

Official 2003
Mock Trial Materials for the
Thirty-First Annual
Georgetown University Law Center and
District of Columbia Public High Schools
Street Law Mock Trial Program

People
(Prosecution)

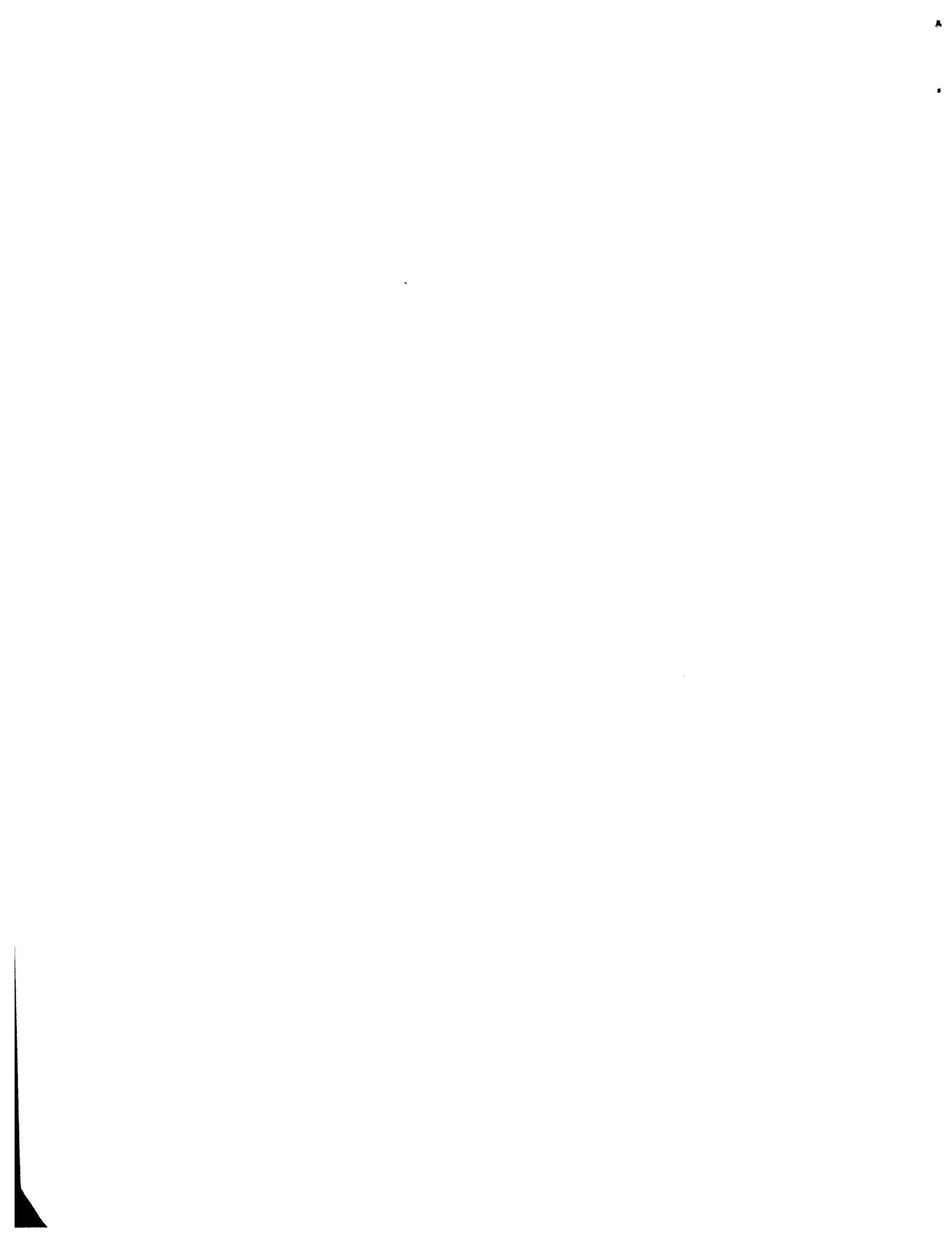
V.

Andrew Madison
(Defendant)

Prepared by

Annette B. Almazan, Clinical Fellow
in conjunction with
Richard L. Roe, Program Director and Professor of Law
Lauren Onkeles, Research Assistant
and the
Staff of the D.C. Street Law Project

Georgetown University Law Center
111 F Street, NW, Suite 128
Washington, DC 20001
(202) 662-9615



People v. Andrew Madison

Stipulated Facts

Street Law High School (SLHS) is located at 242 Equality Street in the County of Fairness in the District of Justicia. There are approximately 650 students currently attending SLHS in grades 9 - 12. Students who attend SLHS do not need to take a test or fill out a formal application in order to enroll. Enrollment, as is the case with all District of Justicia public high schools, is on a first-come, first-served basis. Transfer applications are evaluated on an individual basis.

The normal school day is from 8:45 a.m. to 3:15 p.m. The extracurricular activities at Street Law High School go no later than 5:30 p.m. Students are not allowed on school property before 8:00 a.m. or after 6:00 p.m. without approval from a teacher or administrator.

Since the beginning of the current school year, there have been a number of incidents of non-students harassing students around school property. The non-students have been reportedly calling out students' names, shouting expletives, and making threatening gestures towards students. Additionally, these non-students have been spray painting names and/or graphic images onto school buildings. Due to the increase of this type of activity, school administrators called Division One-One, the division of the District of Justicia Police Department (DJPD) that patrols school areas, to ask for heightened police presence during the times when the worst harassment occurs - 8:00 a.m. to 8:45 a.m. and 3:00 p.m. to 4:00 p.m.

On Wednesday, November 27, 2002, SLHS had a half-day schedule for the upcoming Thanksgiving holiday. However, many students were hanging around the school building and surrounding sidewalks after school because there was a Thanksgiving pageant held from 1:00-3:00 P.M. By 3:30 p.m. most students had left school property to

begin their long weekend. Only those who had participated in the pageant and a few other students remained in or around the high school grounds.

At about 3:30 P.M. Officers Kevin/Kiana Bates and Theresa/Tommy Major were patrolling their area in their patrol car. They noticed Andrew Madison and James/Jamie Lincoln on the corner of Equality Street and Hope Avenue. There were no other youths on the corner at that time, and neither student had a backpack on or around them. Both officers were in their police uniforms, and their cruiser was clearly marked with DJPD insignias. Madison and Lincoln were standing next to the fence of the corner house (229 Equality Street), close to SLHS, which both of them attend. They were talking loudly with one another, snacking on some chips, and Madison was smoking cigarettes. Officers Bates and Major noticed Madison and Lincoln interacting with a student who walked out of SLHS in a costume. The student didn't seem scared so Officers Bates and Major continued their patrol.

When Officers Bates and Major came back around the same corner, they noticed a very loud conversation between Madison and Lincoln and a group of kids. The officers pulled up next to Madison and Lincoln, exited the cruiser, and approached them. The officers asked them their names and what they were doing on the corner, in addition to asking to see some identification. Neither Madison nor Lincoln initially cooperated with these requests. Officer Bates threatened to arrest them. Both Madison and Lincoln moved towards their pockets, and Officer Bates noticed something shiny in Madison's right hand. S/He then attempted to get the object from Madison.

The events leading up to the arrest are in dispute, but at the very beginning of the scuffle between Officer Bates and Madison, Madison sustained a cut to his upper right leg. It is unclear at what point Officer Bates suffered the cut on his/her arm and Madison sustained the broken wrist. However, both Madison's cut and Officer Bates' cut were caused by Madison's pocketknife. By the end of the encounter, Madison was

on the ground, his arms pinned behind his back by Officer Bates' knee. At that point Officer Bates handcuffed Madison and put him in the patrol car while Officer Major did the same to Lincoln.

At the police station Officers' Bates and Major learned that Madison and Lincoln were students at SLHS who had attended the Thanksgiving pageant. Both of their parents came to the police station to get their children and find out what had happened between them and the police officers. Madison's parents took him to the hospital to have his wrist and the cut on his thigh evaluated. Officer Bates' and Madison's wounds were superficially treated at the police station. They both subsequently received medical treatment for their injuries. On Thanksgiving, Madison's parents took him back to the station to fill out a civilian complaint against Officer Bates. At that point, they learned that Officer Bates was pressing charges against their son.

Additional Stipulations

Both parties have stipulated that Andrew Madison was carrying a Swiss Army retractable pocketknife in his pocket. These types of knives are not illegal in the District of Justice, but school rules prohibit students from carrying them on school property.

Officer Kevin/Kiana Bates has been pulled from active duty until the civilian complaint filed against her/him by Andrew Madison's parent has been investigated internally.

Charges

Student Andrew Madison has been charged with assaulting an officer in violation of DJ Code 32-9, assault and battery in violation of DJ 32-8, and disorderly conduct in violation of DJ Code 41-1231.

Witness Statements

Prosecution:

- Officer Kevin/Kiana Bates, Alleged Victim
- Officer Theresa/Tommy Major, Officer Bates' partner
- Marcia/Mark Snow, Director, SLHS Counseling Office

Defense:

- Andrew Madison, Defendant
- James/Jamie Lincoln, friend and companion of Andrew Madison at time of alleged assault
- Penelope/Peter Carter, SLHS Counselor, Head of the Peer Mediation Program

District of Justicia Statutes

- Use of unnecessary or wanton force
- Arrests without warrant by law enforcement officers
- Assault; Battery; Stalking
- Assault on a member of police force
- Disorderly conduct
- Possession of implements of crime

Relevant Case Law

- *Williams v. Collins*
- *United States v. Crowley*
- *United States v. Brady*
- *In re C.L.D., Jr., Appellant*
- *Crawford v. District of Justicia*
- *Nelson v. District of Justicia*

Pieces of Evidence*

- Officer Bates' Incident Report
- Grievance Report (filed by Andrew Madison's parents on his behalf)
- Andrew Madison's Student Record from SLHS
- Officer Bates' Personnel Record
- District of Justicia Police Department Training Policy on Arrest and Use of Force

Additional Evidence

- Article from *Fairness Today*
- Article from *The Justicia Daily*

* Both parties stipulate to the authenticity of the items available for evidence.

Witness Statements

Officer Kevin/Kiana Bates

A few months ago, the Principal of SLHS called up Division One-One to request drive-bys, I mean, to request that a couple of cops would keep an eye on the school and the surrounding areas before and after school. Apparently, some of the students were being harassed by some of the kids in the neighborhood who aren't in school, and the harassment had gotten pretty bad. Plus there were some issues with vandalism and such. We were asked to step up our presence there to keep the peace, make sure that the students weren't getting intimidated by anyone when they entered or left the building and that nothing was getting destroyed.

Usually, Officer Major and I take the after school beat. Since school usually lets out at 3:15, we start cruising around the premises at 3:00 p.m. We noticed that there weren't a lot of kids around that day, no one had told us about the half-day for Thanksgiving, so we weren't expecting any problems. Then, at about 3:30, we see these two teenagers/young adults hanging out at the corner across from the school. They're talking real loud, trying to look tough, but we don't do anything until we see them start to harass some girl who is leaving the school. She's dressed up in a costume and they start in on her, making fun of her and yelling at her. She responds to them and doesn't look too scared so we think she might know them and keep patrolling the area.

When we come around again, they're having a loud interaction with a few other students who are walking out of the school. We park our car right in front of them on Equality Street, thinking that this will cool them off, or scare them off. But they didn't seem to care, they just keep on hollering and laughing, one of them smoking, too. So, we get out of the cruiser and approach them, asking if they were students and if we could see their student IDs. They don't respond, so we tell them that they are violating District law on disorderly conduct and ask them what they are doing and tell them that if they are not students, they have to leave the school premises. Well, the stockier one

just looks at me and kind of smirks, you know how kids do, and he reaches real slowly into his pocket. As he does this, I see something that looks suspicious – a metal object – poking out of his pocket.

So much of this job is instinct, and I knew right away that what I saw was a knife. Students aren't allowed to bring knives into the school building and since he was not giving me any information and based on my experience, I figured that he was not a student and that he had a weapon. Any cop would have come to the same conclusion. The first thing to do in a situation that could potentially get violent is to disarm the other person before placing them under arrest. It's better to disarm preemptively than to wait and let the situation escalate. So, I tell him "alright, you are under arrest for disorderly conduct" and grab his hand out of his pocket. I think he might have gotten cut in the leg with his knife at this point. We're struggling because he doesn't want to give me the knife so I have to wrestle him to the ground. He keeps yelling at me to get off of him as he's pushing against me. While I was doing that, I called out to Officer Major to watch the other kid – I didn't want her/him to bolt or to try and be a hero and fight for her/his buddy. Finally, I'm able to get the knife out of his hand, but not before I get cut in the arm myself.

At that point, the situation had progressed from a "potential for violence" in a resisting arrest situation to an "assault on an officer" kind of situation, and I reacted appropriately. We are trained in how to take a suspect down to the ground, effectively disarming him. At that point in any situation, our main goal is to protect the citizens in the area and protect ourselves from the violent perpetrator.

The law says that there is no resisting arrest, and the law says that civilians cannot assault police officers for any reason. This kid had cut my arm with a knife – now if that's not assault, I don't know what is. He was hollering and squirming around on the ground, and I later found out his wrist was hurt, but at that moment, that was not my

concern. My concern was the potential threat that this young man posed to myself and to those around me. This is how we are trained to act in these situations. All the officers in the department would have reacted in the same way.

I know that there were a couple of complaints about me when I first got on the force six or so years ago, but even then, crime was way up and the streets were different than compared with today - a lot tougher in a lot of ways. I mean, I'm a tough cop and I don't put up with any bull from anyone, but I'm a fair cop and I follow the rules. Always. Some people have a problem with that, but that is not my concern. My only concern is to make sure that the neighborhoods stay safe places to live for the citizens of the District. If that makes it uncomfortable for the bad elements - well, tough. I'm not on the streets to protect them.

Officer Theresa/Tommy Major

Well, Officer Bates is a very good cop. S/He really cares about her/his job and has been doing it for about 6 years now. I've been on the beat for 15 years so I have a lot of experience. S/He did have some problems when s/he started her/his job, some complaints about excessive force and such things, but we weren't partners then, so I don't know what happened. I have been partnered with her/him for the last year and a half, and I have never seen her/him take things to an absolute extreme. Each cop has his own way of handling situations. I am more of a talker, and Bates is more of an action person. S/He is quicker to react and more intimidating to potential troublemakers, which makes us a good team. Between the two of us, we can handle just about any situation and de-escalate it before anything bad happens. S/he has got a great sense for figuring out situations and can react quickly before things go too far. I'd trust her/him with my life, no question about it.

We were on our usual drive-by of the high school - we do our work at SLHS in the afternoons - when we saw two people hanging out across the street from the school. We didn't see any book bags, and one of them looked older, so we were immediately suspicious. Most of the complaints we get about students being harassed only mention verbal harassment, but there have been a few incidents of violence or near-violence between students and non-students.

After we noticed those two talking loudly to each other, eating food, and smoking, we saw them begin to harass another student leaving the school building. They were picking on her and calling her names - exactly the kind of behavior the principal had called to complain about - but she responded to them so we figured we'd just monitor the situation for a while and see how things progressed. We continued patrolling the area, and when we came back around we saw them at the same spot, talking loudly to some students who had just come out of the school. So, we pull over and ask them

what they are doing and for them to show us some ID. We could see immediately that the kind of heavier-set one was going to be more trouble, so Bates focused on him while I stayed with the younger-looking kid. Bates does better at dealing with the folks who think they're real tough.

At first, they weren't cooperating at all, but after Bates threatened to put them under arrest, the kid Bates was standing by reached into his pocket. I'll be honest, I thought he was reaching for his wallet, but Bates saw something and went for the guy's arm. Turned out he had a knife, but I didn't see it at the time. See, Bates just has a feel for situations like this. Suddenly, s/he yells at me to grab my kid, and I see Bates twist the kid's arm behind him. The kid is yelling about his wrist, but I can see the blood on Bates' arm now, and I understand that something has gone down.

I put my own hand on the skinny kid's arm, but I can tell s/he's not going anywhere. Then, Bates takes down the big one and puts a knee to his back. This is standard operating procedure when a perp is resisting arrest, but at this point I could see that the guy had something wrong with his wrist - it was bulging out the side and turning purple. I think I said something to Bates at this point about it, but I don't remember what it was. Maybe something about the wrist, or about being careful with the handcuffs...I don't know exactly.

We put both of them in the cruiser and took them down to the station. We didn't know that they were both students at the high school until after it was all over.

If they had only showed us their IDs when we asked for them, none of this would have happened. I don't know why those kids had been so stupid about it, especially the one who pulled a knife. I mean, what was that about? Showing off to his friend about how tough he can be, about how he's so tough that he can go after a police officer? We hadn't made any unreasonable demands. But, some people are just like that. They

want to push it to the edge, they have no respect for the police, and they'll be tough to us, just to show off to their friends. But then, they cry foul when we do our job. I mean, police officers work best when we can work together with regular citizens, but it gets really hard when regular citizens try and work against us. On the one hand, they call us "pigs" and treat us like second-class citizens, but on the other, they want us to be there 30 seconds after they call 911. No other profession has such high expectations placed upon it, but is treated so badly by the people they are supposed to protect. I just don't understand.

Marcia/Mark Snow

I have been a counselor for SLHS for over 20 years, and I have seen a lot of kids come through the door. I consider myself a good judge of character at this point and have a good read of when kids really work to change and when they are just playing the system.

I met Andrew when he came in as a transfer student his sophomore year. We had heard about his behavior problems from his last high school, and it was clear that he was not happy to be here. He had a huge chip on his shoulder from day one, but that's to be expected. Kids have a pecking order, and when you transfer in from somewhere else, you are at the bottom until you have the opportunity to prove otherwise. So, really, I wasn't surprised that some teachers were coming to me with disciplinary complaints against him. That's just to be expected, he's trying to make his stand, establish himself as a tough kid by going up against the authority figures around him.

After his first detention, we met and discussed what was going on. He was very hostile to me, and I could see how the other teachers reacted to him. But, I also know that no kid is all one thing or all the other, so I tried to work with him, and I thought he was really warming up to me. He was respectful, even tossing jokes my way. I felt that I had really reached him, even though he was still getting all these warnings and detentions.

Then he got into a fight with another student at school, and it was terrible. Broken noses, black eyes – and no one tried to break it up, not students or teachers – it was that violent. You should have seen Andrew after that fight. He was all geared up, the little bit of sweetness I had seen in him completely gone. And he was not sorry for what had happened, not for a second. In fact, neither boy was, but Andrew really took it to heart. He thought the suspension that both boys were given was unfair to him and just proved

that the whole school was against him. Personally, I don't think he has ever gotten over it.

I know that he seems to have adjusted now, but his grades and his continued warnings and detentions are a dead giveaway. He is a bright young man and if he would just apply himself to his studies, he could have far better than a 2.8 GPA or whatever he has these days. He is still very disrespectful to a majority of his teachers and has not learned how to react when things don't go exactly his way. His Math and Science teachers like him, but no one else seems to be able to handle him in their classes. To tell the truth, teachers are more likely to dread his presence in their class than to celebrate it.

And yes, I do recognize the fact that he takes an active role in the Peer Mediation Program we have, but it turns out that a lot of his friends are using that program for their "problems." Call me cynical, but I have been at this job a long time, and it seems to me that there is the possibility that these students may not really have problems. They may be using the program as an excuse to get out of gym class or English or what have you. It seems awfully convenient that once he joins as a PM, suddenly everyone is having these interpersonal problems that need to be addressed.

Andrew Madison

So, that day, I was hanging out with James/Jamie on the corner across from school. It was, like, 3:30 or something and we had just seen the SLHS Thanksgiving Pageant - it was supposed to be very serious, but everyone just laughed and made fun of the students who were in it. But, not mean, you know, just for fun. I mean, some of my friends were in it, too. We just wanted to hang outside for a while so we left our backpacks in our lockers. We'd just go inside after to get our work for the long weekend.

Anyway, so James/Jamie and I are hanging out afterward, joking about the pageant and imitating everyone who was in it when we see Tanisha Johnson in her big-butt turkey suit waddling out of the school. We started calling out to her, making turkey noises and stuff. She was laughing, too. Now, Tanisha's a friend of mine, and she would have done the same had it been me walking out of the school looking like a fool. But, it was me doing it, and we noticed these two cops looking at us. They moved on, but came back a while later while we were joking with other friends from the pageant. Suddenly these two cops came out of their car with their hands on their police batons and yelling at James/Jamie and me. They were yelling things like, "what are you doing here" and "let me see some ID" - like we weren't students at the school. Like we had done something wrong by standing on the corner, talking and joking. I know the rules of school, and we were allowed to be around until 5:30pm after school and it was only 3:30. We didn't do anything wrong, and these cops were yelling at us like we were criminals.

Now, that's just not right. I don't have to be defending myself to every cop who thinks I'm some kind of a bad kid just because I have baggy jeans or whatever. So, I didn't respond to what they were saying right away. But I could see they were getting agitated, they had taken the little snaps off their batons and I think one even said that

s/he was going to put me under arrest, so I reach into my pocket to get out my school ID. As I'm pulling it out, one of the cops just tackles me.

Okay, the thing is, on my key chain that's attached to my wallet, I have one of those retractable Swiss Army knives with all kinds of gadgets on it. My uncle gave it to me, and it is so cool --- you just push a button and the blade pops out the top. I only use it for peeling fruit and stuff, and I try to keep it hidden at school. We're not allowed to have any kind of anything that is considered a weapon - even though my little knife only has a 2-inch blade and couldn't really hurt anyone. It's pretty dull, too. I mean, apples are about the only thing it can cut. If I was in a fight, this is not the knife I'd want on my side.

But, so, the officer grabs me and pulls my hand out of my pocket. I had my ID and my key chain in my hand at the time. The ID fell to the ground, but I guess when he jerked my hand, the knife blade popped out because it ended up cutting the upper part of my right leg and poking a hole through my jeans, which hurt like hell, I mean heck. So I was telling her/him to cut it out and tried to pull away, which I guess made her/him mad because s/he went ballistic. S/He kept coming at me, pushing me against the fence. Since I was hurt, my leg buckled under me, which I think tripped her/him up. S/He threw me to the ground, but kept my wrist in her/his hand. I heard my wrist pop and suddenly, my arm was on fire. It hurt so bad that I kept on hollering for her/him to let up, that I was hurt, that my wrist hurt, but neither cop was listening. At some point, s/he cut her/himself on my knife.

I don't know what James/Jamie or the other officer was doing at that point. All I could think about was my wrist. And then, as I was on the ground and that one officer had his knee in my back, put cuffs on me, and lifted me up off the ground by the cuffs. I was really hollering now, it hurt so bad. They put me and James/Jamie in the cruiser, and we went to the station. After they had contacted my parents and done some

processing, my folks finally took me to the hospital. My wrist was broken, and I had to have four stitches in my leg. My parents took me in to fill out the citizen complaint form about my injuries. That officer is a hazard to other people, I mean, s/he did all this to me when I didn't do anything.

That is the first trouble I have been in for a long time, and it wasn't even my fault. I'll be the first to admit when things are my fault, it's something I have learned to do through the Peer Mediation program. I take responsibility for the things that are mine. I transferred from Harding because I was getting a bad rep with the teachers and administration, which was my bad, but I wanted to change, you know, and that wasn't going to happen there. So my parents said I could transfer. My suspension sophomore year was my fault, too. Not that the other kid shouldn't take some blame for it, but I should have been the bigger man and walked away rather than letting him get under my skin. I guess I hadn't worked out my anger management problems --- that's what we call it in Peer Mediation --- yet.

And, even though I don't agree with what my teachers say a lot of the time, I am coming to understand the right way to deal with those situations. I used to just get up into their faces until I was given a warning or a detention, but now I try to stay calm and talk to the teacher after class about what happened. I'm not perfect at it - I've already gotten two warnings this year for talking back in class - but I'm working on it. I know that I have a bad rap at school with a lot of the teachers because they see me as this smart-mouthed kid, and they are right. Or, I mean, they *were* right. But I've changed and it's kind of sad to see that even though I have changed, their opinion of me has not. I still have some bad habits, like smoking, but I'm trying to kick that, too. I do have good relationships with some of the teachers, but I think a lot of them remember me as the kid who got into a fight the first year he was here, or the kid who talked back, and they can't think of me any other way.

James/Jamie Lincoln

Yea, well, Andrew and I have been friends ever since I started at SLHS. See, I'm kind of skinny, and I had transferred from a school in Louisiana and especially Freshman year, all the older kids would pick on me. I was pretty miserable. But then, maybe halfway through the year, Andrew started being nice to me. It was crazy, because no one had been nice to me from the moment I stepped in the doors – everyone called me a “Bama” you know, trying to say I'm of a backwoods kind of person. But Andrew started being nice to me and sticking up for me and suddenly, everything changed. He was this junior, everyone pretty much respected him, and he was known around school, so that when he said I was okay made everyone think that I was okay. It's stupid, I know. We shouldn't be judged by the friends we keep, but I was grateful for the break from being beaten up in the bathroom.

I really though he just kind of pitied me, but we actually became friends. I mean, now, I would say that Andrew is a true friend. And as a friend, I know him a lot better than I did then. And I know that he has gotten into some trouble at school and that some of the teachers don't like him because they don't think he shows them respect – but they don't show him any respect either, he's just got the guts to tell them so. The other kids either respect him or kind of fear him. Everyone knows that he has this little pocketknife that he keeps with him, but it's no big deal. I've never seen him use it on anyone. But he does have a temper, he looks and acts older than a high school kid --- he smokes like a chimney. I don't do that though. Smoking will kill ya, you know, and it makes you smell something fierce. I think that the kids aren't the only ones who are intimidated by him, I think some adults are, too. So they sometimes overreact to the things that he does. For instance, when that cop jumped him in front of the school, I had my hand in my pocket to get out my ID, too, but because I'm kind of skinny, that cop didn't even look at me twice. Her/his eyes were all over Andrew. S/He had it pegged for Andrew the minute s/he got out of the car.

All we were doing was hanging out, like we always do, against the fence at Equality and Hope across from the school. We like hanging out there because it gives the best view of the whole building and we can keep tabs on who goes in and when our friends are around. Plus, we figure that the spot has some pretty strong karma going for it, given the names of the streets and all. So, we're poking fun at our friend Tanisha who looks ridiculous in this turkey outfit we see two cops driving by. They kind of slow down, but keep going. When they come back around, we're joking with some other people we know from school, and the officers screech to a halt in front of us. They're asking us all kinds of questions. Now, I was ready to pull out my ID right from the beginning, but I didn't want to do it before Andrew did. And I could see that he was pissed off that these cops were harassing us. He's always complaining about the cops in our neighborhoods - that they're never there when you need them, but that they are always in your face when you're doing nothing wrong. I didn't want to disrespect Andrew by pulling out my ID first, but I figured he'd let the cops get themselves all worked up and then whip out the photo with his name and school and then he'd kind of smile at them as they walked off. It's happened before. I think he likes it when the cops are wrong.

So, the cops are getting all worked up and he can see that, so he goes into his pocket for his ID. I reach into mine, too, but suddenly, the one cop grabs Andrew's arm and then starts yelling, "this one tried to stab me, watch the other one" and he twists Andrew's arm behind him. I see the blood on the front of Andrew's pants and then I hear the popping sound of his wrist breaking as the officer twists his arm behind him and pushes him to the ground. The other cop has sort of placed his hand lightly on my arm, kind of a warning not to get involved, I guess. But at that point, it was over. Andrew was hollering about his wrist, the cop had her/his knee in Andrew's back and I hear the cop who had her/his hand on my arm say, "take it easy Kevin/Kiana." Then the officer cuffs Andrew and pushes him into the cruiser, and I get cuffed, too. They pick up

Andrew's ID and little pocketknife that had fallen to the ground at some point and they left. I did see that there was some blood on the one officer's arm, but I have no idea how s/he got cut or when.

Penelope/Peter Carter

I am a counselor at Street Law High School and also the faculty advisor for the SLHS Peer Mediation Group. I first met Andrew the year after he transferred into school, so that must have been his junior year. I had heard of him before, of course, since he was suspended from school for fighting his sophomore year. Plus, he was not really a favorite among the teachers so, I admit, when I met him at the beginning of his junior year, I had my prejudices about him already in place.

But, I had also already talked to his Algebra 1 teacher who had a very high opinion of Andrew. I was intrigued by the student and wanted to get a better feel for him. He had already worked with another counselor at school, Marcia/Mark Snow, but their relationship deteriorated after the suspension, and I figured it would be better for a new counselor to begin working with him.

Andrew and I did not hit it off from the start. He'll be the first to tell you that he had his problems at first and that he and I did not see eye to eye on most everything. When he realized that I knew about his past and about his disciplinary problems but didn't think he was a bad kid because of it, he began to trust me a little more. It's clear that he has a problem with people in authority, but I think it comes less from a general attitude than from a lack of trust. A lot of kids these days don't trust adults, especially adults in positions of power, like teacher and police officers.

I could see that Andrew was more than just an angry youth, he excelled in Math and the Sciences and had a very loyal group of friends. Plus, just about all his peers respected him - no small feat for a kid who had come in fresh his sophomore year without knowing anyone. So, I recommended that he take part in the Peer Mediation training session in the spring. Peer Mediators (PMs) are students who are asked to intervene when other students are having conflicts with each other. PMs go through a

weekend of intensive training on active listening, facilitating and directing discussion, creative problem solving, the elements of anger management, and mediation techniques. The PM's role is to help students find creative solutions to their problems without involving administrators or other school officials. When counselors are made aware of a problem, we meet with the students involved and explain that they have a number of options in dealing with their issue, one of which is to submit to peer mediation. If they opt for peer mediation, they sign an agreement of mutual respect, and they agree that once they have worked out a solution with the PM, they will put that solution in writing and sign that as well indicating their commitment to solving the problem.

Andrew really took to the program, and students really took to his being a part of it. It became a much more acceptable way of resolving disputes once Andrew became an advocate because of his position among his peers. It's a great learning tool for students, in general, and I think working with other students on their issues helped Andrew to learn alternative ways to deal with his own anger management issues. So far this year, you can see the improvement in his disciplinary record. He had no detentions the second semester last year and has had no detentions for the first semester of this school year. Last year, he had two detentions at the end of the fall semester, and the year before he had four detentions and a suspension. He's clearly making an effort, and it shows.

I already told Andrew that, should he apply to colleges for the fall or for whatever next steps he wants to take, I would gladly write him a glowing letter of recommendation. He has a lot of potential; it just needs to be tapped.

District of Justicia Statutes

Relevant Criminal Law from District of Justicia Code (The County of
Fairness follows the same code)

DJ CODE 3-14 Use of unnecessary or wanton force.

Any officer who uses unnecessary and wanton force in arresting or imprisoning any person shall be deemed guilty of assault and battery.

DJ CODE 11-252 Arrests without warrant by law enforcement officers.

A law enforcement officer may make a warrantless arrest if:

- (a) the officer has probable cause to believe an individual has committed or is committing a felony;
- (b) the officer has probable cause to believe an individual has committed or is committing an offense in his presence; or
- (c) the officer has probable cause to believe an individual has committed or is about to commit attempted burglary and, unless immediately arrested, may escape arrest, may cause injury to others, or may tamper with, dispose of, or destroy evidence.

DJ CODE 32-8 Assault; battery; stalking.

- (a) Assault: No person shall threaten another person with bodily harm. An assault that does not involve the intent to seriously harm or cause death is a misdemeanor offense which carries a maximum of one year in jail.
- (b) Battery: No person shall act in a way that results in harmful or offensive contact with another person.
- (c) Stalking: Any person who on more than one occasion engages in conduct with the intent to cause emotional distress to another person or places another person in reasonable fear of death or bodily injury by willfully, maliciously, and repeatedly following or harassing that person, or who, without a legal purpose, willfully, maliciously, and repeatedly follows or harasses another person, is guilty of the crime of stalking.

(d) For the purpose of this section, the term "harassing" means engaging in a course of conduct either in person, by telephone, or in writing, directed at a specific person, which seriously alarms, annoys, frightens, or torments the person, or engaging in a course of conduct either in person, by telephone, or in writing, which would cause a reasonable person to be seriously alarmed, annoyed, frightened, or tormented.

DJ CODE 32-9 Assault on member of police force.

A person may not, without justifiable and excusable cause, assault, resist, oppose, impede, intimidate, or interfere with any officer or member of any police force operating in the District of Justicia. It is neither justifiable nor excusable for a person to use force to resist an arrest when such arrest is made by an individual he or she has reason to believe is a law enforcement officer, whether or not such arrest is lawful. This offense is a felony which carries with it a punishment of one to five years in jail.

DJ CODE 41-1231 Disorderly conduct.

A person commits disorderly conduct when that person acts with the intent to provoke a breach of the peace or in a manner that results in a breach of the peace, such as: (1) annoying, disturbing, interfering with, obstructing, or being offensive to others; (2) congregating with others on a public street and refusing to move on when ordered by the police; (3) shouting or making a noise either outside or inside a building during the nighttime to the annoyance or disturbance of a considerable number of persons; (4) interfering with any person in any place by jostling or unnecessarily crowding the person or by placing a hand in the proximity of the person's pocketbook or handbag; or (5) causing a disturbance in any railroad car, bus, or other public vehicle, by running through it, climbing through windows or upon the seats, or otherwise annoying passengers or employees.

DJ CODE 41-2000 Possession of implements of crime.

No person shall have in his or her possession in the District any instrument, tool, or implement for picking locks or pockets or for use during any other crime, with the intent to use such instrument, tool, or implement to commit a crime.

Burdens of Proof

In all criminal proceedings the Prosecutor has the burden of proving the Defendant guilty **beyond a reasonable doubt**.

When presenting an **affirmative defense** the Defense has the burden of persuasion by a **preponderance of the evidence**.

Williams v. Collins, 85 District of Justicia Reporter 545, 2001.

Facts: Joe Collins, a 6'2" man, was in front of a bar at 2 a.m. talking loudly with his wife and some other patrons when 2 police officers, including Marsha Williams, approached him. The officers asked him if the cup of beer on the ground next to his foot was his. Collins denied that it was but offered to show them his ID. The police officers declined to look at the ID. Instead, Williams "ushered" Collins to the police cruiser, grabbing him and twisting his arm while swinging him against a car. Collins' arm broke with an audible pop. Williams then cuffed him and placed him in the cruiser. Collins denied engaging in any illegal or aggressive behavior. Williams said that Collins was drunk and belligerent, at one point breaking away from his wife (who was leading him from the bar exit) and waving his arms in front of the officers. Collins brought this suit against the officer for excessive force during arrest.

Holding: Collins failed to demonstrate that a reasonable trier of fact could conclude that the unlawfulness of Williams' action was so apparent that no reasonable officer in her position could have believed in the lawfulness of her actions. Therefore, Williams maintained her defense that she did not act with "unnecessary and wanton severity."

People v. Crowley, 444 District of Justicia Reporter 237, 2000.

Facts: On December 30, 1999, two District of Justicia police officers, John Crowley and Muhammad Shaw, beat and injured Amir Shabazz after stopping him for a minor traffic violation. Shabazz had not turned on his blinker before turning right at a red light, nor did he come to a complete stop before making his turn. The officers pulled him over, told him to step out of the vehicle and put his hands on the top of his car. When he turned to look over his shoulder at them to ask why he had been pulled over. Officer Crowley pushed him down onto the top of his car, smashing his nose into the roof and breaking the driver's side mirror. They then laid him spread-eagled on the ground and cuffed him. Two weeks later, Shabazz filed a complaint through the District of Justicia's complaint process charging violation of DJ Code 3-14, resulting in this criminal case. At trial, Crowley was found guilty, and he appealed the verdict.

Holding: The appellate court upheld the lower court's verdict. The court found that a finder of fact could reasonably find that Officer Crowley committed assault and battery against Shabazz by wanton use of excessive force. This is not a case of force used in the heat of the moment. A judge or jury could find from these facts that no reasonable officer in Crowley's position would have acted as he did.

People v. Brady, 949 U.S. Cases 1005, 1995.

Facts: Craig Goldberg was a diabetic. He was having a low insulin attack and, without his insulin shot, had a friend drive him to a local CVS to buy some orange juice. Upon entering the store, Goldberg saw that the checkout lines were very long and hurried out of the store to head to a friend's house instead. Officer Paul Brady noticed this behavior and thought it looked suspicious. Officer Brady followed the two men in their car and pulled them over a few blocks from the CVS. He ordered them out of the car while he called the store to have them review security tapes to see if Goldberg had done anything wrong. Goldberg was clearly agitated and grabbed at Officer Brady while trying to explain his situation. Officer Brady did not respond to the reason given and roughly cuffed Goldberg, pushing him into the back seat of the cruiser while waiting for word from the CVS. Goldberg sustained a sprained shoulder and various bruises from the officer's treatment. He was released when the officer learned that nothing had happened in the store. Goldberg's civilian complaint against Officer Brady's police conduct led to this criminal case, which was tried in front of a judge and not a jury. Officer Brady was found guilty of assaulting Goldberg and filed an appeal.

The appellate court reversed the lower court's finding because the judge based his judgment on evidence that should not have had any bearing on the outcome. The motivation or intent of the police officers (even if sadistic or malicious) is irrelevant to the analysis of excessive force. Police officers will not be found to have used excessive force if their actions were "objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation." Not every

push or shove, even if it may later seem unnecessary in the peace of a judge's chambers is excessive force.

The state appealed the appellate court's ruling to the state supreme court. The state supreme court reversed the appellate court's ruling and reinstated the lower court's decision. Officer Brady appealed the state supreme court's ruling to the Supreme Court.

Holding: The Supreme Court overturned the state supreme court's ruling using the reasoning of the appellate court and emphasized that intent is not relevant in determining whether a police officer used excessive force in the exercise of his/her duties in violation a person's protected federal civil rights.

In re C.L.D., Jr., Appellant, 739 District of Justicia Reporter 353, 1998.

Facts: At about 9:30 a.m. on a school day, appellant, a minor, and two other youths were walking approximately a block away from their local high school. Officer Melvin Edwards, in uniform, approached them and inquired if they were students at the school. They said yes. Officer Edwards knew that classes started at 8:45 a.m. and so he directed the minors to stand by the police car and produce identification. The students replied that they had none. The officer then asked for oral identification and appellant refused, using profanity instead. When appellant stated his intention to leave, the officer directed him to remain. Appellant used more profanity and walked away. The officer forcibly restrained him and placed him in custody. C.L.D. made a claim that the officer used excessive force while the officer claimed that in using extreme profanity, C.L.D. had assaulted him. C.L.D. appealed his conviction under DJ Code 32-9.

Holding: The appellate court overturned the conviction. It found that the lawfulness of police conduct is irrelevant as a defense to the use of force to resist an arrest. However, on the officer's charge that the appellant was assaulting him, the court held that to constitute an offense, a person's conduct must go beyond speech and mere passive resistance or avoidance, and cross the line into active confrontation, obstruction or other action directed against an officer's performance in the line of duty.

People v. Crawford, 434 District of Justicia Reporter 345, 1995.

Facts: James Crawford was involved in an altercation with a uniformed officer of the DJPD as the officer frisked his brother for suspected possession of drugs. There was conflicting testimony at trial about whether Crawford struck the officer or the officer struck Crawford without cause. Crawford said that the officer pushed him into the door or a nearby car and struck him across the jaw when he asked why his brother was being frisked. Crawford then claimed to have put his arm up to create space between himself and the officer. The officer claimed that Crawford was being belligerent and, in the course of yelling at the officer, pushed the officer away from his brother. The officer then pushed Crawford up against the car, and as he did so, Crawford shoved the officer again. The officer handcuffed Crawford and placed him under arrest for assaulting an officer. At trial, Crawford argued that he was acting in self-defense, but was convicted of the lesser charge of assault under DJ Code 32-8. Crawford appealed the conviction.

Holding: The appellate court upheld Crawford's conviction because a reasonable judge or jury could find from the evidence that Crawford did not prove his argument of self-defense because Crawford assaulted the officer without cause.

People v. Nelson, 234 District of Justicia Reporter 546, 1990.

Facts: The government's evidence showed that Tarik Nelson assaulted another citizen in the commission of a robbery. Several officers chased Nelson shouting "stop" and "police." Nelson admits that he was in the area to buy drugs, but he challenged that the proffered drugs were what he had requested. After demanding his money back, he became fearful for his safety with the drug dealers and began running. He says that he thought the dealers were chasing him and he did not hear any command to stop or identification that the police were behind him. Nelson tried to exert a self-defense argument to explain why he ran away from the officers and resisted arrest. Nelson appealed this conviction.

Holding: Two important rules were reiterated by the court in reference to this case. There is no right to resist arrest, with two exceptions:

- (1) Permission of self defense against a police officer who is using excessive force in carrying out official duties, whether the charge is simple assault or assault on a police officer. However “self-defense is not a valid defense to a charge of assault on a police officer unless the officer has used excessive force.” If the officer used excessive force and the defendant responded with force that was “reasonably necessary under the circumstances” for self-protection, the defendant will have acted with “justifiable and excusable cause” and the government will have failed to prove its case.
- (2) If defendant is charged with a simple assault and brings a self-defense argument, the government must prove beyond a reasonable doubt:
- That the officer was a member of the police force and that the complainant knew that the officer was a member of the police force and that the officer was engaged in official duties
 - That the complainant assaulted the officer without justifiable and excusable cause.

Pieces of Evidence

County of Fairness Police Report

Part I: Classification of Event			
Type of Report:		Offense <input type="checkbox"/>	Incident <input checked="" type="checkbox"/>
Date and Time of Event:		November 27, 2002	
		Start Time: 15:33	End Time: 15:50
District 1		Sector 1	
Event Location Address: Corner of Equality St. and Hope Ave. (in front of 229 Equality St.)			
Event No.1: Truancy/Disorderly Conduct		Event No. 2: Assault	
Report Received by: N/A		Security System: N/A	Location Type: N/A
Forced Entry: N/A			

Part II: Victim Information		
Name of Victim: Officer Kevin/Kiana Bates	DOB: 06/12/68	Home Address:
	Status at Time of Report:	Home Phone:

Part III: Property				
Description of Stolen Property: N/A				
Vehicle Operated by: N/A				
Year:	Tag:	Model:	Color:	State:

Part IV: Suspect Information			
Suspect 1: Andrew Madison		Suspect 2: James/Jamie Lincoln	
Age: 18		Age: 16	
Height: 5'10"	Weight: 200	Height: 6'1"	Weight: 160
Weapons used in offense: Retractable Swiss Army knife		Weapons used in offense: None	

Part V: Statement of Facts/Officer Narrative

We were patrolling our usual area when we noticed two teenagers without backpacks standing in front of a house on the corner of Equality Street and Hope Avenue. The two were talking very loudly, lounging about, one of them smoking a cigarette. When a female pedestrian crossed their path as she was leaving the school building, they made rude comments about her. When we came back to the area again on our patrol, the two were still standing by the fence making comments to another set of students. At this point we parked the car and stepped out to talk to the teenagers. We asked them their names and if they were supposed to be at school. They ignored us and continued what they were doing. We asked them to move along, but again were ignored. We asked them again to identify themselves, and one of them, who we later learned to be Andrew Madison, suddenly put his hand in his back pocket and pulled something shiny out. I thought it might be a weapon and moved to protect myself and prevent him from bringing that object out of his pocket. He resisted, insisting on trying to bring out of his pocket what I could then see was a knife. The scuffle lasted only a few minutes. However, I ended up with a gash to my arm, and Andrew Madison had a puncture wound to his leg, as well as what appeared to be a broken wrist. At this point, we arrested the two individuals and brought them into the station.

Description of Physical Evidence:

Retractable Swiss Army pocketknife with 7 different tools was found on Andrew Madison.

Investigating Officers:

Officer Theresa /Tommy Major,
Division One-One

Officer Kevin Bates, Division One-One

Officers at Scene:

Officer Theresa /Tommy Major, Division One-One

Officer Kevin Bates, Division One-One

Reporting Officer:

Officer Kevin Bates, Division One-One

Analysis of Academic Progress

Street Law High School
Academic Years 1999 - 2003

Student Name: Madison, Andrew M.
Current Student Year: Senior
Date Student Enrolled: 09/2000
Expected Graduation Date: 06/2003

***** Selected Student Data *****

This evaluation is for reference and internal use only. If a student needs to request a transcript or report any additions or corrections, he or she should see the school administrator.

Institution	Year	Passed	In/Prog	GPA
Warren G. Harding H.S.	1999/2000	6.0 cr	---	2.90
Street Law H.S.	2000-2003	12.0	5.5	

*****Summary of Credit Toward Graduation *****

Every District of Justicia (DJPS) student must complete 23.5 Carnegie Units successfully in order to graduate, regardless of the program in which s/he is enrolled. One Carnegie Unit equals two semesters of study in a particular subject. The distribution of course requirements and the requirements completed by the student is listed below:

Course	Carnegie units	Units Completed	Units in Progress
Art	0.5	0.0	0.5
Career/vocational education	1.0	1.0	
D.J	0.5	0.5	
. government and history			
English	4.0	3.0	1.0
Foreign language	2.0	2.0	
Health and physical education	1.5	1.0	0.5
Mathematics (including one year of Algebra or its equivalent)	3.0	3.0	
Music	0.5	0.0	0.5
Science (including one year of laboratory science)	3.0	3.0	
U.S. government	0.5	0.5	
U.S. history	1.0	1.0	
World geography	0.5	0.5	
World history	1.0	1.0	
Electives	4.5	1.5	3.0
Total	23.5	18.0	5.5
*** Academic Requirements Completed: Credit and GPA ***			

Note: Student transferred from a previous institution after his freshman year. Freshman grades and credits based on information received from Warren G. Harding High School.

SY 1999/2000

English 1	1.0 CU	C+
American History	1.0 CU	B
Shop	0.5 CU	A-
Home Economics	0.5 CU	C-
Basic Mathematics	1.0 CU	A-
Physical Sciences	1.0 CU	B
Spanish	1.0 CU	B-
	Credits	GPA
Current	6.0	2.9

SY 2000/2001

English 2	1.0 CU	B-
Civics 1 - Local History and Gov't	0.5 CU	C
Civics 2 - American Government	0.5 CU	C-
Physical Education	1.0 CU	B
Algebra 1	1.0 CU	A
Biology	1.0 CU	B-
Spanish	1.0 CU	B-
	Credits	GPA
Current	6.0 CU	2.825
Cumulative	12.0 CU	2.875

SY 2001/2002

American Lit	1.0 CU	C
U.S. History	1.0 CU	B-
Geometry	1.0 CU	A-
Chemistry	1.0 CU	A-
World Geography	0.5 CU	C-
Art 2: Drawing	0.5 CU	B
Spanish	1.0 CU	B
	Total	GPA
Current	6.0 CU	2.908
Cumulative	18.0 CU	2.873

SY 2002/2003

Advanced Algebra	1.0 CU	In prog
Modern Lit	1.0 CU	In prog
Advanced Chemistry	1.0 CU	In prog
Art	0.5 CU	B+
Music	0.5 CU	In prog
Physical Education	0.5 CU	B
Auto Repair	0.5 CU	B
Shop 2: Metals	0.5 CU	In prog
	Total	GPA
Current	5.5 CU	In prog
Cumulative	In prog	In prog

***** Disciplinary Record *****

Note: Student had many disciplinary actions noted from Harding H.S., including a week-long suspension.

SY 2000/2001

Suspensions:	1
Detentions:	4
Warnings:	3

Counselor Notes: Andrew seems to be having problems adjusting to a new school. He has gotten into a number of fights and talks back to teachers. He was suspended for 3 days due to one particularly violent incident with another student who was also suspended. He is working on his anger management.

SY 2001/2002

Suspensions:	None
Detentions:	2
Warnings:	5

Counselor Notes: Andrew is doing better this year. Has emerged as a leader among his peers. Less fights, but still maintains a visible disdain for the authority of most of his teachers. Exception is in mathematics, where he excels. He has expressed interest in being a peer mediator next year.

SY 2002/2003 - In prog

Suspensions:	None
Detentions:	None
Warnings:	2

Counselor Notes:

***** END *****

OCCR-1

GOVERNMENT OF THE DISTRICT OF JUSTICIA
 OFFICE OF CITIZEN COMPLAINT REVIEW
 70 Liberty Street, 2nd Floor
 Fairness, D.J. 55555
 (555) 555-5555

CITIZEN COMPLAINT FORM

1. OCCR Control Number

To Be Completed by OCCR Staff

2. Day, Date & Time Complaint Received

To Be Completed by OCCR Staff

3. DJPD Control System Number

To Be Completed by OCCR Staff

4. How Complaint Was Received:

*To Be Completed by OCCR Staff*In Person Fax E-mail U.S. Mail DJPD Other Specify:

5. Complainant's Name - Last, First, Middle

Madison, Lisa R (and Peter P)

6. Date of Birth

11/20/84

7. Age

18

8. Sex

M

10. Home Address for son Andrew Madison

55 Truth Avenue

11. D.J.

County

(if resident)

Fairness

12. Home Telephone Number

555-121-3232

13. Work Address

322 Reasonable Drive

14. Occupation

Claims Manager

15. Work Telephone Number

555-799-8888

16. Other Means of Contacting Complainant *(cell phone or pager number, e-mail address, friend, etc.)*

Cell phone 555-888-2424

17. General Nature of Incident

Police brutality / excessive force

18. Location of Incident

in front of 229 Equality St
(corner of Equality St & Hope Ave) Fairness19. D.J. County *where incident occurred*

Fairness

20a. Day of Week Incident Occurred

Wednesday

20b. Date of Incident

Nov. 27, 2002

20c. Time of Incident

3:45 pm

21. Witnesses

James / Jamie Lincoln

22. Officers Involved *(name, badge number, police district, if known)*

Kevin / Kiana Bates, One-one

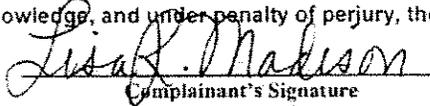
Theresa / Tommy Major, One-one

23. DJPD Vehicle Number/Description

N/A

25a. Describe Injuries *(if any)*Puncture wound to upper right
leg (back) ^{towards} & broken wrist (right)25b. Where Treated *(name of hospital, doctor, etc.)*Justicia Medical Center
Dr. Benedict Franklin26. Preferred Language of Communication *(if other than English)*27. Name(s), Telephone Number(s) or Contact Information *(of other people present during the incident, including other police officers)*James / Jamie Lincoln 555-333-3333
Officer Kevin / Kiana Bates, Division One-one
Officer Theresa / Tommy Major, Division One-one

OCCR-1 (Reverse Side)

Complainant's Name - Last, First, Middle Madison, Lisa R		OCCR Control Number <i>To Be Completed by OCCR Staff</i>
28. Describe the Incident: Yesterday, Wednesday, November 27 th , my son, Andrew, was unfairly singled out by Officers' Bates and Major for hanging outside after school. Officer Bates roughed up my son, causing Andrew to have cuts and bruises, a stab wound to the leg, and a broken wrist. My son is not violent, and he wouldn't have done anything to warrant the Officer's use of force. Andrew did not attack the Officer physically or verbally so I don't understand why my son was treated in this way. Officer Major didn't intervene in Officer Bates' attacks on my son, but did say something like, "Hey, Bates, come on..." When I came to pick up my son from the police station, he looked like he had just been jumped, but officer Bates didn't look like anything had really happened to him.		
Attach Additional Pages if Necessary Page Number of Pages of Narrative		
29. Complainant's Certification "I hereby certify that to the best of my knowledge, and under penalty of perjury, the statements made herein are true." <div style="text-align: center;">  Complainant's Signature </div> <div style="text-align: right;"> 11/28/02 Date </div>		
30. Complaint Received by: <i>To Be Completed by OCCR Staff</i>	31. Complaint Reviewed by: <i>To Be Completed by OCCR Staff</i>	32. Action Taken <i>To Be Completed by OCCR Staff</i>

**DISTRICT OF JUSTICIA POLICE DEPARTMENT
PERSONNEL RECORD FORM**

Name Kevin/Kiana Bates		Badge No. 35-087
Div One-One	Rank Officer (patrol)	Total Yrs of Service 6
DOB 06/12/68	SSN 999-99-9999	
Address 76 Happy Acres Drive, Liberty, Virgiland 44444		
Phone Number (444) 444-4444	Next of Kin & Contact Info Jamie Bates (wife/husband) Home # (444) 444-4444 Work # (444) 222-2222	

PREVIOUS DUTIES

Div	Rank	Dates of Service
Three-One	Officer (foot)	Aug 1996-June 1998
Two-Four	Officer (patrol)	June 1998-May 2001

PERFORMANCE TRAITS (scale of 1-5, 1 = highest)

Date of Eval	Professionalism	Reliability	Compliance with Policies & Standards	Personal Behavior	Leadership	Overall Rating
8/1997	1	2	2	2	3	2
6/1998	2	1	2	2	2	2
7/1999	1	2	2	2	3	2
8/2000	2	2	2	2	2	2
7/2001	2	1	2	2	2	2

AWARDS and COMMENDATIONS

Date	Description
5/1998	Outstanding Relationship with Community
3/2000	Recognition for Investigative Techniques
9/2001	Recognition for Work with Community Educational Initiatives

COMPLAINTS & DISCIPLINARY ACTION

Date	Description
10/1997	Civilian complaint about actions taken against husband during response to domestic violence dispute. No disciplinary action taken.
4/1999	Civilian complaint by arrestee (suspected pickpocket and mugger) about force used against him during apprehension. Warning, but no disciplinary action taken.
2/2002	Civilian complaint about verbal abuse during stop of drunk driver. Complaint made by companion of driver. No disciplinary action taken.

COMMENTS

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Relevant Case Law

District of Justicia Police Department Training Policy on Arrest and Use of Force

Listed below are the In-Service Courses offered to date. All courses, are potentially available for departments through the certified academy. All police officers on the streets have received these training courses and receive update courses every two years or when there is a substantive change in the laws of the District of Justicia.

(92-101) Civil/Criminal Liability, Authority and Jurisdiction (3 hours - required course)

This is a course of instruction on the areas of civil and criminal liability and how these issues affect police officers. The course includes a discussion civil and criminal rights violation situations and how to defend police actions in court.

(91-102) Use of Force (3 hours - required course)

This is a course of instruction on the principles of justification for the use of force and deadly force by police officers in the District of Justicia. The course includes an in-depth review of the relevant chapter of the criminal code as well as a discussion of the court's decisions in use of force cases. In addition, this course will cover other topics such as the use of tactics, judgment, and restraint in situations in order to limit the use of force to that which is necessary and reasonable.

(91-105) Evidence, Arrest, and Legal Update (6 hours – required course)

This course involves three separate, 2-hour blocks of instruction on the preservation and collection of evidence, laws of arrest and legal updates. The topics in the evidence portion include protecting the crime scene, methods of collecting and packaging physical evidence and documenting the chain of custody.

The arrest portion includes an in-depth discussion of probable cause, the officer's authority to arrest with or without a warrant, and balancing the power of arrest with discretion and respond for state laws and the U.S. Constitution.

Since police officers must constantly stay informed of changes in the law and recent court decisions, the Legal Update course provides officers with instruction on the recent changes in the Criminal Code, the Rules of Criminal Procedure along with a review of federal and state court decisions that affect law enforcement officers in the District of Justicia.

(99-507) Conflict Resolution for Police Officers (6 hours – elective course)

This course focuses on skills for resolving internal and external day-to-day interpersonal and multi-party conflicts involving citizens and the police that police officers encounter in patrol and investigative functions. The course encompasses relevant cultural diversity issues associated with resolving everyday conflicts in policing.

Another Example of Police Force

By Bradley Michaels

Residents of the County of Fairness are outraged over another incident involving excessive use of force by the police officers patrolling the area against high school youth.

Yesterday, after being dismissed from school early to mark the beginning of the Thanksgiving holiday, two students from Street Law High School, whose names were unknown at press time, were involved in an altercation with Officers Kevin/Kiana Bates and Theresa/Tommy Major. At the end of the encounter, one student suffered a stab wound to the leg as well as a broken wrist.

Police officials said that the student's injuries were a result of the student's own actions. The student allegedly cut Officer Bates with a knife that he took from his back pocket. Officer Bates claims that s/he then tried to subdue the student to prevent further injury, but the student resisted, resulting in the reported injuries. Officials are quick to point out that the other student, who "didn't give the officers any trouble," was uninjured.

One witness to the incident has a slightly different account of what happened that afternoon. A 16-year old student at Street Law High School, who asked that her name not be used, said that the two students were only "hanging around talking to friends and goofing around. It's what everyone does until we have to go home and do our homework." She claims that the two

officers then approached the students "and started harassing them. Some other kids started watching too, but everything happened really quickly after that. That one cop grabbed one student, and he ended up on the ground. He was bleeding in the leg, and was crying about his wrist. His friend looked scared and didn't do much of anything."

A woman who was picking up her kids and their friends after the holiday pageant said that "it was a shame how those officers were picking on those children, and it's an even bigger shame that physical violence was involved."

Community leader, Alexis Spiketon called on the District of Justicia Police Department to "carefully and objectively" investigate the incident, as well as to re-examine police policies "in light of the current problems with the community, particularly youth."

POLICE OFFICER GETS BAD RAP

By Lisa Clark
Fairness Today Staff Writer
Friday, November 29, 2002, Page A1

Officers Kevin/Kiana Bates and Theresa/Tommy Major, the two officers involved in Wednesday's incident involving two Street Law High School students, remain on administrative leave pending the outcome of the District of Justice Police Department's investigation. Officer Bates is pressing charges against one of the youths for assaulting him, in his capacity as an officer.

Recently, the DJPD and its officers have been involved in a number of well-publicized citizen-officer encounters where both citizens and officers have suffered injuries. In none of these incidents have the officers been found to have acted inappropriately or used excessive force. Nevertheless, local media and community activists have been quick to judge the actions of the officers in this most recent incident.

Both the events leading up to the incident and the incident itself are unclear. Unlike other police-citizen encounters across the country, there is no videotape of the incident to capture the events as they happened, and those who witnessed the event have given varying accounts to the press. There is intense community pressure on the DJPD to act as quickly as possible, but some in the Department fear that this will impede the thoroughness of the investigation.

Despite the questions regarding the incident, a few facts are known: The principal of SLHS requested more police presence on school grounds in response to a recent spate of incidents of harassment and vandalism at the hands of non-students who "hang-out" on or near school grounds; Officers Bates and Major were assigned the afternoon "drive-by"s of the high school to safeguard the students from harassment and school property from vandalism; one of the youths had a knife in his pocket; only the youth with the pocketknife was injured in any way.

The Department has repeatedly claimed that community advocates have been quick to jump to conclusions, "it's easy to want to pin the blame on the cops when there's some kind of altercation during an arrest, but it's never that easy. Police are here to protect the community and, when necessary, themselves," said Sergeant Jim Walker, who supervises Officers Bates and Major. "Using force, or even the threat of force against an officer is wholly unacceptable, and now, because of these events, we have two good officers behind desks rather than out on the street. Do people really feel that much safer now?"

2003
Mock Trial
Tournament Rules

2003 DISTRICT OF COLUMBIA MOCK TRIAL PROGRAM RULES

The annual Mock Trial Program is governed by the rules set forth below. These rules are designed to ensure excellence in presentation and fairness in judging all trials.

TEAM PRESENTATIONS

1. The official mock trial materials, consisting of the Statement of Stipulated Facts, Witness Statements, Relevant Statutes and Case Law, and Pieces of Evidence, comprise the sole source of information for testimony. The Stipulated Facts and any additional stipulations may not be disputed at trial.
2. Each witness is bound by the facts in the given witness statement. All participants agree that the witness statements are signed and sworn affidavits. Witness Statements may not be introduced as evidence, but may be used for impeachment.

Fair additions which (a) are consistent with facts contained in the witness affidavits and (b) do not materially give an advantage to the testifying party are permitted. If a witness is asked a question on cross-examination which is not dealt with in the witness's statement, the witness may invent an answer favorable to that witness's position.

Students may read other cases, materials, or articles in preparation for the mock trial. However, they may only cite the materials given, and they may only introduce into evidence those documents given in the official mock trial packet.

3. If a witness testifies in contradiction of a fact in the witness statement during direct examination, there is no objection for "violating the rules of the mock trial." The opposition must show the contradiction on cross-examination through correct use of the affidavit for impeachment. If a witness testifies in contradiction of a fact on cross examination, the cross examining attorney should show the contradiction through impeachment also. This procedure is spelled out in the Rules of Evidence.
4. If on direct examination witness invents an answer which is likely to affect the outcome of the trial, the opposition should show this on cross-examination through correct use of the affidavit for impeachment. This procedure is spelled out in the Rules of Evidence. The scoring panel should consider such inventions of facts in scoring the witness' presentation.
5. Witnesses are not permitted to use notes in testifying during the trial.

6. All participants are expected to display proper courtroom decorum and collegial sportsmanlike conduct. The decisions of the judges with regard to rules challenges and all other decisions are final.
7. The trial proceedings are governed by the Mock Trial Simplified Rules of Evidence. Other more complex rules may not be raised in the trial.
8. During the actual trial, teachers, attorneys, other coaches, affiliated non-participating team members, parents and all other observers may not talk to, signal, or otherwise communicate with or coach their teams. Team members may communicate with each other during the trial. Instructors from opposing teams are advised to sit next to one another, if possible, and be reasonable. The purpose of this rule is to prevent last minute coaching; it is not intended as a device to disqualify an opposing team.
9. Neither team may introduce surprise witnesses nor call witnesses from the other side. All witnesses (three for each side) must take the stand, in whatever order or sequence determined by the party calling them.
10. Witnesses will not be excluded from the courtroom during the trial.
11. Tape recordings, photographing, or videotaping of trials is not permitted by the D.C. Superior Court.
12. All teams in the tournament must consist of from three to eight attorneys, and three witnesses. Exceptions may be made by the Street Law Clinic after consultation.
13. Only students registered in their high school for the Street Law class as of February 20, 2003 will be eligible to participate in the Mock Trial Tournament unless otherwise approved by the Program Director.
14. Teams are expected to be present at the Superior Court for the District of Columbia by 5:30 p.m. the days of the trials. Trials will begin at 6 p.m.
15. The starting time of any trial will not be delayed for longer than 15 minutes. Incomplete teams will have to begin without their other members, or with alternates.

JUDGING

1. Presiding judges for Mock Trials may include Judges and Commissioners of the District of Columbia, law school faculty, members of the D.C. Bar, other attorneys, or others approved by the Program Director.
2. All judges receive the Guidelines for Judges, Judge's Score Sheet, the Simplified Rules of Evidence and Procedure, and the Mock Trial Packet.
3. Presiding judges are asked to make a legal decision on the merits of the case, but this does not affect a team's score. The decision on team scores is made by a scoring panel, consisting of two or more scorers selected by the Street Law Staff and, in some instances, the presiding judge. The criteria for scoring are discussed in the Guidelines for Judges and the Scoresheet.
4. All decisions of the judges are final.

2003
Mock Trial
Simplified Rules of Evidence

DISTRICT OF COLUMBIA 2003 MOCK TRIAL

Simplified Rules of Evidence

To assure each side a fair trial, certain rules have been developed to govern the types of evidence that may be introduced, as well as the manner in which evidence may be presented. These rules are called the "rules of evidence." The attorneys and the judge are responsible for enforcing these rules. Before the judge can apply a rule of evidence, an attorney must ask the judge to do so. Attorneys do this by making "objections" to the evidence or procedure employed by the opposing side. When an objection is raised, the attorney who asked the question that is being challenged will usually be asked by the judge why the question was not in violation of the rules of evidence.

The rules of evidence used in real trials can be very complicated. A few of the most important rules of evidence have been adapted for mock trial purposes, and these are presented below.

Rule 1. Leading Questions:

A "leading" question is one that suggests the answer desired by the questioner, usually by stating some facts not previously discussed and then asking the witness to give a yes or no answer.

Example: "So, Mr. Smith, you took Ms. Jones to a movie that night, didn't you?"

Leading questions may not be asked on direct or redirect examination. Leading questions may be used on cross-examination.

Objection: "Objection, Your Honor, counsel is leading the witness."

Possible Response: "Your Honor, leading is permissible on cross-examination," or "I'll rephrase the question." For example, the question can be rephrased: "Mr. Smith, where did you go that night? Who did you go with?" (This would not suggest the answer the attorney desires.)

Rule 2. Narration:

Narration occurs when the witness provides more information than the question called for.

Example: Question - "What did you do when you reached the front door of the house?"

Witness - "I opened the door and walked into the kitchen. I was afraid that he was in the house -- you know, he had been acting quite strangely the day before."

Witnesses' answers must respond to the questions. A narrative answer is objectionable.

Objection: "Objection, Your Honor, the witness is narrating."

Response: "Your Honor, the witness is telling us a complete sequence of events."

DC 2003 MOCK TRIAL SIMPLIFIED RULES OF EVIDENCE

Rule 3. Relevance:

Questions and answers must relate to the subject matter of the case; this is called "relevance." Questions or answers that do not relate to the case are "irrelevant."

Example: (In a traffic accident case) "Mrs. Smith, how many times have you been married?"

Irrelevant questions or answers are objectionable.

Objection: "Your Honor, this question is irrelevant to this case."

Response: "Your Honor, this series of questions will show that Mrs. Smith's first husband was killed in an auto accident, and this fact has increased her mental suffering in this case."

Rule 4. Hearsay:

"Hearsay" is something the witness has heard someone say outside the courtroom. Also, any written statement made outside the courtroom is hearsay.

Example: "Harry told me that he was going to visit Mr. Brown."

Hearsay evidence is objectionable. However, there are two exceptions to the hearsay rule for purposes of the mock trial. If an exception applies, the court will allow hearsay evidence to be introduced. **Exception:** In a mock trial, hearsay evidence is allowed when the witness is repeating a statement made directly to the witness by one of the witnesses in the case. Hearsay is also allowed if one of the witnesses is repeating a statement made by an individual who is no longer alive.

Note that this exception to the hearsay rule does not extend to witness testimony about what another person heard a witness say. This is "double hearsay."

Example: Mary, the plaintiff, told me that Harry, the defendant was drunk the night of the accident.

Objection: "Objection, Your Honor, this is double hearsay."

Response: "Your Honor, since Harry is the defendant, the witness can testify to a statement he heard Harry make."

For mock trials, other exceptions to the hearsay rule are not used.

Rule 5. Firsthand Knowledge:

Witnesses must have directly seen, heard, or experienced whatever it is they are testifying about.

Example: "I know Harry well enough to know that two beers usually make him drunk, so I'm sure he was drunk that night, too."

A lack of firsthand knowledge is objectionable.

Objection: "Your Honor, the witness has no firsthand knowledge of Harry's condition that night."

Response: "The witness is just generally describing her usual experience with Harry."

DC 2003 MOCK TRIAL SIMPLIFIED RULES OF EVIDENCE

Rule 6. Opinions:

Unless a witness is qualified as an expert in the appropriate field, such as medicine or ballistics, the witness may not give an opinion about matters relating to that field.

Example: (Said by a witness who is not a doctor) "The doctor put my cast on wrong. That's why I have a limp now."

Opinions are objectionable unless given by an expert qualified in the appropriate field.

As an exception to this rule, a lay witness may give an opinion based on common experience.

Objection: "Objection, Your Honor, the witness is giving an opinion."

Response: "Your Honor, the witness may answer the question because ordinary persons can judge whether a cast was put on correctly."

Rule 7. Opinions on the Ultimate Issue:

Witnesses, including experts, cannot give opinions on the ultimate issue of the case: the guilt or innocence of the defendant or the liability of the parties. These are matters for the trier of fact to decide.

Example: "I believe that Mr. Smith was negligent in driving too fast in this case."

Opinions on the ultimate issue in a case are objectionable.

Objection: "Your Honor, the witness is giving an opinion on the ultimate issue - the negligence of Mr. Smith."

Response: "The witness is commenting that the driver was speeding. This is not the ultimate issue in this case."

Rule 8. Additional Rules of Evidence:

1. Objections during the testimony of a witness must be made only by the direct examining and cross-examining attorneys for that witness.
2. Cross-examination is not limited to the scope of direct questioning.
3. A short redirect examination, limited to no more than two questions, will be allowed following cross-examination, if an attorney desires. Questions on redirection are limited to the scope of the cross-examination.

DC 2003 MOCK TRIAL SIMPLIFIED RULES OF EVIDENCE

Rule 9. Special Procedures:

Procedure 1. Introduction of Documents or Physical Evidence:

Sometimes the parties wish to offer as evidence letters, affidavits, contracts, or other documents, or even physical evidence such as a murder weapon, broken consumer goods, etc. Special procedures must be followed before these items can be used in trial.

Step 1: Introducing the Item for Identification

- a. An attorney says to the judge, "Your Honor, I wish to have this (letter, document, item) marked for identification as (Plaintiff's Exhibit A, Defense Exhibit A, etc.)."
- b. The attorney takes the item to the clerk, who marks it appropriately.
- c. The attorney shows the item to the opposing counsel.
- d. The attorney shows the item to the witness and says, "Do you recognize this item marked as Plaintiff's Exhibit A?"
Witness: "Yes."
Attorney: "Can you please identify this item?"
Witness: "This is a letter I wrote to John Doe on September 1." (Or witness gives other appropriate identification.)
- e. The attorney may then proceed to ask the witness questions about the document or item.

Step 2. Moving the Document or Item into Evidence.

If the attorney wishes the judge or jury to consider the document or item itself as part of the evidence and not just as testimony about it, the attorney must ask to move the item into evidence at the end of the witness examination. The attorney proceeds as follows:

- a. The attorney says, "Your Honor, I offer this (document/item) into evidence as Plaintiff's Exhibit A, and ask that the court so admit it."
- b. Opposing counsel may look at the evidence and make objections at this time.
- c. The judge rules on whether the item may be admitted into evidence.

Procedure 2. Impeachment

On cross-examination, an attorney wants to show that the witness should not be believed. This is best accomplished through a process called "impeachment," which may use one of the following tactics: (1) asking questions about prior conduct of the witness that makes the witness' truthfulness doubtful (e.g., "Isn't it true that you once lost a job because you falsified expense reports?"); (2) asking about evidence of certain types of criminal convictions (e.g., "You were convicted of shoplifting, weren't you?"); or (3) showing that the witness has contradicted a prior statement, particularly one made by the witness in an affidavit. Witness statements in the Mock Trials Materials are considered to be affidavits.

In order to impeach the witness by comparing information in the affidavit to the witness' testimony, attorneys should use this procedure:

Step 1: Repeat the statement the witness made on direct or cross-examination that contradicts the affidavit.

Example: "Now, Mrs. Burke, on direct examination you testified that you were out of town on the night in question, didn't you?" (Witness responds, "Yes.")

Step 2: Introduce the affidavit for identification, using the procedure described in Procedure 1.

Step 3: Ask the witness to read from his or her affidavit the part that contradicts the statement made on direct examination.

DC 2003 MOCK TRIAL SIMPLIFIED RULES OF EVIDENCE

Example: "All right, Mrs. Burke, will you read paragraph three?" (Witness reads, "Harry and I decided to stay in town and go to the theater.")

Step 4: Dramatize the conflict in the statements. (Remember, the point of this line of questioning is to demonstrate the contradiction in the statements, not to determine whether Mrs. Burke was in town or out of town.)

Example: "So, Mrs. Burke, you testified that you were out of town on the night in question, didn't you?" "Yes." "Yet, in your affidavit you said you were in town, didn't you?" "Yes."

Procedure 3. Qualifying an Expert

Only a witness who is qualified as an expert may give an opinion as to scientific, technical, or other specialized knowledge in the area of his/her expertise. (Note: A lay witness may give an opinion about something related to one's common experience)

(see Rule 6) Experts cannot give opinions on the **ultimate issue** of the case.

Before an expert gives his/her expert opinion on a matter, the lawyer must first **qualify** the expert. There are two steps to qualify an expert. First, the lawyer must **lay a foundation** that shows the expert is qualified to testify on issues related to that expert's field of expertise. To lay a foundation, the lawyer asks the expert to describe factors such as schooling, professional training, work experience and books he/she has written that make a person an expert regarding a particular field. Second, once the witness has testified about his/her qualifications, the lawyer **asks the judge to qualify the witness as an expert in a particular field.**

Example: The wife of Harold Hart is suing Dr. Smith and General Hospital for malpractice. She claims they did not treat Mr. Hart for an obvious heart attack when he was brought to the hospital. Mrs. Hart's lawyer is examining his expert witness, Dr. Jones:

- Q: Dr. Jones, what is your occupation?
A: I am a heart surgeon. I am Chief of Staff at the Howard University Medical Center.
Q: What medical school did you attend?
A: I graduated from Georgetown Medical School in 1978.
Q: Where did you do your internship?
A: I did a two year internship in cardiology at John Hopkins University from 1978-1980.
Q: Did you afterwards specialize in any particular field of medicine?
A: Yes, I specialized in heart attack treatment and heart surgery.
Q: Have you published any articles or books?
A: I wrote a chapter in a medical text on heart surgery procedures after heart attacks.
Q: Describe the chapter.
A: I set out the steps for identifying heart attacks and doing open heart surgery.
Q: What professional licenses do you have?
A: I am certified by the D.C. Board of Medical Examiners to practice medicine in D.C.

Attorney #1: Your Honor, I ask that Dr. Jones be qualified as an expert in the field of medicine.

Judge: Any objection?

Attorney #2: We object. No foundation has been laid regarding Dr. Jones's ability to render an opinion as to all fields of medicine.

Judge: Objection sustained. Dr. Jones's expertise seems to be limited to certain areas of medicine.

Attorney #1: Thank you, your Honor. We ask that Dr. Jones be qualified as an expert in the field of heart surgery.

DC 2003 MOCK TRIAL SIMPLIFIED RULES OF EVIDENCE

Judge: Any objections?

Attorney #2: No, your Honor.

Judge: Let the record reflect that Dr. Jones is qualified to testify as an expert in the field of heart surgery.

Once qualified, an expert may give opinions relating only to the expert's area of expertise. That is, an expert cannot give an opinion in an area outside his/her expertise.

Example: (Dr. Jones has been qualified as an expert on heart surgery.)

Q: Dr. Jones, what is your opinion as to Mr. Hart's cause of death?

A: The patient suffered a massive heart attack caused by clogged arteries.

Q: Dr. Jones, in your opinion, is it true as the defense contends that the patient also suffering from a rare lung disease transmitted through contact with the North American mongoose as the defense contends?

Objection: The witness is testifying outside her area of expertise.

Judge: Sustained. Please confine your opinion to matters related to care and treatment of the heart.

Q: Dr. Jones, in your opinion, how should the patient's doctors have treated him?

A: They should have recognized that the patient was having a heart attack based on his chest pains, purple face, difficulty breathing, and numbness in his left arm. They should have given him the proper medication and treated him in the emergency room right away.

Q: Who was at fault in this matter?

A: Dr. Smith and General Hospital were definitely negligent.

Objection: The witness is testifying to the ultimate issue of the case, which is whether Dr. Smith and General Hospital are liable for malpractice. That is a question of fact for the judge (or jury, when the case is tried before a jury) to decide.

Judge: Sustained

