

# 20th Annual National Mock Trials

Qualifying Heats:  
Saturday, 13th April 2019,  
Criminal Courts of Justice, Dublin

Semi Finals and National Final:  
Saturday, 11th May 2019,  
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, Adam Dodd BL, Reg Garret BL, Ruth Colgan BL, Christina O'Byrne BL, Serena McGrath BL, Maurice Osbourne BL, Caroline Doyle BL, Rebecca Tracey BL, David O'Brien BL, Coleen Brownlee BL, William McLoughlin BL, Gerry Hayes BL, Jason Shannon BL, Gabriel Reynolds BL, Francis Daly BL, Peter Paul Hughes BL, Dara Byrne, Solicitor, Deirdre Byrne, Solicitor, Martin Byrne BL, Almha O' Keeffe BL, Aoife McNickle BL, Garrett Charles Casey BL, Beibhinn Murphy BL, Cindy Carroll BL, Joe Murray BL, Chris Short BL, Gareth Robinson BL, Ed Shanahan BL, Edward Dwyer BL, Eoin O' Connor BL, Emily Gibson BL, Nollaig Lane BL, Nesta Kelly BL, Paul Pierce, Solicitor, Riannagh Morris BL, Irene Sands BL, Fran Rooney BL, Tomás Keyes BL, Victoria Clarke BL, Tom Power BL. A special word of thanks to Joseph Murray BL 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](mailto:vpmartin@lawlibrary.ie) and phone 087 2312105

Thanking you,



Vincent P. Martin, S.C.

## **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 competitions scoring 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](mailto:vpmartin@lawlibrary.ie) on or before 5pm on the following Monday (15th April 2019.). 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.
- 11.45 Round 2.
- 13.00 End of Round 2. Refreshments served
- 13.55 Round 3.
- 15.20 End of Round 3.

16.00 The four highest scoring teams from the three trials undertaken are announced qualify for the national semi-finals and final on Saturday, the 11th May 2019.

**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.

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

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		
<b>TOTAL</b>		

JURY VERDICT: \_\_\_\_\_

WINNING TEAM: \_\_\_\_\_

NAME OF JUDGE: \_\_\_\_\_

COMMENTS: \_\_\_\_\_

## THE SCORING SYSTEM

Each individual stage of the mock trial is marked out of 10 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 11th May 2019 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 People .v. Pat Plaiice case which has featured in P.A.L.'s visiting law module this year will be one of the two cases featuring in the competition. The other case is The People v Rev Ted. All teams must both

prosecute and defend the new case The People .v. Rev. Ted When the number of school teams participating in the competition has been confirmed, each team will then be furnished with an assigned 'letter' for the tournament (a different 'letter' for each team) and this will let each team know whether or not the team will be prosecuting or defending The People .v. Pat Plaiice (See Order of Play on page 22 of this booklet). We hope to inform each school team of their assigned letter on or before the 22nd March 2019.

\* 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. Pat Plaiice
- The People .v. Rev Ted

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.

## **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 2.00 p.m. It is essential that the name of the author and the author's school is clearly written on the report.
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

( 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.

<b>ORDER OF PLAY</b>								
<b>CASES</b>	<b>TIME</b>	<b>LEAGUE 1</b> PROSECUTION -V - DEFENCE	<b>LEAGUE 2</b> PROSECUTION -V - DEFENCE	<b>LEAGUE 3</b> PROSECUTION -V - DEFENCE	<b>LEAGUE 4</b> PROSECUTION -V - DEFENCE	<b>LEAGUE 5</b> PROSECUTION -V - DEFENCE	<b>LEAGUE 6</b> PROSECUTION -V - DEFENCE	<b>LEAGUE 7</b> PROSECUTION -V - DEFENCE
<b>THE PEOPLE</b> <b>-V- REV. TED</b>	<b>10.00</b>	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
<b>THE PEOPLE</b> <b>-V- PAT PLAICE</b>	<b>11.45</b>	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
<b>THE PEOPLE</b> <b>-V- REV. TED</b>	<b>13.55</b>	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.

## 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 (vpmartin@lawlibrary.ie).
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-**

**PAT PLAICE**

**Statement of Offence:**

Burglary, Contrary to section 12 of the Criminal Justice (Theft and Fraud Offences) Act 2001.

**Particulars of Offence:**

Pat Plaice, with the intention of stealing goods, an arrestable offence, did enter as a trespasser, the premises of Gabriel Murphy at "Gabbys Service Station", Fish Road, Cavan, on the 16th day of May 2017, and thereby committed burglary, contrary to section 12 of the Criminal Justice (Theft and Fraud Offences) act 2001.

**THE LAW: Relevant information:**

Burglary. Contrary to section 12 of the Criminal Justice (Theft and Fraud Offences) Act 2001.

12.— (1) A person is guilty of burglary if he or she—

(a) enters any building or part of a building as a trespasser and with intent to commit an arrestable offence,  
.....

(4) In this section, "arrestable offence" means an offence for which a person of full age and not previously convicted may be punished by imprisonment for a term of five years or by a more severe penalty.

Burglary comprises entering property as a trespasser with the intention of committing an arrestable offence. In situations such as we are currently concerned with, it is crucial that the two parts of the offence coincide, i.e. that, at the moment of entry onto the premises that the intention was present.

*"arrestable offence"* means an offence for which a person of full capacity and not previously convicted may, under or by virtue of any enactment or the common law, be punished by imprisonment for a term of five years or by a more severe penalty and includes an attempt to commit any such offence.

A person guilty of theft is liable on conviction on indictment to a fine or imprisonment for a term not exceeding 10 years or both. Therefore, theft of the goods in question would amount to an arrestable offence.

Entering a shop when it is obviously open for business is normally under an express or implied invitation and consequently there is no trespass and thus it would not amount to a burglary even if the intention were to steal from the shop.

## **SUMMARY OF FACTS/ BACKGROUND:**

Gabby Codd is a very wealthy person, who owns a supermarket, petrol station and a small take away chip-shop. The business makes good profit by selling near the best before date food and giving small portions of chips especially to school kids and to late night revellers.

The shop is very popular although some people think that there is an unusual taste from the hot chicken. There were rumours a few years ago that the Food Safety Authority had found that the chicken sold was not in fact chicken. Gabby has few friends in the locality and is often considered a nasty person even by Gabby's own mother who often refers to Gabby as a horrible person. One other person works in the shop, Billy, who has worked there for the past number of months. Gabby thinks Billy is great and a loyal worker but is not very intelligent.

Gabby lives in a small flat which is located directly above the business and an internal stairs allows access to the back of the shop premises, through a door behind the counter.

Gabby is actually is a very decent person, who is simply misunderstood by many, and feels that people are eating too much convenience food and therefore provides portions that are the "healthier option" and using out-dated food is a form of recycling which helps the environment by reducing waste.

Gabby is also a campaigner for climate justice and other environmental causes and gives generously towards education on green policies and to the provision of bicycles for the poor.

Gabby's only hobby is shooting rabbits with his double-barrelled shotgun which is kept in a locked cabinet in the bedroom. Being a big Donald Trump supporter, Gabby thinks that needing a licence for a firearm is contrary to the constitutional right to bear arms and consequently refuses to register the gun or apply for a licence.

On the 16th May 2016 the shop had a great night's takings (in excess €5,000). Gabby has a dislike for banks and because of this all of the takings were kept in a black bag under the bed. Gabby liked sleeping near this cash, but often had concern that it might be taken.

# WITNESS FOR THE PROSECUTION

## STATEMENT OF GABRIEL CODD

On the 16th day of May 2017 I was in my home which is located on the first floor immediately above my supermarket and my small take away food business. My petrol station business is located nearby. I was sleeping in my bed dreaming of a holiday in the sun when I was woken by a loud bang, I was very frightened. It was about 2am. I heard footsteps and noises coming from downstairs. I was startled and concluded that I was being robbed.

I tried to phone 999 on the house phone but the phone was not working. I opened the gun cabinet and took out my shotgun and loaded it with two shells. I had no intention of hurting anyone although I was prepared to defend myself to the hilt.

Carefully and quietly I went down the stairs to the shop where I could hear noises and the tinkling of bottles. It seemed that there was someone moving around in the shop and touching bottles. I 'snook' into the shop and saw that there was a person carrying some articles near the counter. I shouted "hands up, freeze, don't move...." The intruder froze and raised their hands. As he/she did so goods fell to the floor and there was a sound of breaking glass. I was extremely scared and I fired a shot by accident which caused a display shelf which held bottles of alcohol to fall and many bottles to tumble onto the ground. I also hit the intruder with some pellets causing minor shoulder injuries.

Just at that minute armed Gardaí stormed in the door shouting for all to freeze. I got an awful fright and fainted. The next day I told Billy to clean up the shop and get the door fixed. I can identify the accused and I know that he/she has only recently been let out of prison where he served only half of his sentence for robbing an off-licence. I believe that if the Criminal Courts of Justice did its jobs properly, my shop would not have been destroyed because that criminal would have been locked up in prison for life.

I am nervous now about sleeping over my shop and I check and double-check the door before I go to sleep. I should have done this the night of the incident.

## Statement of Garda O'Reilly

I am a member of the Garda Regional Support Squad. On May 16th 2017 I was on patrol with my partner Garda Murphy when we noticed an individual whom we thought was acting suspiciously near Gabby's Service Station. This individual, Pat Plaiice, was known to us to be a serial burglar who is not capable of going out at night without stealing something. We knew Pat Plaiice was not from the locality which made us suspicious so we maintained surveillance on the suspect. The accused stopped at the service station, left the vehicle and headed straight for the main door.

We took up a position where we could get a good view of the shop and what was going on. Some of the lights were on but the shop looked to be closed. Whilst we were repositioning I was not able to see the door for a few moments, but I heard it being pushed hard and I also heard the sound of the squeaking of the hinges as it opened.

We crept closer to the shop, having formed the opinion that something illegal was in progress. Just as we reached the door we saw an individual who we now know to be Gabby, the owner of the premises, who had appeared with a gun. We heard some words shouted but these were drowned out by the sound of breaking glass followed by the noise of the gun being discharged. We drew our weapons and ran in the door shouting the appropriate warnings. Gabby dropped the gun immediately and fell to the floor and the accused also fell to the floor. I discovered later that both persons had fainted and that the accused had a gunshot wound to the shoulder.

We examined the shop and found many bottles of whiskey and vodka and other items on the floor, many of them were broken - there was a terrible mess.

We called for ambulances to take Gabby and the accused to hospital. After they had left for the hospital Garda Murphy and I helped ourselves to a few bottles of vodka by way of a "reward for our diligence" and to make up for the cut in our overtime allowances in recent years. Then we put up some tape and preserved the scene of the crime and waited for crime scene examiners to arrive.

**Statement of Garda Maguire Dated 24 May 2017.**

*(this Statement will be read into evidence and Garda Maguire will not be called to give oral testimony on the day of the trial)*

I am a Garda scene of crimes examiner with specialisation in firearms related situations. I attended the scene of the incident at Gabby's Service Station on the morning of 17th May 2017. When I arrived, the scene was taped off with Garda crime scene tape.

On the floor were many smashed bottles of alcohol and broken biscuits and packets of cigarettes. There were small quantities of blood and a damaged shelf which I examined and concluded that a shotgun had been discharged by an individual standing in the doorway behind the counter.

I examined a shotgun which was at the scene and it contained one fresh cartridge and one which had been discharged. I tested this weapon for fingerprints and the only prints on the gun belonged to Gabby Codd. The property seemed secure, I did not see any damage to the door or lock but I did notice that the door tended to stick and needed a good push to open it. The hinges also squeaked. I left the premises at 3 pm.

## **STATEMENTS OF THE DEFENCE WITNESSES**

### **STATEMENT OF THE ACCUSED (PAT PLAICE)**

My name is Pat Plaice. On the night of 16th May 2017. I was out visiting my friends. We had a cup of tea and some cake at their house and then I left to go home around 8pm. We had not seen each other since we were released from Mountjoy Prison last year where we had been serving time for burglaries. I was just passing the service station when I recalled that I needed some batteries.

The lights were on and the shop door was unlocked so I presumed that the shop was open for business and I took what I intended to buy from the shelves. I was a bit thirsty so I picked up some whiskey, some biscuits and some cheese and onion crisps.

As I was heading to the till to pay I heard a shout to freeze and to raise my hands and I was called a 'jailbird' and at that same moment, a crazy looking person armed with a gun appeared from the doorway and opened fire at me, I felt a pain in my shoulder and then heard more voices, I got such a shock I fainted. When I woke up I was in the ambulance heading to the A&E.

I think that it is a really bad shop with terrible customer service and will not be shopping there again. The owner is crazy – he thinks he is Clint Eastwood. I believe he should be locked up. He tried to kill me. The streets are not safe with that type of person roaming free I was an innocent customer and he tried to kill me. I have instructed my solicitors to institute civil proceedings against him – I want this man to be sued as soon as possible.

### **STATEMENT OF BILLY BOYCE (SHOP WORKER)**

My name is Billy Boyce. I have worked for Gabby for a few months. As a boss he treats me badly and is always complaining. But he pays me well.

The job in the shop is easy and uncomplicated but I am actually a "clever clogs" and I am taking a break from my job as a Professor at GMIT whilst I write my thesis on molecular physics and the effects of dark matter on the growth of mushrooms. The late night work is often quiet which allows me to do some reading and study in the work place. On the morning of the 17th May 2017 I arrived for work at around 8am. The shop was closed off with Garda tape. A Garda told me that when they had finished examining the crime scene I could feel free to proceed to clean up the shop and reopen it for business.

The shop was in a terrible mess. There was broken glass and other stock on the floor and a really strong smell of alcohol. In the debris I found a few packets of batteries and some ginger nut biscuits.

The Garda told me that I should have the door repaired so I called the local locksmith. He examined the door and said that the lock was a bit sticky and so might seem locked when it was only stuck. He changed the lock and shaved the door and said we should always check the door after we lock it.

It took me almost the entire day to clean up, fix the shelves and remove some bloodstains from the floor. I also had to order more stock, I was surprised at this as there seemed to be a shortfall in stock which was larger than the number of broken bottles on the ground. I had the shop ready for business by 3pm when Gabby came home from the hospital. He told me he had a bad panic attack. I no longer work in the shop, I am living in Dublin now and intend going back to America soon.

**INDICTMENT**  
**IN THE CIRCUIT CRIMINAL COURT,**  
**DUBLIN**

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

**.V.**

**REV. TED**

**COUNT NO. 1**

**Particulars of Offence:**

On the 11th October 2018 Rev. Ted of Birr Abbey, Birr in the County of Offaly did drive a mechanically propelled vehicle registration number 11 D 07 in a public place on the M11 motorway near Castlerock, Dublin while under the influence of an intoxicant to such an extent as to be incapable of having proper control of the vehicle contrary to Section 4 of the Road Traffic Act 2010.

**COUNT NO. 2**

**Particulars of Offence:**

On the 11th October 2018 Rev. Ted of Birr Abbey, Birr in the County of Offaly did drive a mechanically propelled vehicle registration number 11 D 07 in a public place on the M11 motorway near Castlerock, Dublin while there was present in his/her body a quantity of alcohol and the concentration of alcohol in his/her breath was 3 units over the legally permitted alcohol level, contrary to Section 4 of the Road Traffic Act 2010.

**BACKGROUND INFO:**

Rev. Ted is charged with a drink driving offence under section 4(4) of the Road Traffic Act 2010. The section states: 'a person shall not drive or attempt to drive a mechanically propelled vehicle in a public place where there is present in his or her body a quantity of alcohol such that, within 3 hours after so driving or attempting to drive, the concentration of alcohol in his or her breath, will exceed a concentration of 22 microgrammes of alcohol per 100 millilitres of breath". Fr. Ted's alcohol concentration was tested by the intoxilyzer machine designed to measure the amount of alcohol in the breath. The intoxilyzer read out was 25 microgrammes of alcohol to 100 millilitres of breath which means that he was 3 milligrammes of alcohol over the limit according to the machine. Considering the time constraints imposed on Barristers in the Mock Trial Competition Rules, participants should not become preoccupied during the course of the mock trial with the precise figures (the maths!) save to say that it was relatively a small amount over the permitted limit.

Although there is an allegation made that the accused was driving his/her car at an excessive speed and that his/her driving may have been careless or dangerous, only one charge has been preferred against him/her by the DPP.

For the purpose of this mock trial please note:

1. Rev Ted can be a male or female and his/her exact religious denomination is irrelevant.
2. Participants should not concern themselves with the difference between a summary and an indictable offence.

Although drunken driving trials take place in the District Court (in the absence of a jury), for the purpose of this mock trial the case is tried by a Judge & Jury.

3. It should be assumed that the accused was lawfully arrested in accordance with the law and fair procedures and that the accused was treated properly during all the time that he/she was in custody.
4. Furthermore whilst the content and/or reliability of the print out (the intoxilyzer read out was 25 microgrammes of alcohol to 100 millilitres of breath) is open to challenge, the actual veracity and physical authenticity of the print out itself should not be technically challenged by the Defence barristers. The 'print out' would normally be a central part of the evidence adduced in support of the prosecution's case but because of mock trial competition time constraints, Counsel should not spend too much of their precious time dealing with very technical legal points.
5. Counsel for the Defence should not challenge the detail of the actual section or sub section of the Act that the accused has been charged under and/or the accuracy of the address of the accused. In essence this mock trial is all about giving participants an opportunity to display their advocacy skills and should not become embroiled or preoccupied with highly technical legal arguments challenging a specific aspect of the print out and/ or the empowering legislation. However please note that in a real court situation, the precise detail of every single shred is often forensically examined and challenged.

#### **A BRIEF SUMMARY OF THE LAW:**

The main legislation dealing with road safety in Ireland is the Road Traffic Act 1961. This law is updated and modernised regularly over the years and for the purposes of this competition, a precise knowledge of same is not necessary. Following the introduction of the Road Traffic Act 2006 the Gardai have wide powers to reduce and eliminate the offence of drink driving on Irish roads.

The offences under Section 4 of the Road Traffic Acts 2010 include:

- To drive or attempting to drive a mechanically propelled vehicle in a public place while under the influence of an intoxicant to such an extent as to be incapable of having proper control of the vehicle.
- To drive or attempt to drive a mechanically propelled vehicle in a public place while there is present in your body a quantity of alcohol such that, within 3 hours after so driving or attempting to drive, the concentration of alcohol in your breath exceeds a concentration of: - 22 microgrammes of alcohol per 100 millilitres of breath for an experienced driver - 9 microgrammes of alcohol per 100 millilitres of breath for other drivers.

Rev. Ted is charged with both of these separate offences. The Gardai are entitled to request the driver to provide a specimen of their breath by exhaling into equipment used for indicating the presence of alcohol in the breath. For an offence under Section 4(1) of the 2010 Act the following elements or proofs must be given to the Court;

- That the person must have driven or attempted to drive a mechanically propelled vehicle
- That the person's driving or attempt to drive took place in a public place
- That the person was under the influence of an intoxicant to such a degree that he/she could not properly control the vehicle

Re: proof of the concentration of alcohol In the case of a prosecution under section 4(4), the concentration is proven by a statement printed from an intoxilyzer, a machine designed to measure the concentration of alcohol in the breath. If one is arrested at the roadside for drink driving, the Garda is obliged to inform you in ordinary understandable language that you are being arrested for the offence of drink driving. The accused will be brought to a local Garda Station where the person will be informed of his/her rights by a Garda member in charge of the station. If one provides a sample of one's breath, the intoxilyser machine will give two immediate print outs of the level of alcohol in their breath. The Garda will rely on the print out in Court as proof that the person was above the legal limit.

In relation to the separate charge of driving or attempting to drive under the influence of an intoxicant to such an extent as to be incapable of having proper control of the vehicle, the prosecuting Garda would usually give evidence of their observations and the opinion they formed as a result. Other Gardai who dealt with the person while in the Garda Station can also give evidence in support of this. Other evidence that the Garda may give could include the defendants' inability to perform simple co-ordination tests when asked. For example, the accused was unable to walk a straight line or unable to put the key into the door lock. Such evidence will support the view that you were incapable of having proper control of their vehicle.

Some further background information which said information is not to be directly referred to during the course of the mock trial hearing: It has been reported from a reasonably reliable source that the Local Gardai were convinced that this is a clear-cut case. The local Gardai were convinced that the accused Rev. Ted contravened Section 4 of the Road Traffic Act 2010. He/she was found to be 3 units over the permitted alcohol level. A local reliable source (name unknown) is understood to have formed the opinion that the intoxilyzer machine never gets it wrong and that Rev. Ted was certainly driving carelessly when he/she hit the cone marker on the Glenboy roundabout on the N11 and that the accused also was exceeding the speed limit, according to Garda Wilson.

CONFIDENTIAL AND PRIVILEGED LAWYER-CLIENT INFORMATION FOR DEFENCE BARRISTERS ONLY REPRESENTING REV. TED: Your client (Rev Ted) has been charged with a drink driving offence under the Road Traffic Act. Rev Ted has given instruction to his/her legal team to fully contest this case and your client has informed you that s/he is adamant that s/he is completely innocent of the charges preferred against him/her by the DPP. The accused was not drinking alcohol at the ecumenical meeting and maintains that s/he only drank some fizzy water. The accused has given this matter a great deal of his time and has had a long consultation with his/her instructing solicitor and his/her Counsel. S/he is convinced that the only wine s/he drank that day was altar wine during the weekly religious service. This wine is shared with some of the congregation and only taken in very small amounts. The accused does not recall hitting any cone at Glenboy roundabout and does recall seeing the floodlights from the nearby road works blinding him/her at the time. The only witness against Fr Ted is a print out generated from machine (documentary evidence) which states that she/he was over the limit and machines do sometimes get it wrong. The Gardaí did not use any other tests such as blood or urine tests.

# EVIDENCE/ STATEMENTS OF PROSECUTION WITNESSES

## PROSECUTION WITNESS NO. 1 GARDA PLUCK

On the evening of the 11th October 2018, at around 9.30pm, I stopped Rev Ted's vehicle, a grey Toyota, registration numbers and letters 11 D 07, on the M11 motorway about 2 kilometres from Castlerock Garda station. Twenty minutes earlier I received a radio call from Detective Garda Wilson who reported that a vehicle answering this description was observed being driven by the accused in a manner exceeding the legal speed limit on the M11. He/she was travelling in the direction of Dublin. Two marker cones were dislodged from the roundabout at Glenboy by the said vehicle.

When we caught up with him Rev Ted was very polite and produced his/her driver's licence. I told the accused that I suspected him/her of drink driving and asked the accused to follow me on my motorcycle to the police station at Castlerock. S/he followed me in his/her vehicle to the Garda station. At the station I cautioned the accused and informed him/her that anything s/he said would be taken down and used in evidence. Rev. Ted underwent an intoxilyzer test and was three units over the legally permitted limit. The intoxilyzer read 25 milligrammes of alcohol and therefore exceeded the concentration of 22mgs of alcohol per 100 mls of breath. There were two printouts produced and I gave one to the accused.

I asked him/her again had s/he been drinking. S/he replied assertively. 'no, absolutely not'. The accused added though that he/she had altar wine at the weekly 5.30pm religious service which was his/her religion's normal and standard ritual. S/he said he later attended an annual ecumenical service where he/she shared altar wine with his/her 'brothers and sisters' from numerous other religious denominations but the accused insisted that this was again a very small quantity of wine. The accused told me that s/he only drank occasionally, and the last time s/he had a glass of wine was in Santiago de Compostella in Spain when s/he arrived there after completing the Camino walk in July 2018.

I charged him/her under the Road Traffic Act with a drink driving offence. I also cautioned him/her in the usual way and told the accused that s/he had a right to contact his/her solicitor. Rev.Ted replied that s/he had come from an ecumenical dinner that evening and had taken no alcohol and could not understand why the intoxilyzer reading was at such a level. I informed Rev.Ted that I was not detaining him/her any further and that s/he would be receiving a summons to appear in court in due course. I accept that the accused was courteous and cooperative whilst in custody. However I thought I did get a smell of alcohol and cigar smoke from his/her breath. The accused did initially slur and also repeat a couple of words over and over again. S/he also seemed to have a slight limp which is most likely as a result of his/her drinking too much alcohol. The accused tried to explain this away by claiming his/her imperfect walking had resulted from an sports injury that s/he sustained many years ago.

The accused kept saying, 'Oh my God what am I doing here, how will I ever explain this to the Bishop'. The accused also repeatedly mispronounced my surname and when I pointed this out, s/he said it was all caused by being so 'nervous and petrified'. I am not so sure. The biggest on-going challenge facing the forces of law and order in this country right now is to once and for all stamp out and eliminate the dreadful scourge of drink driving.

## **PROSECUTION WITNESS NO. 2 DETECTIVE GARDA WILSON**

I am a detective in the garda drug unit in Dublin and was off duty on the evening of 11th October 2018 at around 9.30 pm, I was driving home after visiting my elderly mother who lives on her own. A grey Toyota suddenly caught my eye when it passed by me at speed and seemed to be definitely exceeding the motorway limit. I decided to pursue the car. I caught up with the driver at Glenboy roundabout on the N11 motorway. The motorist hit and knocked over a cone marker on the roadworks situated nearby. I said to myself s/he must have drink taken. It was a very dark night but with the assistance of some nearby floodlights I did manage to get a quick sight of registration number, 'DUB 07'. I did not pursue the driver any further as my wife was just out of hospital and recuperating after an operation and so we went home. I radio messaged the incident to Castlerock Garda station, who in turn relayed the matter to Garda Pluck who was on motor cycle duties. If this driver comes before the Courts to answer a charge of drunken driving, I am available to give oral testimony confirming what I witnessed with my own eyes.

DOCUMENTARY EVIDENCE (EXHIBIT NO.1) TO BE ADMITTED IN EVIDENCE BY THE PROSECUTION IN SUPPORT OF THE PROSECUTION'S SECOND CHARGE PREFERRED AGAINST REV TED (COUNT NO.2) that on the 11th October 2018 Rev. Ted of Birr Abbey, Birr in the County of Offaly did drive a mechanically propelled vehicle registration number 11 D 07 in a public place on the M11 motorway near Castlekrock, Dublin while there was present in his/her body a quantity of alcohol and the concentration of alcohol in his/her breath was 3 units over the legally permitted alcohol level, contrary to Section 4(4) of the Road Traffic Act 2010.

### Print Out

THIS IS TO CONFIRM THAT ON THE 11TH OCTOBER 2018 AT 9.30PM REV. TED OF BIRR ABBEY, BIRR IN THE COUNTY OF OFFALY, ON SUSPICION OF DRUNK DRIVING LESS THAN 3 HOURS EARLIER THEREOF WAS FOLLOWING HIS LAWFUL ARREST BREATHALYSED BY ON DUTY GARDA PLUCK IN CASTLEROCK GARDA STATION. THE RESULT OF THE PRINT OUT CONFIRMS THAT THERE WAS PRESENT IN HIS/HER BODY A QUANTITY OF ALCOHOL AND THE CONCENTRATION OF ALCOHOL IN HIS/HER BREATH WAS 3 UNITS OVER THE LEGALLY PERMITTED ALCOHOL LEVEL, CONTRARY TO SECTION 4(4) OF THE ROAD TRAFFIC ACT 2010. I CONFIRM THAT REV TED WAS OFFERED A COPY OF 'THE PRINT OUT' FOR HIS/HER OWN RECORDS

SIGNED: GARDA PLUCK, CASTLEROCK GARDA STATION, DUBLIN

11TH OCTOBER 2018

**DEFENCE WITNESS NO. 1      REV. TED (the accused)**

I trained for six years at a seminary and later studied UCD. I used to work with the missions overseas. After reading some books by Tomas Merton I developed a great interest in ecumenism and on the evening of 11th October, I was at an ecumenical meeting and dinner with religious counterparts in Dublin. There were a number of well-known Bishops in attendance. I was thrilled to have been invited

I left Birr at around 8.15pm to drive to Dublin. I think I was driving between 40 and 50 kms per hour. As I approached the roadworks at Glenboy (20kms from Dublin) I was blinded by the lights, which were the floodlights for the construction work going on nearby. Presumably it was urgent roadwork being done throughout the night. The intensity of the lights was in fact blinding me. I don't recall hitting anything or anybody flashing lights behind me from another vehicle.

When I was stopped by the Garda near Castlerock and he asked to see my driving licence. I thought it was just a routine check. I was totally surprised when he told me he was arresting me on suspicion of drink driving. He told me to follow behind him/her on his/her motorcycle to Castlerock Garda station. And this I did. I am very upset by this whole episode. I have no previous convictions and whilst I love socialising and the occasional glass of wine and some Guinness, I wish to emphasise that I abhor drunk driving.

**DEFENCE WITNESS NO. 2                      REV. JONES**

I am a senior minister in my church at Birr and have successfully studied for my degree at TCD. I have been ministering for the past 20 years. I met Rev Ted at an ecumenical meeting 5 years ago and s/he is an ever present at all ecumenical meeting ever since. We learned that we are both avid readers of Thomas Merton. In fact you could say he (Thomas Merton) was the man who brought us together. We believe it is a good idea for clergy from all churches to meet and discuss matters of unity and peace. On the evening in question we had an ecumenical meeting followed by dinner at a beautiful restaurant in Dublin called, 'Eat, Drink & be Happy'. It was quite lavish. At the dinner I don't recollect Rev. Ted drinking anything other than bottled spring water which was on each dining table (kindly supplied free of charge). There was wine available if one requested it and it was also free of charge. In fact I am almost sure that Rev Ted was drinking sparkling water. S/he did mention to me that s/he officiated at the 6pm Mass in his/her local church that evening.

I remember Rev. Ted once telling me that s/he used to be very fond of all sorts of alcoholic beverages as a student attending university but that his/her college days were now firmly behind him/her and that in any event he/she would no longer have the same 'staying power' or energy to go on a 'big session'. S/he also told me that s/he has not overindulged in alcohol for many years and thankfully did not miss 'the bottle'. I have to say that despite having a slightly reserved and shy manner, Rev Ted can often become the life and soul of a get together and is also a very friendly and helpful person.

I remember that Ted left the ecumenical function to go home at about 8.45 pm. I remember Ted saying to a couple of us that it was tremendous having an opportunity to meet so many hard working people and that the evening was 'great crack'. I have since heard that there may be others who were present at the ecumenical meeting that night (although I don't know their names) who could testify they did not witness Rev.Ted drink any alcohol that particular night whatsoever. I feel very sorry for him/her because I understand s/he was a rising star in the church tipped for a

'big promotion' and that's probably not going to happen, at least not now any day soon until his good name and reputation is vindicated. I would have thought that the Gardaí should be concentrating their resources on more serious matters. The adverse publicity which the trial is likely to attract will 'kill him'. I hope that s/he had the good sense to hire a very good legal team with lots of experience of doing drunken driving cases.

