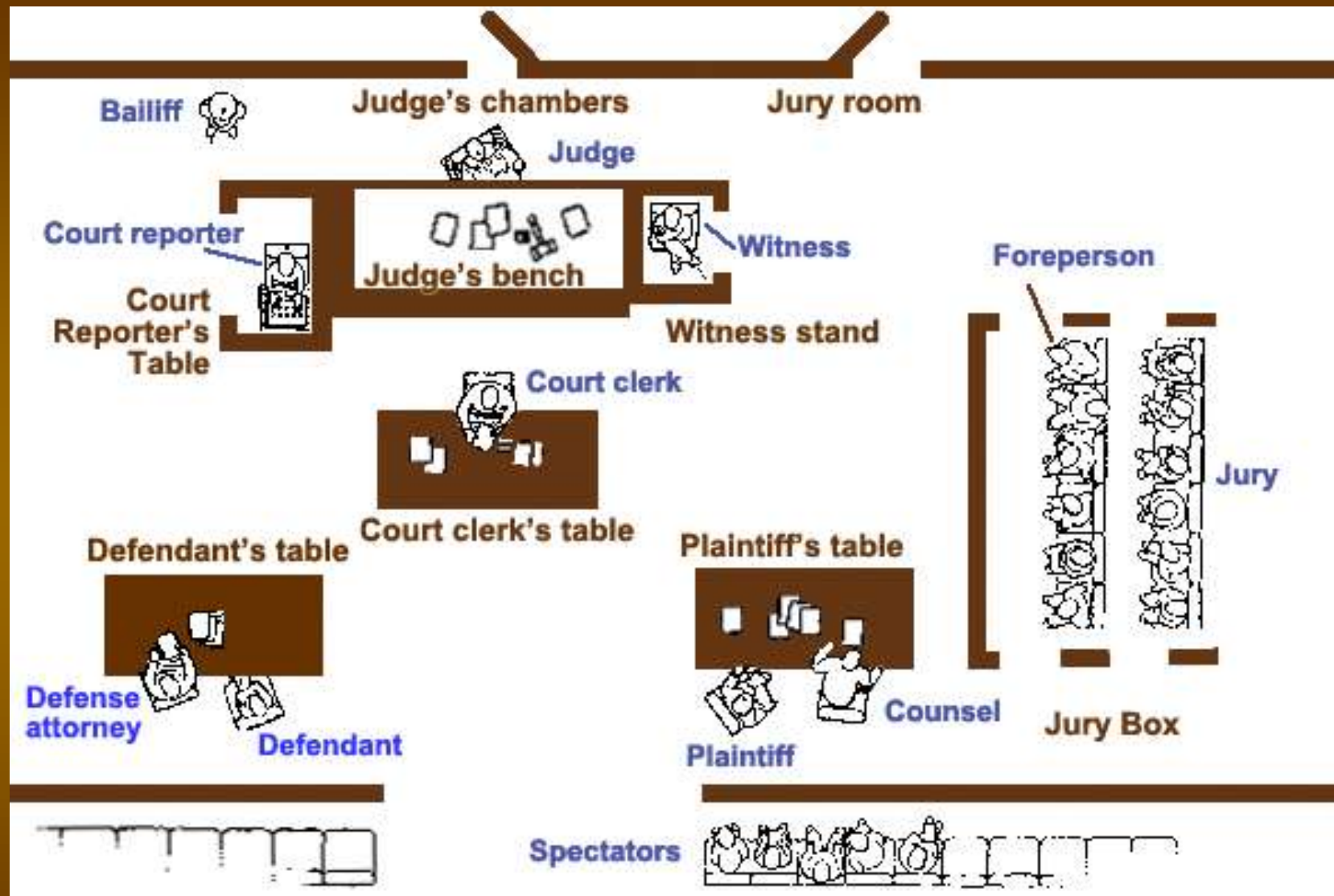




# Courtroom Procedures

Mock Trial World vs. Real World

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# 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** – in class, our jury gives you ½ your grade. All of their scores are averaged.
  - **Score** – in class, everything is about impressing the jurors who serve as scoring judges and give each performance aspect a score from 0 to 5. These are the people you 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

## Real World (STREET LAW)

1. P Opening statement
2. D Opening statement
3. Direct exam by P
4. Cross exam by D
5. Motions
6. Direct exam by D
7. Cross exam by P
8. P Closing Argument
9. D Closing Argument
10. P Rebuttal
11. Jury Instructions
12. Verdict

## In-class MOCK TRIAL

1. D Pre-trial Motion
2. P Pre-trial argument
3. Pretrial Rebuttals (D & P)
4. P Opening Statement
5. D Opening Statement
6. Direct exam by P
7. Cross exam by D
8. Direct exam by D
9. Cross exam by P
10. D Closing Argument
11. p Closing Argument
12. ~~P Rebuttal~~
13. ~~D Rebuttal~~
14. ~~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
  - 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

# Pre-trial Argument

- In Mock Trial World, the arguments revolve around a constitutional issue
  - Fourth Amendment
    - The police violated defendant's Fourth Amendment right against unreasonable search & seizure
  - First Amendment
    - The law itself violates the defendant's First Amendment right of freedom of speech, press, or association, etc.
- In 2015-16, we're arguing the 5<sup>th</sup> Amendment
- 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

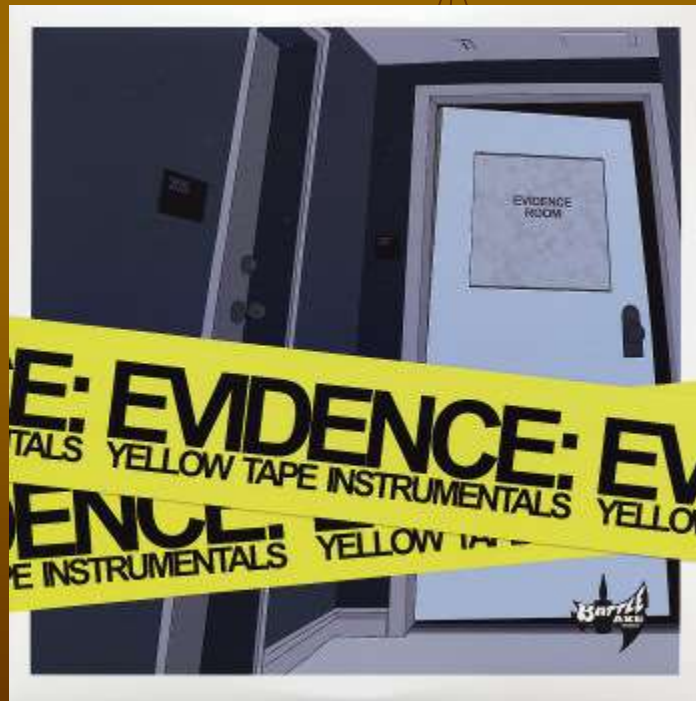
- Pre-trial arguments typically take 20-30 minutes at the very beginning of the proceedings
- One attorney from each team argues the motion
- Each gets 4 minutes to argue with 2 minutes of rebuttal
- Time used answering the judge's questions does not count against your time
- Once the arguments are finished, 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.

# 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 does 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

# Presentation of State's Case

- Rules of Evidence
  - 4 basic types of evidence:

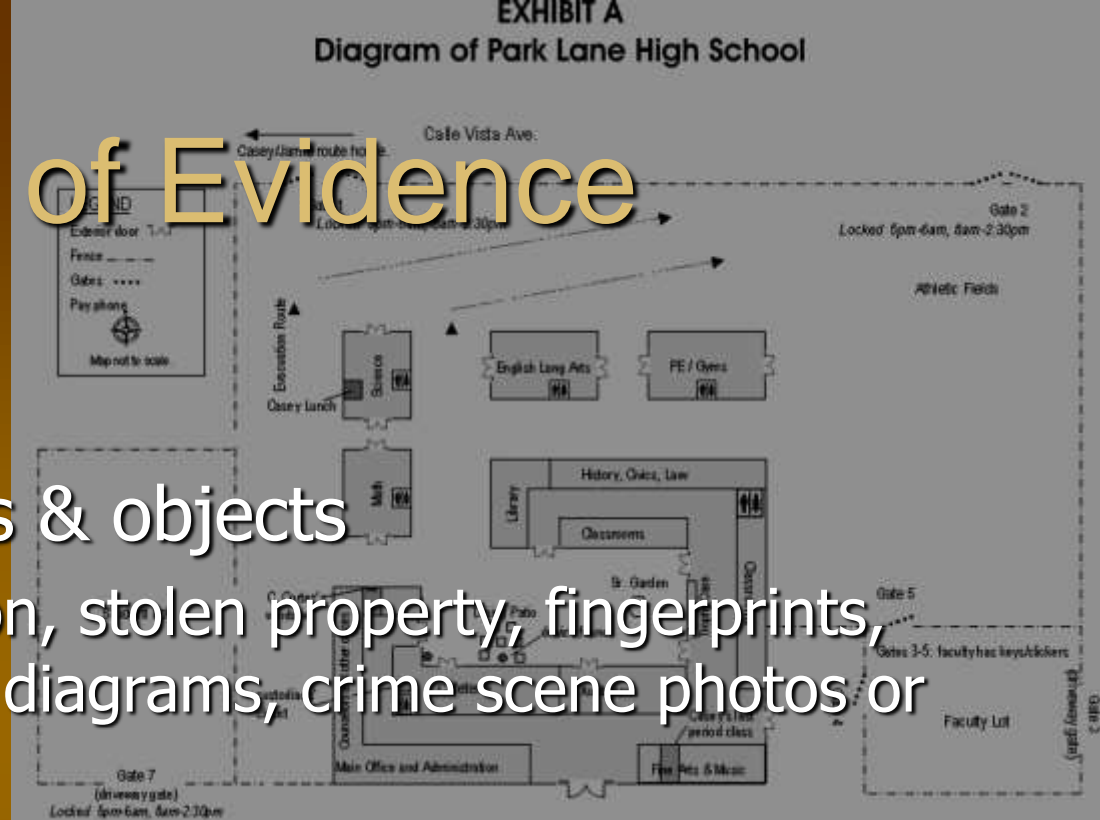


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# Types of Evidence

## 1. Real Evidence:

- Physical details & objects
  - Murder weapon, stolen property, fingerprints, DNA, autopsy diagrams, crime scene photos or drawings
  - May be original or facsimile (photos, tire tracks)
  - In Mock Trial World, these are always diagrams, drawings, or photos
  - Prosecution is responsible for providing these each round



# 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 from the Record
  - “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. Witnesses cannot create material facts from reasonable inferences; triers of fact can.

# 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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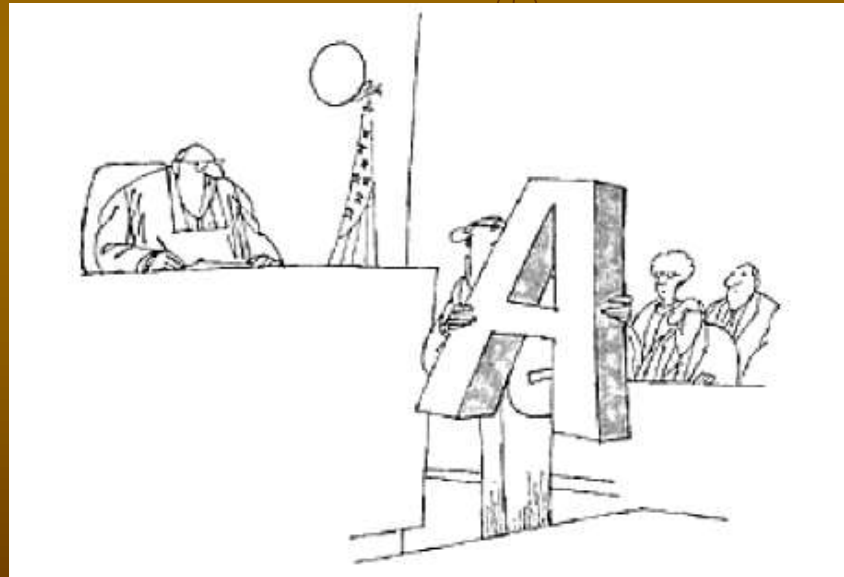
# P's Witness Testimony

- 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



"Your Honor, I'd like this entered into the record as Exhibit 'B'."

# 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, 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 can only deal with issues brought up in opponents argument
- In class, there will be no rebuttals. Defense gets first closing, then Prosecution gets the last word

# 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

# Jury deliberates

- The jury for our classroom Mock trial will be parents, teachers, administrators; their scores will constitute  $\frac{1}{2}$  of your total score.
- The presiding and scoring judges provide “debriefing”, comments, suggestions, etc.
- Verdict – the round is over