25 police because local teenagers were present.  
26

27 On the night of May 15, 2014, we were called to the 2200 block of Lotus  
28 Avenue for reports of thefts from several vehicles. Upon arrival, we saw  
29 three cars with the driver side windows broken and shards of glass covering  
30 the ground. I decided to stay behind and wait for the police to arrive, while  
31 Valdez decided to head east on Lotus Avenue to check for suspects.  
32

33 Before the police arrived, Valdez radioed for backup. He stated that he was  
34 approaching a suspect wearing a black hooded sweatshirt with the hood up,  
35 holding what appeared to be a screwdriver, and walking east on the 2400  
36 block of Lotus Avenue. I immediately began running towards Valdez. Over  
37 the radio, I heard Valdez call out for the person to freeze, and the person  
38 hollered at Valdez, "What do you want from me now?" Valdez then said,  
39 "Put your hands where I can see them, Barns."  
40

41 I ran 300 yards to the scene of the incident; it couldn't have taken me longer  
42 than 90 seconds to get there. I had a clear, side view of both of them; Casey  
43 was lying on the sidewalk, and Valdez was on top of Casey. I could see  
44 Jamie Hayes standing over them screaming, but I couldn't make out what  
45 anyone was saying. Valdez did not have anything in his hands. In fact, I  
46 saw Valdez's baton on the ground around five feet away from him. I was  
47 less than 10 yards away, when I saw Jamie Hayes swing a baseball bat and  
48 hit Valdez on the side of the head. If only I had run a little faster, I may  
49 have been able to save my friend.  
50

51 I immediately radioed Lou Williams at security headquarters to call 9-1-1.  
52 When I approached Valdez, Jamie was leaning over him checking for a

1 pulse. That was when I grabbed Jamie by the wrist and put the handcuffs  
2 on. After I handcuffed Jamie, I handcuffed Casey as well. There were no  
3 visible marks on Casey's neck at the time, but Casey's face was definitely  
4 flush. Jamie and Casey were both acting suspiciously. They didn't say  
5 anything but made repeated eye contact with one another. I don't think they  
6 were expecting anyone to witness the attack.

7  
8 I knelt down beside Valdez to check his vitals and waited until the  
9 paramedics arrived. Approximately three feet away from Valdez, I saw a  
10 small Phillips-head screwdriver, and a couple feet farther, I saw Valdez's  
11 baton.

## WITNESS STATEMENT

### Prosecution Witness: Dakota Kim (Handwriting Expert)

My name is Dakota Kim, and I am 36 years old. I have a Master's degree in Forensics and 10 years of document examination experience. I worked as an apprentice to a world-renowned forensic document expert for four years, and I have been working on my own for the past six years. I am also a Board Certified Fraud Examiner through the American Board of Forensic Document Examiners (ABFDE), which required me to pass written, oral, and practical exams. My specialty is handwriting analysis.

Handwriting identification is based on the principle that there are individual features that distinguish a person's writing from that of another. The handwritings of no two people are exactly alike in their combination of characteristics. There are natural variations within the handwriting of each individual. To determine which changes are variations and which changes are differences, the examiner must study the handwritings very closely.

The examiner must also be trained in recognizing individual characteristics. Individual characteristics are peculiar letters or letter combinations, which, when taken together, would not occur in the writing of another person. I use magnifiers, microscopes, computers, and photography to ensure the utmost accuracy.

Many people think that handwriting experts only analyze letters, but that is not true; we can focus on strokes, grammar, punctuation, and even-margin-spacing. When looking at strokes, I look for the pressure, slant, length, and the strokes used to connect letters.

Here, I have been asked by the prosecution to examine the writing in an anonymous letter and to determine whether or not Jamie Hayes wrote the letter. I was provided with two verified handwriting samples, one by Jamie Hayes and one by Alex Rosales, to use as the basis for my decision. The defense expert's use of multiple disposal examples is not a surefire method because the writer may feel stress due to the purpose of the writing request.

The anonymous letter was obviously written in a sloppy manner, almost as if the writer was trying to disguise his or her real writing. This is very typical of anonymous letters. A few distinct characteristics that show up regardless are the connection and size of the letters and the use of beginning strokes and end strokes.

This letter reveals that the writer uses large letters, all similar in size. The ratio between letters that are capitalized and letters that are lower case is about 8:10, meaning that there is little disparity between the two. The letters are not only large, but they were very upright, with a slight left lean. I also noticed that none of the letters connect, and each letter is distanced from the previous letter in an irregular fashion. In addition, the letters are indicative of a person with an upward terminal stroke. The way the letters trail off slightly towards the top right is a unique characteristic that I paid close attention to during my examination.

1 Alex's writing style is very different. Alex writes mostly straight up and  
2 down, with no slant in either direction. Alex connects letters and makes an  
3 effort to keep the letters equidistant from one another.

4  
5 On the other hand, Jamie's writing style is very unpredictable and sloppy. I  
6 studied Jamie's writing for some time, and I was able to find that Jamie  
7 showed five out of six of the characteristics I found in the anonymous letter.  
8 Jamie uses large letters, nearly all the same in size, uneven space between  
9 letters, no connection of letters, and an upward terminal stroke. The only  
10 difference I found was that Jamie generally has a right slant, whereas the  
11 anonymous letter was written with a slight left slant.

12  
13 I did not find this difference alarming because it is one of the usual  
14 characteristics that a person changes when trying to disguise their writing.  
15 Before drawing any conclusions, I did a side-by-side comparison of each  
16 letter under magnifiers and used a computer for analysis.

17  
18 Under the magnifiers, I could also see similarities in the pressure applied to  
19 the paper by Jamie and the pressure applied in the anonymous letter. My  
20 computer analysis revealed that there is a 90.35% chance that the example  
21 provided by Hayes and the note sent to campus security were written by the  
22 same person. By contrast there is only a 15.38% chance that the example  
23 provided by Rosales and the note sent to campus security were written by  
24 the same person.

25  
26 It is my professional opinion that the writing on the handwritten note  
27 matches writing samples provided by Jamie Hayes.

1 **WITNESS STATEMENT**  
2 **Defense Witness: Jamie Hayes (Defendant)**

3  
4 My name is Jamie Hayes, and I am a 19-year-old college student. I am  
5 originally from Madison, which is approximately 30 miles east of Anderson.  
6 In August of 2013, I moved to Anderson and started my freshman year of  
7 college. I was the valedictorian of my high school, the editor-in-chief of my  
8 high school newspaper, and a pole-vaulter on my high school track and  
9 field team. I am attending Central Coast University on a full scholarship,  
10 and I am majoring in English.

11  
12 Prior to the incident on May 15, 2014, I have never been in any sort of  
13 trouble with the law. I didn't have many friends in high school, and I spent  
14 most of my time at practice, working out, or writing articles. Besides, my  
15 mother works as a dispatcher for the police department, and I have always  
16 been deathly afraid of getting in trouble because I knew she would be  
17 mortified.

18  
19 When I entered CCU, I only knew Alex Rosales. Alex and I grew up on the  
20 same street in Madison, and we attended the same schools since  
21 elementary. Alex is older than I am but was just one grade ahead because I  
22 skipped second grade. Alex had offered to help me get acclimated when I  
23 arrived in Anderson.

24  
25 On the track team, Alex quickly introduced me to the way that  
26 upperclassmen partied. This was all new to me. Alex warned me of the  
27 hazing rituals and what I would have to do to "prove" myself, but Alex also  
28 assured me that it would all be worth it. I trusted Alex's judgment, so I tried  
29 my best to cooperate.

30  
31 The initial hazing process was not as bad as I expected. I had read horror  
32 stories on the Internet about what some college sports teams would do to  
33 their rookies during conditioning week, but this was not nearly as bad. I  
34 guess I was lucky because several upperclassmen on the track team were on  
35 probation for an incident that occurred the previous year, and that caused  
36 them to tone down their hazing rituals.

37  
38 Casey Barns is currently a senior at CCU. Last year, Casey was the co-  
39 captain of the track team. As co-captain, Casey would decide who was  
40 eligible to live in the track house. I really needed to be in that house, as my  
41 scholarship only covered the cost of classes and books, and the track  
42 housing was subsidized.

43  
44 I quickly learned that the best way to stay off of Casey's bad list was to fly  
45 under the radar. I always made sure to arrive on time for practice, but not  
46 too early. I made sure to be in the middle of the pack on drills, never first  
47 and never last. I spoke when spoken to, but never offered too much  
48 information. I was determined to make it through the year without drawing  
49 any attention to myself.

50  
51 I was also very homesick. I would call my mom three or four times per  
52 week and ask if I could come back and attend junior college, but I knew I  
53 had to stick it out. You see, I am going to be the first person in my family to  
54 graduate from college. My dad abandoned us when I was three, and my

1 mom can't afford to pay for my education. She works in the clerical  
2 department of the Madison Police Department.

3  
4 The track team hosted parties on Thursday nights. Sometimes campus  
5 security would break up the parties, but most of the time they left us alone.  
6 The rookies were required to attend every party, make sure people didn't  
7 get too out of hand, and handle all of the cleanup duties.

8  
9 On Thursday, May 15, 2014, I was at the track team house, as usual. We  
10 were all hanging out in the backyard when the portable speaker ran out of  
11 batteries. Casey went inside to grab batteries and was gone for a while. I  
12 was asked to go inside and see what was taking Casey so long.

13  
14 When I stepped inside, I could hear people arguing in front of the house. I  
15 walked out on the front porch and saw Lee Valdez, from campus security,  
16 arguing with Casey. They were about 20 yards away from me on the  
17 sidewalk across the street. I could see and hear everything clearly, as it was  
18 a quiet night. I was watching closely because I knew that Valdez had a bad  
19 temper and the team called him "Demon Eyes" for acting crazy, and I knew  
20 he had it out for Casey from things I had witnessed. Just about six weeks  
21 before this incident, at the April 3 party, I had witnessed when Valdez hit  
22 Casey with a baton on the back of Casey's head and push Casey against a  
23 fence when breaking up a fight.

24  
25 Before I could do anything, Valdez was on top of Casey on the ground, and  
26 Casey was being choked. I could hear Casey struggling to scream, "Help!  
27 He's killing me!" "I didn't do anything. I am choking." From the porch, I  
28 didn't see anything in Casey's hand, but I could see that Valdez had a baton  
29 in his hand and was pressing the baton against Casey's neck.

30  
31 I didn't know what to do. I thought for a brief second that maybe I should  
32 run back inside. I had never been in a situation like that before, and I  
33 almost felt out of my body for a few moments. All I could think about was  
34 that Valdez was going to kill Casey if I didn't do something.

35  
36 I looked around the porch for anything I could use for protection, and I  
37 found a baseball bat leaning against a wall. I grabbed the bat and ran  
38 towards Valdez yelling for him to stop. I yelled, "Stop!" at least five times.  
39 When I got close enough to see Casey's face, I knew I had to act fast. Casey  
40 had turned bright red, and the veins in Casey's neck were bulging. I was  
41 afraid Casey was going to die, so I took the baseball bat, closed my eyes,  
42 and swung the bat in Valdez's direction.

43  
44 When I opened my eyes, Casey was gasping for air, and Valdez was lying  
45 on the sidewalk, not moving. I immediately checked for Valdez's pulse, and  
46 I was relieved to find that his heart was beating, and he was breathing. That  
47 was when a security guard placed handcuffs on my wrists.

48  
49 When Detective Thomas arrived, I was arrested and taken to the station for  
50 questioning. Around 1:00 a.m., I was placed in a small room with no  
51 windows, a table, and two chairs. There was a one-way mirror on the wall,  
52 like the kind you see in movies. Detective Thomas questioned me until 5:00  
53 p.m., when I finally said, "There is nothing more to talk about. You know  
54 everything." I was hungry and tired, but I was afraid to ask for a break.  
55 Detective Thomas offered me one paper cup of water and stale crackers, but

1 I didn't eat them because they were like cardboard. I was frustrated by the  
2 questioning because I had answered all of the relevant questions within the  
3 first hour, and for the remaining 15 hours, Detective Thomas tried to get me  
4 to admit that I hit Valdez for some reason other than saving Casey's life.  
5

6 At first, I knew that Detective Thomas was just trying to intimidate me by  
7 saying things that weren't true, and I wasn't worried because I was being  
8 completely honest, and I had nothing to hide. As the hours passed, I started  
9 to worry that maybe Casey set me up, or maybe Valdez was just protecting  
10 himself, and I was in the wrong. Detective Thomas even told me that my  
11 mom's boss had been notified, and she would be humiliated at work if I  
12 didn't cooperate. Then, Detective Thomas's entire demeanor changed. I  
13 could see the visible anger, and when asking questions, Detective Thomas  
14 was inches away from my face.  
15

16 [Towards the end of the interrogation, I said, "Valdez is a jerk. He got what  
17 he deserved."] I didn't think, at the time, that Valdez was going to die. I  
18 would have never said that Valdez deserved to die. I just meant that he was  
19 hurting Casey, and he needed to be stopped. At that time, I didn't feel bad  
20 about doing what I had to do to save Casey's life.  
21

22 It was the worst weekend of my life to say the least. I was held in custody  
23 until Monday morning. That was when I was given a hearing, and my bail  
24 was set at \$50,000, which meant that someone would need to pay \$5,000 to  
25 get me out of jail, plus provide collateral for the full \$50,000. I was afraid to  
26 call my mom because I knew that she didn't have the money. So, I called  
27 Alex to find someone to help me. To my surprise, Casey Barns bailed me  
28 out of jail. I always knew that Casey was rich, but I was surprised that  
29 Casey, being so popular, would help out someone like me.  
30

31 After I was released from police custody, I found out that Detective Thomas  
32 was investigating Casey and me. I couldn't understand why Detective  
33 Thomas thought that we would purposefully hurt Valdez.  
34

35 As part of the investigation, Detective Thomas discovered that Alex Rosales  
36 and I have recently been active in a group on campus called "CCU Against  
37 Police Brutality." I have never been involved in a group like this before, but  
38 I felt the cause was something I could stand behind, and Alex asked me for  
39 help. We, along with a few other students, organized two non-violent rallies  
40 to raise awareness about recent events. I also have been running the  
41 group's Twitter account.  
42

43 On April 3, I tweeted from CCU Against Police Brutality's Twitter account  
44 that we need to stand up to law enforcement and fight. All I meant was that  
45 our generation needs to have our voices heard, and we can no longer let the  
46 police treat us unfairly. I should have thought about what people might  
47 think I meant. I would never incite violence. I am not a violent person, and  
48 I do not think violence is the answer.  
49

50 Detective Thomas also thinks that I wrote a threatening letter to Valdez last  
51 month, after the fight was broken up in front of the team's house. I have no  
52 idea who wrote that letter, but I can tell you that I would never do such a  
53 thing. Detective Thomas showed me a copy of the letter, and not only was  
54 the letter not in my handwriting, but whoever wrote it also used the word  
55 "gonna." I would never use that word. I am a strict grammarian.  
56

**WITNESS STATEMENT**  
**Defense Witness: Casey Barns (Student)**

1  
2  
3  
4 My name is Casey Barns, and I am a 22-year-old college student. I was born  
5 and raised in Northern California. My parents are both very successful  
6 lawyers. Last year, I was the co-captain of the track team and I was selected  
7 to be the captain my senior year; that was before I was suspended  
8 indefinitely from the team.  
9

10 Unfortunately, campus administration had it out for us and so did campus  
11 security. During my second year of college, which was 2012-2013, several of  
12 our teammates were suspended for 90 days for hazing, followed by a two-  
13 year probation. The school knows that all of the sports teams have long-  
14 standing rituals when it comes to rookies, but for some reason we were the  
15 only ones singled out and punished that year.  
16

17 When the campus security targeted us during the 2013-2014 school year and  
18 tried to get several of us kicked off of the team, they succeeded. Every team  
19 on campus would host weekly parties, but campus security would only  
20 break up the ones at our house. It became a running joke, and we would  
21 make bets each time to see how long it would take them to come and harass  
22 us.  
23

24 On Thursday, May 15, 2014, just before 11:00 p.m., I walked out to my car,  
25 which was parked one block west of the track house, to grab a screwdriver  
26 from my toolbox in the trunk. We were trying to replace the batteries to our  
27 portable speakers, and I needed a screwdriver to open the battery cover.  
28

29 That was when Lee Valdez, a campus security guard, attacked me in front  
30 of my house. Lee Valdez was a hot head with a bad temper. After he broke  
31 up a fight on our front lawn on April 3, we all saw a different side of him  
32 too. We called him “Demon Eyes” because when he got angry, his eyes  
33 turned glassy. He stepped in to break up the fight, and he injured several of  
34 our teammates in the process.  
35

36 When he jumped on top of me on May 15, I saw Demon Eyes come out,  
37 and I was scared. I was trying to scream for someone to help me get him  
38 off. Valdez was using his baton across my neck to choke me. When I saw  
39 Jamie Hayes approach in the corner of my eye, I thought I was moments  
40 away from dying. I couldn’t breathe, and I didn’t think Jamie would be able  
41 to stop Demon Eyes from killing me. Thankfully, Jamie had a baseball bat  
42 because that is what saved my life.  
43

44 Valdez’s partner came out of nowhere and placed Jamie and me in  
45 handcuffs. I didn’t know why at the time, but I cooperated because I was  
46 afraid the team would get in trouble if I didn’t. Then, the detective came  
47 and ordered my handcuffs removed so I could answer some questions.  
48 Apparently, there was a crime committed a couple blocks away, and Valdez  
49 thought I was a suspect. I explained to the detective exactly what happened  
50 and how Jamie saved my life. The detective asked me if I wanted medical  
51 assistance, but I said I would be all right. I guess I had a lot of adrenaline

1 running after the incident because I didn't feel any pain until the next day.  
2 That was when I felt like a semi-truck hit me. My neck and body were sore.  
3 I laid in bed for the rest of the weekend, and my body healed.

4  
5 I am unsure why Valdez had a problem with me, but we had somewhat of a  
6 history.

7  
8 One night in November, I was hanging out on the front porch of the team  
9 house, and Valdez and his partner came by to harass us. We were doing  
10 nothing wrong. Valdez told us to turn off our music, so we did. After that,  
11 he got in my face. When I walked into the house to get away from him, he  
12 followed me. He threatened to report our team for doing something we  
13 never did. He knew that he could get us in a ton of trouble, so he was  
14 dangling that over our heads. All Valdez wanted was for us to bow down to  
15 him and kiss his feet. I was not about to give him the satisfaction. The next  
16 day, I filed a formal written complaint with the Director of Campus Security,  
17 Lou Williams.

18  
19 That time in April, there was a fight at our house between some of our  
20 teammates and some local teenagers. They were trying to crash our party,  
21 and I told them they were unwelcome. That was when one of the local  
22 teenagers grabbed a glass bottle and smashed it over my head. At that  
23 point, several people jumped in and before I knew it, security was there. Of  
24 course, Valdez was getting out of hand. He was striking people from behind  
25 with his baton, and he even hit me in the back of the head after the fight  
26 was over. I had a bump on my head for weeks.

27  
28 Long story short, Valdez was out of control, and he was going to kill me.  
29 Thankfully, Jamie saved my life, so when Alex called me and said that  
30 Jamie needed help, I did what I felt was right and posted bail for Jamie.

**WITNESS STATEMENT**  
**Alex Rosales (Friend of Jamie Hayes)**

1  
2  
3  
4 My name is Alex Rosales, and I am a 20-year-old college student at Central  
5 Coast University. I grew up in Madison, on the same street as Jamie Hayes.  
6 Jamie and I attended elementary, junior high, high school, and now college  
7 together. I am one year ahead of Jamie in school, so when I found out  
8 Jamie was pole-vaulting for our track team, I was excited to show Jamie the  
9 ropes.

10  
11 I tried out for the track team my freshman year, and it was the best decision  
12 I ever made. I have always been a distance runner, but I wasn't good  
13 enough to be offered a scholarship like Jamie. Being a part of this team has  
14 given me a family away from home.

15  
16 The track team hosts parties every Thursday night. Sometimes the parties  
17 get a little out of control, but for the most part, only students attend, and all  
18 of the students respect the rules.

19  
20 April 3, 2014 was one of those nights where the party got out of control.  
21 Some local teenagers came to the party and started trouble with the  
22 upperclassmen. Most of the local teenagers work on their families' farms  
23 and don't attend school, so we rarely see them, especially since the  
24 neighborhood surrounding campus is made up of student housing, team  
25 houses, faculty housing, and a few small businesses that cater strictly to the  
26 college students. Whenever the local teenagers come anywhere near Lotus  
27 Avenue, we know they are looking for trouble.

28  
29 That night the local teenagers and a few upperclassmen got into an  
30 argument on the front lawn of the team house. Casey Barns had decided to  
31 meet them outside and let them know that they were not welcome.  
32 Someone broke a bottle over Casey's head, which caused Casey to throw  
33 the first punch. Within seconds, there were six or seven people brawling on  
34 the front lawn. It wasn't long before campus security arrived and broke up  
35 the fight.

36  
37 When security arrived, the first thing I noticed was that Valdez jumped right  
38 into the fight, while Spencer stood back shining a flashlight on them. Valdez  
39 immediately tripped two of our teammates and grabbed one of them by the  
40 neck, pushing him up against a fence. Valdez started screaming at Spencer  
41 to handcuff the other two. Once the team members were restrained, Valdez  
42 told the local teenagers to stay, but they left before the police arrived.

43  
44 After the fight was already broken up, I saw Valdez whack Casey on the  
45 back of the head with his baton. Valdez grabbed Casey by the neck and  
46 pinned Casey against the fence, yelling in Casey's face.

47  
48 I was also present at the party on the night of May 15, 2014. When I heard  
49 all of the commotion out front, I ran outside with a few other members of  
50 our team. I saw Jamie crying. Jamie is one of the most loyal, honest, and

1 gentle people I know. I don't believe that Jamie would have acted unless  
2 Jamie truly feared for Casey's life.

3  
4 When Jamie called me from the police station on the Saturday after the  
5 incident, I was unsure what to do, but I knew I needed to find help. I went  
6 to the team house to talk to my teammates about the situation. Casey, who  
7 we all know has money, offered to bail Jamie out of jail right away. So, on  
8 Monday morning, Casey and I went down to the police station and posted  
9 bail for Jamie.

10  
11 Shortly after the incident, an investigator questioned me regarding some of  
12 Jamie's recent political activism. In particular, I was asked about Jamie's  
13 Twitter account and participation in a rally against police brutality on  
14 campus. It is true that Jamie and I have both been active in a group on  
15 campus, but I don't see how that shows that Jamie is a violent person or  
16 that Jamie would want to hurt Valdez. Jamie always talked about Jamie's  
17 own belief in nonviolence when we'd discuss CCU Against Police Brutality.

18  
19 I did notice that Jamie re-tweeted a few things about law enforcement's use  
20 of force. I didn't think anything of it because a ton of my friends were  
21 involved in the discussion, and many of us were speaking out against police  
22 brutality. I also do not see the harm in re-tweeting something. I personally  
23 re-tweet things I find funny or interesting. I guess I need to be careful about  
24 re-tweeting from now on.

25  
26 I was also asked if I wrote an anonymous letter threatening Valdez. I have  
27 no idea what the detective is talking about. I have never had any problems  
28 with Valdez, and I have never written an anonymous letter.

**WITNESS STATEMENT**  
**Gale Green (Handwriting Expert)**

My name is Gale Green, and I am a 49-year-old Board Certified Fraud Examiner through the American Board of Forensic Document Examiners (ABFDE). I have 11 years of experience in forensics, particularly with a focus in forensic document examination. Prior to my career in forensics, I worked for 16 years as a police officer in Colorado.

I received my bachelor's degree in criminal justice in 1988 and my master's degree in forensics in 2004. To become an examiner of forensic documents, I had to complete a two-year training program in an established questioned documents laboratory.

After working as a forensic document examiner for the police department for eight years, I started my own consulting business. I examine forensic documents for my clients, and I testify in depositions and trials on a regular basis. Over the past three years, I have testified in 15 depositions and 12 trials, in which my work has been evenly divided between the prosecution and defense.

When examining a person's handwriting, I compare the document in question with disposal examples from the alleged writer. I use magnifiers when needed, but I do not use any computers in my examination. My mentor was a very well respected document examiner, and it was his belief, as well as mine, that computers will never be able to do the work of a trained eye. I trust my conclusions more than I would trust any computer.

I find it hard to believe that the prosecution's handwriting expert would draw any conclusions with only one writing sample. I was hired by defense counsel to determine if Jamie Hayes wrote an anonymous letter to Campus Security. I used three writing samples from Jamie. We refer to such writing samples as disposal examples. I also used a copy of the anonymous letter.

First, I examined the anonymous letter for identifiable characteristics. I found that it contained large letters with a small differential between capital letters and lowercase letters, moderate-to-low pressure strokes, a slight left slant, no connection between letters, upward terminal strokes, and light cross strokes. It would be very rare to find more than one person who shares all of these characteristics.

Next, I examined each of Jamie's sample writings for similar characteristics. Although it is true that Jamie's writing did contain some of the same characteristics as the anonymous letter, I could not make a conclusion without further examination.

I placed each of Jamie's writing samples under a magnifier to study the specific strokes Jamie used in each combination of letters. That was when I discovered several discrepancies.

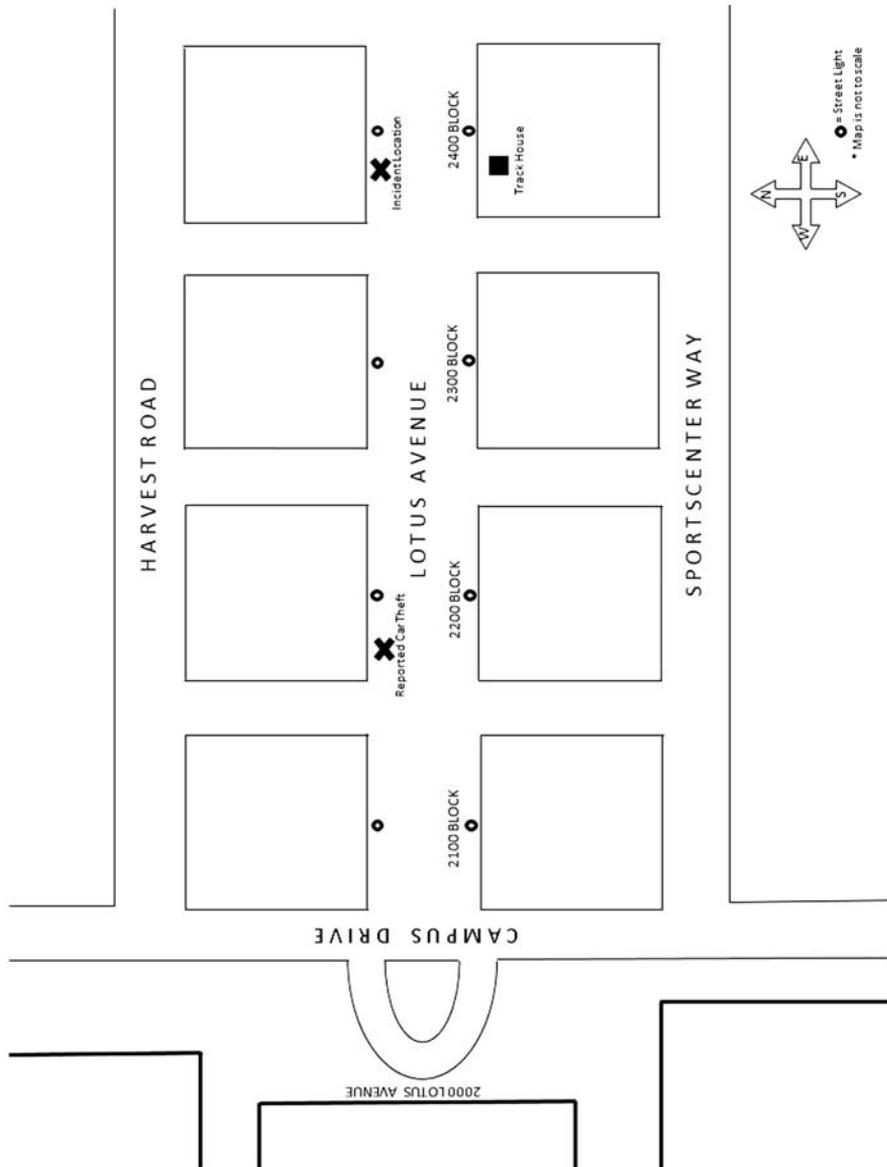
1 First, Jamie used low pressure in all three writing samples. The anonymous  
2 letter was written with relatively more pressure than all three of the  
3 disposal examples. Since the prosecution expert was only working with one  
4 disposal example, it is likely that this went unnoticed. I noticed that Jamie's  
5 writing samples had spacing patterns in certain letter combinations, which  
6 could have only been noticed by looking at multiple disposal examples.  
7 Also, the upward end strokes used in the anonymous letter were much  
8 more distinct than Jamie's samples. Jamie's end strokes were not as long  
9 and sometimes trail off laterally, instead of upward. Lastly, I observed a  
10 difference in cross strokes. The anonymous letter maintained consistent  
11 pressure on cross strokes, while Jamie's writing had significantly lighter  
12 cross strokes.

13  
14 Because the differences far outweigh the similarities between the disposal  
15 examples and the handwritten note, it is my professional opinion that the  
16 handwritten note does not positively match the writing in the disposal  
17 examples.

18  
19

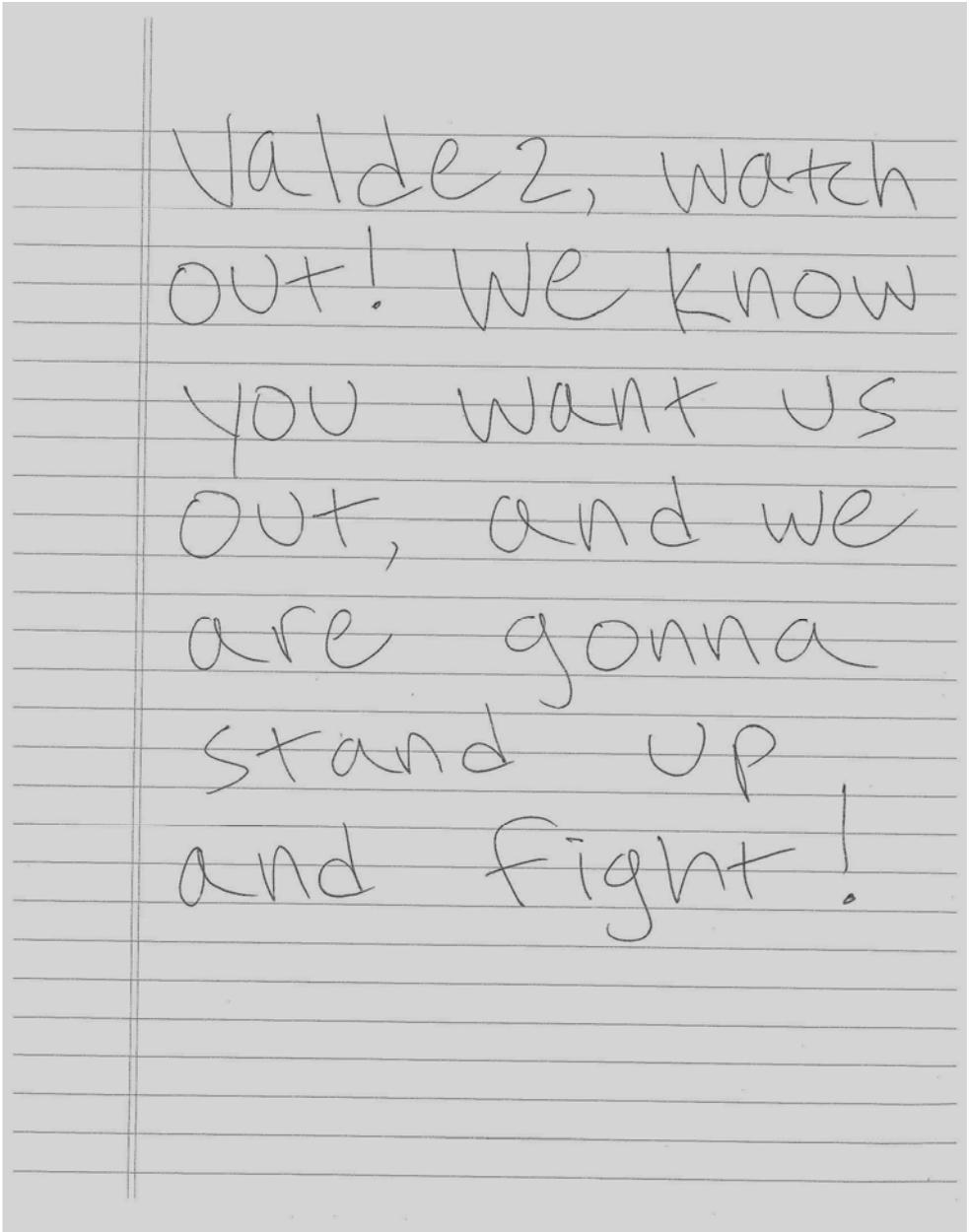
# EXHIBIT A

Diagram of the Area Surrounding 2400 Block of Lotus Avenue



## EXHIBIT B

Anonymous Letter Mailed to the Campus Security Office

A photograph of a handwritten note on lined paper. The text is written in cursive and reads: "Valdez, watch out! We know you want us out, and we are gonna stand up and fight!" The note is written on a sheet of paper with horizontal lines and a vertical margin line on the left side. The handwriting is in dark ink and is somewhat slanted to the right.

Valdez, watch  
out! We know  
you want us  
out, and we  
are gonna  
stand up  
and fight!

# THE FORM AND SUBSTANCE OF A TRIAL

## The Elements of a Criminal Offense

The penal (or criminal) code generally defines two aspects of every crime: the physical aspect and the mental aspect. Most crimes specify some physical act, such as firing a gun in a crowded room, and a guilty, or **culpable**, mental state. The intent to commit a crime and a reckless disregard for the consequences of one's actions are examples of a culpable mental state. Bad thoughts alone, though, are not enough. A crime requires the union of thought and action.

The mental state requirement prevents the conviction of an insane person. Such a person cannot form **criminal intent** and should receive psychological treatment rather than punishment. Also, a defendant may justify his or her actions by showing a lack of criminal intent. For instance, the crime of burglary has two elements: (1) entering a dwelling or structure (2) with the intent to steal or commit a felony. 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, defendants are presumed innocent. This means that the prosecution bears a heavy burden of proof; the prosecution must convince the judge or jury of guilt beyond a **reasonable doubt**.

## The Concept of Reasonable Doubt

Despite its use in every criminal trial, the term "reasonable doubt" is hard to define. The concept of reasonable doubt lies somewhere between probability of guilt and a lingering possible doubt of guilt. 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. Reasonable doubt exists unless the triers of fact can say that they have a firm conviction of the truth of the charge.

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 fallibility rather than intentional lying. The trier of fact (in the Mock Trial competition, the judge) must apply his or her own best judgment when evaluating inconsistent testimony.

A guilty verdict may be based upon circumstantial (indirect) evidence. However, if there are two reasonable interpretations of a piece of circumstantial evidence, one pointing toward guilt of the defendant and another pointing toward innocence of the defendant, the trier of fact is required to accept the interpretation that points toward the defendant's innocence. On the other hand, if a piece of circumstantial evidence is

subject to two interpretations, one reasonable and one unreasonable, the trier of fact must accept the reasonable interpretation even if it points toward the defendant's guilt. It is up to the trier of fact to decide whether an interpretation is reasonable or unreasonable.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt.

## TEAM ROLE DESCRIPTIONS

### ATTORNEYS

The **pretrial-motion attorney** presents the oral argument for (or against) the motion brought by the defense. You will present your position, answer questions by the judge, and try to refute the opposing attorney's arguments in your rebuttal.

**Trial 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 defendant(s). By questioning witnesses, you will try to convince the judge or jury (juries are **not** used at state finals) that the defendant(s) is guilty beyond a reasonable doubt. You will want to suggest a motive for the crime and try to refute any defense alibis.

The **defense attorney** presents the case for the defendant(s). 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's witnesses are not dependable or that their testimony makes no sense or is seriously inconsistent.

Trial attorneys will:

- Conduct direct examination.
- Conduct cross-examination.
- Conduct re-direct examination, if necessary.
- Make appropriate objections: Only the direct and cross-examination attorneys for a particular witness may make objections during that testimony.
- Conduct the necessary research and be prepared to act as a substitute for any other attorneys.
- Make opening statements and closing arguments.

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

### WITNESSES

You will supply the facts in the case. As a witness, the official source of your testimony, or record, is composed of your witness statement, and any portion of the fact situation, stipulations and exhibits, of which you reasonably would have knowledge. The fact situation is a set of indisputable facts that witnesses and attorneys may refer to and draw reasonable

inferences from. The witness statements contained in the packet should be viewed as signed statements made to the police by the witnesses.

You may testify to facts stated in or reasonably inferred from your record. If an attorney asks you a question, and there is no answer to it in your official testimony, you can choose how to answer it. You can either reply, “I don’t know” or “I can’t remember,” or you can infer an answer from the facts you do officially know. Inferences are only allowed if they are *reasonable*. Your inference cannot contradict your official testimony, or else **you can be impeached** using the procedures outlined in this packet. Practicing your testimony with your attorney coach and your team will help you to fill in any gaps in the official materials.

**It is the responsibility of the attorneys to make the appropriate objections when witnesses are asked to testify about something that is not generally known or that cannot be reasonably inferred from the Fact Situation or a Witness Statement.**

### **COURT CLERK, COURT BAILIFF, UNOFFICIAL TIMER**

We recommend that you provide two separate people for the roles of clerk and bailiff, but if you assign only one, then that person **must** be prepared to perform as clerk or bailiff in any given trial.

The unofficial timer may be any member of the team presenting the defense. However, it is advised the unofficial timer not have a substantial role, if any during the trial so they may concentrate on timing. The ideal unofficial timer would be the defense team’s clerk.

The clerk and bailiff have individual scores to reflect their contributions to the trial proceedings. This does NOT mean that clerks and bailiffs should try to attract attention to themselves; rather, scoring will be based on how professionally and responsibly they perform their respective duties as officers of the court.

In a real trial, the court clerk and the bailiff aid the judge in conducting the trial. The court clerk calls the court to order and swears in the witnesses to tell the truth. The bailiff watches over the defendant to protect the security of the courtroom.

In the mock trial, the clerk and bailiff have different duties. For the purpose of the competition, the duties described below are assigned to the roles of clerk and bailiff. **(Prosecution teams will be expected to provide the clerk for the trial; defense teams are to provide the bailiff.)**

### **Duties of the Court Clerk**

When the judge and scoring attorneys arrive in the courtroom, introduce yourself, explain that you will assist as the court clerk and distribute team roster forms to the opposing team, each scoring attorney and the judge.

In the Mock Trial competition, the court clerk’s major duty is to time the trial. You are responsible for bringing a stopwatch to the trial. Please be sure to practice with it and know how to use it when you come to the trials.

**An experienced timer (clerk) is critical to the success of a trial.**

**Interruptions in the presentations do not count as time.** For direct, cross, and re-direct examination, record only time spent by attorneys asking questions and witnesses answering them.

**Do not include time when:**

- **witnesses are called to the stand.**
- **attorneys are making objections.**
- **judges are questioning attorneys or witnesses or offering their observations.**

When a team has two minutes remaining in a category, Hold up the two-minute sign; when one minute remains, hold up the one minute sign; when 30 seconds remains, hold up the 30 second sign; and when time for a category has run out, hold up the stop sign and announce “Stop!” The only verbal warning during the trial should be “Stop!” Remember to speak loud enough for everyone to hear you.

Time Allocations: Two Minutes, One Minute, 30 Seconds, Stop

There is to be no allowance for overtime under any circumstance. This will be the procedure adhered to at the state finals. After each witness has completed his or her testimony, mark down the exact time on the time sheet. Do not round off the time.

### **Duties of the Bailiff**

When the judge arrives in the courtroom, introduce yourself, explain that you will assist as the court bailiff and distribute team roster forms to the opposing team, each scoring attorney and the judge.

In the Mock Trial competition, the bailiff’s major duties are to call the court to order and to swear in witnesses. Please use the language below. When the judge has announced that the trial is beginning, say:

“All rise, Superior Court of the State of California, County of \_\_\_\_, Department \_\_\_\_, is now in session. Judge \_\_\_\_ presiding, please be seated and come to order.” Please turn off all cell phones and refrain from talking.

When a witness is called to testify, you must swear in the witness as follows:

“Do you solemnly affirm that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the Mock Trial competition?”

**In addition, the bailiff is responsible for bringing to trial a copy of the “Rules of Competition.” In the event that a question arises and the judge**

**needs further clarification, the bailiff is to provide this copy to the judge.**

### **Duties of the Unofficial Timer**

Any official member of the team presenting defense may serve as an unofficial timer. This unofficial timer must be identified before the trial begins and sit next to the official timer (clerk).

If timing variations occur 15 seconds or more at the completion of any task during the trial, the timers will notify the judge immediately that a time discrepancy has occurred. Any time discrepancies less than 15 seconds are not considered a violation. NO time discrepancies will be entertained after the trial concludes.

Any objections to the clerk's official time must be made by this unofficial timer during the trial, before the verdict is rendered. The judge shall determine whether to accept the clerk's time or make a time adjustment.

If the times differ significantly, notify the judge and ask for a ruling as to the time remaining. You may use the following sample questions and statements:

“Your honor, before bringing the next witness, may I bring to the courts attention there is a time discrepancy.

“Your honor, there is a discrepancy between my records and those of the official timekeeper.”

Be prepared to show your records and defend your requests.

### **TEAM MANAGER**

Your team may also select a member to serve as **team manager**. Any team member, regardless of his or her official Mock Trial role, may serve as team manager. The manager is responsible for keeping a list of phone numbers of all team members and ensuring that everyone is informed of the schedule of meetings. In case of illness or absence, the manager should also keep a record of all witness testimony and a copy of all attorney notes so that another team member may fill in if necessary.

# PROCEDURES FOR PRESENTING A MOCK TRIAL CASE

## Introduction of Physical Evidence

Attorneys may introduce physical exhibits, if any are listed under the heading “Evidence,” provided that the objects correspond to the description given in the case materials. Below are the steps to follow when introducing physical evidence (maps, diagrams, etc.). All items are presented prior to trial.

1. Present the item to an attorney for the opposing team prior to trial. If that attorney objects to use of the item, the judge will rule whether the evidence is appropriate or not.
2. Before beginning the trial, mark all exhibits for identification. Address the judge as follows: “Your honor, I ask that this item be marked for identification as Exhibit #\_\_\_.”
3. When a witness is on the stand testifying about the exhibit, show the item to the witness and ask the witness if he/she recognizes the item. If the witness does, ask him or her to explain it or answer questions about it. This shows how the exhibit is relevant to the trial.

## Moving the Item Into Evidence

Exhibits must be introduced into evidence if attorneys wish the court to consider the items themselves as evidence, not just the testimony about the exhibits. Attorneys must ask to move the item into evidence at the end of the witness examination or before they finish presenting their case.

1. “Your honor, I ask that this item (describe) be moved into evidence as People’s (or Defendant’s) Exhibit #\_and request that the court so admit it.”
2. At this point, opposing counsel may make any proper objections.
3. The judge will then rule on whether the item may be admitted into evidence.

## 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 its witnesses. A good opening statement should:

- Explain what you plan to prove and how you will prove it.
- Present the events of the case in an orderly sequence that is easy to understand.
- Suggest a motive or emphasize 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 \_\_\_\_\_, the defendant in this action.”

Proper phrasing includes:

“The evidence will indicate that . . .”

“The facts will show. . .”

“Witness (full 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:

- Call for answers based on information provided in the case materials.
- Reveal all of the facts favorable to your position.
- 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)
- Make the witness seem believable.
- 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:

- The witness’s name.
- Length of residence or present employment, if this information helps to establish the witness’s credibility.
- Further questions about 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. (name of witness). 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 witness's credibility, and establish some of the facts of the cross-examiner's case whenever possible. Cross-examination should:

- Call for answers based on information given in Witness Statements or the Fact Situation.
- Use leading questions, which are designed to get "yes" and "no" answers.
- 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 in this way.

Examples of proper questions on cross-examinations:

"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, weren't you wearing a red shirt?"

Cross-examination should conclude with:

"Thank you, Mr./Ms. (name of witness). That will be all, your honor."

## Impeachment During Cross-Examination

During cross-examination, the attorney may want to show the court that the witness on the stand should not be believed. This is called impeaching the witness. It may be done by asking questions about prior conduct that makes the witness's credibility (believability) doubtful. Other times, it may be done by asking about evidence of criminal convictions.

A witness also may be impeached by introducing the witness's statement and asking the witness whether he or she has contradicted something in the statement (i.e., identifying the specific contradiction between the witness's statement and oral testimony).

The attorney does not need to tell the court that he or she is impeaching the witness, unless in response to an objection from the opposing side. The attorney needs only to point out during closing argument that the witness was impeached, and therefore should not be believed.

Example: (Using signed witness statement to impeach)

In the witness statement, Mr. Jones stated the suspect was wearing a pink shirt. In answering a question on direct examination, however, Mr. Jones stated that the suspect wore a red shirt.

On cross-examination ask, "Mr. Jones, you testified that the suspect was wearing a red shirt, correct?"

Mr. Jones responds “Yes.”

Show Mr. Jones the case packet opened up to Mr. Jones’s statement. Ask Mr. Jones, “Is this your witness statement, Mr. Jones?” (Mr. Jones has no choice but to answer “Yes.”)

Then ask Mr. Jones, “Do you recognize the statement on page \_\_\_\_, line \_\_\_\_ of the case packet?”

Read the statement aloud to the court and ask the witness: “Does this not directly contradict what you said on direct examination?”

After you receive your answer (no matter what that answer is) move on with the remainder of your argument and remember to bring up the inconsistency in closing arguments.

### **Re-Direct Examination**

Following cross-examination, the counsel who called the witness may conduct re-direct examination. Attorneys conduct re-direct examination to clarify new (unexpected) issues or facts brought out in the immediately preceding cross-examination **only**. They may not bring up any issue brought out during direct examination. Attorneys may or may not want to conduct re-direct examination. If an attorney asks questions beyond the issues raised on cross, they may be objected to as “outside the scope of cross-examination.” It is sometimes more beneficial not to conduct re-direct for a particular witness. To properly decide whether it is necessary to conduct re-direct examination, the attorneys must pay close attention to what is said during the cross-examination of their witnesses.

If the credibility or reputation for truthfulness of a witness has been attacked on cross-examination, the attorney whose witness has been damaged may wish to “save” the witness through re-direct. These questions should be limited to the damage the attorney thinks has been done and should enhance the witness’s truth-telling image in the eyes of the court.

Work closely with your attorney coach on re-direct strategies.

### **Closing Arguments**

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

- Be spontaneous, synthesizing what actually happened in court rather than being “pre-packaged.” **NOTE: Points will be deducted from the closing argument score if concluding remarks do not actually reflect statements and evidence presented during the trial.**
- Be emotionally charged and strongly appealing (unlike the calm opening statement).
- Emphasize the facts that support the claims of your side, but not raise any new facts.
- Summarize the favorable testimony.
- Attempt to reconcile inconsistencies that might hurt your side.

- Be well-organized. (Starting and ending with your strongest point helps to structure the presentation and gives you a good introduction and conclusion.)
- The prosecution should emphasize that the state has proven guilt beyond a reasonable doubt.
- The defense should raise questions that suggest the continued existence of a reasonable doubt.

Proper phrasing includes:

“The evidence has clearly shown that . . . ”

“Based on this testimony, there can be no doubt that . . . ”

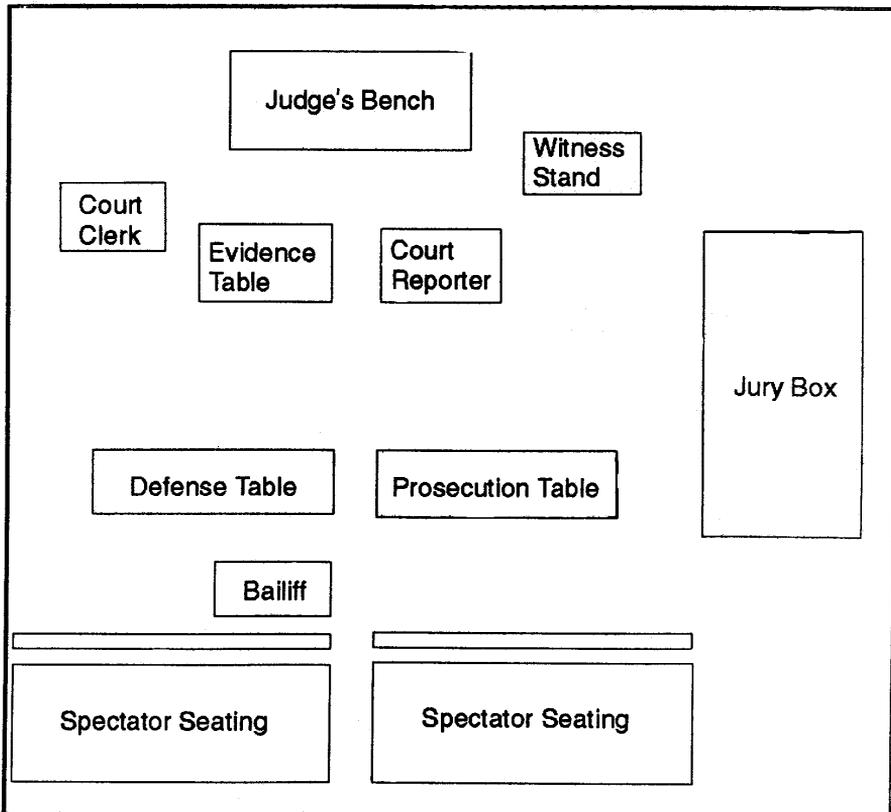
“The prosecution has failed to prove that . . . ”

“The defense would have you believe that . . . ”

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

**An attorney has one minute for rebuttal.** Only issues that were addressed in an opponent’s closing argument may be raised during rebuttal.

## DIAGRAM OF A TYPICAL COURTROOM



# MOCK TRIAL SIMPLIFIED RULES OF EVIDENCE

Criminal trials are conducted using strict rules of evidence to promote fairness. To participate in a Mock Trial, you need to know its rules of evidence. The California mock trial program bases the mock trial simplified rules of evidence on the California Evidence Code. Studying the rules will prepare you to make timely objections, avoid pitfalls in your own presentations, and understand some of the difficulties that arise in actual cases. The purpose of using rules of evidence in the competition is to structure the presentations to resemble an actual trial.

Almost every fact stated in the materials will be admissible under the rules of evidence. All evidence will be admitted unless an attorney objects. To promote the educational objectives of this program, students are restricted to the use of a select number of evidentiary rules in conducting the trial.

## Objections

It is the responsibility of the party opposing the evidence to prevent its admission by a timely and specific objection. Objections not raised in a timely manner are waived. An effective objection is designed to keep inadmissible testimony, or testimony harmful to your case, from being admitted. *A single objection* may be more effective than several objections. Attorneys can and should object to questions that call for improper answers before the answer is given.

For the purposes of this competition, teams will be permitted to use only certain types of objections. The allowable objections are found in this case packet. **Other objections may not be raised at trial.** 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 continue the presentation even if you disagree. A proper objection includes the following elements. The attorney:

- (1) addresses the judge,
- (2) indicates that he or she is raising an objection,
- (3) specifies what he or she is objecting to, i.e., the particular word, phrase, or question, and
- (4) attorney specifies the legal grounds for the objection.

Example: “(1) Your honor, (2) I object (3) to that (1) question (4) because it is a compound question.”

## Allowable Evidentiary Objections

### 1. Creating a Material Fact (CMF)

This objection is specific to the competition and is not an ordinary rule of evidence. The (CMF) objection applies if a witness creates a material fact not included in his or her official record. It is not a CMF violation for a witnesses to make a logical inference from their statement, that does not materially impact the case. When making an objection to CMF, students should be able to explain to the court what material fact is being created and why it is material to the case. A material fact is one that would likely impact the case.

Form of Objection: **“Objection, your honor. The witness is creating a material fact that is not in the fact situation or his/her witness statement,” or “Objection, your honor. The question seeks material testimony that goes beyond the scope of the record.”**

## 2. Relevance

Relevant evidence makes a fact that is important to the case more or less probable than the fact would be without the evidence. To be admissible, any offer of evidence must be relevant to an issue in the trial. The court may exclude relevant evidence if it is unfairly prejudicial, confuses the issues, or is a waste of time.

Either **direct** or **circumstantial** evidence may be admitted in court. Direct evidence proves the fact asserted without requiring an inference. A piece of circumstantial (indirect) evidence is a fact (Fact 1) that, if shown to exist, suggests (implies) the existence of an additional fact (Fact 2), (i.e., if Fact 1, then probably Fact 2). The same evidence may be both direct and circumstantial depending on its use.

Example: Eyewitness testimony that the defendant shot the victim is **direct** evidence of the defendant’s assault. Testimony establishing that the defendant had a motive to shoot the victim, or that the defendant was seen leaving the victim’s apartment with a smoking gun, is **circumstantial** evidence of the defendant’s assault.

Form of Objection: **“Objection, your honor. This testimony is not relevant. Your honor, I move that the witness testimony about... be stricken from the record because it is not relevant.” or**

**“Objection, your honor. Counsel’s question calls for irrelevant testimony.”**

## 3. Laying a Proper Foundation

To establish the relevance of circumstantial evidence, you may need to **lay a foundation**. Laying a proper foundation means that, before a witness can testify to certain facts, it must be shown that the witness was in a position to know and had personal knowledge of those facts.

Sometimes when laying a foundation, the opposing attorney may object on the ground of relevance, and the judge may ask you to explain how the proposed evidence relates to the case. You can then make an “offer of proof” (Explain what the witness will testify to and how it is relevant.) The judge will then decide whether or not to let you question the witness on the subject.

Example: If attorney asks a witness if he saw X leave the scene of a murder, opposing counsel may object for a lack of foundation. The questioning attorney should ask the witness first if he was at or near the scene at the approximate time the murder occurred. This lays the foundation that the witness is legally competent to testify to the underlying fact.

Form of Objection: **“Objection, your honor. There is a lack of foundation.”**

#### 4. Personal Knowledge

A witness may not testify about any matter of which the witness has no personal knowledge. Only if the witness has directly observed an event may the witness testify about it. Witnesses will sometimes make inferences from what they actually did observe. An attorney may properly object to this type of testimony because the witness has no personal knowledge of the inferred fact.

Example: 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 the defense attorney's 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.”** or

**“Your honor, I move that the witness’s 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 that revealed the lack of a basis for a previous statement.)

#### 5. Character Evidence

In a criminal trial, evidence of a defendant's character (impulsive, careless, greedy, etc.) is inadmissible when offered to prove his or her conduct on a specific occasion. However, evidence of the defendant's habit can be used to show the conduct of the person on a particular occasion was in conformity of the habit. Additionally, evidence that a person committed a crime, may be admissible to show proof of motive, opportunity, intent, preparation, plan, knowledge, identity or absence of mistake or accident by the defendant.

In a criminal case, a defendant can call character witnesses to testify to their opinion that the defendant's character was inconsistent with the acts of which he or she is accused. The defendant can also introduce evidence of the character of the victim of the crime, where the conduct of the victim's conformity with his character would tend to prove the innocence of the defendant.

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. In another case, the prosecutor calls the owner of the defendant's apartment to testify. 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 as the prejudicial nature of the testimony might outweigh its probative value, thereby making the statement inadmissible.

Form of Objection: **“Objection, your honor. Character is not an issue here,”** or

**“Objection, your honor. The question calls for inadmissible character evidence.”**

## 6. Opinion Testimony

Opinion includes inferences and other subjective statements of a witness. In general, opinion testimony is inadmissible as the witness is speculating rather than testifying to facts. It is admissible where it is (a) rationally based upon the perception of the witness (five senses) **and** (b) helpful to a clear understanding of the testimony. Opinions based on a common experience are admissible. Some common examples of admissible witness opinions are speed of a moving object, source of an odor, appearance of a person, state of emotion, or identity of a voice or handwriting.

Example: A witness could testify that, “I saw the defendant who was crying, looked tired, and smelled of alcohol.” All of this statement is proper lay witness opinion testimony as long as there is personal knowledge and a proper foundation.

Form of Objection: **“Objection, your honor. The question calls for speculation on the part of the witness. I move that the testimony be stricken from the record.”**

## 7. Expert Witness

An expert witness may give an opinion based on professional experience. A person may be qualified as an expert if he or she has special knowledge, skill, experience, training, or education. Experts must be qualified before testifying to a professional opinion. Qualified experts may give an opinion based upon personal observations as well as facts made known to them outside the courtroom. The facts need not be admissible evidence if they are the type reasonably relied upon by experts in the field. Experts may give opinions on ultimate issues in controversy at trial. In a criminal case, an expert may **not** state an opinion as to whether the defendant did or did not have the mental state in issue.

Example: A doctor bases her opinion upon (1) an examination of the patient and (2) medically relevant statements of the patient’s relatives. Personal examination is admissible because it is relevant and based on personal knowledge. The statements of the relatives are inadmissible hearsay but are proper basis for opinion testimony because they are reasonably relevant to a doctor’s diagnosis.

Form of Objection: **“Objection, your honor. There is a lack of foundation for opinion testimony,”** or

**“Objection, your honor. The witness is improperly testifying to defendant’s mental state in issue.”**

## 8. Hearsay

Hearsay evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated. Hearsay is considered untrustworthy because the

speaker of the out-of-court statement is not present and under oath and therefore cannot be cross-examined. Because these statements are unreliable, they ordinarily are not admissible.

However, testimony not offered to prove the truth of the matter asserted is, by definition, *not* hearsay. For example, testimony to show that a statement was said and heard, to show that a declarant could speak in a certain language, or to show the subsequent actions of a listener is admissible.

Examples:

1. Joe is being tried for murdering Henry. The witness testifies, “Ellen told me that Joe killed Henry.” If offered to prove that Joe killed Henry, this statement is hearsay and probably would not be admitted over an objection.
2. However, if the witness testifies, “I went looking for Eric because Sally told me that Eric did not come home last night,” this could be admissible. This is an out-of-court statement, but is not offered to prove the truth of its contents (that Eric did not come home). Instead, it is being introduced to show why the witness looked for Eric.

Form of Objection: **“Objection, your honor. Counsel’s question calls for hearsay.”** or

**“Objection, your honor. This testimony is hearsay. I move that it be stricken from the record.”**

Out of practical necessity, courts have recognized types of hearsay that may be admissible. Exceptions have been made for certain types of out-of-court statements based on circumstances that promote greater reliability. The exceptions listed below may be used in the Mock Trial.

- a. **Declaration against interest**— Evidence of a statement by a declarant is not made inadmissible by the hearsay rule if the statement, when made, was contrary to the declarant’s own economic interest, or subjected the declarant to the risk of civil or criminal liability, or created a risk of making the declarant an object of hatred, ridicule, or social disgrace in the community. A reasonable person in the declarant’s position would not have made the statement unless the person believed it to be true.
- b. **Excited utterance**—a statement made shortly after a startling event, while the declarant is still excited or under the stress of excitement.
- c. **State of mind**—a statement that shows the declarant’s mental, emotional, or physical condition.
- d. **Records made in the regular course of business (including medical records)**—the custodian of records is not required.
- e. **Official records and writings by public employees**

- f. **Past recollection recorded**—something written by a witness when events were fresh in that witness’s memory, used by the witness with insufficient recollection of the event and read to the trier of fact. (The written material is not admitted as evidence.)
- g. **Statements for the purpose of medical diagnosis or treatment**
- h. **Reputation of a person’s character in the community**
- i. **Dying declaration**—a statement made by a dying person respecting the cause and circumstances of his or her death, which was made upon that person’s personal knowledge and under a sense of immediately impending death.
- j. **Co-conspirator’s statements**—(a) The statement was made by the declarant while participating in a conspiracy to commit a crime or civil wrong and in furtherance of the objective of that conspiracy; (b) the statement was made prior to or during the time that the party was participating in that conspiracy; and (c) the evidence is offered either after admission of evidence sufficient to sustain a finding of the facts specified in (a) and (b) or, in the court’s discretion as to the order of proof, subject to the admission of this evidence.
- k. **Admission by party opponent**—Evidence of any statement by a party in an action is not inadmissible hearsay when it is offered against that party by an opposing party. The statement does not have to be against the declarant’s interest at the time the statement was made.

### **Allowable Objections for Inappropriately Phrased Questions**

#### **9. Leading Questions**

Attorneys may not ask witnesses leading questions during **direct examination**. A leading question is one that suggests the answer desired. Leading questions are permitted on cross-examination.

Example:

Counsel for the prosecution asks the witness, “During the conversation of March 8, didn’t the defendant make a threatening gesture?”

Counsel could rephrase the question, “What, if anything, did the defendant do during your conversation on March 8th?”

Form of Objection: “**Objection, your honor. Counsel is leading the witness.**”

#### **10. Compound Question**

A compound question joins two alternatives with “and” or “or,” preventing the interrogation of a witness from being as rapid, distinct, or effective for finding the truth as is reasonably possible.

Example: “Did you determine the point of impact from conversations with witnesses and from physical marks, such as debris in the road?”

Form of Objection: **“Objection, your honor, on the ground that this is a compound question.”**

The best response if the objection is sustained on these grounds would be, “Your honor, I will rephrase the question,” and then break down the question accordingly. Remember that there may be another way to make your point.

### **11. Narrative**

A narrative question is too general and calls for the witness in essence to “tell a story” or make a broad-based and unspecific response. The objection is based on the belief that the question seriously inhibits the successful operation of a trial and the ultimate search for the truth.

Example: The attorney asks A, “Please tell us all of the conversations you had with X before X started the job.”

The question is objectionable, and the objections should be sustained.

Form of Objection: **“Objection, your honor. Counsel’s question calls for a narrative.”**

### **Other Objections**

#### **12. Argumentative Question**

An argumentative question challenges the witness about an inference from the facts in the case. A cross-examiner may, however, legitimately attempt to force the witness to concede the historical fact of a prior inconsistent statement, as long as the cross-examiner does not harass a witness, become accusatory toward a witness, or unnecessarily interrupt the witness’s answer. These behaviors are known as “badgering the witness.”

Questions such as “How can you expect the judge to believe that?” are argumentative and objectionable. The attorney may argue the inferences during summation or closing argument, but the attorney must ordinarily restrict his or her questions to those calculated to elicit facts.

Form of Objection: **“Objection, your honor. Counsel is being argumentative.” or**

**“Objection, your honor. Counsel is badgering the witness.”**

#### **13. Asked and Answered**

Witnesses should not be asked a question that has previously been asked and answered. This can seriously inhibit the effectiveness of a trial.

Examples:

**On Direct Examination**—Counsel A asks B, “Did X stop for the stop sign?” B answers, “No, he did not.” A then asks, “Let me get your testimony straight. Did X stop for the stop sign?”

Counsel for X correctly objects and should be sustained.

BUT:

**On Cross-Examination**—Counsel for X asks B, “Didn’t you tell a police officer after the accident that you weren’t sure whether X failed to stop for the stop sign?” B answers, “I don’t remember.” Counsel for X then asks, “Do you deny telling him that?”

Counsel A makes an **asked and answered objection**. The objection should be **overruled**. **Why?** In the above example, Counsel for X rephrased the question based upon B’s answer.

Form of Objection: **“Objection, your honor. This question has been asked and answered.”**

#### 14. Vague and Ambiguous Questions

Questions should be clear, understandable, and as concise as possible. The objection is based on the notion that witnesses cannot answer questions properly if they do not understand the questions.

Example: “Does it all happen at once?”

Form of Objection: **“Objection, your honor. This question is vague and ambiguous as to what ‘it’ refers to.”**

#### 15. Non-Responsive Witness

Sometimes a witness’s reply is too vague and doesn’t answer the attorney’s question. For example, the attorney asks “What did you see that night?” The witness answers “I would never do anything to hurt anybody!” That is non-responsive. Other times, a witness might entirely “forget” the event in question, even though it is in their witness statement in the case packet. It is possible that the witness might be using this tactic to prevent some particular evidence from being brought forth.

Form of Objection: **“Objection, your honor. The witness is being non-responsive.”**

#### 16. Outside the Scope of Cross-Examination

Re-direct examination is limited to issues raised by the opposing attorney on cross-examination. If an attorney asks questions beyond the issues raised on cross, opposing counsel may object to them.

Form of objection: **“Objection, your honor. Counsel is asking the witness about matters that did not come up in cross-examination.”**

## Summary of Allowable Evidentiary Objections for the California Mock Trial

1. **Creating a Material Fact:** “Objection, your honor. The answer is creating a material fact that is not in the record,” or “Objection, your honor. The question seeks testimony that goes beyond the scope of the record.”
2. **Relevance:** “Objection, your honor. This testimony is not relevant to the facts of this case. I move that it be stricken from the record,” or “Objection, your honor. Counsel’s question calls for irrelevant testimony.”
3. **Foundation:** “Objection, your honor. There is a lack of foundation.”
4. **Personal Knowledge:** “Objection, your honor. The witness has no personal knowledge to answer that question,” or “Your honor, I move that the witness’s testimony about \_\_\_ be stricken from the case because the witness has been shown not to have personal knowledge of the matter.”
5. **Character Evidence:** “Objection, your honor. Character is not an issue here,” or “Objection, your honor. The question calls for inadmissible character evidence.”
6. **Opinion:** “Objection, your honor. The question calls for speculation on the part of the witness.”
7. **Expert Opinion:** “Objection, your honor. There is lack of foundation for opinion testimony,” or “Objection, your honor. The witness is improperly testifying to defendant’s mental state in issue.”
8. **Hearsay:** “Objection, your honor. Counsel’s question calls for hearsay,” or “Objection, your honor. This testimony is hearsay. I move that it be stricken from the record.”
9. **Leading Question:** “Objection, your honor. Counsel is leading the witness.”
10. **Compound Question:** “Objection, your honor. This is a compound question.”
11. **Narrative:** “Objection, your honor. Counsel’s question calls for a narrative.”
12. **Argumentative Question:** “Objection, your honor. Counsel is being argumentative,” or “Objection, your honor. Counsel is badgering the witness.”
13. **Asked and Answered:** “Objection, your honor. This question has been asked and answered.”
14. **Vague and Ambiguous:** “Objection, your honor. This question is vague and ambiguous as to \_\_\_\_\_.”
15. **Non-Responsive:** “Objection, your honor. The witness is being non-responsive.”
16. **Outside Scope of Cross-examination:** “Objection, your honor. Counsel is asking the witness about matters that did not come up in cross-examination.”

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