

# Welcome to Mock Trial



Gerald O'Connor - River City HS, West  
Sacramento

# Who's who

- Mr. Gerald O'Connor – Teacher Coach
- Ms. Allison Zuvela – Attorney Coach
  - *Chief Deputy Public Defender, Yolo County*

# Mock Trial - What you need today

- Sign in at <http://goo.gl...>
- Or <http://rivercity-wusd-ca.schoolloop.com/mock>
- Get:
  - A copy of the case: *People v Hayes*
  - *Errata dated Oct. 2*
  - A letter for you & parents (white sheet)
  - A consent form for parents to sign and you return (blue sheet)
  - Calendar is online
- **Read:** Fact situation (pgs 11-15) and all witness statements (pgs 23-44) **for next Wednesday**
- **Workshop attendees also read the workshop letter and memorize the paragraph script for this Sunday**

# What is Mock Trial?

- Mock Trial is a **team competition** between schools that portray Prosecution and Defense sides in a hypothetical criminal case.
- The case is written by the CRF in Los Angeles, and every school in the state uses the same case in local and state competitions.
- Each school's team has a **Prosecution and Defense** "side". In any given round of a competition, one school's Prosecution side goes against the other school's Defense side.
- Every aspect of your **performance** - as attorneys, witnesses, bailiffs, and timekeepers (clerks) - is scored by real attorneys. The school with the highest score wins; schools with the highest percentage of the total points get higher seeds in subsequent rounds.
- **Performance as well as legal ability** wins trials.



# Commitment

- This is a team. You need to commit to it.
- I have room for **20 members max** with roles for 18
- You need to keep your **grades and attendance** up – 2.5 and 95%.
- **Local competition in February.**
- **State competition in March.**

# General ideas

- **Communication** is key. Let us know where you are and what's going on.
- "Hearing" is an ability. **"Listening" is a skill.** We aim to develop the latter.
- Everyone is learning and – except for our attorneys – there are no experts. **Improvement** is the goal.
- We can be competitive AND have fun. Indeed, the better we are, the more fun we seem to have.

# What's next

- Sunday workshop by Stand Up Mock Trial
- Calendar is online; ask me if you need a hard copy
- Practice **twice a week** on average – usually Wednesdays and Thursdays, with some Saturdays.
- Two tentative practice rounds for January and February.
- Local competition in February. State in March.



# Welcome to Mock Trial Courtroom Procedures

Mock Trial World vs. Real World

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# Mock Trial Team

- 2 Pretrial Attorneys
- 6 Trial Attorneys
- 8 Witnesses
- 1 each bailiff/clerk-timer
- Backups, no jurors. This is a “bench trial.”
- Need: team captains, leaders (usually lead attorneys from each side)
- Fundraisers for years when state tournament is out of town.

# Mock Trial Season

- We get the case from the state in Sept.
- We practice October-February
- Practice is usually twice a week after school and occasional Saturday mornings
- Practice round in Dec-Jan-Feb? TBA
- Regional tournament in February
- State finals in late March

# The Tournaments

- **Local**: There are four rounds over three weeks in mid- late-February at the Sacramento County Courthouse in Downtown Sacramento. We aren't in the qtr, semi, or final rounds. Tournament awards are on Mon. Feb. 29
- **State**: Tournament in the 3<sup>rd</sup> week of March
- Teams almost always get two chances at prosecution and two chances at defense
  - (Not true for us in 3 of last 4 years at state)
- As the sole team from Yolo County, we automatically advance to state competition provided we compete in the local tournament.

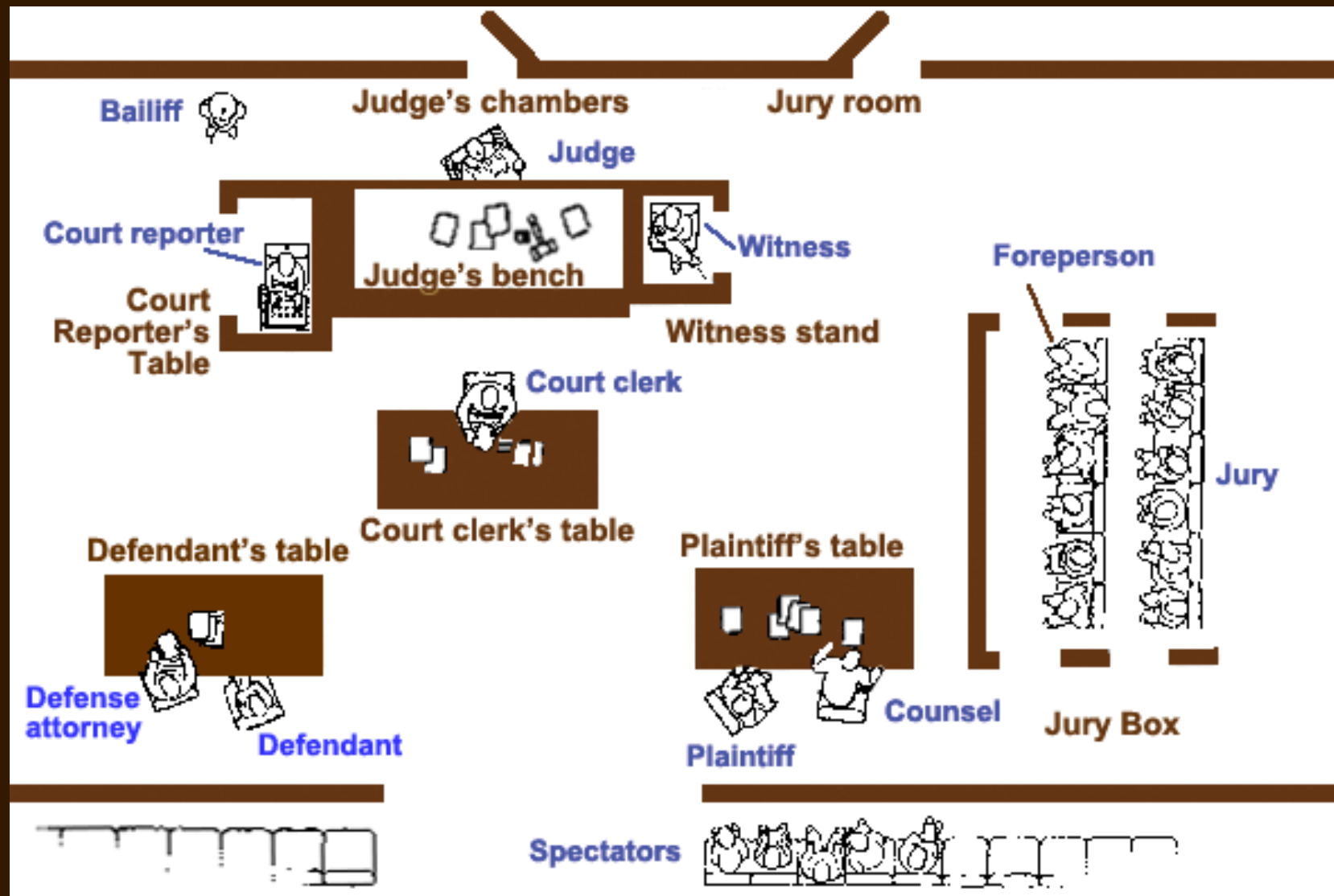


# Mock Trial World vs. Real World

- A mock trial is just as the name implies, a “mock” or simulated trial
- There are many differences between Mock Trial World and Real Trial World. Some include:
  - **Time** – we operate under strict time constraints that real attorneys don’t have
  - **Jury** – normally, the TRIER OF FACT is a jury. But in Mock Trial World, this is a bench trial, meaning that you argue your case to a judge. The judge is acting as both the TRIER OF FACT and the TRIER OF LAW. The real audience, however, are the scorers. They typically sit in the jury box. The presiding judge may be a scoring judge, too.
  - **Score** – everything is about impressing two or three real attorneys who serve as presiding and/or scoring judges and give each performance aspect a score from 0 to 5. These are the people we need to impress.
  - **Balance** – the case is written to give both sides a chance to win; it may seem to be wildly in favor of the prosecution, but really the defense has a built-in advantage—reasonable doubt







# Basic Steps in the Trial

- 1) Pre-trial Motion
- 2) Opening Statements
- 3) Prosecution Case
  - a) Direct examination of prosecution witnesses;
  - b) cross-examination by defense
- 4) Defense Case
  - a) Direct examination of defense witnesses;
  - b) cross-examination by prosecution
- 5) Closing Arguments & 6) rebuttal
- 7) Verdict



# Pre-trial Motion

- A motion is a formal request to the court for some action
- In Mock Trial World, the defense always presents the motion with the prosecution arguing against it



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# Pre-trial motions in Real World

- Motion for dismissal (almost automatic)
  - The whole case or individual charges
- Motion for Continuance
  - Postpone the trial to prepare for the case
- Motion for Severance
  - Request to try separately
    - The Charges
    - Or the Defendants
- Change of Venue
  - Request to move a trial
- Motion for discovery
  - Defense request to examine evidence



# Pretrial motion in Mock Trial World

- The pre-trial motion in Mock Trial World is almost always one of two types:
  - Motion to dismiss a particular charge
    - Usually a lesser charge, not the really big one
  - Motion to Suppress (or exclude)
    - Throw out a piece of evidence or a potentially incriminating statement by the defendant.

# Pre-trial Argument

- In Mock Trial World, the arguments usually revolve around a **constitutional** issue, rather than a **procedural** one
  - First Amendment
    - The law itself violates the defendant's First Amendment right of freedom of speech, press, or association, etc.
  - Fourth Amendment
    - The police violated defendant's Fourth Amendment right against unreasonable search & seizure
  - Fifth Amendment
    - An incriminating statement is challenged because the defendant was not properly Mirandized or the statement wasn't truly voluntary
- In this sense, Mock Trial World pre-trial is more like an oral argument before a Supreme Court (moot court) than arguing a Real World motion

# Pre-trial Argument



- Pre-trial arguments typically take 20-30 minutes at the very beginning of the proceedings
- One attorney from each team argues the motion
- Each gets 4 minutes to argue with 2 minutes of rebuttal
- Time used answering the judge's questions does not count against your time (so all of pre-trial can take more than 30 minutes)
- Once the arguments are finished, the judge makes a ruling.
  - If the motion is granted, some piece of evidence will be excluded and testimony about it will not be allowed.
- The attorneys who argued the motion may not serve as trial attorneys, but they can play witnesses.

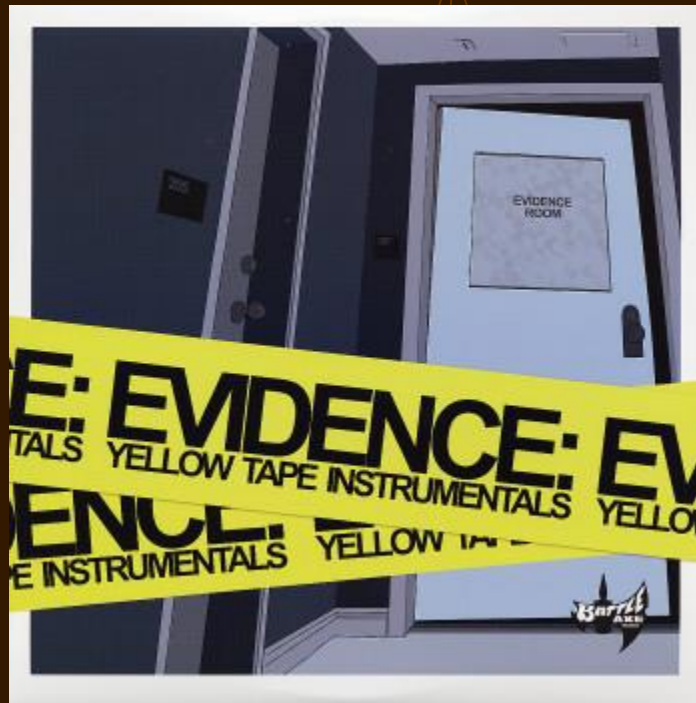


# Opening Statement

- This is an outline of the case
- Not supposed to argue evidence here
- Prosecution: how the state **will prove** each element of each charge beyond a reasonable doubt (the burden of proof)
  - Typically, P's opening statement sounds much like the fact pattern... "The evidence will show..."
- Defense: how the state's case **will not meet** the burden of proof, begin to raise reasonable doubt
  - May be given at beginning of trial or at the beginning of the defense's presentation
- Develop your **theory** of the case (your side's version of events) as well as your **theme** (a memorable catch-phrase or idea to plant in the mind)

# Presentation of State's Case

- Rules of Evidence
  - 4 basic types of evidence:



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## EXHIBIT A

### Diagram of Park Lane High School

# Types of Evidence

## 2. Testimonial evidence

- Sworn verbal statements
- All real evidence is accompanied by testimony – you can't get it in without someone to testify about it
- Not all testimony is accompanied by real evidence



# Types of Evidence

## 3. Direct Evidence

- Eyewitness evidence
- Someone directly saw something and testifies to it.
  - "I saw him shoot the victim."
    - In Mock Trial World, you're rarely if ever going to get this; if you do, there will be someone or something to directly counter it



# Types of Evidence

## 4. Circumstantial Evidence

- Indirect
- Evidence from which a fact can reasonably be inferred by the trier of fact
  - “I heard a shot, entered the room, and found the defendant with a gun in his hand over the victim, who was bleeding from a gunshot wound.”
- N.B.: A reasonable inference is defined as *nonmaterial* information to which a witness testifies that is not included in the Record but reasonably relates to that witness’s testimony. Reasonable inferences do not create material facts.



# Myth:

- You can't convict someone on circumstantial evidence alone.
  - It happens all the time!!!
  - And in Mock Trial World, it HAS TO happen to get a conviction



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# P's Witness Testimony

- Direct examination by the prosecutor
  - Defense raises objections to improper prosecution questions
- Cross examination by the defense
  - Prosecution raises objections to improper defense questions





# Prosecution finishes

- Asks that exhibits used be moved into evidence (if not done already)
- Rests their case



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# D's Witness Testimony

- Direct examination by the defense
  - P raises objections to improper D questions
- Cross examination by the P
  - D raises objections to improper P questions

# Defense finishes

- Asks that exhibits used be moved into evidence (of not done already)
- Rests their case

# Closing Arguments

- In CA in Real World, prosecution first, then defense, then prosecution to rebut.
- In Mock Trial World, defense gets a rebuttal, too.
- Argue, Argue, Argue! Here, attorney can go all out in argument – no holds barred (well, almost none)
- Rebuttal should only deal with issues brought up in opponent's argument

# Case is submitted

- In the Real World, both sides meet with the judge to decide what the jury instructions will be
  - Very important step that is overlooked in Mock Trial World
    - Judge makes final determination
    - Aspect of the case that is often the basis of later appeals
- In Mock Trial World, both teams get 30 seconds to confer with coaches to raise any issues concerning rule violations

# Deliberation

- No jury; so the judge is supposed to consider and reach a verdict
- Sometimes the presiding and scoring judges provide “debriefing”, comments, suggestions, etc. first.
- Verdict – the round is over
  - We won’t know the individual and team scores right away; hopefully before the next round
  - Typically, we learn the scores and who our next opponent is by email before the next round.