

Running a Mock Trial

A guide and materials for teachers,
participants and organisers

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1: INTRODUCTION

THE MATERIAL IN THIS PACK DESCRIBES HOW TO RUN A MOCK TRIAL OF A CRIMINAL CASE, IN LESSONS OR AS PART OF AN EXTRA CURRICULAR GROUP ACTIVITY.

The pack also includes suggestions for two smaller scale activities, around the issues of considering the evidence and sentencing.

Court visits

The pack can be used with *Judges and Schools – A Guide to Court Visits*, which is available free from the Department for Constitutional Affairs (see below).

Running a mock trial or the smaller scale activities can be a good way of preparing for or reinforcing the value of a court visit. But a court visit is not essential and much fun and good experience can be gained by using these materials on their own.

How realistic is it?

For the sake of convenience and practicality the suggested mock trial described in this guide does not follow exactly the procedure that would be followed either in a Magistrates Court or in the Crown Court. The notes indicate the main areas where real procedures are different. Otherwise the procedure and the language is as realistic as possible.

In particular, it is not necessary for there to be a jury of twelve people who would normally be present in a Crown Court. Schools and groups can use a number of smaller juries or a much larger one. The

jury listens to the mock trial and discusses the evidence and the guidance indicates how to do this.

This pack includes:

The value of mock trials

A note for teachers or group organisers

A brief introduction to the Criminal Justice System in England and Wales

Suggested preparation and organisation for a Mock Trial

Guidance notes for each of the participants:

- ◆ The judge(s)
- ◆ Four lawyers (two on each side)
- ◆ One defendant (i.e. the person accused of the crime)
- ◆ Three witnesses;
- ◆ One clerk and one usher (groups can vary the numbers if they wish)
- ◆ Jury members
- ◆ **A suggested procedure and timetable**
- ◆ **A case to be tried** – this includes: a summary of the facts; a brief summary of the relevant law; four witness statements (two for the prosecution and two for the defence); statements of agreed facts to be read to the court; a specimen Judge's summing up.

INTRODUCTION

(...continued)

The pack also includes:

- ◆ An activity looking at the issue of considering all the evidence
- ◆ A sentencing activity.

Other resources

- ◆ The Guide to Court Visits describes how to get the most out of a group visit to a Crown or County Court. It also has much useful information about our legal system and what goes on in court even if you can't arrange a court visit. To order copies of 'Judges and Schools – A Guide to Court Visits' telephone 0845 6022260 or email: dfes@prolog.uk.com. Alternatively it can be downloaded from <http://www.lcd.gov.uk/judicial/schools/judgesandschools.htm>.

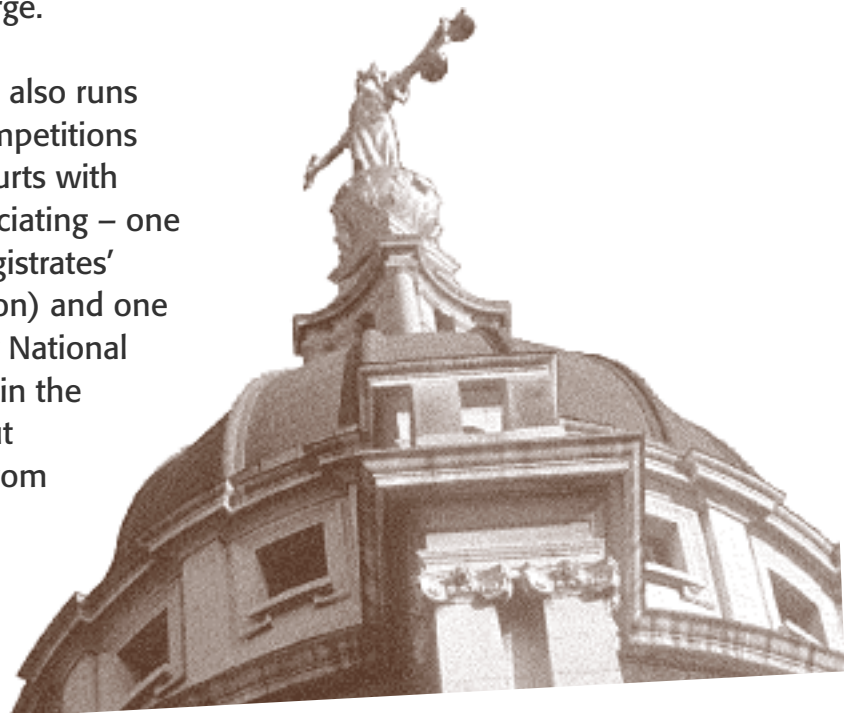
- ◆ Other cases for use in mock trials can be obtained from The Citizenship Foundation for a small charge.
- ◆ The Citizenship Foundation also runs two national Mock Trial competitions which take place in real courts with Magistrates and Judges officiating – one for 11-14 year olds (the Magistrates' Court Mock Trial Competition) and one for 15-19 year olds (the Bar National Mock Trial Competition set in the Crown Court). Details about entering can be obtained from the Citizenship Foundation.
- ◆ The Galleries of Justice in Nottingham also provides mock trial

A detailed knowledge of the law is not required to use this material. If you know a local barrister or solicitor they may agree to help you to add some 'real life' experience, but this is not essential.

guidance and cases (some historical and some contemporary) and facilities for groups to participate in a mock trial in a real courtroom setting.

Feedback

The Citizenship Foundation welcomes feedback on how this material works in practice and how it could be improved. Please contact us by letter or email (info@citizenshipfoundation.org.uk).



2: THE VALUE OF MOCK TRIALS

An understanding of what law means in our society and the role the law plays in our everyday lives is a crucial part of being an informed and effective citizen.

Preparing for and participating in a mock trial will help introduce students to our legal system. It provides some knowledge of the basic structure of the criminal justice system and court procedures in England and Wales.

Many people we may know, or who we read or hear about in the newspapers and on TV, have to go to court for one reason or another. Students will be better able to assess what is really going on when this happens; it isn't always as it is talked about, reported or shown in films and TV serials.

Mock trial participants develop skills of listening, reasoning, speaking, and thinking clearly on their feet. They also demonstrate the value and importance of preparation and fair presentation, particularly when someone's guilt or innocence is in question.

Under our legal traditions, which are now enshrined in the Human Rights Act 1998, anyone who is accused of committing a criminal offence is entitled to:

- ◆ have a fair trial held in public, and
- ◆ be treated as "not guilty" until they are proved guilty on the evidence.

The citizenship component of the National Curriculum expressly requires a knowledge of the criminal justice system and the development of skills of enquiry, communication, participation and responsible action. These are all assisted by running a mock trial.

3: THE CRIMINAL JUSTICE SYSTEM

A BRIEF INTRODUCTION TO THE CRIMINAL JUSTICE SYSTEM IN ENGLAND AND WALES AND THE KEY RULES OF EVIDENCE.

How laws are made

Our laws are made in two main ways:

Acts of Parliament (Statutes)

These are laws made after being debated and approved by both Houses of Parliament and signed (as a formality) by the Queen or King. They usually represent what the Government of the day believes should be the law. These laws are then enforced through the courts.

Some of our laws now come from decisions made by the European Union (EU). All members of the EU have agreed to adopt or abide by these laws and they will prevail over any conflicting laws that existed before.

The Human Rights Act, which was passed in 1998, is a special form of law that sets out some fundamental rights and freedoms that we can all enjoy. All other laws (including EU laws) must, wherever possible, be applied so as to respect these fundamental rights and freedoms.

The Scottish Parliament and the Northern Ireland Assembly also have some power to make laws which will apply in their region of the UK.

Judge-made law (or Case law)

In the twelfth century the King appointed a number of Judges to travel around the

What is law?

“The enforceable body of rules that governs any society.”

A Dictionary of Law: OUP 1997

country to settle disputes and enforce order. The decisions of the Judges over the years were recorded and form a body of “case law”. If a case, with the same or nearly the same facts, has been decided in the past by equal or higher ranking Judges, that decision must be followed. This is called a “precedent”. In this way the Judges attempted to standardise the law across the country, and it became known as the “Common Law”.

In exceptional cases the most Senior Judges can now-a-days agree not to follow what other Senior Judges have done in the past. So, in this way, the Judge-made law can keep up to date with the changing times.

Judges today are appointed by the Lord Chancellor – the most senior judge of all – who is also a Government Minister. The Government announced in June 2003 that this system will change. The office of Lord Chancellor will be abolished and an independent body will be created to appoint Judges and Magistrates.

What types of laws are there?

There are three main types of law:

Criminal laws

These are laws which say how we must behave (or not behave) in order to protect everyone in the community. If we break these laws we are committing a crime. We can then be prosecuted, tried and punished by the State. Clear examples are the laws which make it a criminal offence to steal from or murder another person.

Civil laws

These are laws that say how we must behave or not behave in non-criminal cases and in our relationships with each other. If we break these laws the other person involved (and not the State) can take legal steps to obtain their rights or to remedy what we have done. Very often one person is looking for financial compensation from another. Clear examples are the laws that govern buying something that doesn't work or that apply when an employer sacks an employee.

Administrative laws

These are laws which set out what public bodies (like the police, schools or local councils) can do and what their responsibilities are. They also set out ways in which citizens can complain or seek compensation if these bodies act wrongly.

Criminal cases

Crimes are investigated by the police. If they think that someone should be taken to court and accused of committing a crime ("prosecuted") they will refer this to a Government department, which employs

lawyers called the Crown Prosecution Service.

If these lawyers think there is enough evidence they will prosecute the person accused, who is known as the "Defendant".

All prosecutions start in the Magistrates' Court. The less serious cases (95% of all prosecutions) will be heard by Magistrates who will decide, on the basis of the evidence presented to them, whether the Defendant is guilty or not guilty; if they find the Defendant is guilty they will decide what sentence should be imposed.

In more serious cases (e.g. robbery, assault, murder) the Magistrates will decide whether there is a basic case against the Defendant on the face of the evidence and, if so, will send it to be heard in the **Crown Court** by a **Judge and Jury**. In some cases (theft, for example) a Defendant may be able to choose which court (Magistrates or Crown Court) s/he wishes to be tried in.

A jury is made up of 12 members of the public. Every citizen over 18 must be prepared to act as a juror although some exceptions can be made. In the Crown Court it is up to the Jury to listen to the evidence and decide whether the Defendant is guilty or not guilty. The Judge will advise the Jury what the law is. If they decide that the Defendant is guilty the Judge will then decide what sentence to impose.

If the Defendant thinks that the Judge

made a mistake when advising the Jury about the law, the Defendant can “appeal” to the Court of Appeal. In very exceptional cases of public importance there may be a further appeal to the highest court – called the House of Lords. This is a special group of very senior judges who have been appointed to sit as judges in the House of Lords. The Government has announced that it plans to create a Supreme Court to replace the senior judges sitting in the House of Lords.

The prosecution can also appeal in some cases if they think the sentence imposed was the wrong one but they cannot appeal against someone being found not guilty.

A useful guide to what goes on inside a Crown Court can be found in **Judges and Schools – a Guide to Court Visits** (see the Introduction for more details).

Key Questions of Evidence

There are three key questions of evidence for the prosecution to consider which are of vital importance in any criminal case. These are rules that were developed to ensure that the Defendant gets a fair trial.

What is the ‘Standard of proof’?

A very high **standard of proof** is needed before someone can be found guilty. The Magistrates or Jury must be “really sure” on the basis of the evidence they have heard in court that the Defendant did what s/he is accused of doing. It used to be described as being satisfied “beyond reasonable doubt”.

A Defendant is presumed to be innocent until the Prosecution proves that s/he is

guilty. The Defendant does not have to prove that s/he is innocent. So the courts say the ‘burden of proof’ is on the Prosecution.

How do you prove something happened?

The witnesses must give evidence of what they say happened without being “helped” by lawyers in court. So the lawyer questioning a witness on his or her side must not suggest the answer to the witness (e.g. “did you see the defendant stab the victim?”). These are called “**leading questions**”. Generally questions which can be answered “yes” or “no” will fall into this category. A good way of testing is to make sure questions start “How...”, “Where...”, “Why...”, “What...” etc. This helps to avoid asking leading questions.

“Leading Questions” can be asked during cross-examination of the Opposition’s witnesses, but they don’t usually serve much purpose.

What about telling the Court what other people said happened?

This is not allowed. If the prosecution wants the court to believe that something happened they must provide evidence from someone with first hand experience of it. A witness cannot say: “I heard my friend said that she saw him stabbing the victim”. This is called “**hearsay**” evidence and will be ruled out of order. The traditional view is that there is just too much risk that it will not be reliable enough or that it will be invented.

4: RUNNING A MOCK TRIAL BASED ON A CROWN COURT TRIAL

This pack is based on a trial in a Crown Court with a Judge and Jury. You can use your discretion to alter the numbers of Judges to suit the circumstances.

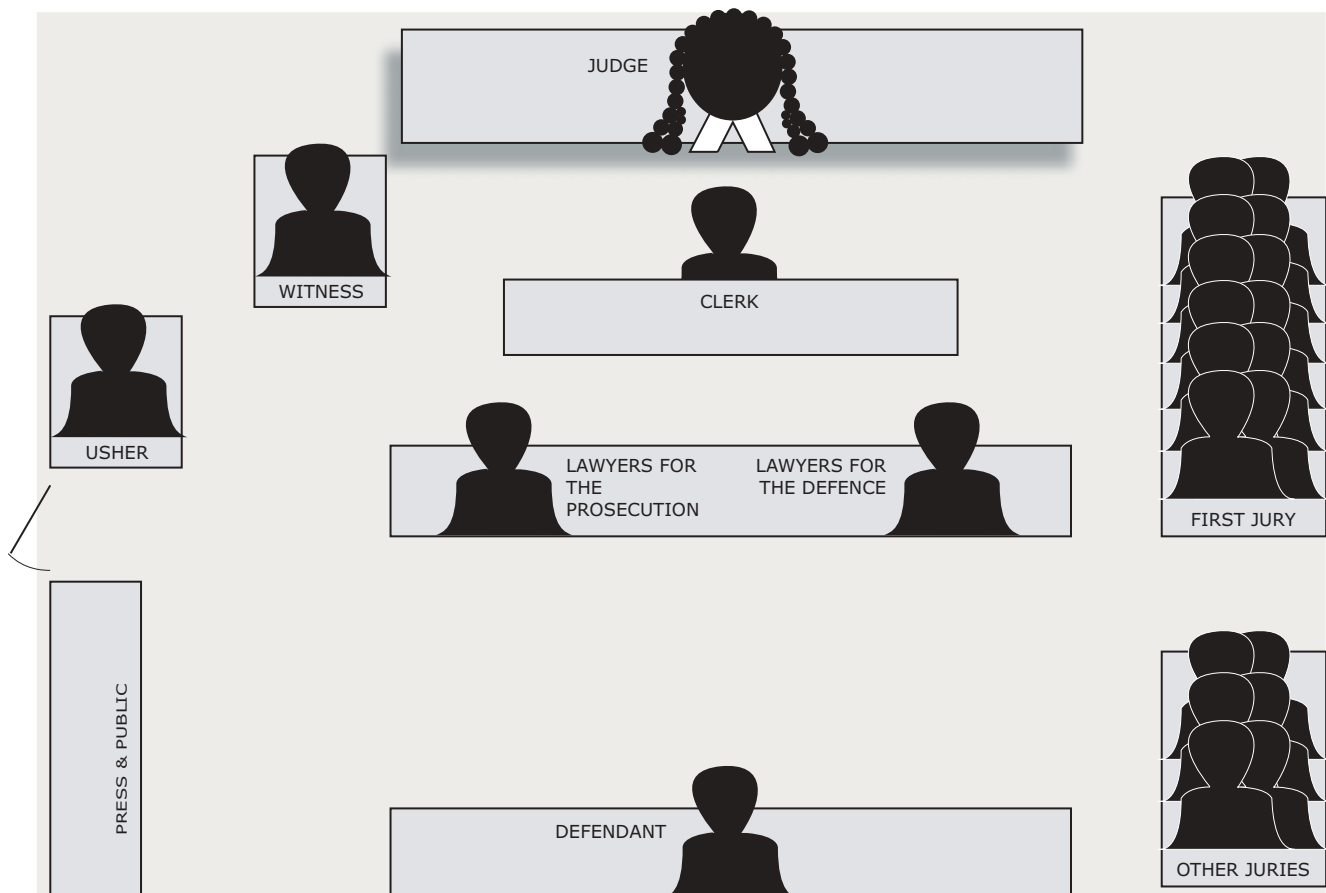
An adaptation for a Magistrates' Court using three Magistrates and no jury members is set out in Section 7.

Time

Running a full mock trial with preparation and follow up discussion will take approx. two hours. It is best organised in two lessons or sessions.

Space

The room should be arranged to resemble a real court room. The diagram below provides a guide to the layout of a real courtroom.



Participants

You will need a Judge, one defendant, three witnesses, four lawyers, a court clerk and an usher. Students who do not have a speaking role play the parts of Jury members. They can be divided into groups of around six who will discuss the case at the appropriate time.

We suggest the Judge is played by a teacher or group leader, or perhaps by a visiting lawyer who is helping you with the mock trial.

Materials

All participants and observers will need a copy of the Procedure Guide (Section 5) and the participants will need the participant's guide for their character (Section 6). It may be helpful for the participants to understand the roles of all the characters so you may wish to hand out all the participants' guides.



INTRODUCING THE MOCK TRIAL TO THE GROUP

Session one

- ◆ Outline the case and the roles people will play.
- ◆ Briefly describe the procedure for the case.
- ◆ Introduce the Criminal Justice System (Section 3) and discuss the various points if you wish.
- ◆ Distribute the Procedure Guide (Section 5) and Participants' Guides (Section 6) for the individual characters.
- ◆ Allow time for the students to prepare.
- ◆ Observers or jury members can review one of the supplementary activities or study the Participants' Guides so that they can follow what is going on.
- ◆ Some students could be asked to prepare a newspaper or TV report of the proceedings.

Session two

- ◆ Make sure the room is set up correctly. The job could be given to the Clerk and the Usher.
- ◆ Run the trial to the point where the accused is found guilty or not guilty by the jury (or juries).
- ◆ If the accused is found guilty by the jury (or any of them) involve the whole group in considering the sentence. (See the sentencing activity in Section 9 for different types of sentences and the reasons for choosing them.)
- ◆ Follow up with a discussion of the experience. If the group has made a court visit discuss how it compared; if not consider whether the group would

now like to do so. See if there are other aspects that the group would like to follow up. The book *Judges and Schools – A Guide to Court Visits* includes a number of discussion points and other activities (see the Introduction).

If the accused is found not guilty the group could assume they were found guilty and consider the sentence anyway or follow up with the sentencing activity (Section 9)

The Citizenship Foundation welcomes feedback. If the group writes a report on the activity we would be grateful to receive a copy.

5: SUGGESTED PROCEDURE GUIDE

This procedure should be adapted if you decide to have only one speech on each side from the lawyers. This would involve cutting out step 30 (opening Defence speech) and step 44 (closing Prosecution speech). The times given are for guidance only.

The judge is addressed as "Your honour".



Action



Reading / speaking



1♦ Clerk and usher
Checks Room.



**2♦ Participants
(except Judge)**
Take their places.



3♦ Usher
Advises judge when the court is ready



4♦ Judge
Enters the courtroom.



5♦ Usher
Says "All stand" (and they do).



6♦ Judge and participants
Judge sits and participants take their places. The Defendant stays standing. Everyone else sits.



7♦ Clerk
Gives a note of the names of the case, the defendant and the lawyers to the Judge.



8♦ Clerk
Asks defendant to stand.
Defendant stands.



9♦ Clerk
Reads out the charge from the case and then says, "Do you understand that?".



10♦ Defendant
Says "yes".



11♦ Clerk
Says to the defendant: "Do you plead guilty or not guilty?".



12♦ Defendant
Says "Not guilty".



13♦ Judge
Asks defendant to sit. Asks the first prosecution lawyer to make their opening speech.



14♦ First prosecution lawyer
Makes opening speech (3 mins max).

SUGGESTED PROCEDURE GUIDE

(...continued)



15♦ First prosecution lawyer
Calls first prosecution witness by saying, "Your Honour, I now call..." and states name of first witness.



16♦ First prosecution witness
Stands.



17♦ Usher
Leads witness to witness box.



18♦ Usher
Swears in the witness asking him/her to repeat, "I promise to tell the truth, the whole truth and nothing but the truth". Witness repeats the oath after the Usher.



19♦ First prosecution lawyer
Examines the first prosecution witness. At the end s/he should say, "Thank you. I have no further questions but please stay there as my learned friend may have some questions for you" (4 mins max).



20♦ First defence lawyer
Cross-examines the first prosecution witness (4 mins max). When finished says "I have no further questions, Your Honour".



21♦ Judge
Asks a question (one per witness) or say that s/he has no questions.



22♦ Usher
Leads the witness back to his/her seat.



23♦ Second prosecution lawyer
Stands and says, "Your Honour, I now call..." and states name of second witness.



24♦ Second prosecution witness
Stands.



25♦ Usher
Leads witness to the witness box and swears in the witness (see step 18).



26♦ Second prosecution lawyer
Examines second prosecution witness. At the end says, "Thank you. I have no further questions but please stay there as my learned friend may have some questions for you" (4 mins max).



27♦ Second defence lawyer
Cross-examines second prosecution witness (4 mins max). At the end says "I have no further questions".



28♦ Judge
Ask a question or says that s/he has no questions.

SUGGESTED PROCEDURE GUIDE

(...continued)



29♦ Usher

Leads witness back to seat.



30♦ First defence lawyer (optional)

Makes an opening speech (3 mins max).



31♦ First defence lawyer

Says "Your honour I call [defendant]..." and states name of defendant.



32♦ Defendant

Stands.



33♦ Usher

Leads defendant to witness box and swears him/her in.



34♦ First defence lawyer

Examines defendant. At the end says, "Thank you-I have no further questions but please stay there as my learned friend may have some questions for you".



35♦ First prosecution lawyer

Cross-examines defendant. At the end says "I have no further questions" (4 mins max).



36♦ Judge

Ask a question or says s/he has no questions.



37♦ Usher

Leads defendant back to seat.



38♦ Second defence lawyer

Stands and says, "Your Honour I now call..." and state name of second witness.



39♦ Usher

Leads witness to the witness box and swears in.



40♦ Second defence lawyer

Examines second defence witness. At end says, "Thank you. I have no further questions but please stay there as my learned friend may have some questions for you." (max 4 mins).



41♦ Second prosecution lawyer

Cross-examines second defence witness (max 4 mins).



42♦ Judge

Ask a question or says s/he has no questions.



43 Usher

Leads witness back to seat.



44♦ Second prosecution lawyer (optional)

Makes closing speech (3 mins).



45♦ Second defence lawyer

Makes closing speech (3 mins).

SUGGESTED PROCEDURE GUIDE

(...continued)



46♦ Judge

Sums up (4 mins max) and instructs jury to “retire and consider their verdict”.



47♦ Jury

Moves to a separate room or area to consider its verdict. One member to be named as Spokesperson (5 mins max).



48♦ Usher

Leads the jury, when ready, back to their seats in the courtroom.



49♦ Clerk

Says to jury: “Have you considered your verdict?”



50♦ Jury Spokesperson

Says “Yes”.



51♦ Clerk

Says to jury: “Do you find the defendant guilty or not guilty?”



52♦ Jury Spokesperson

Says “Guilty” or “Not guilty”, depending on the verdict.



53♦ Judge

If not guilty, says: “[Name of defendant], you are free to go”; if guilty says: “The Court will now consider the sentence that is appropriate”.

6: GUIDANCE NOTES FOR PARTICIPANTS

This set of guidance notes:

- ◆ describes the role of each participant,
- ◆ suggests how they should participate, and
- ◆ suggests the rules which they should follow.

There are separate copiable guidance notes for:

- ◆ The Judge(s)
- ◆ The Defendant
- ◆ The Witnesses
- ◆ The Lawyers
- ◆ The Court Clerk
- ◆ The Usher
- ◆ The Jury (or juries)

It will be helpful for all involved to review the guidance notes for all the participants so that they get a fuller understanding of the procedures.



PARTICIPANTS' GUIDE

JUDGE

You are in charge of the trial. Like a referee or umpire you must make sure the trial is conducted fairly.

Before the Trial

- ◆ Read through all the information in the case.
- ◆ Think about what seem to be the key points and what you need to know.
- ◆ Note down questions you would like to ask the defendant or the witnesses, if the lawyers do not ask them. Agree between you who will ask which question. Your prepared questions should be limited to four: one for the defendant and one for each of the three witnesses.

Judges don't *have* to ask any extra questions and may be asked not to do so by the organiser if time is short.

- ◆ Make sure you understand the procedure and agree with the clerk and usher about how the room is set up.. The Judge has the final say if there is any doubt.

During the Trial

- ◆ Make sure things happen in the right order (see Section 5). If you are in doubt you can stop the proceedings to check (but only do so at a sensible time, not when someone is in the

middle of a sentence or speech); you must be ready to lead the proceedings by saying what should happen next if the clerk doesn't know.

- ◆ Make a rough note of what each lawyer and witness says.
- ◆ Make sure the lawyers ask proper and relevant questions. If they don't you can point this out and ask them to try again.

The Lawyers must ask questions about the facts of the case, and not ones which can only have a "yes" or "no" answer. They should not ask the witnesses for their "opinions" or what someone else said to them.

- ◆ Make sure the witnesses answer the questions put to them in a proper way. If they don't you can ask them to do so.

The Witnesses should stick to the facts in their statements. They should not make speeches, give their own opinions or repeat what someone else told them. Also they should not invent new facts which are not in their statements.

- ◆ Make sure everyone can hear what the lawyers and witnesses are saying; you can ask them to speak up (or quieten down!) if you need to.

PARTICIPANTS' GUIDE – JUDGE

(...continued)

Summing up at the end of the evidence

- ◆ The Judge should briefly state the law and sum up the evidence the Court has heard. The case contains a specimen summing-up.

When “summing up”

- ◆ You can only refer to evidence you have actually heard from the witnesses; you must ignore any suggestions made by the lawyers which are not based on the evidence.
- ◆ You must refer to all witnesses equally to be fair to all.
- ◆ You mustn't let any personal views or prejudices influence you.
- ◆ You should also state what the law is. A summary of the law is contained in the case.
- ◆ The Judge should tell the Jury(ies) to consider whether they are really sure that, on the basis of the evidence, the defendant is guilty. Only if they are sure can the Jury(ies) decide that the defendant is guilty. Otherwise they must find the defendant not guilty.
- ◆ Remember the defendant doesn't have to be proved innocent (though of course it helps the defendant's case if s/he does persuade the jury that s/he wasn't involved).
- ◆ The Judge then asks the jury(ies) to retire to consider their verdict.



You won't find a judge looking like this!

PARTICIPANTS' GUIDE

DEFENDANT

You are accused of committing a crime. You have denied this and said you are not guilty.

You will be giving evidence on your own behalf. The case contains your statement.

In a real trial...

A defendant doesn't have to give evidence. But if they say they are "not guilty" and refuse to say why or offer any evidence to show that they didn't commit the crime the jury or judge are "allowed to draw their own conclusions".

Before the Trial

- ◆ You should read the case. In particular you should read the description of what you are accused of and your statement.
- ◆ Discuss with your lawyers what you are going to say when they ask you questions. You must not change the facts in your statement.
- ◆ Try and anticipate what questions the lawyer for the prosecution or the Judge may ask you and think about your answer.
- ◆ Think about your character.

During the Trial

- ◆ Try to act the character you are playing.
- ◆ Follow any instructions you are given by

the Judge, Clerk or Usher.

- ◆ When asked by the Clerk if you are Guilty or Not Guilty, say "Not Guilty".
- ◆ You must stick to the facts as set out in your statement and mustn't just make things up on the spur of the moment.
- ◆ If you are asked a question that requires an answer that isn't covered at all by your statement you should say "I don't know" or "I can't remember" or "Why are you asking me that – it isn't in my statement".

In a real trial...

Defendants often do say new things in court but if they weren't covered in their statement they may be regarded as "unreliable" and let themselves down.

If you haven't had time to remember your statement you may have it with you to refer to when answering questions. This wouldn't usually happen in a real trial.

Lawyers will also often ask questions on matters that aren't in the defendant's statement. This is an attempt to catch them out and show they are unreliable or untrustworthy. The Judge should not allow them to move away from the main issues of the case, but if a question could be relevant s/he will allow it. In a real court you must always try to answer the questions.

PARTICIPANT'S GUIDE

WITNESSES

There are two witnesses for the prosecution and two witnesses for the defence (one of whom is also the defendant). The case contains the statement of each witness.

Before the trial

- ◆ Read the case and in particular the statement you have made.
- ◆ Think about your character.
- ◆ Think about the questions you may be asked by the prosecution lawyer (if you are a defence witness) or by the defence lawyer (if you are a prosecution witness). They will be trying to identify any inconsistencies in your statement and generally trying to show you are “unreliable” or might have been mistaken.
- ◆ You should discuss this with the lawyers on your side.

During the trial

- ◆ Try to act the character you are playing.
- ◆ Follow any instructions you are given by the Judge, Clerk or Usher.
- ◆ You must stick to the facts as set out in your statement and mustn't make things up on the spur of the moment.

If you haven't had time to remember your statement you may have it with you to refer to when answering questions. This wouldn't usually be allowed in a real trial.

- ◆ Keep your answers short and use your own words – don't just recite what's in your statement.

- ◆ If you are asked a question that requires an answer that isn't covered at all by your statement you should say “I don't know” or “I can't remember” or “Why are you asking me that – it isn't in my statement”.
- ◆ If you are asked to describe what the defendant looks like you should base your description on the person playing that role.
- ◆ You may sit in the room throughout the trial.

In a real trial...

- ◆ **Lawyers often ask questions on matters that aren't in the witness statement. This is an attempt to catch the witness out and show they are unreliable or untrustworthy, but the lawyers must still ensure their questions are relevant to the case. The Judge won't allow them to move away from the main issues. In a real court you must always try to answer the questions.**
- ◆ **Witnesses often do say new things in court, but if these weren't covered in their statement the witness may be regarded as “unreliable”.**
- ◆ **Witnesses (except the defendant) usually have to wait outside until they have given their own evidence, so they are not influenced by what others have said in court.**

PARTICIPANTS' GUIDE

LAWYERS

There are four lawyers involved: two for the prosecution and two for the defence.

Each lawyer must:

- ◆ make one speech (either an opening or a closing speech). If time is short this can be reduced to one speech by each side: an opening speech by the Prosecution and a closing speech by the Defence;
- ◆ examine (question) one of his/her own side's witnesses;
- ◆ cross examine (question) one of the other side's witnesses.

Before the Trial

- ◆ Read the case and make sure you are familiar with the procedure.
- ◆ The two lawyers on each side should agree which of them will make which speech and which witness each lawyer will

PLANNING WHAT YOU WILL SAY

Questions examining your own side's witnesses should follow their witness statement. You should lead your witness through their statement, starting with their name and address, so that the court hears all the relevant evidence. Questions used to cross-examine the other side's witnesses should try and highlight any weaknesses or inconsistencies in their statement to show that they are unreliable or untrustworthy.

question.

- ◆ Think about what you will say in your speech and what questions you will ask the witnesses.
- ◆ Think about what questions the other side's lawyers will ask when questioning your side's witnesses. You should help them prepare their answers.

During the trial

- ◆ You can have copies of the witnesses statements with you and any notes you have made – but you should not just read out prepared speeches or detailed questions; be as natural as possible.
- ◆ Don't offer the court your own opinions – so don't say "I think that...".

Opening Speeches

Opening speech by the first prosecution lawyer

- ◆ Summarise the case against the defendant.
- ◆ Briefly summarise what you will demonstrate to the court through the evidence of your two witnesses.
- ◆ Describe the standard of proof that the prosecution has to meet. The standard of proof is that the jury(ies) must be "really sure" that the defendant is guilty. It used to be described as proving the case "beyond reasonable doubt", but this phrase is not often used now in court.

(Continued...)

PARTICIPANTS' GUIDE – LAWYERS

(...continued)

Opening speech by the first defence lawyer

(This speech can be omitted if time is short)

- ◆ Briefly confirm that the defendant claims s/he is not guilty and explain what the prosecution will have to prove and why this may be difficult for them.
- ◆ Explain that you don't have to prove that the defendant is innocent; it is for the prosecution to prove that s/he is guilty.

Questioning the witnesses

- ◆ Keep your questions short so they are easily understood.
- ◆ You must not put words into the mouths of your own witnesses by asking questions which just require a "yes" or "no" answer. This is called asking a **"leading question"**.
- ◆ You mustn't ask your witness to say what they heard someone else tell them. This is called **"hearsay"** evidence.
- ◆ Try and be natural and conversational.

NO LEADING QUESTIONS

A leading question is one that just requires a 'yes' or 'no' answer. If you ask a leading question and the judge spots it s/he may ask you to rephrase the question. To avoid this it helps if your questions start with: How-What-Where-Why-When. Leading questions can only be asked during cross-examination of your opponent's witnesses, but they don't usually serve much purpose.

- ◆ Be prepared to change your prepared questions depending on the answers you get.
- ◆ If a witness says something inconsistent with their statement be ready to read the relevant part of their statement to them and ask them to explain why they want to change their account.
- ◆ Allow witnesses time to answer and don't interrupt.
- ◆ Try not to be aggressive or sarcastic.
- ◆ When you examine your own witnesses remember that the aim is to present your side of the case (what you say happened) clearly and to get all the relevant facts stated by your witnesses.
- ◆ When you cross examine the other side's witnesses remember that the aim is to cast doubt on the reliability of what they are saying by e.g. highlighting inconsistencies or gaps in their story. You don't have to show they are lying. It is enough to establish that they could be mistaken to cast doubt on their evidence.

(Continued...)

NO HEARSAY EVIDENCE

Evidence told to the witness by someone else is called "hearsay" evidence. This cannot be relied on as it may be invented or incomplete. It could be challenged as it doesn't come from the original source.

PARTICIPANTS' GUIDE – LAWYERS

(...continued)

Closing Speeches

Closing speech by the second prosecution lawyer

(This speech can be omitted if time is short)

- ◆ Bring together the evidence given by the two prosecution witnesses.
- ◆ Comment on any weaknesses exposed by the defence during cross examination of their witnesses.
- ◆ Briefly summarise what the law says about the offence.
- ◆ Explain why you say the Jury(ies) can be sure that the Defendant is guilty.

Closing speech by the second defence lawyer

- ◆ Explain and emphasise the weaknesses in the prosecution case.
- ◆ If there are good points accept them but explain why they are not enough on their own.
- ◆ Show the Jury why it is right to find the defendant not guilty as they can't be really sure that s/he committed the offence.

In a real trial...

There is only likely to be one lawyer on each side unless the case is very serious or complicated.

It is very rare, in fact, for there to be an opening speech by the defence lawyers, but we are including it in this mock trial to help everyone understand the process.



CLERK AND USHER

The Court Clerk and the Usher are Court Officials and perform an essential role in seeing that everything runs smoothly.

Before the Trial

- ◆ Read the case and make sure you understand who is going to do what.
- ◆ Agree with the Judge to set up the room like a court room so that everyone can see and hear each other. Put up labels to show people where to sit (if that helps).
- ◆ The Usher should make sure s/he knows where everyone is going to sit.
- ◆ The Clerk should write down the names of the Defendant and of the two Lawyers on each side to give to the Judge so s/he knows who is who and what their roles are.

During the Trial

- ◆ The Usher will tell the Judge when everyone is ready to start the trial. The Usher will then ask everyone to stand while the Judge enters and sits down. If the Judge can enter from outside the classroom this will help establish the formality of the proceedings.
- ◆ The Clerk will start the trial by announcing the case and calling on the Defendant to stand. S/he will ask the Defendant to state their name and address.

- ◆ The Clerk reads out the charge and asks the defendant whether they plead guilty or not guilty.
- ◆ The Usher leads each witness from and to the witness box when their turn comes and asks each witness to promise to tell the truth.

The words to be used are in the procedure guide (Section 5). This mock trial does not use the Bible or other Books of Faith for the purposes of 'swearing in' the witness. The oath used is based on the secular oath which can be chosen in a real court by witnesses of no faith.

- ◆ The Usher is responsible for carrying out the Judge's instructions to make sure that there are no avoidable disturbances during the trial e.g. mobile phones or digital watches must be switched to silent or off and no eating or drinking must take place in court.

JURY MEMBERS

The role of each jury member is to decide whether the defendant is guilty or not guilty on the basis of the facts you have heard. You therefore have to listen to the case very carefully.

Before the trial

- ◆ Read the case and think about the things you want to hear more about.

During the trial

- ◆ Listen carefully to everything that's said and observe how the witnesses behave when giving evidence.
- ◆ Take notes if you want to.
- ◆ Consider whether the things that struck you as important were asked about by the lawyers or the judge.

Be ready to discuss the evidence as it was presented to you during the trial so you can decide whether you think that the defendant is guilty.

Considering your decision

- ◆ Appoint one member to be the spokesperson.
- ◆ It is up to you to decide how to discuss what you have heard.
- ◆ We suggest that after a brief discussion each of you votes guilty or not guilty.
- ◆ If you all agree that is your decision.
- ◆ If you don't all agree you must discuss the evidence until a majority of you agree. Then that is your decision.
- ◆ If after five minutes you are divided equally then a majority has not been convinced and you must find the Defendant not guilty.

When the jury has reached its decision it should tell the Usher and the Usher will take the jury back to its place in the court room.

In a real trial...

The jury has 12 members. The proceedings are entirely secret. The Judge will say at first that s/he wants a unanimous verdict. If a jury really cannot agree the Judge may tell them that s/he will accept a majority verdict, but it must be either 10–2 or 11–1. If the jury still cannot reach a decision, the defendant is discharged and may face a re-trial before a new jury.

7: ADAPTATION BASED ON A TRIAL IN A MAGISTRATES' COURT

If you want your mock trial to resemble more closely what happens in a Magistrates' Court (or if you don't have anyone to be the Jury):

Appoint up to three people to act as a panel of Magistrates with one of them acting as the leader (we recommend this is a teacher or perhaps a lawyer if one is able to help). The other two are called "wing" magistrates.

Other students who are not involved could form separate panels of Magistrates. They will observe the trial and at stages 47–53 (see below) will consider their own verdicts.

The Judge's instructions apply to the panel of three Magistrates with the leader doing the things done by the Judge in the Crown Court case.

You will not have a jury. Instead the Magistrates listen to the case and must decide whether the defendant is guilty or not guilty.

Other steps in Section 5 that change:

- ◆ Instead of a Clerk the role is described as Legal Adviser. The things which the Clerk says and does should be done by the Legal Adviser. S/he sits in the same place.
- ◆ Step 46: The Legal Adviser tells the Magistrates what the law is. A summary of the law is in the case (2 mins max).
- ◆ Steps 47–52: These are replaced. Instead the panel(s) of Magistrates discuss the case and decide whether the defendant is guilty or not guilty.
- ◆ Step 53: The Lead Magistrate addresses the defendant and tells him or her either, "We have considered the evidence and find you not guilty. You are free to go", or "We have considered the evidence and find you guilty. We will now consider the sentence that is appropriate".

8: THE IMPORTANCE OF EVIDENCE

ADDITIONAL ACTIVITY

INTRODUCTORY NOTE FOR TEACHERS/ORGANISERS

This activity can be used in a group session to illustrate the importance of finding out and considering all the relevant facts before coming to a fair conclusion. First reactions may sometimes be right but your final “judgment” should usually be suspended until as much is known as possible.

This attempt at fairness in discovering all the relevant facts is fundamental to our system of justice.

“WHEN THE FACTS CHANGE I MAY CHANGE MY OPINION”

– J MAYNARD KEYNES

This activity is based on a civil case where the question is whether one person should compensate another for the damage caused to them. It involves presenting a sequence of factual information – only a sentence or two at a time – and inviting discussion by the group of the difference the new information makes to their view at each stage. In some cases the information is neutral or irrelevant. It is important to work this out too.

The information is set out on separate copiable sheets.

Thinking about what information is important is also a useful way of approaching media reports of court cases in progress. Inevitably the media has to select what information to give us and we cannot always be sure that we have been given sufficient facts (or evidence) to form a fair view.

This Section also contains a suggested activity to prepare media report based on the information provided but from different points of view.

THE IMPORTANCE OF EVIDENCE

INTRODUCTORY BASIC INFORMATION

Jennifer bought a carton of coffee. When she drank her first mouthful it spilt and caused her damage. She thought she should be compensated. She wrote to the owner who refused so she took advice from a lawyer. The lawyer said the owner should pay her and took them to court claiming “damages” (that is, compensation for the loss she said she had suffered).



What are your first reactions to the story?



Who do you think might be to blame, if anyone?



Should Jennifer be able to get some money from the coffee shop?



What more information do you need before you can make a fair decision?

(Continued...)

“THE IMPORTANCE OF EVIDENCE”

NEW INFORMATION INTRODUCED AS EVIDENCE

**Now look at each new piece of evidence in turn (see pages 29–35).
After you have read each one ask the following types of questions:**



What difference do the new facts make to your views?



Which new facts do you think are important and which make little or no difference?



Do the new facts make you want to find out some more information you hadn't thought of before?

"THE IMPORTANCE OF EVIDENCE"
NEW INFORMATION INTRODUCED AS EVIDENCE



1:

Jennifer was an old lady of at least 70.

She bought the coffee at a "drive-in" coffee shop.

Jennifer was driving a 10 year old car when she pulled in to buy the coffee.

She had a friend with her in the car.

“THE IMPORTANCE OF EVIDENCE”
NEW INFORMATION INTRODUCED AS EVIDENCE



2:

The coffee was served in a carton.

The carton had a lid on it with a drinking spout.

The lid wasn't secure when the carton was given to Jennifer; she didn't notice this.



3:

The carton was marked “Coffee – Hot”.

The drive-in had a notice saying “Please move on from the drive-in kiosk as soon as you have paid”.

Jennifer actually tried to take a sip of coffee as soon as she received the carton.

Her car was stationary at the time.

“THE IMPORTANCE OF EVIDENCE”
NEW INFORMATION INTRODUCED AS EVIDENCE



4:

The assistant serving at the drive-in was new.

She hadn't had any training.

She noticed that Jennifer and her friend were chatting a lot when she served them.

"THE IMPORTANCE OF EVIDENCE"
NEW INFORMATION INTRODUCED AS EVIDENCE

i 5:

The coffee was so hot that it burned Jennifer's tongue.

She jumped up in her seat and dropped the carton.

The lid came off and the spilt coffee burned her arm.

She was taken to hospital for treatment.



6:

The coffee shop owners had set rules about the temperature that coffee should be served at.

Their machines should have been set to heat the water to well below scalding levels.

It was designed to be reasonable for most people to drink straight away.



7:

Investigation showed that these machines had in fact been set at a higher temperature.

The coffee shop staff used cheaper grade coffee beans so that the coffee had to be made with higher temperature water.

The higher temperature could be dangerous to some people with more sensitive skin.

Jennifer had sensitive skin and had had treatment for it over the years.

THE IMPORTANCE OF BEING EVIDENCE QUESTIONS

By now you have probably formed some clearer views about the questions asked at the beginning.



Do you now think you have enough information (evidence) to make a fair decision?



Do you think Jennifer or the Coffee shop is most to blame? Can you say why?



Do you think they are both to blame – equally or one more than the other? If so what facts were important to you in deciding this?



Have you changed your mind since the beginning? If so discuss why.

THE IMPORTANCE OF BEING EVIDENCE

MEDIA ACTIVITY

Imagine you were a journalist listening to the story in court.

- 1** Try writing two stories for your local paper (or make a TV news report) one putting it from Jennifer's point of view and one from the coffee shop's point of view (don't make up any new information).
- 2** Now try writing or telling the story in a balanced way, putting both points of view.
- 3** Think up some headlines for your story which grab the attention – think about whether they are biased one way or the other- for or against Jennifer or the coffee shop.

OUTCOME

This case is based on a combination of cases brought to court. Each case depends on its own facts. In the case most similar to this the Court found that the Coffee shop was liable to compensate Jennifer but her compensation would be reduced by 25% as she partly contributed to the incident by her own carelessness.

9: SENTENCING

ADDITIONAL ACTIVITY

There is a large range of sentences that Courts can impose on a person who is found guilty of committing a crime. Except in murder cases (when a life sentence is automatic) and a few other cases, the Judge or Magistrates can choose from a wide range of possible sentences what they think is the appropriate sentence.

This will always depend on all the circumstances of the particular case and of the person who has been found guilty. In many cases the law lays down some limits e.g. maximum or minimum sentences or fines – but within these limits there is a large measure of choice.

The main choices boil down to:

® Sending the offender to **prison** or, if they are under 21, to a **Young Offender Institution**; or if under 15, to a **Secure Training Centre** or to an **accommodation centre run by the local authority**.

® **Fining** the offender a sum of money or ordering the offender to pay compensation to the victim or both. The amount of any fine or compensation will depend on how much money the offender has. The court will look into this before deciding the amount.

® An **order controlling the conduct** or activity of the offender – for example, a drug rehabilitation programme; regular

reporting to a probation officer, or for under 21s to the Youth Offending Team, and undertaking some form of training
community punishment: doing so many hours unpaid community work;
or going to an **attendance centre** (for under 21s) to occupy the offender's leisure time.

Where someone under 18 is found guilty of a criminal offence the courts can also make orders on other people who are responsible for the young person e.g. a parent or guardian. These are called "**parenting orders**" and are to help the parent or guardian control the activities of young people who have committed offences.

What are the reasons for choosing different types of sentence?

Judges or Magistrates may be trying to do several things. The main reasons behind the different types of sentence are:

® **To protect others**

Going to prison makes sure for a time that the offender can't do the same thing again or commit another crime.

® **To help the offender**

By providing training and a chance to experience activities that will help encourage them to "go straight".

(Continued...)

SENTENCING

(...continued)

® To punish the offender

Some crimes are thought to deserve a strong punishment.

® To deter the offender and others

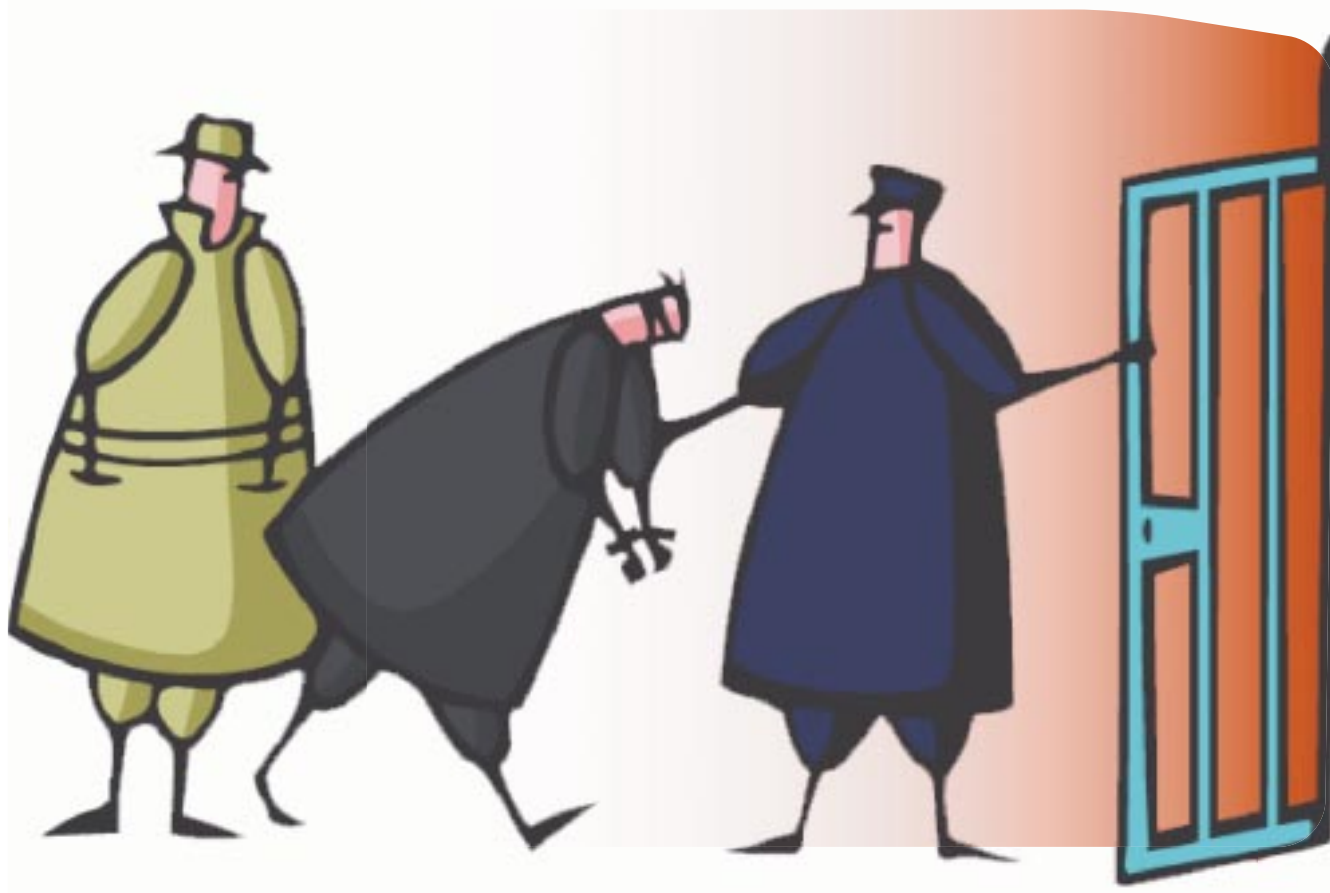
By making an example of someone so that they and others are discouraged from doing the same thing again.

® To give something back to society or to the victim

Some sentences help repay society or the victim for what they have suffered as a result of the offence.



What reasons do you think lie behind the different types of sentence described on page 40?



MATCH THE SENTENCES

CAN YOU MATCH THE CRIMES WITH THE SENTENCE GIVEN BY THE JUDGE IN EACH CASE? (THESE ARE ALL BASED ON REAL CASES.)

Answers on page 41.

The crimes

CASE 1

Clive, 23 and unemployed, was found guilty of causing criminal damage by smashing a shop window in the early hours of the morning. He said he was very sorry and the Judge believed that he meant it. It was Clive's first offence.

CASE 2

Paul, 25, was part of a gang of football supporters who ran riot in a pub after a game. Three people were injured, one of them badly. No - one actually saw Paul attack the individuals. Paul was found guilty of "causing an affray". The Judge was told that Paul had three previous convictions for violence at football matches. The Judge described Paul and his gang as bullies.

CASE 3

Laurence, 12, admitted stealing property worth £3000. He asked for another 78 offences to be "taken into account". Over two years he was thought to have stolen about £10,000 worth of goods. He passed them on to adults and received very little for himself.

CASE 4

Three 16-year-old girls attacked a woman who was waiting at a bus stop. She was injured and her bag and watch were stolen. None of the girls had a previous conviction. The Judge said he wanted to make them think twice before doing anything like it again.

The sentences

A

Six years in prison.

B

A conditional discharge – this means the court warns the offender not to commit another offence within a certain time – if they do they will return to court to be sentenced for both offences.

C

A fine and an order to pay compensation.

D

Taken into the care of the local authority.

(Continued...)

MATCH THE SENTENCES

(...continued)



Which of the sentences would **you** give to Clive, Laurence, Paul and the three girls?



If you could, would you give an entirely different sentence?



What are your reasons for choosing the sentences? What do you hope they will achieve?



ANSWERS: did you match the sentences correctly?

1-C; 2-A; 3-D; 4-B

THE QUEEN v JACKIE JONES

A mock trial script, ideal for use with the
'Running a Mock Trial' guide

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Statements of defence witnesses	49
Judge's summing up	51

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THE QUEEN v JONES

BRIEFING

Summary of the Facts

The defendant is charged with dangerous driving following a road traffic accident when the defendant's car hit a cyclist causing serious leg injuries. The defendant had been driving on the wrong side of a central refuge at the time of the accident. The prosecution's case is that he/she was driving dangerously; the defendant's case is that he/she was overtaking a queue of stationary cars when the cyclist moved across the road without warning and without looking.

The Law

Section 2A of the Road Traffic Act 1988 provides that a person is to be regarded as driving dangerously if

- (a) the way he/she drives falls far below what would be expected of a competent and careful driver, and
- (b) it would be obvious to a competent and careful driver that driving in that way would be dangerous.

"Dangerous" refers to danger either of injury to any person or of serious damage to property; in determining what would be expected of, or obvious to, a competent and careful driver in a particular case, regard shall be had not only to the circumstances of which he/she could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.

The Road Layout

There is a plan of the scene of the accident, not to scale, which can be used by either side with copies handed out to the jury. The accident happened on Hillside Road, which is the main road between Brookside and Hillside Town Centre. Traffic coming from Brookside towards Hillside Town centre passes a central refuge for pedestrians marked clearly with keep left signs at each end; just past the central refuge and on the right is a 'T' junction with Able Close. The accident happened in daylight, in good weather and with dry roads.

Important notes

Only evidence that is underlined can be disputed – either because the witness is not telling the truth or the witness had made an honest mistake as to what s/he saw or heard.

Those parts of statements that are not underlined must not be disputed – those facts are accepted as true, although inferences may be drawn from those facts.

A witness may not deny that they made their statement.

THE QUEEN v JONES
INDICTMENT

INDICTMENT

IN THE CROWN COURT OF HILLSIDE

The Queen
v.
Jackie Jones

JACKIE JONES is charged as follows:

Statement of Offence

Dangerous driving, contrary to Section 2 of the Road Traffic Act 1988.

Particulars of Offence

Jackie Jones on the 27th day of June 2002 drove a mechanically propelled vehicle dangerously on a road, namely Hillside Road, Hillside.

STATEMENTS OF PROSECUTION WITNESSES

Name	Hillary Green
Age	15
Date of birth	27 th June 1987
Occupation	Student
Address	The Old Dairy, Hillside Farm, Hillside
Date	27 th June 2002

I am 15 years old today and a student at Hillside School. Today I got out of school late because I had a double detention¹.

I was in a hurry to get home because my mother was taking me to collect a new computer for my birthday. I cycled along the Hillside pavement in the direction of Brookside. I had to cross Hillside Road and decided to do it at the central refuge just past Able Close.

I stopped at the kerb, looked both ways along Hillside Road and saw a line of stopped traffic going towards Hillside Town Centre on the far side of the road. There was no traffic coming from Hillside or Able Close so I decided to cross using the central refuge.

I was about half way to the central refuge when I was hit by a sports car coming from my left². I do not remember anything more of the incident. I had both my legs broken but I have been told that I will make a full recovery.

1. If questioned the double detention was given because the student failed to attend a road safety lecture.
2. If asked, the witness did not hear any squeal of tyres before the accident.

THE QUEEN v JONES

STATEMENTS OF PROSECUTION WITNESSES

Name	Lesley Wogan
Age	32
Date of birth	19 th March 1970
Occupation	Teacher at Hillside School
Address	The School House, Montifierro Road, Hillside
Date	27 th June 2002

I am a teacher at Hillside School and Hillary Green is one of my students. In the early evening today I was driving on Hillside Road from Brookside towards Hillside Town Centre and I was stuck in the usual traffic jam. I was returning to school having forgotten my house keys. I saw Hillary Green riding his/her cycle along the footpath coming from the direction of Hillside, he/she had just crossed Able Close. I thought that he/she was a bit late coming home from school but then I remembered I had given him/her a double detention³.

When Hillary Green was about level with the central refuge and about 75 feet in front of me I saw him/her stop at the kerb, look both ways and was clearly about to cross the road. He/she started out and at that moment a white Mazda sports car pulled out of the line of traffic directly in front of me squealing his/her tyres as he/she did so. The driver started to drive on the wrong side of the road. He/she went on the wrong side of the central refuge, Hillary Green was about half way from the refuge and looking to his/her right, he/she could not see the white sports car. I knew there would be an accident, and there was. The car hit Hillary Green, the bike flew in the air and Hillary Green was knocked to the ground. I got out and went to see if Hillary was alright but another man/woman was looking after him/her. I spoke to the driver of the white sports car and he/she said "I am sorry, it was my fault, I was late, I just did not see the bike".⁴

It is my opinion that the driver of the white sports car drove dangerously and caused the accident.

3. The witness has a feeling of guilt about the accident because if he/she had not given the double detention - on the student's birthday - the student would not have been riding home so late or in such a hurry.
4. This may be given in evidence. The witness should remember these words or something to the same effect.

THE QUEEN v JONES

STATEMENTS OF PROSECUTION WITNESSES

Name	PC Parsons
Age	43
Date of birth	26 th June 1959
Occupation	Police Constable, Hillside Police Department, Hillside
Address	The Ironmongers Cottage, Station Walk, Hillside
Date	27 th June 2002

(This statement will be read to the jury, there being nothing challenged in the statement and the defence have no questions to ask of the witness.)

“I was on duty today and driving along Hillside Road towards Brookside when I came across the scene of a road traffic accident just past Able Close, involving a white Mazda sports car and a bicycle, both of which had been moved by the time I arrived. I spoke to the driver of the white Mazda, who gave his/her name as Jackie Jones, of 32 Able Close, Hillside. He/she said that he/she had been about to turn into Able Close when the cyclist suddenly turned into the road with no warning, leaving no way to avoid the accident.

The cyclist, named Hillary Green, had been moved off the road on to the pavement and was being tended to by another motorist. I saw that he/she had injuries to both legs, and I called an ambulance.

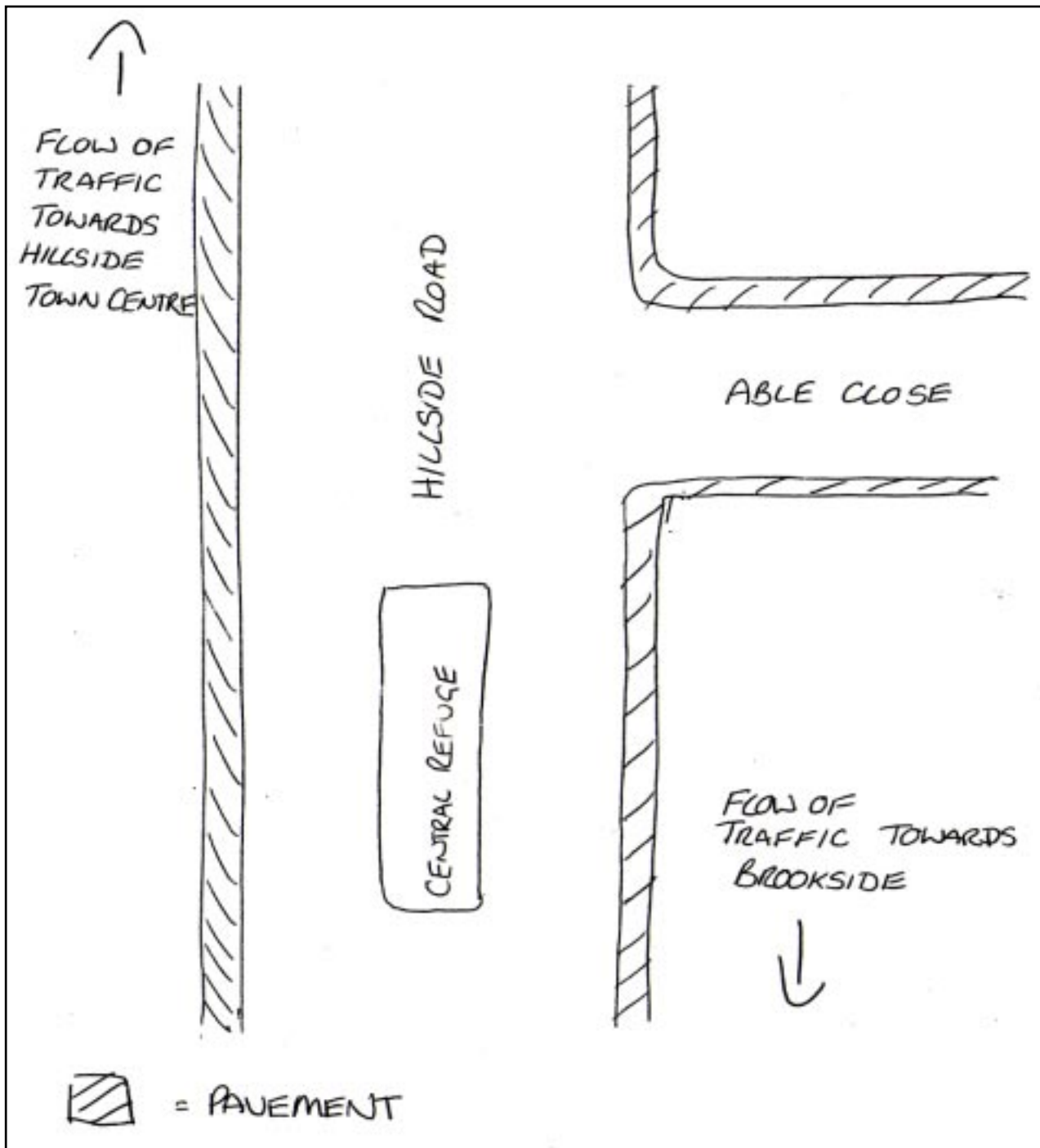
I later prepared a sketch plan of the road layout at the scene of the accident, which I now produce.”

THE QUEEN v JONES

STATEMENTS OF PROSECUTION WITNESSES

Sketch showing road layout of Hillside Road/Able Close

Dated 27th June 2002



STATEMENTS OF DEFENCE WITNESSES

Name	Jackie Jones
Age	15
Date of birth	26 th June 1987
Occupation	Management Consultant, Unichip, Hillside
Address	32 Able Close, Hillside
Date	27 th June 2002

“I took delivery of my new Mazda sports car, today from the garage, Brookside Mazda, and I was driving home alongside Hillside Road. I live at 32 Able Close and I got stuck in the usual traffic jam. I am very familiar with the road, as I drive it every day. If I get stuck in traffic when I get close to my turning I have a habit of pulling out to the other side of the road and driving up the right side of the road up to the right hand turn of Able Close. When I do this I am very careful to look for oncoming traffic; I usually do it at the point there is a central refuge so that I would get some warning of any pedestrians crossing between the stopped cars on my left. This dodge saves me several minutes and I have done it lots of times without any incident. Today I did my usual dodge. I looked first and checked that there was no traffic coming from Hillside Town centre; the only traffic coming towards me was a youth on his/her cycle but he/she was on the pavement, riding very hard and fast. As the way was clear, I pulled out onto the other side of the road⁵ and started to drive, carefully, towards my turning (Able Close). When I was almost level with the cyclist he/she turned from the pavement into the road right in front of me without looking. There was no warning, and nothing I could do. I hit the youth and knocked him/her off his/her cycle. I got out, I could see he/she was hurt but another motorist was helping him/her. I spoke to another motorist, who seemed a little shocked but he/she did say he/she knew who the cyclist was⁶. I remember a policeman attending the scene afterwards; I think I may have spoken to him/her, but I do not remember any details of the conversation.

The youth on the cycle was at fault; he/she caused this accident because he/she did not stop or look before leaving the pavement and crossing into the road.”

5. The witness will deny squealing his/her tyres or making any sudden manoeuvre.
6. If asked, Jones will deny making any admission of fault; his/her version of what he/she said is “the boy/girl was in a hurry and didn’t see me”.

THE QUEEN v JONES

STATEMENTS OF DEFENCE WITNESSES

Name	Pat Proud
Age	39
Date of birth	14 th April 1963
Occupation	Investment Banker with Goldham Sachs, London
Address	3 Hillside Road, Hillside
Date	27 th June 2002

I live on Hillside Road near to, and on the same side as Able Close. Today I was cleaning the inside of my upstairs windows when I saw Hillary Green coming home from school. He/she was riding on the pavement which is something I am always telling him/her off about.

I thought of opening my window to tell him/her off again, but he/she was going too fast and would not have heard me⁷. He/she was about level with my house when he/she looked over his/her right shoulder for oncoming traffic and turned into the road to cross. I did not see him/her look left as he/she did so. In the past I have told him/her off about that as well but he/she always says that traffic can only come from the right at that spot. Today he/she was wrong and a white sports car had no chance and there was a crash.

The white sports car was driving fairly slowly and carefully⁸. It was signalling as if to turn into Able Close. I have seen other cars drive on the wrong side of the road at this point in order to jump the line of traffic and turn into Able Close; I have never seen this particular car do this manoeuvre before.

There has never been an accident at this spot in the 10 years I have lived here.

7. The witness is the founder and chair-person of HiCCuP, the Hillside Campaign for Cycle-free Pavements, and considers Hillary Green to be a continual nuisance to pedestrians.
8. If asked, the witness heard no squeal of tyres.

JUDGE'S SUMMING UP

[The following is based on the Statements. The Judge must consider the evidence as actually given in court and make any changes necessary.]

“Members of the Jury, my job is to explain the law to you and to sum up the evidence you have heard. It is your job to weigh up all the evidence you have heard and decide whether you believe the defendant Jackie Jones is guilty or not guilty.

You should try and reach a unanimous decision. If this is not possible in the time available I will accept a majority decision.

If you are evenly divided you must find the defendant not guilty.

You must remember that it is the job of the prosecution to prove, so that you are really sure, that Jackie Jones is guilty. It is not for Jackie Jones to prove that s/he is not guilty.

Jackie Jones is accused of dangerous driving which caused an accident to Hilary Green.

You have heard that Hilary Green was cycling across Hillside Road trying to reach the central reservation. Hilary Green said s/he looked both ways before crossing. S/he did not see anything. Half way across a car coming from the left on the wrong side of the road hit him/her and s/he suffered two broken legs. Hilary Green's teacher, Lesley Wogan has told you the s/he saw Hilary Green crossing the road. S/he says she saw Hillary look both ways before crossing. Pat Proud whose evidence I will come to in a minute said s/he saw Hillary only look one way. You must decide whose evidence you believe.

Lesley Wade also told you that s/he saw a white Mazda pull out of a line of traffic and drive up on the wrong side of the road. S/he saw the Mazda hit Hillary Green. She spoke to the driver who said s/he was sorry and admitted that it was his/her fault.

PC Parsons, whose statement was read to you, attended the accident and spoke to the driver of the Mazda. The driver was Jackie Jones and there is no dispute about that.

Jackie Jones told you that s/he was used to driving this route and was aware that s/he had to drive carefully when preparing to turn right into Able Close. Jackie Jones admitted to you that s/he was driving on the right hand side of the road when preparing to turn right but told you that s/he was very conscious of looking out for pedestrians crossing. S/he told you that on 27th June s/he was driving a new car. When s/he was nearly at her turning a cyclist rode off the pavement and into her path. S/he did not remember saying that s/he admitted that it was his/her fault.

(Continued...)

THE QUEEN v JONES JUDGE'S SUMMING UP

(...continued)

Pat Proud told you that she saw Hillary Green riding on the pavement and turn into the road to cross it only looking to the right. S/he told you s/he had warned Hillary about this in the past. Pat Proud also told you that the Mazda was driving on the wrong side of the road but that it was being driven fairly slowly and carefully and had signalled its intention to turn.

You must consider whether, on the evidence you have heard, Hillary Green acted sensibly and responsibly in crossing the road on his/her bicycle or whether you think s/he was so careless about what s/he was doing that the driver had little or no chance of avoiding him/her. Do you believe Hillary Green looked both ways or not?

You must also consider whether Jackie Jones who, as s/he admitted, was driving on the wrong side of the road, was driving below the standard of a competent and careful driver and that it must have been obvious to him/her that driving in that way would be dangerous.

If you believe Hillary acted entirely safely and responsibly you should find the defendant guilty.

If you think Hillary could and should have acted more carefully you must still consider whether Jackie Jones was driving in an unsafe way. If you do and you think that an accident was a likely outcome then even if you think Hillary was careless about his/her own safety you must still find the defendant guilty.

If, however, you think that Jackie Jones took competent and careful steps to drive safely when preparing to turn right into Able Road and that the accident only happened because Hillary acted carelessly in riding out into the road without properly looking both ways you should find the defendant not guilty.

Would you now retire and consider your verdict."