

18th Annual National Mock Trials

Qualifying Heats:
Saturday, 8th April 2017,
Criminal Courts of Justice, Dublin

Semi Finals and National Final:
Saturday, 6th May 2017,
Criminal Courts of Justice, Dublin



Public Access to Law

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MESSAGE FROM THE DIRECTOR OF PUBLIC ACCESS TO LAW

The National Mock Trials Competition gives students an opportunity to gain hands on experience of the workings of the law. Although the workings of our legal system are by no means simple, the competition attempts to demystify it by placing students in a near real court hearing situation. By doing that, the mock trials also provide the grounds for students to develop abilities which will assist them in actively participating in society. Schools recognise the benefit to their students and a growing number of them wish to take part. The National Mock Trials Competition is also meant to be fun for the student, as it is not just an extension of the academic curriculum nor is it specifically targeted at those who are considering law as a career.

I would like to acknowledge the kind co-operation and support of the Irish Judiciary especially Mr. Justice Max Barrett. I would also like to thank the Courts Service and the practising barristers and solicitors who are part of Public Access to Law (P.A.L.) including Mary Bunyan BL, Ronan Mungan, BL, Jadel Naidoo BL, Gerry Murphy BL, Roland Budd BL, Maeve Cox BL, Philip Fennell BL, Bernadette Kirby BL, Henry T. Lynch BL, Tony O Sullivan BL, Shane Kiely BL, Helen Lynch BL, Rebecca Tracey BL, Patrick Crowe BL and Adam Dodd BL. A special word of thanks to Joseph Murray B.L. and Tony O' Sullivan BL for compiling the case materials.

If you require further information please contact the competition organiser: Mr. Vincent P. Martin, Public Access to Law, Mullacash North, Naas, Co. Kildare. The email address is vpmartin@lawlibrary.ie and phone 087 2312105

Thanking you,



Vincent P. Martin, Barrister-at-Law
Director,
Public Access to Law (P.A.L.)

PREPARING FOR THE COMPETITION

Suggestions for the teachers — background work

It is not necessary for the students (or teachers) to have studied the law as the mock trial cases revolve around factual disputes and do not require detailed legal knowledge. However, it will be helpful for the students to be given a brief introduction to the criminal justice system and be acquainted with the aims and procedure governing a trial:

This could include:

- A description of the steps by which a person accused of a crime is brought to court.
- The distinction between a criminal prosecution and a civil action.
- An introduction to the adversarial system.
- The elements of an offence which have to be proven.
- The presumption of innocence and the burden of proof resting with the prosecution.
- The steps in a criminal trial.
- Rules of procedure, evidence and professional conduct.

For the purposes of the Mock Trial Competition simplified rules are used.

The information contained in this guide should be all that you need in order to take part in the competition. If you have any difficulty, please get in touch with us.

Suggested books which are available in most libraries:

- *The Criminal Court in Action* by D. Barnard.
- *Learning the Law* by Glanville Williams, (Chapter 5 is about advocates)
- *The Law Machine* by Berlins and Dyer (Penguin, 1994).
This provides a very readable introduction to the legal processes and institutions.
- *The New Penguin Guide to the Law* by Smith and Keenan (Pitman, 1992).
This provides a more detailed introduction.

Other suggestions for preparing for the competition include:

1. Invite and involve members of the legal fraternity in their local community to assist competition preparations.
2. Call on the tournament experience gained by senior students in your school (and past pupils) who have participated in the competition in previous years.
3. Avail of the knowledge accrued by teachers who have helped prepare teams in the past and/or who have attended/observed the competition.
4. Recollect and review the visiting P.A.L. module which was presented in your school. This programme included the staging of a mock trial as a classroom activity.
5. Read carefully this easy to follow book of rules and court procedure (a step by step guide) which should greatly assist in team preparations.

THE TEAM

Competitors shall be full-time transition year students in a secondary school in the Republic of Ireland at the time of the commencement of the competition. All team members from participating secondary schools in Northern Ireland shall be under the age of sixteen years at the time of commencement of the competition in the Criminal Courts of Justice. Ideally each school should prepare a team of 17/18 students: 6 jurors (non-speaking role) 1 member of court staff, 3/4 witnesses, 1 solicitor, 2 barristers, 1 newspaper reporter, 1 television reporter, 1 courtroom artist and 1 photographer. Participants are entitled to interchange speaking roles in different trials (from trial to trial). Entering the latter four competition categories is optional but we strongly recommend full participation in all aspects of the tournament. If there is a small number of pupils in the transition year class, pupils in 3rd year in the school may help make up the complement of the 6 jurors (non speaking role).

Some or all of the six jurors may be third year students but only transition year students are allowed assume any of the non jury roles. It is recommended that students do not switch between speaking and non-speaking roles during the course of the competition. See details about the roles of the television and newspaper reporters on page 7.

2 advocates (barristers)

For the purposes of the competition, advocates work in pairs. So in each mock trial case there will be a total of 4 advocates – 2 for the school prosecuting the case and 2 for the defence. The pair of advocates from your school must be able to either prosecute or defend each case together and must divide the work in each case equally between them. For example, if your school is prosecuting, your two advocates must take an equal role in the case, performing one speech, one examination-in-chief and one cross examination each.

Advocates present the evidence during the trial and argue the merits of their side of the case. They do not give evidence themselves but must question the witnesses in such a way as to elicit/adduce the evidence from them. Participants may interchange speaking roles of responsibility (jobs) from trial to trial. This is a tactical decision for the solicitor to make after consulting all the members on his/her team.

PAL's mock trials rules permit pupils to switch to any different roles (optional) for each separate trial and/or if you wish, introduce new participants (additional team members) to fulfil roles in each of the three trials held during the course of the day so theoretically a school team could use up to six different barristers for the three trials but one possible disadvantage in so doing is that no one barrister would then be afforded the opportunity to sharpen and fine tune his/her advocacy skills and courtroom experience as the day progresses. Four additional, individual competition categories (optional) have also proved to be popular with the students- these categories are: newspapers reporter, TV reporter, photographer and court artistry. Again those participating in the said individual competition categories can switch roles for the different trials (if they so wish).

3/4 witnesses

Each school must provide 2/3 prosecution witnesses and 2 defence witnesses. The witnesses will be taken through their evidence by the advocates' questions. The witnesses should learn the facts contained in their statement and use their acting skills to make their roles as convincing as possible. All witnesses have been given unisex first names to enable the roles to be performed by the students of either sex.

Each school team should have a panel of 3/4 witnesses and the job of the witnesses is to prepare all the various witness roles in the two cases. Due to the scale of the preparatory work involved, we recommend (not obligatory) that the witness roles should be spread evenly amongst your team's witness panel, however this is a matter for your team's tactics/strategy which is ultimately the responsibility of the team solicitor whose role is akin to that of 'team captain'. A pupil acting as a barrister in one case is allowed become a witness in a different case.

1 member of court staff (either court registrar or Tipstaff)

The court staff play an essential role by helping the judge conduct the trial and by maintaining order within the court. Each team will prepare one student to do either of the court staff roles. When the team prosecutes, he/she will be the Court Registrar and when the team defends, he/she will be the Usher (also sometimes called Tipstaff). The Tipstaff has the extra task of timing the advocate's examination, cross examination of witnesses as well as opening and closing speeches.

Time limits will be strictly followed. Judges will be advised to consider penalising students going seriously over their allotted time. However, a trial judge is allowed exercise ultimate discretion in this regard. The tipstaff should organise to have in court some sort of simple, unobtrusive timing device which will publicly indicate/ring when the allotted/recommended times as advised have elapsed. A copy of the competitionsoring card which is to be used by the tipstaff is on page 18. The tipstaff should ring the bell (for a short period of time) when the recommended time for the advocate's examination, cross-examination of witnesses as well as opening and closing speeches has elapsed and he/she should ring the bell again every 30 seconds thereafter until the barrister resumes his seat. A list of the times recorded should be filled in on the said scoring card and given to the trial judge before he retires to consider his/ her verdict. Scoring cards can be collected at the main competition desk on the day of the competition.

1 Solicitor

The solicitor will be responsible for the co-ordination of team strategy. He/she will also ensure that the barristers are properly briefed on the case. He/she will also inform the barristers and witnesses of the correct time and venue that the case is being heard. The school's transition year co-ordinator might find it helpful to consult with the solicitor before selecting the barristers. The solicitors must sit facing the barristers (opposite) throughout the trial.

6 Jurors

The amount of preparation necessary for the jurors is minimal. A basic background knowledge of the legal system and the role of the jury in a trial would be important, of course. The jury should not rehearse with the rest of the team, as the idea for them is to

respond to the case as it is presented to them on the day, so as to make the competition as lifelike as possible. It will also be very dull for a jury to hear a case that it has seen in rehearsal several times already. Your jurors will carry out their jury service in cases which do not involve their own school.

1 Legal Reporter

The legal reporter will watch the first case of the day (name of courtroom to be confirmed and announced on the morning of the competition) and then write a news report on the case of the type that might appear in a quality newspaper. The report must be handed in to the event organisers at the competition information desk on or before 2p.m. The rules and style guide for the legal reporting award can be found at the end of this guide.

1 Television Reporter

One team member will watch the first case (name of courtroom to be confirmed and announced on the morning of the competition) and then give a main summary of the case before a recording camera in the form of a legal report. Gerry Curran, Head of the Courts Service Media Relations has kindly agreed to judge this competition category. The report should be of a maximum duration of 70 seconds.

1 Artist - art competition category:

Art brief-on white A3 cartridge paper, ink, pen, pencil or watercolour can be used. Art brief to capture the characters/mood of the case inside the courtroom. All artists will be asked to attend the same trial which is scheduled to take place at 10.00 (name of courtroom to be confirmed and announced on the morning of the competition). Participants should submit their work to the competition desk on or before 2pm on the day of the competition. Well known artist Francis Noel Duffy has kindly agreed to adjudicate this section of the competition again this year.

1 Photographer - photography competition:

Photograph to capture the characters/mood of the case inside the Courtroom or the competition happenings anywhere in the Criminal Courts of Justice (C.C.J.) throughout the day of the competition. Each photographer can submit a maximum number of three photographs. All entries must be submitted on the day of the competition or emailed to vpmartin@lawlibrary.ie on or before 5pm on the following Monday (10th April 2017.). Digital or mobile phone cameras may be used. Gerry Curran, Head of the Courts Service Media Relations has kindly agreed to judge this competition category. Participants are strongly encouraged to submit a caption with each of their photos and/or a short sentence describing the photo.

Although your team on the day can only be made up of 18 people and you must use the same people throughout the day, it would be wise to allow for the possibility of illness or an unforeseen event and have reserves available.

Points to Remember

1. In each case the advocates must divide the work between them, i.e. one speech, one examination in-chief and one cross-examination each.
2. Witnesses are not allowed to elaborate excessively beyond the information contained in their witness statements
 - they should say “I don’t know” rather than make a reply. Conversely, the advocate should not ask questions which are unreasonable given the limited information in the witness statements.
3. Reading from scripts is forbidden. It is not advisable to learn speeches by heart to the point where advocates cannot adjust to any possible developments in the trial. Advocates may, however, take notes into the courtroom.
4. You can change the combination of team members assigned speaking roles that you use for each case. That is to say, as long as the same team members play the speaking roles during the day, they may take on different roles for different rounds if they wish. For example students may be advocates in one case and witnesses in the other.

A BEGINNER’S GUIDE TO ADVOCACY

Role of the Prosecution

The task of prosecuting advocates is to present the case for the Director of Public Prosecutions (D.P.P.). Their aim is to convince the jury that the defendant (the accused) is guilty ‘beyond reasonable doubt’. Thus the burden of proof is on the prosecution.

Role of the Defence

Defence advocates must stick to their client’s version of the facts. They do not have to prove that their client is innocent, their role is to undermine the prosecution case and create, at least, a reasonable doubt in the minds of the jury as to the guilt of the defendant. They may, perhaps, cast doubt on the prosecution’s case by showing that the prosecution witnesses are untrustworthy, that their evidence makes no sense or shows inconsistencies.

Opening speech by the Prosecution

Prosecution — the opening speech provides an outline of your case for the jury. It should present a clear and concise description of the facts and issues of the case. Remember that the jury will not be aware of the events that led to the alleged incident and it’s your job to acquaint them with the events.

The prosecution should make it clear that the burden of proof rests on them and that they must prove the case beyond a reasonable doubt. The speech should only contain a very brief reference to the law. It should concentrate on the facts.

Examination-in-chief

Examination-in-Chief is the process of eliciting information from your own witness by asking questions. The aim should be:

1. to establish your case by asking your witness questions
2. to assist the witness to present their account fully and in a clear and persuasive sequence
3. to try not to leave your witnesses vulnerable to cross-examination by allowing them the opportunity to give reasons for things that might strike the jury as strange.

Leading questions

Advocates must not put words in the witnesses' mouths by asking leading questions during examination-in-chief. Leading questions are those which suggest a desired response or are based on facts that have not been given in evidence. They usually call for a yes or no answer. E.g. "Were you in London on 20th September?" By comparison, a non-leading question would be "Where were you on 20th September?"

Another example would be "What happened when you crossed the road?" This would be a leading question if it had not been first established that the witness did in fact cross the road. To avoid leading, it helps if questions start with: what, when, where, why or how.

Cross-examination

Cross-examination is the process of examining your opponent's witnesses. The aims of cross-examination are:

1. To undermine your opponent's case
2. To put your case to the opponent's witness

You may ask leading questions during cross-examination to expose any contradictions or confusions in the other side's case. You must also put your version of the events to the witnesses to give them an opportunity to respond.

Many teams make the mistake of being too aggressive during cross-examination. Remember sometimes "You can catch more bees with honey than you can with vinegar!" If a barrister is blatantly and/or consistently leading ('spoon feeding') his witness in his/her direct examination, an advocate on the opening team may stand up and bring this matter to the attention of the Trial Judge.

Opening speech by the Defence

The defence should summarise their version of events and introduce the evidence their witnesses will give during the case. The defendant should remind the jury that the defence will be casting doubts on the prosecution case; they do not have to prove the innocence of the defendant. Scripts may not be used, but advocates may have notes to guide them.

The closing speech

In the closing speech, your task is to persuade the jury to find in your favour. You should try to bring together all strands of the case as a whole to show the jury the picture as you want them to see it. In doing so you must stick to the evidence and not mislead the court. You should deal with the relevant law but not in detail or at great length. The defence should remind the jury that they cannot convict unless the prosecution have made them sure, beyond any reasonable doubt, of the defendant's guilt.

The closing speech should only refer to facts, which have come out during the course of the trial through the questioning of witnesses. You may not introduce other facts, even though they may be in the witnesses' written statements, if they were not given in evidence during your particular trial. Scripts may not be used. However, it is advisable for you to take notes during the course of the trial, so that in your closing speech you can use the precise words of the witnesses to reinforce points to the jury.

NOTES TO WITNESSES

You will not be allowed to read from notes during the trial. During the mock trial, you may only testify to facts which are stated in the witness statements or can reasonably be inferred from them. If you are asked a question which demands an answer that cannot be found in your statement or reasonably referred from it, you must reply "I don't know" or "I can't remember". For the purpose of the mock trial advocates should not ask questions which are totally unreasonable in going way beyond the information available to witnesses.

If you are asked to describe the physical characteristics of the defendant/accused, you must base your statements on the actual person playing the defendant in your trial (NB: you should make sure that you have a good look at the opposition witnesses before the trial begins.)

GENERAL INFORMATION ON THE RULES OF EVIDENCE

1. Admissibility of Evidence

Only evidence which is relevant to an issue in the case, and is permitted by the rules of evidence (e.g. see point 3 below) can be used during the trial.

2. The Burden of Proof

The prosecution must do all the proving in any criminal case. This is called the 'Burden of Proof'. The standard is a high one – the prosecution must satisfy the jury that they are sure of the defendant's guilt beyond reasonable doubt. The defence, for their part, have to prove nothing, and if the jury are not satisfied so that they are sure of the defendant's guilt, then he/she must not be found guilty.

3.3. The Rule against Hearsay

A witness can only offer evidence if it is based on first hand knowledge. Example: A witness cannot say that another person told her that he saw the defendant commit the offence. A witness can of course, say that she saw the defendant commit the offence.

4. The Right to Silence

Defendants cannot be forced to give explanations for their actions, either when arrested or during the trial. However, if the defendants use something in their defence which they didn't mention to the police during questioning, when they would have been expected to do so, the jury may draw such inferences as they think proper in the circumstances (i.e. concerning whether their stories are unreliable).

5. The Character of the Defendant

The prosecution is not permitted to prove that a defendant has a 'bad character' (e.g. by telling the court of any previous convictions), unless the defence seeks to prove that a) the defendant is a person of "good character", or b) a prosecution witness is of "bad character".

The defence does neither of these things by asserting the innocence of the defendant or by alleging that the prosecution witnesses are mistaken. The judge has discretion whether to allow the prosecution to introduce evidence of the defendant's bad character even if (a) or (b) has happened. The prosecution must always obtain the permission of the judge before introducing character evidence.

6. Previous Inconsistent Statements

If a witness's earlier statement is inconsistent with what the witness says in the witness box, the advocates cross-examining the witness may ask questions about the earlier statement and the inconsistency in order to show that the witness's evidence at trial is unreliable.

Example: A witness has given evidence that she saw the defendant carrying a knife. In an earlier statement she had said that she could not remember whether the defendant was carrying anything.

The defending advocate may ask her about the earlier statement in order to persuade the witness to change her evidence, or, if she refuses to do so, to persuade the jury that the witness is unreliable or not telling the truth in the light of the earlier statement.

Before asking the witness about the discrepancy, the advocate must ask the witness if he/she made any statement on a particular day. The advocate must also ask if he/she agrees with what is written. It may be necessary if the witness does not agree, to ask the witness to look at his/her statement.

GENERAL RULES OF PROFESSIONAL CONDUCT

Not all of the following are strictly applicable in this competition

1. An advocate must not deliberately mislead the court.
2. A prosecuting advocate must introduce any credible evidence which will assist the jury in reaching the right verdict even if it may suggest that the defendant is not guilty. The prosecution's role is to enable the court to reach the right verdict, not just a guilty verdict.
3. Therefore, a prosecuting advocate must also give the defending advocate any evidence which might assist the jury to decide that the defendant is not guilty.
4. A defending advocate must put forward the case that the defendant instructs his counsel to make, however unlikely or unpopular that case may be.
5. A defending advocate should not defend an accused person who has admitted guilt to the advocate. This applies if the Defendant/accused actually informs his/her advocate of his/her guilt. Defendants have a right to be tried by a jury and not by advocates.
6. An advocate must not give the jury his or her personal opinion as to the guilt or innocence of the defendant. This prevents a prosecuting advocate telling a jury, for example, that he/she "has prosecuted many defendants and has never seen a defendant as guilty as this one".
7. Ensure all mobile phones are switched off in Court.

TRIAL PROCEDURE

1. Judge enters the court
 - The Registrar identifies Defendant (the accused)
 - The Registrar arraigns/charges the Defendant
 - The Defendant pleads not guilty
 - The Registrar swears jurors in as a group
2. Prosecuting advocate makes opening speech
3. Prosecution witnesses called
 - Examination-in-chief by prosecution of the two witnesses
 - Cross-examination by defence of the two witnesses
4. Defending advocate makes opening speech
5. Defence witnesses called (i.e. the Defendant plus one other witness)
 - Examination-in-chief of first defence witness followed by cross-examination of the witness. Examination-in-chief of second defence witness followed by cross-examination of the witness.
6. Prosecuting advocate makes closing speech
7. Defending advocate makes closing speech
8. Judge's summing up of the case
9. Jury bailiff (tipstaff) sworn. Jury retires. Judge retires
10. Jury bailiff (tipstaff) sworn. Jury retires. Judge retires

STEP-BY-STEP GUIDE TO PROCEDURE

Commencement of the Trial

1. Before the Judge enters, the Court Registrar fills in the slip with all advocates names etc. and puts it on the Judge's table. The Usher (sometimes referred to as Tipstaff) goes to collect the judge from his chambers (which are usually situated behind the courtroom). As the Tipstaff accompanies the judge to the court, the Tipstaff says, "All rise -Silence in Court". The Tipstaff sits in the body of the court.

Court Registrar stands and starts trial by asking defendant to stand. Court Registrar identifies Defendant by asking him/her "Are you _____?" (insert the appropriate name)

Defendant says, "Yes".

The Registrar then reads the full indictment (which is to be found at the beginning of the cases) to the Defendant as follows:

*“You are charged with [then read the name of the offence from the indictment] in that you [then read out from the indictment particulars of the offence leaving out the defendant’s name].
Do you plead guilty or not guilty?”*

Defendant pleads “Not guilty” and the court registrar asks the defendant to sit down.

The Registrar swears in the jury by asking all jurors to stand and to read together their declaration.
“I will faithfully try the defendant and give a true verdict according to the evidence “.

2. Prosecuting advocate stands and introduces advocates in the following manner:

*“May it please your Lordship/the Court, I appear for the prosecution with my learned friend
Mr/Ms _____ . My name is _____ and my learned friend is
Mr/Ms _____ and Mr/Ms _____ Represent the defendant.”*

The prosecuting advocate must find out this information before the trial starts.

Opening Speeches and the case for the Prosecution

3(a) Prosecuting advocate makes opening speech.

3(b) Prosecuting advocate calls first prosecution witness. Tipstaff leads prosecution witness to the witness box. The witness can sit in the court itself, for the purpose of the competition.

Registrar swears in the witness, asking him/her to repeat:

“I promise to tell the truth, the whole truth, and nothing but the truth”.

3(c) Examination-in-chief of the first witness by the prosecuting advocate.

3(d) Cross-examination of witness by the defence advocate.

Because of the strict time limits no objections are allowed to be made (unless deemed very important) and there will be no “re-examination” of the witnesses by either the prosecution or defence.

3(e) Prosecuting advocate calls second prosecution witness. Examination-in-chief of second prosecution witness.

3(f) Cross-examination of second witness by the defence advocate.

3(g) Prosecuting advocate signifies the end of his/her case by saying:

“That is the case for the prosecution”

Case for the Defence

- 4(a) Opening Speech
- 4(b) Defending advocate calls the first defence witness. (This will be the defendant, who, when giving evidence goes into the witness box).

Registrar swears the witness in.

Examination-in-chief of first defence witness by defending advocate. The advocate should elicit facts to prove his/her case
- 4(c) Cross-examination of first defence witness by prosecuting advocate.
- 4(d) Defending advocate calls second defence witness by examination-in-chief.
- 4(e) Cross-examination of second defence witness.
- 4(f) Defending advocate signifies the end of his/her case by saying: *"That is the case for the defence."*

The Trial Concludes

- 5. Prosecuting advocate makes closing speech.
- 6. Defending advocate makes closing speech.
- 7. Judge's summing up of case. Court Registrar swears in the jury bailiff (who also acts as the tipstaff). He/ she stands and says: *"I shall keep this jury in a private and convenient place. I shall suffer no-one to speak to them nor shall I speak to them myself except with the leave of the court, save to ask them whether they agreed upon their verdict"*.

The jury bailiff (tipstaff) leads the jury to their retiring room outside the courtroom and stays with them until they have reached their decision. At this stage, the Registrar says "All rise ", and leads the judge out of the courtroom.

1. The jury members elect their foreman/woman. They reach their verdict and the jury bailiff leads them back into the courtroom and then brings in the Judge (remember to say, "All rise").

2. Court registrar asks the defendant to stand and then asks the jury if they have reached a verdict and the jury foreman/woman announces their verdict. Because of the limited time available, the jury has a maximum of only five minutes to reach its decision.
The verdict will have no effect on the judge's score for either of the teams. However the judge may take the verdict of the jury into consideration in the event of a draw.

10(a) Judge comments on the performance of the advocates, witnesses and court staff and announces the winner.

NOTES

- Bibles or other holy books will not be used for swearing in the jury or witnesses.
- When addressing the judge, advocates should use the title "My Judge or My Lord". If advocates need to refer by name to the other advocates, they should refer to them as "My learned friend Mr./Mrs"

Points to Remember

1. In each case the advocates must divide the work between them, i.e. one speech, one examination in chief and one cross-examination each.
2. Witnesses are not allowed to elaborate excessively beyond the information contained in their witness statements. They should say ' "I don't know" rather than make a reply. Conversely, the advocate should not ask questions which are unreasonable given the limited information in the witness statements. Witnesses are strongly discouraged from reading their witness statement and/or having their witness statement on their person. It is not advisable to learn speeches by heart to the point where advocates cannot adjust to any possible developments in the trial. Advocates may, however, take notes into the courtroom.
3. It is strongly recommended that time limits should be followed. Judges may penalise students going seriously over their allotted time. However, this is a matter entirely for the discretion of the trial judge.

SCORING

Witnesses

Judges will be scoring the witnesses on the basis of the following criteria:

- Convincing testimony
- Confident presentation
- Showing evidence of thorough learning of the part
- Believable characterisation
- Spontaneity of responses

Court Staff (See Page 6)

Judges will be scoring the court staff on the basis of the following criteria:

- Good presentation of role
- Good learning of lines

Advocates

The judge will be looking for:

- A command of the facts and an understanding of the relevant points of law.
- A demonstration of a clear understanding of the trial procedure and rules of evidence.
- Spontaneity and the ability to “think on your feet”.

And specifically at each stage of the trial:

- Opening speech: clear and concise description of the case.
- Examination-in-chief: elicitation of facts by short simple questions (no leading questions allowed).
- Cross-examination: exposure of contradictions and weakening of the other side’s case (without necessarily being antagonistic) using short simple questions.
- The advocate should challenge the reliability of those parts of the witness’s evidence which are inconsistent with the case he/she is presenting.
- Closing statements: organised and well reasoned, emphasising the strengths of one’s case and the other team’s weaknesses.

THE DAY OF THE COMPETITION

Programme of the Day

9.15 Competitors, judges and barristers arrive.

9.40 Official competition opening ceremony. Speakers to include Mr. Justice Max Barrett, a Judge of the High Court.

10.00 Round 1.

11.15 End of Round 1. Light Refreshments served.

11.40 Round 2.

12.55 End of Round 2. Refreshments served

13.50 Round 3.

15.10 End of Round 3.

15.50 The four highest scoring teams from the three trials undertaken are announced qualify for the national semi-finals and final on Saturday, the 6th May 2017.

TIMING CARD**Prosecution (school name):** _____**Defence (school name):** _____

The Tipstaff should complete this sheet and hand it to the Judge before he/she retires to consider his/her verdict.

The Tipstaff should fill in the name of the prosecution team and the defence team above.

STAGE OF TRIAL	MAXIMUM RECOMMENDED TIME	ACTUAL
Opening speech by prosecution	3 mins	
Examination-in-chief of first prosecution witness	5 mins	
Cross-examination of first prosecution witness	6 mins	
Examination-in-chief of second prosecution witness	5 mins	
Cross-examination of second prosecution witness	6 mins	
Examination-in-chief of third prosecution witness (if applicable)	4 mins	
Cross-examination of third prosecution witness (if applicable)	4 mins	
Opening speech of defence	4 mins	
Examination-in-chief of first defence witness	3 mins	
Cross-examination of first defence witness	5 mins	
Examination-in-chief of second defence witness	6 mins	
Cross-examination of second defence witness	5 mins	
Examination-in-chief of third defence witness (if applicable)	6 mins	
Cross-examination of third defence witness (if applicable)	4 mins	
Closing speech by prosecution	5 mins	
Closing speech by defence	3 mins	

A member of the defence team assumes the role of Tipstaff/Usher should ring a bell (or equivalent) after each maximum recommended time expires and every 30 seconds thereafter. Each team (Tipstaff/Usher) to supply their own bell/audio timing mechanism. If the Tipstaff fails in his/her endeavours to find a bell, he/she should improvise by, for example, 'tapping the desk/furniture'

JUDGES' SCORING SHEET

Please hand this sheet directly to the competition organiser at the main desk as soon as the trial concludes. The scores given are for the presentations and should be independent of the decision you make on the merits of the facts of the case.

Please allocate points as follows. **2. POOR 4. BELOW AVERAGE 6. AVERAGE 8. GOOD 10. EXCELLENT**

Prosecution (school name): _____

Defence (school name): _____

STAGE OF TRIAL	PROSECUTION	DEFENCE
Opening speech by prosecution		
Examination-in-chief of first prosecution witness		
Cross-examination of first prosecution witness		
First prosecution witness		
Examination-in-chief of second prosecution witness		
Cross-examination of second prosecution witness		
Second prosecution witness		
Examination-in-chief of third prosecution witness (if applicable)		
Cross Examination of third prosecution witness (if applicable)		
Opening speech of defence		
Examination-in-chief of first defence witness		
Cross-examination of first defence witness		
First defence witness		
Examination-in-chief of second defence witness		
Cross-examination of second defence witness		
Second defence witness		
Examination-in-chief of third defence witness (if applicable)		
Cross Examination of third defence witness (if applicable)		
Closing speech by prosecution		
Closing speech by defence		
Court Registrar		
Tipstaff/Jury Bailiff		

Timing/attention to competition rules		
Overall teamwork and presentation		
TOTAL		

JURY VERDICT: _____ WINNING TEAM: _____

NAME OF JUDGE: _____

COMMENTS: _____

THE SCORING SYSTEM

Each individual stage of the mock trial is marked out of 5 points. See a copy of the Judge's scoring sheet on page 19 for full details. Note that it will make no difference whether a school wins or loses the case, in terms of a "guilty" or "not guilty" verdict. However, the Trial Judge may take into consideration the verdict of the jury in the event of the Judge scoring the trial a draw.

The winning team in each round will be awarded one point. The losing team receives no points. (no ties are permitted). The four teams who have the most points qualify for the national final, for example, a team which remains undefeated in all three trials would finish with a total of three points. The national semifinals and final are scheduled to take place on Saturday 9th May 2015 in the Criminal Courts of Justice, Dublin. Each team will also receive positive or negative bonus according to the difference between points scored by each team

Example: Team A beats B by 94 points to 84 points.
 Team A receives 1 point for win +10 bonus points.
 Team B receives -10 points.

At the end of the three heats, the four teams with the highest number of wins qualify to partake in the national semi-finals. If four or more teams tie, then a tie break mechanism is employed.

TIE-BREAKING MECHANISM

STEP 1: Add the positive and negative bonus points to each school's existing score. If a clear winner emerges, then that team goes forward. Any clear loser drops out. If two teams remain tying, go to step 2. If there is still a tie between the three teams, go to step 2 and repeat the process.

In the event of having to determine a tie-break between two or more teams who won all three of their mock trials, the highest number of positive bonus (highest margin of victory) which the team obtained in a mock

trial is not taken into consideration in the first instance of the determination but if still tied, it shall be taken into consideration in the second instance.

In the event of a tie between two teams who competed against each other, the winner will be the team which won when these two teams met.

STEP 2: Add to the current scores, the total number of points scored by each team during the three rounds. A school ahead on points wins, or any school which is behind on points drops out.

* The team listed first in each trial always prosecutes the case. Each team is assigned a different “letter” for the day so the assigned letter denotes the team.

* The four teams who achieved the highest scores qualify to compete in the national semi-finals.

THE CASES

The teams will be asked to present two cases:

- The People .v. Francis Cara
- The People .v. Jackie O Faoláin

We have attempted to create cases that, as far as possible, accurately reflect the law and trial procedure of the Irish criminal justice system. However, due to the obvious legal inexperience of the participants and the time constraints involved, we have simplified matters somewhat.

Teams must be prepared to prosecute and defend both cases.

NOTE RE: CASES

1. All statements signed by the witness who made them bear the following declaration “This statement is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true. I have read this statement.”
2. The defence statements are furnished to the prosecution. They are being provided for the purposes of the mock trial to assist the prosecution advocate to prepare cross-examination.
3. The defendant and the witnesses have been given unisex first names to enable the parts to be played by students of either sex.
4. In the context of a mock trial, if there are any genuine ‘typos’ (presentational mistakes) in the witness statements, it is advisable for Barristers not to exploit and/or rely heavily on same, nor should Barristers try to ‘catch out’/‘wrongfoot’ a witness on the strength of an isolated ‘typo error’. In the short timeframe allotted for examining witnesses, barristers should concentrate on the main, relevant, salient issues.

NEWSPAPER AND TELEVISION REPORTING COMPETITION RULES

Newspaper Reporter Category

1. The report should be written on the day of the mock trial by a legal reporter from each school. All the reporters

will sit in the same court to observe the first same case and then write their reports. The reports should be handed in at 1.00 p.m.

2. The report should not be more than 340 words long. It should be the type of news report that might appear in a broadsheet newspaper (read a broadsheet newspaper on any given day to familiarise yourself with what is required). Reporters should assume that the mock trial case is a real case. Entries can be hand-written or word-processed.
3. A prize will be awarded for the best report.

Style Guide for Reporters

Headlines – Write a two line headline of no more than 20 characters per line. (A character is a letter or a space). It should engage the reader’s attention and give a clear message concerning the subject of the article. Avoid cliches and using exclamation marks in the headline.

A snappy first paragraph summarising the report will help catch the reader’s attention.

Accuracy is very important. You must be able to prove everything you write. Also beware of sweeping statements. The account must be factual. Your personal comments and analysis are inappropriate in a news report (e.g. “Could the jury really have believed this?’)

Write in plain English and try to explain things as simply as possible. Know what you want to say and say it as clearly as possible.

Avoid the use of lengthy words and sentences. This helps make things clear.

Avoid the use of lengthy words and sentences. This helps make things clear.

Good punctuation, grammar and spelling are important. Double check that you have spelt people’s names correctly. Include ages, occupations and addresses as appropriate.

Avoid clichés and unnecessary words and phrases such as really, actually, somewhat, surely.

Avoid purple prose. Do not overdo the adjectives

ORDER OF PLAY								
CASES	TIME	LEAGUE 1 PROSECUTION -V - DEFENCE	LEAGUE 2 PROSECUTION -V - DEFENCE	LEAGUE 3 PROSECUTION -V - DEFENCE	LEAGUE 4 PROSECUTION -V - DEFENCE	LEAGUE 5 PROSECUTION -V - DEFENCE	LEAGUE 6 PROSECUTION -V - DEFENCE	LEAGUE 7 PROSECUTION -V - DEFENCE
THE PEOPLE -V- FRANCIS CARA	10.00	A -V- B C -V- D	E -V- F G -V- H	I -V- J K -V- L	M -V- N O -V- P	Q -V- R S -V- T	U -V- V W -V- X	2A -V- 2B 2C -V- 2D
THE PEOPLE -V- JACKIE O' FAOLÁIN	11.30	A -V- C B -V- D	E -V- G F -V- H	I -V- K J -V- L	M -V- O N -V- P	Q -V- S R -V- T	U -V- W V -V- X	2A -V- 2C 2B -V- 2D
THE PEOPLE -V- FRANCIS CARA	13.35	B -V- C D -V- A	H -V- E F -V- G	L -V- I J -V- K	P -V- M N -V- O	T -V- Q R -V- S	X -V- U V -V- W	2B -V- 2C 2D -V- 2A

* The team listed first in each trial always prosecutes the case. Each team is assigned a different "letter" for the day so the assigned letter denotes the team.

* The four teams who achieved the highest scores qualify to compete in the national semi-finals.

(e.g. “The jury delivered a stinging rebuke to the State’s “ferocious attack”).

The Law

Contempt

Court reporters have to be very careful of the Law of Contempt. The jury is there to decide the case, not the press, and reporters must not do anything to prejudice fair trial. However, because the verdict will have been given by the time you write the report, this need not worry you.

Defamation

In Ireland the law assumes that everyone has a good reputation. If you write something which detracts from that reputation, it is defamatory unless you can prove that what you have said is correct. However, journalists are protected from libel if they write fair and accurate reports of court proceedings. Check what you have written is fair and accurate. A genuine error could still be injurious to a person’s reputation.

Practical Guide for Newspaper and Television Reporters

Students should be told to note the following advice when writing or presenting court reports:

1. Only include in the report information which is revealed in court.
2. Comments about the appearance of the accused, victims et cetera are permitted but avoid imputing guilt or otherwise.
3. In the Television Reporting Section, it is recommended that participants view a report/presentation by a Legal Affairs correspondent which feature in any television news bulletin.
4. Remember to include prominently in the report:
 - a. the name of the accused/defendant;
 - b. the details of the prosecuting Garda/plaintiff;
 - c. precise information on the charge/issue between the parties
 - d. whether, in a criminal hearing, the accused is pleading guilty/not guilty
 - e. the identities of witnesses;
 - f. the name of the judge;
 - g. the name/type of court
 - h. the verdict
5. Newspaper reports can be submitted in handwritten form to the competition desk or by email before 2pm on the day of the competition (palddp@eircom.net).
6. See page 7 for information about the photography and art competition categories.

NOTE

All television and newspaper reporters should assemble to observe the first round case which takes place in a courtroom commencing at 10.00 (name of courtroom to be confirmed and announced on the morning of the competition). Before the commencement of the trial they will be given some last minute words of advice by a well

known journalist. The name of the courtroom will be confirmed and announced during the course of the competition's opening ceremony.

INDICTMENT
IN THE CIRCUIT CRIMINAL COURT,
DUBLIN

THE PEOPLE (AT THE SUIT OF
THE DIRECTOR OF PUBLIC PROSECUTIONS)

-V-

JACKIE Ó FAOLÁIN

Statement of Offence

Assault causing harm, contrary to Section 3 of the Non-Fatal Offences Against the Person Act 1997

Particulars of Offence:

Jackie Ó Faoláin, on the 15th day of December 2015 assaulted Breifni Breathnach thereby causing him/her harm.

Summary of facts

The Defendant, a scaffolder, is charged with an assault causing harm on Breifni Breathnach, a chauffeur, and pleads not guilty. It is the Prosecution's case that the Defendant deliberately kicked Breathnach in an angry "road rage" type attack. The Defendant's case is that s/he only used such force as was reasonable against Breathnach in order to retrieve his/her keys which Breathnach had seized during a dispute which resulted from a driving incident. The Defendant denies kicking Breathnach.

THE LAW

Section 3 of the Non-Fatal Offences Against the Person Act 1997 provides: A person commits an assault if s/he intentionally and unlawfully strikes another person without the person's consent. If, on the facts of this case, Ó Faoláin intentionally struck Breathnach, then s/he would be guilty of assault. The word 'harm' includes bruising.

It is accepted by the defence if the jury are sure that the Defendant did kick Breathnach as alleged, such an assault was unlawful.

STATEMENTS OF PROSECUTION WITNESSES

Statement of Breifni Breathnach, dated 30th December 2015

On the morning of Wednesday 15th December 2015 I was working, as I usually do, as a chauffeur for Srón San Aer Girls' School. I was driving a black Mercedes s320 registration letters ARDNOS. In the rear of the car was Mr. Woods, the headmaster of the school, who I had picked up at 6am that day. I was driving him to Ros na Rún for an emergency meeting of the school governors. I remember that at about 6.15am I turned from the main road onto the Bearna Road so as to be heading towards Ros na Rún. As we were going under the bridge I heard a bang on the passenger side of the car, at the back. I thought we had been hit. I was in the fast lane and glanced to my left. I saw a small white van with a driver and passenger inside. They were both men/women in their early 20s. The driver put two fingers up at me in an aggressive manner. I ignored him/her and continued to drive in the fast lane. I pulled into the slow lane as we approached the traffic lights at the Bearna Junction.

I stopped my car and got out to inspect the car for damage. I noticed that the same van was behind me. I walked up to the driver's window, which was open and said. "What's your problem?" I wanted to know why s/he had made the insulting hand gesture. The driver and the passenger both immediately jumped out of the van and ran towards me. The driver rugby tackled me to the floor and the both started to kick me in the legs. Mr. Woods got out of the car and asked them to leave, which they did. As they drove off I took down the registration number of the van. I reported this matter to the Gardaí on the evening of 15th December 2007 but did not have time to make the statement until the 30th. There was no damage to my car.

Statement of Leslie Jones, dated 21st February 2016

On the 15th December 2015 at about 6.15am. I was waiting for a conference about the new Human Rights Act 1998 to start in an office block on the Bearna Road. I was gazing out of the window at the traffic when I noticed a black Mercedes s320 screech to a halt in the slow lane of the road. My attention was drawn to the Mercedes because it suddenly swerved in the slow lane and suddenly stopped. I could see no reason why the Mercedes stopped there as there were no obstructions or traffic lights. I then saw the driver of the Mercedes jump out of his/her car and run towards a small van which had been blocked by the Mercedes. S/he began shouting to the occupants of the van and was walking around waving his/her arms. S/he did not get any closer than 1 metre from the van. S/he had not closed the driver's door when s/he got out and therefore no traffic could pass the car. The driver of the van shouted back at the driver of the Mercedes. Then the driver of the van got out of his/her vehicle and approached the Mercedes driver. The two of them stood shouting at each other and then the van driver lunged at the Mercedes driver. At this the passenger from the van also got out of the vehicle and joined in. The passenger kicked the Mercedes' driver's legs away from under him. The two from the van then dragged the Mercedes driver away behind their van. I could see their heads and shoulders above their van but not the Mercedes driver. I alerted the security guards in my buildings as to what was happening and persuaded them to call the Gardaí and come and help stop the fight. I crossed the road to the central reservation and saw the driver of the Mercedes crawling out from between the two vehicles. S/he looked scared. The two from the van got back into the van and drove off. As they did the driver shouted "That's what you get for stealing our keys."

**Jones has a conviction for cruelty to animals in 1999 in respect of which he was fined £250. If the defence decide to put Mr./Ms. Jones' conviction in evidence during the cross-examination the Prosecution then are entitled to put the defendant's convictions in evidence if they so choose to do.*

Statement of Garda O'Reilly, dated 24th February 2016

I arrested Jackie Ó Faoláin for assault on the 22nd February 2016. S/he came, by arrangement, to Ros na Rún Garda Station. S/he was cautioned and said "S/he started it" in reply. I interviewed Mr./Ms. Ó Faoláin between 11.45 and 12.10 that day. S/he had no solicitor present during the interview with him/her.

In interview s/he said that the Mercedes car had collided with him/her as s/he drove onto the Bearna Road. S/he had shaken his/her fist at the driver of the Mercedes because s/he thought it was a suitable comment on the standard of his/her driving. Instead of apologising as Mr./Ms. Ó Faoláin thought s/he would do, the driver of the Mercedes pulled in front of him/her and slowed right down causing him/her to swerve out and past the Mercedes. This happened twice. On the third occasion the Mercedes actually stopped in front of the van forcing Ó Faoláin to brake sharply to prevent colliding with the back of the Mercedes. The Mercedes was diagonally across the two lanes of traffic. The driver of the Mercedes got out of his/her car and came up to Mr./Ms. Ó Faoláin's window, shouting and ranting about something having been thrown at his/her car... Mr./Ms. Ó Faoláin did not know what s/he was talking about and told him/her to stop being stupid and feck off... The man/woman did not go, rather s/he continued shouting abuse at Mr./Ms. Ó Faoláin. Mr./Ms. Ó Faoláin then got out of his/her car. The Mercedes driver pushed past Mr./Ms. Ó Faoláin and snatched the keys from the ignition of the van. Mr. Ahern, the passenger, got out of the van and they both had a tussle with the Mercedes driver which resulted in all three of them being on the floor. Eventually Mr./Ms. Ó Faoláin managed to get the keys back and drove off. As s/he left s/he recalled shouting "That's what you get for stealing our keys." S/he denied kicking the man at all. S/he accepted twisting the man's wrists but said it was in order to get his/her keys back.

Mr./Ms. Ó Faoláin was charged with assault causing harm. His/her reply to caution was "This is outrageous. I am an innocent person." I have tried to contact Mr. Woods but was informed by his widow that he sadly died in a freak deckchair accident whilst on holiday in Singapore over Christmas. Statement of Dr Kapur, dated 16th February 2016

(Some weeks prior the commencement of this trial, the contents and admissibility of the Statement of Dr. Kapur was agreed between the Solicitor acting for the Prosecution and the Solicitor acting for the Defence. In those circumstances, the Prosecution and the Defence have agreed that it is not necessary to call Dr. Karpur (who is a very busy doctor) to give oral testimony at the trial. A barrister for the prosecution should inform the trial judge about this and seek his/her permission to read Dr. Kapur's statement/evidence (an unchallenged statement) to the jury).

On the 17th December 2015 I examined my patient Mr./Ms. Breifni Breathnach at my surgery. S/he was complaining of sore legs and wrists saying s/he had been attacked on the 15th December. I examined him/her thoroughly and saw recent bruising to both knees. S/he also had areas of tenderness on both his/her legs and wrists.

I advised that s/he take paracetamol to ease the discomfort s/he was in and advised that s/he did not work for the next week. Mr./Ms. Breathnach returned to my surgery on 6th January 2016. On that occasion s/he was still complaining of soreness to his/her legs. I could find no injuries and advised him/her to go back to work on Monday 10th January 2016.

STATEMENTS OF DEFENCE WITNESSES

Statement of Jackie Ó Faoláin³, dated 22nd February 2016.

I am 24 years old. I am married with 3 children. I work as a scaffolder. On the 15th December 2007, myself and my colleagues Mr. Ahern and Mr./Ms. Harney had been working on the Hardiman Library, NUI Galway. We had been working an overnight shift in order to get the job done quickly. At about midnight I had eaten a chicken sandwich and drunk two cans of "Red Bull". We were tired and I was driving us home. Mr. Ahern was in the front passenger seat and Mr./Ms. Harney was in the back. Mr. Ahern has since emigrated to the Cayman Islands and is therefore not able to act as a witness for me. Mr./Ms. Harney, however is available.

I collided with a Mercedes car on the main road near the Bearna Road. When I drew level with him/her at the bridge I shook a fist at him/her to register my objection to his/her driving. S/he kept pulling in front of me and suddenly slowing down. Eventually s/he pulled across the road and stopped dead in front of us. There were traffic lights, but they were at least 40 metres down the road and were green. S/he got out and ran up to me. S/he was ranting and raving and said that I must be a foreigner accusing me of having no understanding of the rules of the road in this country. I got out of the car because I wanted to find out what s/he was talking about. S/he pushed past me and grabbed the ignition keys. I thought s/he might throw them away and so I tried to get them back. Mr. Ahern came to my aid. Being careful not to hurt him/her he/she said words to the effect, 'might you be awfully so kind please as to volunteer to fall gently to the floor so that we can all amicably resolve this problem as quickly as possible and thereby peacefully go on about our respective businesses without further unnecessary delay'.

Mr. Ahern then gently pinned him/her to the floor and I removed the keys from his/her hands. Once on the floor s/he did not offer any resistance. The floor was clean and dry. I knew the keys were in his/her tight hand because I saw them so I only went for that hand. I did not see if Mr. Ahern went for the other. I emphasise that I did not kick him/her at all. The key recovery operation which was carried out with almost military competence and precision was a total success as I got the keys back and drove off in circumstances where thankfully no injuries were sustained. As I drove off I shouted at him/her "That's what you get for stealing our keys." I did not report the incident to the Gardaí as I didn't think anything of it.

* Ó Faoláin has two convictions for theft and assault. S/he was sentenced to 150 hours of community service in July 2010. The defence do not have to put these convictions into evidence, but if they mention the convictions of the prosecution witness Jones, Ó Faoláin will lose his/her shield and the prosecution will be entitled to mention his/ her previous convictions. Faoláin must not lie about his/her convictions when she/he gives evidence. The prosecution will be marked down if they mention Ó Faoláin's convictions without the shield first being lost in the manner specified above.

Statement of Seoirse Harney

I was in the back of the van on the 15th December 2015. I had been working with Jackie that night. The van had been suddenly slowing down and speeding up. I thought that Jackie was having another one of his/her temper tantrums, s/he was shouting and swearing. At one point the van stopped. I became aware of a man/ woman shouting at Jackie. I could not see anything because there are no windows in the side of the van. Jackie got out of the van and I then saw a hand come through the window and take the keys from the ignition. I heard more shouting. Mr. Ahern got out of the van. I waited for about 3 minutes and they both got back in the van. They seemed hot and bothered. We drove home.

INDICTMENT

IN THE CIRCUIT CRIMINAL COURT, DUBLIN

THE PEOPLE

(AT THE SUIT OF THE DIRECTOR OF PUBLIC PROSECUTIONS)

.v.

FRANCIS CARA

STATEMENT OF OFFENCE

Arson contrary to section 2(1) of the Criminal Damage Act 1991

PARTICULARS OF OFFENCE

Francis Cara, on the 16th day of May 2016 at 11 Posh Park, Dublin, without lawful excuse, damaged by fire the house at that address, the property of Sammy Rich and Frankie Rich.

SUMMARY OF FACTS:

The accused is madly in love with Jackie Rich, the young adult child of the house owner, Sammy Rich. Sammy Rich does not approve of the relationship; the accused calls over to the house regularly and often meets Jackie Rich in the shed which is situated behind the house.

If Sammy's car is not in the drive he knocks on the front door. Sammy's spouse Frankie Rich approves of the relationship but pretends otherwise. Sammy Rich is fond of gin and has bottles of gins hidden in many places. The house, 11 Posh Park appears to have been petrol bombed. Sammy Rich is convinced that Francis Cara did it. The Gardaí believe Sammy and have certain evidence to support the charge.

Whilst Sammy Rich portrays himself in public to be very well off, he is in severe debt because of gambling. He was not overly concerned at the cost of the damage because he had recently checked with his insurance company the level of fire cover that he had on his property. The repairs were carried out by a builder who is a friend of Sammy Rich who has a history of fraud. This is Sammy's third insurance claim for fire damage which he has made in the past 25 years.

THE LAW:

Criminal Damage Act, 1991. 2.—(1) A person who without lawful excuse damages any property belonging to another intending to damage any such property or being reckless as to whether any such property would be damaged shall be guilty of an offence.

If Francis Cara deliberately caused the fire damage to the property he would be guilty of the offence. It is accepted by the defence that, on the facts of this case, Francis would have no lawful excuse for causing the damage therefore if the Jury are sure beyond a reasonable doubt that he did petrol bomb the house they should find him guilty.

EVIDENCE/ STATEMENTS OF PROSECUTION WITNESSES

1st WITNESS FOR THE PROSECUTION

Statement of Sammy Rich, dated 16th May 2016

My name is Sammy Rich. I am married to Frankie Rich. My address is 11 Posh Park, Dublin. I live there with my spouse, Frankie and our adult child, Jackie. On the evening of May 16th 2016 Frankie and I went to have dinner with some friends at the local golf club. I drove my new sports car so I could show it off to the lads. However, when we got close to the restaurant the car stopped and would not go because of a computer glitch, these fabulously expensive cars often have these little teething issues.

So we walked to the restaurant only to discover that the lads had gone to Florida to top up their tans and to play a few rounds of golf, they must have forgotten to invite us.... They had also forgotten to make a reservation and the restaurant was full.

I was not amused; we were forced to get a taxi to our home. I had just sat down and was drinking a gin and tonic (for my nerves) when there was a knock on the door. This was about 8.30pm. when I opened the door I was horrified to see that scoundrel Francis Cara standing there smiling and smoking a cigarette. He is a useless chap; he did not even sit the Leaving Certificate. All the Cara family are wasters. I smiled back at him and asked him to be off and not to return and I informed him that I would be very annoyed if I ever again caught him befriending and/ or dating Jackie.

About 2 gin and tonics later there was huge explosion at the front window, for a split second I thought a big bomb had exploded. I rushed outside and discovered that the front of my house was engulfed in flames I was in state of extreme shock. I called the Gardaí and the fire services.

Garda O'Reilly arrived shortly after I made the 999 call. Then fire brigade men arrived quickly but the flames were out before they arrived. When the flames were out I saw that my house was destroyed. I saw a broken bottle on the ground and there was a smell of petrol from the area of the fire.

I have since had the house repaired with money from the insurance company, it cost about €30,000.

2nd WITNESS FOR THE PROSECUTION

Statement of Garda O'Reilly, dated 16th May 2016

I am a Garda based at Poshrock Garda station, Dublin having been recently transferred having, up to very recently, been based at Tralee garda station. In response to a 999 call I attended the scene of a fire at 11 Posh Park, Dublin. When I arrived at the scene at around 9pm on May 16th 2016, there were the smouldering remains of what was a very minor fire in the region of the front window of the house. The fire services arrived soon after I arrived but there was nothing for them to do and I instructed them not to disturb the scene.

I called the technical bureau and closed off the area around the window and stood guard on the scene until it had been examined and the evidence collected. I then took a statement from Sammy Rich, the owner of the house. There was a large crowd gathering and I believe there were pictures of the scene being posted on social media. Later I received a phone call from Toni Topaz, the operator of the local service station who claimed that he had CCTV of someone getting petrol in a bottle and he thought this may be of interest to me. I visited this service station and viewed the CCTV footage and the individual I saw on the tape was filling a bottle, when he was finished he approached the till and paid for the petrol. The CCTV camera over the till clearly showed the face of the purchaser. I was able to obtain a still image of same.

I returned to the scene of the crime and when I showed this image to Sammy Rich he immediately identified the accused and began to get very agitated, he was blubbering and indicated that this was a photo of the accused and he began to rant and rave and described the accused in most unattractive, insulting terms. He said that the accused had tried to kill him and his family and that he wanted him charged with attempted murder, arson and anything else I could dream up. I visited the accused, Francis Cara at his home on May 23rd 2016 which was about one week after the date of the fire. I cautioned him in the usual way and proceeded to interview him in connection with the fire. His response was that " I did nothing wrong and that the posh git was trying to stitch me up"

He recalled a confrontation with Sammy Rich on the night in question in which Sammy Rich had warned him that he would get him and had been shouting and screaming obscenities at him in a most terrifying manner. He also claimed that he had no memory of what had happened after he had left the house about 8.30pm on the night as he had been very depressed by the abuse he had received from Sammy Rich and he had drunk a bottle of vodka alone in his flat.

I informed him that a file would be sent to the DPP with a recommendation that he be prosecuted for the offence. Sammy Rich and I were in the same class in boarding school. We were very good friends then but lost contact. Sammy is an utter gentleman and although our friendship goes back and I respect him a lot, I wish to emphasise that my involvement in this case is totally independent and impartial.

3rd WITNESS FOR THE PROSECUTION (OPTIONAL)

STATEMENT OF GARDA MAGUIRE

This witness is provided only by the prosecution team (so the prosecution should always have the witness on standby). Whilst the competition rules state that the prosecution must call their first 2 witnesses to give oral testimony (Sammy Rich and Garda O'Reilly), the prosecution team has the option/choice of calling this third prosecution witness (Garda Maguire) to give evidence.

If the prosecution decide not to call him, the Defence can always call him to give evidence later as part of their Defence but remember as a defence witness, the defence barrister would be restricted to examination in chief or direct examination (and not cross examination). So if Garda Maguire has not already given evidence, the Defence team can decide that they wish to call him/her to give oral evidence in direct examination/examination in chief but cannot ask him/her any leading questions

Statement of Garda Maguire dated 24 May 2016

I am a Garda scene of crimes examiner with specialisation in fire related situations. I attended the scene of a fire at 11 Posh Park, Dublin, on the night of 16th May 2016.

I arrived at about 9.30pm, the scene was closed off with some blue crime scene tape. Garda O'Reilly was present and he assured me that he had been present when the firemen arrived and that as the fire was out at that stage, that no one had accessed the scene. Whilst it appeared that the scene had not been disturbed, I was concerned to see a crowd of children playing very close by so I instinctively chased them all away.

In my expert opinion; the fire appeared to have burnt itself out without intervention by the fire services. Most of the fire damage was minor cosmetic damage to the paintwork of the house whilst the window frame and glass was severely damaged. In my expert opinion; the fire was caused by a bottle of lighted petrol (a petrol bomb) being thrown at the window.

On the ground, there was a smashed bottle which smelled of petrol, together with a piece of burned rag. From the remainder of the bottle I could tell that it was a gin bottle which would have held approximately 200mm of liquid. I collected the parts of the bottle and examined them for fingerprints I recovered several prints including two good prints which I later matched to prints taken from the accused.

EVIDENCE/ STATEMENTS OF THE DEFENCE WITNESSES

Statement of the accused Francis Cara dated May 23rd 2016

Jackie Rich and I are both 21 years old and are madly in love, I come from a good honest working class family. I have no previous convictions. I have never come to the attention of the Gardai.

Jackie's parents, Sammy and Frankie Rich are very posh and to be honest at times Sammy is an insufferable snob. Jackie is their only child and the three of them reside in a very swanky detached house in a posh park.

Sammy Rich hates me because I am not wealthy and never went to university. I did a brilliant junior certificate but because my parents became ill, I was forced to drop out of school just before the Leaving Cert in order to take care of my elderly parents. Some day I would love to return to full time studies and study politics in university. I have a keen interest in politics and especially Donald Trump who I admire.

Sammy told me on a number of occasions not to come to their house ever again and not to see Jackie telling me on numerous occasions that I am socially inadequate and in his eyes not good enough to date Jackie. I am madly in love with Jackie, even though Sammy hates me. Jackie's other parent, Frankie is a nice person who secretly talks to me and is aware that Jackie and I are seeing each other on a regular basis. On one recent occasions, when she is sure that Sammy was not home, Frankie even invited me in to her home where we all had a couple of enjoyable alcoholic beverages.

The pressure that Sammy has put Jackie under is so much that she has began to take drugs and owes money to a drug dealer who has threatened to torch her house. Her father is a bit of a drinker and frequently drinks from a number of bottles of Hendricks gin which he drinks with elderflower tonic and a slice of cucumber. He keeps supply of gin both in the house and also in the shed (with his lawnmower and his antique car). I have seen him drinking slyly and secretly in his shed on several times (whilst I was waiting for him to go out for the evening). I have consumed that gin on a number of occasions but I have to say it not for me - I don't care it at all – it's far too posh for me.

On the night in question after I left the house I felt really sad. I was on my motor scooter at that time. On the way home I ran out of petrol near the bottle bank luckily I managed to pull a bottle out of the bottle bank which I took to the nearby Topaz garage. I put some petrol in the said bottle and then walked back to my bike. I threw the empty bottle back in the bank and bought myself a bottle of my favourite vodka in the off license and went home. I turned my phone off and did not see or hear anything about the fire until Garda Murphy came to see me.

EVIDENCE TO BE GIVEN BY MARJORIE MAGOO.

I am employed at the off-license on Classy Road, Dublin. It is not a very busy shop and I often spend long periods staring out of the window looking. Not too far from the shop, about 100m away, there is a bottle bank, this area is well lit and I often watch people coming and going from it. On the night of the 16th May

2016 I saw a young man rooting in the bottle bank and then I saw him heading away, later he returned and appeared to put something into the bank. The young man then came into the shop to buy a bottle of vodka. Soon after he had left I heard a scooter drive off. I have a good head for faces, and despite needing to get a pair of glasses soon (to help me with long distances), I have reasonably good eyesight and I recognise him to be the accused.