

Texting While Driving

Mock Trial

State

v.

Young

Prepared by

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TMCEC

www.tmcec.com

September 2012

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Driving on the Right Side of the Road

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STATE OF TEXAS

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IN THE DISTRICT COURT

v.

IN AND FOR

JORDAN YOUNG, Defendant

WILLIAMSON COUNTY, TEXAS

STATEMENT OF FACTS

The following facts may not be changed by either party. Facts that are not specifically stated herein or within the witness statements may be reasonably inferred, as long as the fact does not affect the outcome of the case. For example, the facts do not say what kind of motorcycle Danny was riding. Inferring that the motorcycle was a Honda does not affect the outcome of the case, and is, therefore, reasonable. Inferring that the motorcycle was equipped with a nitrous oxide system, which proves Danny was going too fast to be seen on the road, affects the outcome of the case, and is, therefore, unreasonable. Jordan and Danny may be played by either a male or female.

On Sunday, September 9, 2012, at approximately 2:00 p.m., Jordan Young, an 18-year-old high school senior, was traveling eastbound on Highway 29 in a white 2009 Toyota Tacoma. Road and weather conditions were good. Jordan veered out of his lane and struck 17-year-old Danny Walker, who was riding a motorcycle in the oncoming lane. Jordan dialed 911 on his cell phone and paramedics arrived on scene 12 minutes later. Danny was thrown 185 feet from his

bike. He was taken to St. David's Hospital where he was pronounced dead. Jordan Young sustained no injuries.

Police arrested Jordan Young following an investigation by the Georgetown Police Department's Vehicular Homicide Unit and an indictment by a Williamson County grand jury. He was subsequently released on bail while awaiting trial.

CHARGES

The State of Texas charges Jordan Young with the following violations:

Count 1 – Manslaughter in violation of Texas Penal Code § 19.04

Count 2 – Criminally Negligent Homicide in violation of Texas Penal Code § 19.05

Count 3 – Reckless Driving in violation of Texas Transportation Code § 545.401

APPLICABLE LAW

Statutes:

Texas Penal Code Sec. 19.04. MANSLAUGHTER.

- (a) A person commits an offense if he recklessly causes the death of an individual.
- (b) An offense under this section is a felony of the second degree.

Texas Penal Code Sec. 19.05. CRIMINALLY NEGLIGENT HOMICIDE.

- (a) A person commits an offense if he causes the death of an individual by criminal negligence.
- (b) An offense under this section is a state jail felony.

Texas Transportation Code Sec. 545.401. RECKLESS DRIVING; OFFENSE.

- (a) A person commits an offense if the person drives a vehicle in willful or wanton disregard for the safety of persons or property.
- (b) An offense under this section is a misdemeanor punishable by:
 - (1) a fine not to exceed \$200;
 - (2) confinement in county jail for not more than 30 days; or
 - (3) both the fine and the confinement.

Texas Code of Criminal Procedure Art. 37.08. CONVICTION OF LESSER INCLUDED OFFENSE. In a prosecution for an offense with lesser included offenses, the jury may find the defendant not guilty of the greater offense, but guilty of any lesser included offense.

Texas Code of Criminal Procedure Art. 37.09. LESSER INCLUDED OFFENSE. An offense is a lesser included offense if:

- (1) it is established by proof of the same or less than all the facts required to establish the commission of the offense charged;

- (2) it differs from the offense charged only in the respect that a less serious injury or risk of injury to the same person, property, or public interest suffices to establish its commission;
- (3) it differs from the offense charged only in the respect that a less culpable mental state suffices to establish its commission; or
- (4) it consists of an attempt to commit the offense charged or an otherwise included offense.

EVIDENCE

Exhibits:

Students may create additional exhibits subject to the reasonable inference rule. However, such additional exhibits require teacher approval and production of the exhibit to the opposing party prior to trial and with reasonable notice.

State's Exhibit A: Photo of Highway 29

State's Exhibit B: Photo of Danny Walker's motorcycle

State's Exhibit C: Site Drawing created by Jaime Davis

State's Exhibit D: Jordan Young's Phone Records

Witness Testimony:

State

Jaime Davis

Detective Harper Miller

Logan Moore

Dr. Angel Ramsey

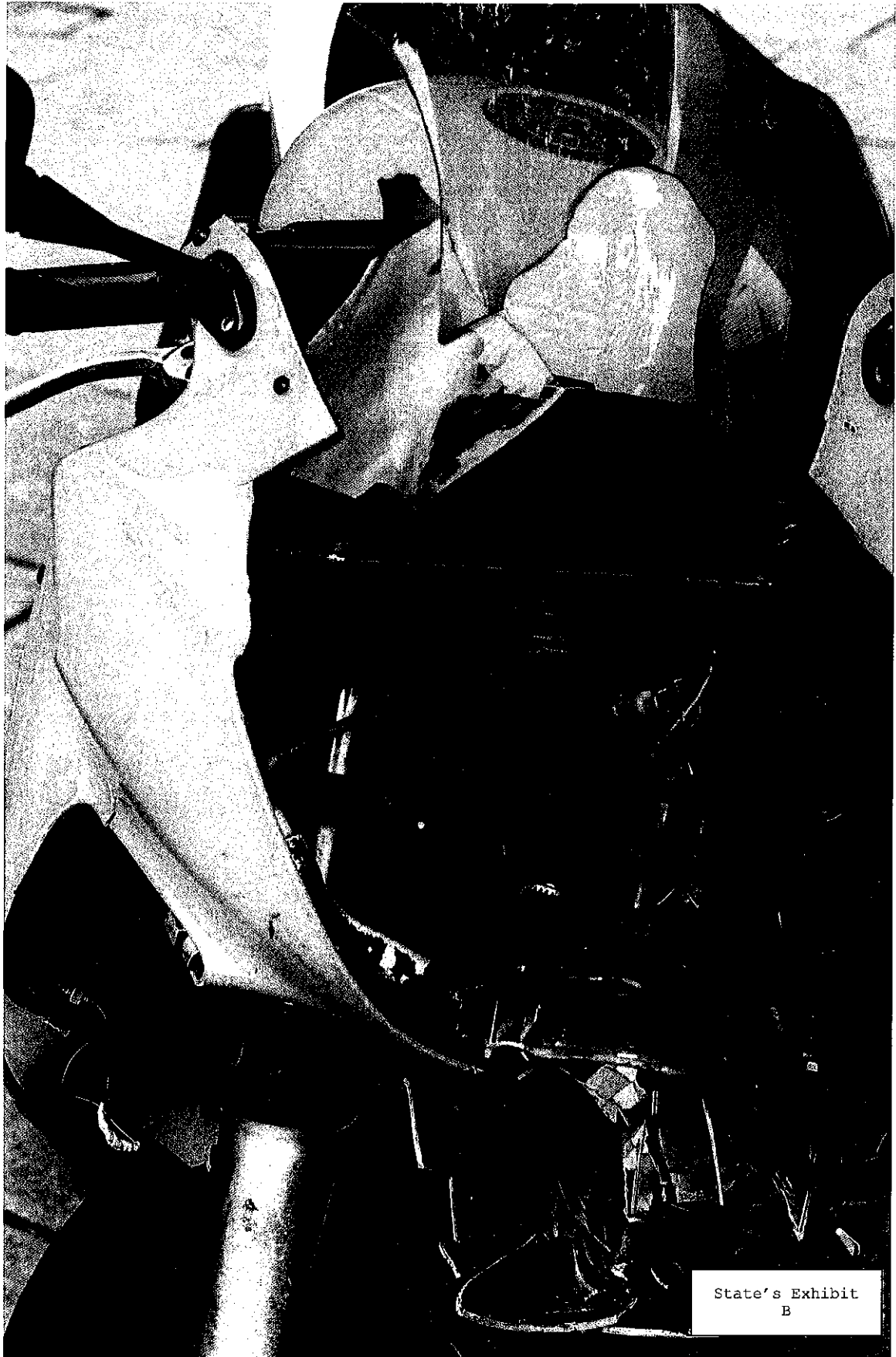
Defense

Justice Lewis

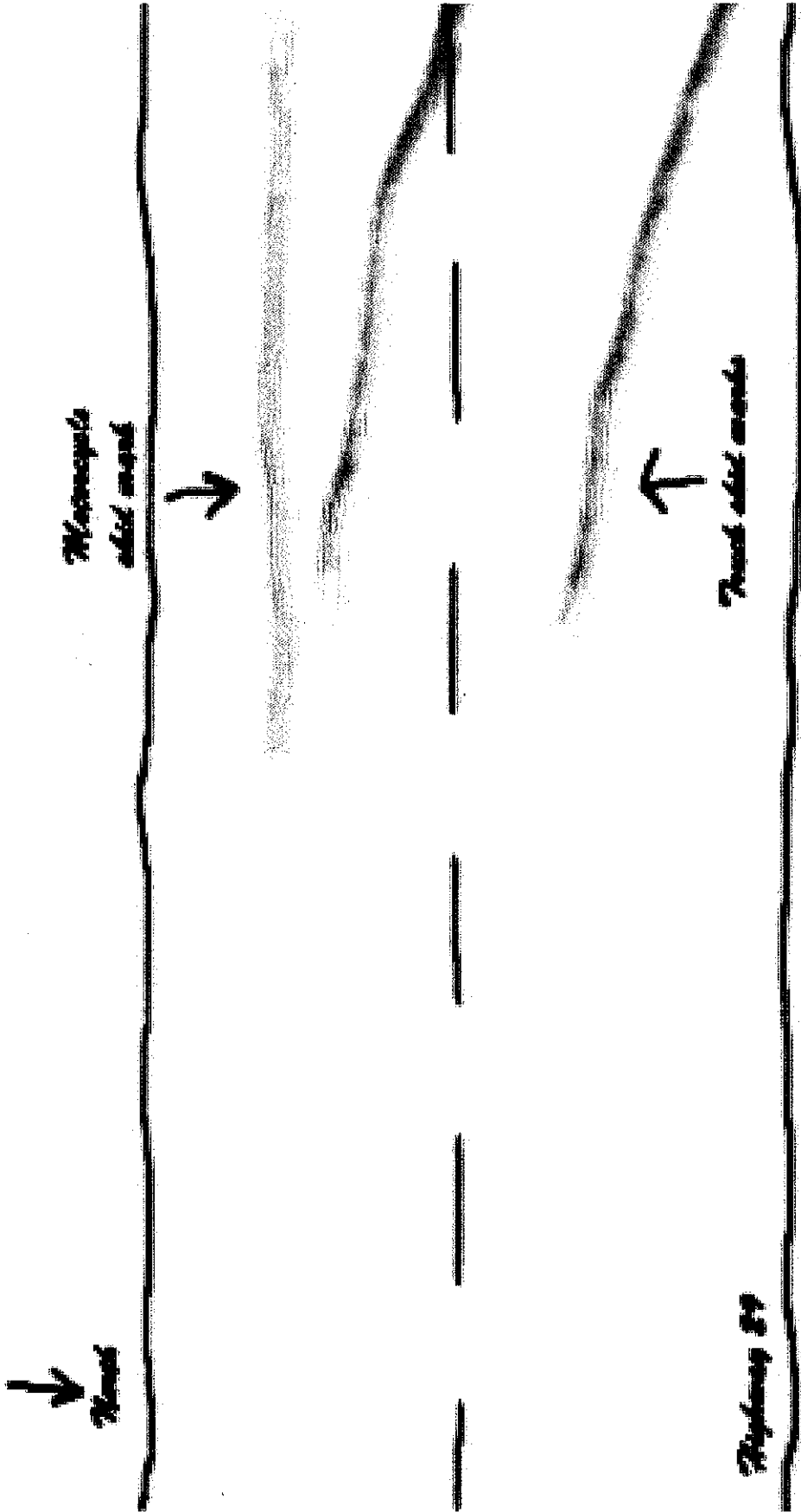
Jordan Young



State's Exhibit
A



State's Exhibit
B



Jaime Davis
 Site Drawing 1
 September 9, 2012

State's Exhibit
 C

AGH, Inc.

Phone Service Provider

Re: Requested Phone Records
 Account Number: 5555670078
 Name on Account: Jordan Young

Date	Time	Record Type	Caller/Sender	Received	Duration in Seconds	Duration in Minutes
9/9/2012	12:07 a.m.	SMS	5555670078	5555671121		
9/9/2012	10:17 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:17 a.m.	SMS	5555670078	5555671121		
9/9/2012	10:17 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:17 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:17 a.m.	SMS	5555670078	5555679547		
9/9/2012	10:17 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:17 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:17 a.m.	SMS	5555670078	5555671121		
9/9/2012	10:17 a.m.	SMS	5555679547	5555670078		
9/9/2012	10:18 a.m.	SMS	5555670078	5555678668		
9/9/2012	10:18 a.m.	SMS	5555678668	5555670078		
9/9/2012	10:18 a.m.	SMS	5555670078	5555679547		
9/9/2012	10:18 a.m.	SMS	5555670078	5555679547		
9/9/2012	10:18 a.m.	SMS	5555670078	5555671121		
9/9/2012	10:18 a.m.	SMS	5555679547	5555670078		
9/9/2012	10:18 a.m.	SMS	5555670078	5555671121		
9/9/2012	10:18 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:18 a.m.	SMS	5554351733	5555670078		
9/9/2012	10:18 a.m.	SMS	5554351733	5555670078		
9/9/2012	10:18 a.m.	SMS	5555670078	5555678668		
9/9/2012	10:18 a.m.	SMS	5555678668	5555670078		
9/9/2012	10:18 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:20 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:20 a.m.	SMS	5555670078	5554351733		
9/9/2012	10:20 a.m.	SMS	5555670078	5554351733		
9/9/2012	10:20 a.m.	SMS	5554351733	5555670078		
9/9/2012	10:20 a.m.	SMS	5555679547	5555670078		

State's Exhibit
D

Date	Time	Record Type	Caller/Sender	Received	Duration in Seconds	Duration in Minutes
9/9/2012	10:20 a.m.	SMS	5555670078	5554341884		
9/9/2012	10:20 a.m.	SMS	5554341884	5555670078		
9/9/2012	10:20 a.m.	SMS	5555670078	5555671121		
9/9/2012	10:20 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:20 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:20 a.m.	SMS	5555670078	5554340387		
9/9/2012	10:23 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:23 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:23 a.m.	SMS	5555670078	5555671121		
9/9/2012	10:23 a.m.	SMS	5555679547	5555670078		
9/9/2012	10:23 a.m.	SMS	5555670078	5555671121		
9/9/2012	10:24 a.m.	SMS	5555679547	5555670078		
9/9/2012	10:24 a.m.	SMS	5555670078	5554341884		
9/9/2012	10:24 a.m.	SMS	5555670078	5555679547		
9/9/2012	10:28 a.m.	SMS	5555670078	5555671121		
9/9/2012	10:28 a.m.	SMS	5555679547	5555670078		
9/9/2012	10:28 a.m.	SMS	5555670078	5555671121		
9/9/2012	10:28 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:28 a.m.	SMS	5554341884	5555670078		
9/9/2012	10:28 a.m.	SMS	5554351733	5555670078		
9/9/2012	10:28 a.m.	SMS	5555670078	5554351733		
9/9/2012	10:30 a.m.	SMS	5554340387	5555670078		
9/9/2012	10:30 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:30 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:30 a.m.	SMS	5555670078	5554340387		
9/9/2012	10:30 a.m.	SMS	5555670078	5554345553		
9/9/2012	10:30 a.m.	SMS	5554351733	5555670078		
9/9/2012	10:30 a.m.	SMS	5555679547	5555670078		
9/9/2012	10:31 a.m.	SMS	5555670078	5555671121		
9/9/2012	10:31 a.m.	SMS	5555678668	5555670078		
9/9/2012	10:31 a.m.	SMS	5555670078	5555671121		
9/9/2012	10:31 a.m.	SMS	5555679547	5555670078		
9/9/2012	10:31 a.m.	SMS	5555670078	5555679547		
9/9/2012	10:31 a.m.	SMS	5555670078	5555678668		
9/9/2012	10:31 a.m.	SMS	5555670078	5555671121		

Date	Time	Record Type	Caller/Sender	Received	Duration in Seconds	Duration in Minutes
9/9/2012	10:31 a.m.	SMS	5555670078	5554345553		
9/9/2012	10:31 a.m.	SMS	5554542424	5555670078		
9/9/2012	10:32 a.m.	SMS	5555670078	5555671121		
9/9/2012	10:32 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:32 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:32 a.m.	SMS	5555670078	5554542424		
9/9/2012	10:32 a.m.	SMS	5555671121	5555670078		
9/9/2012	10:41 a.m.	SMS	5554543301	5555670078		
9/9/2012	10:41 a.m.	SMS	5555670078	5554340387		
9/9/2012	10:41 a.m.	SMS	5554340387	5555670078		
9/9/2012	10:41 a.m.	SMS	5555670078	5554543301		
9/9/2012	10:45 a.m.	SMS	5554543301	5555670078		
9/9/2012	10:45 a.m.	SMS	5555670078	5554543301		
9/9/2012	10:45 a.m.	SMS	5555670078	5554543301		
9/9/2012	11:12 a.m.	SMS	5555670078	5555671121		
9/9/2012	11:12 a.m.	SMS	5555679547	5555670078		
9/9/2012	11:12 a.m.	SMS	5555670078	5555671121		
9/9/2012	11:12 a.m.	SMS	5555671121	5555670078		
9/9/2012	11:12 a.m.	SMS	5554351733	5555670078		
9/9/2012	11:12 a.m.	SMS	5554351733	5555670078		
9/9/2012	11:12 a.m.	SMS	5555670078	5554351733		
9/9/2012	11:15 a.m.	SMS	5554345553	5555670078		
9/9/2012	11:15 a.m.	SMS	5555671121	5555670078		
9/9/2012	11:15 a.m.	SMS	5555671121	5555670078		
9/9/2012	11:15 a.m.	SMS	5555670078	5554351733		
9/9/2012	11:15 a.m.	SMS	5555670078	5554345553		
9/9/2012	11:15 a.m.	SMS	5554351733	5555670078		
9/9/2012	11:32 a.m.	SMS	5555679547	5555670078		
9/9/2012	11:32 a.m.	SMS	5555670078	5555671121		
9/9/2012	11:32 a.m.	SMS	5555678668	5555670078		
9/9/2012	11:32 a.m.	SMS	5555670078	5555671121		
9/9/2012	11:32 a.m.	SMS	5555679547	5555670078		
9/9/2012	11:32 a.m.	SMS	5555670078	5555679547		
9/9/2012	11:32 a.m.	SMS	5555670078	5555678668		
9/9/2012	11:32 a.m.	SMS	5555670078	5555671121		

Date	Time	Record Type	Caller/Sender	Received	Duration in Seconds	Duration in Minutes
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9/9/2012	11:33 a.m.	SMS	5555670078	5554340387		
9/9/2012	11:33 a.m.	SMS	5555671121	5555670078		
9/9/2012	11:33 a.m.	SMS	5555671121	5555670078		
9/9/2012	11:33 a.m.	SMS	5555670078	5554351873		
9/9/2012	11:33 a.m.	SMS	5555670078	5554341657		
9/9/2012	11:33 a.m.	SMS	5555679547	5555670078		
9/9/2012	11:33 a.m.	SMS	5555670078	5555671121		
9/9/2012	11:33 a.m.	SMS	5555679547	5555670078		
9/9/2012	11:33 a.m.	SMS	5555670078	5554543301		
9/9/2012	11:33 a.m.	SMS	5554543301	5555670078		
9/9/2012	11:33 a.m.	SMS	5555670078	5554351873		
9/9/2012	11:33 a.m.	SMS	5555670078	5554543301		
9/9/2012	11:33 a.m.	SMS	5555670078	5554341657		
9/9/2012	11:33 a.m.	SMS	5555679547	5555670078		
9/9/2012	11:33 a.m.	SMS	5555670078	5555671121		
9/9/2012	11:33 a.m.	SMS	5555671121	5555670078		
9/9/2012	11:33 a.m.	SMS	5554351733	5555670078		
9/9/2012	11:35 a.m.	SMS	5554542424	5555670078		
9/9/2012	11:35 a.m.	SMS	5555670078	5554351733		
9/9/2012	11:35 a.m.	SMS	5554345553	5555670078		
9/9/2012	11:35 a.m.	SMS	5555671121	5555670078		
9/9/2012	11:35 a.m.	SMS	5555671121	5555670078		
9/9/2012	11:35 a.m.	SMS	5555670078	5554351733		
9/9/2012	11:35 a.m.	SMS	5555670078	5554345553		
9/9/2012	11:35 a.m.	SMS	5554351733	5555670078		
9/9/2012	11:35 a.m.	SMS	5555679547	5555670078		
9/9/2012	11:35 a.m.	SMS	5555670078	5554351733		
9/9/2012	11:35 a.m.	SMS	5554543301	5555670078		
9/9/2012	11:35 a.m.	SMS	5555670078	5554543301		
9/9/2012	12:01 p.m.	SMS	5555679547	5555670078		
9/9/2012	12:01 p.m.	SMS	5555670078	5555679547		
9/9/2012	12:14 p.m.	SMS	5555670078	5555678668		
9/9/2012	12:14 p.m.	SMS	5555670078	5554543301		

Date	Time	Record Type	Caller/Sender	Received	Duration in Seconds	Duration in Minutes
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9/9/2012	12:14 p.m.	SMS	5555670078	5554542424		
9/9/2012	12:14 p.m.	SMS	5554543301	5555670078		
9/9/2012	12:14 p.m.	SMS	5554341657	5555670078		
9/9/2012	12:58 p.m.	SMS	5555670078	5554543301		
9/9/2012	12:58 p.m.	SMS	5555670078	5554341657		
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9/9/2012	1:29 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:29 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:29 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:29 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:42 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:44 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:44 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:45 p.m.	SMS	5555679547	5555670078		
9/9/2012	1:45 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:45 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:45 p.m.	SMS	5554351733	5555670078		
9/9/2012	1:45 p.m.	SMS	5554340387	5555670078		
9/9/2012	1:45 p.m.	SMS	5555670078	5554351733		
9/9/2012	1:45 p.m.	SMS	5554345553	5555670078		
9/9/2012	1:45 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:45 p.m.	SMS	5554351733	5555670078		
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9/9/2012	1:45 p.m.	SMS	5555670078	5554351733		
9/9/2012	1:45 p.m.	SMS	5555678668	5555670078		
9/9/2012	1:45 p.m.	SMS	5555670078	5554351733		
9/9/2012	1:45 p.m.	SMS	5555679547	5555670078		
9/9/2012	1:45 p.m.	SMS	5555670078	5555679547		
9/9/2012	1:46 p.m.	SMS	5555670078	5555678668		
9/9/2012	1:46 p.m.	SMS	5555670078	5554340387		

Date	Time	Record Type	Caller/Sender	Received	Duration in Seconds	Duration in Minutes
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9/9/2012	1:46 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:46 p.m.	SMS	5554351733	5555670078		
9/9/2012	1:46 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:46 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:46 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:46 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:46 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:46 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:46 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:46 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:47 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:47 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:47 p.m.	SMS	5555670078	5554341657		
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9/9/2012	1:47 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:47 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:47 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:47 p.m.	SMS	5554351733	5555670078		
9/9/2012	1:47 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:47 p.m.	SMS	5555670078	5554351733		
9/9/2012	1:47 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:47 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:47 p.m.	SMS	5554351733	5555670078		
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9/9/2012	1:48 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:48 p.m.	SMS	5554351733	5555670078		
9/9/2012	1:48 p.m.	SMS	5554341657	5555670078		
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9/9/2012	1:48 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:48 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:48 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:48 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:48 p.m.	SMS	5555670078	5554341657		

Date	Time	Record Type	Caller/Sender	Received	Duration in Seconds	Duration in Minutes
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9/9/2012	1:48 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:48 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:48 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:48 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:49 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:49 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:49 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:49 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:49 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:49 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:49 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:49 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:49 p.m.	SMS	5555679547	5555670078		
9/9/2012	1:49 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:49 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:49 p.m.	SMS	5554351733	5555670078		
9/9/2012	1:49 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:49 p.m.	SMS	5555670078	5554351733		
9/9/2012	1:50 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:50 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:50 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:50 p.m.	SMS	5555670078	5554351733		
9/9/2012	1:50 p.m.	SMS	5555670078	5554345553		
9/9/2012	1:50 p.m.	SMS	5554351733	5555670078		
9/9/2012	1:50 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:50 p.m.	SMS	5555670078	5555671121		
9/9/2012	1:50 p.m.	SMS	5555678668	5555670078		
9/9/2012	1:50 p.m.	SMS	5555670078	5555671121		
9/9/2012	1:50 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:50 p.m.	SMS	5555670078	5555679547		
9/9/2012	1:50 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:50 p.m.	SMS	5555670078	5554341657		

Date	Time	Record Type	Caller/Sender	Received	Duration in Seconds	Duration in Minutes
9/9/2012	1:50 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:51 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:51 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:51 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:51 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:51 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:51 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:51 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:51 p.m.	SMS	5555670078	5554349226		
9/9/2012	1:51 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:51 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:51 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:51 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:53 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:53 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:53 p.m.	SMS	5555679547	5555670078		
9/9/2012	1:53 p.m.	SMS	5555670078	5555671121		
9/9/2012	1:53 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:53 p.m.	SMS	5554351733	5555670078		
9/9/2012	1:53 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:53 p.m.	SMS	5555670078	5554351733		
9/9/2012	1:53 p.m.	SMS	5554345553	5555670078		
9/9/2012	1:53 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:53 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:53 p.m.	SMS	5555670078	5554351733		
9/9/2012	1:55 p.m.	SMS	5555670078	5554345553		
9/9/2012	1:55 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:55 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:55 p.m.	SMS	5555670078	5555671121		
9/9/2012	1:55 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:55 p.m.	SMS	5555670078	5555671121		
9/9/2012	1:55 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:55 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:55 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:55 p.m.	SMS	5554543301	5555670078		

Date	Time	Record Type	Caller/Sender	Received	Duration in Seconds	Duration in Minutes
9/9/2012	1:56 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:56 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:56 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:56 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:56 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:56 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:56 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:56 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:56 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:56 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:56 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:56 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:57 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:57 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:57 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:57 p.m.	SMS	5555670078	5555671121		
9/9/2012	1:57 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:57 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:57 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:57 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:57 p.m.	SMS	5554345553	5555670078		
9/9/2012	1:58 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:58 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:58 p.m.	SMS	5555670078	5554351733		
9/9/2012	1:58 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:58 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:58 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:58 p.m.	SMS	5555670078	5555671121		
9/9/2012	1:58 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:58 p.m.	SMS	5555670078	5555671121		
9/9/2012	1:58 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:58 p.m.	SMS	5555670078	5555671121		
9/9/2012	1:58 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:58 p.m.	SMS	5555670078	5555671121		

Date	Time	Record Type	Caller/Sender	Received	Duration in Seconds	Duration in Minutes
9/9/2012	1:58 p.m.	SMS	5555670078	5555671121		
9/9/2012	1:58 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:58 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:58 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:58 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:58 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:59 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:59 p.m.	SMS	5554341657	5555670078		
9/9/2012	1:59 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:59 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:59 p.m.	SMS	5555670078	5555671121		
9/9/2012	1:59 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:59 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:59 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:59 p.m.	SMS	5555670078	5554341657		
9/9/2012	1:59 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:59 p.m.	SMS	5555670078	5555671121		
9/9/2012	1:59 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:59 p.m.	SMS	5555670078	5555671121		
9/9/2012	1:59 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:59 p.m.	SMS	5555670078	5555671121		
9/9/2012	1:59 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:59 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:59 p.m.	SMS	5555671121	5555670078		
9/9/2012	1:59 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:59 p.m.	SMS	5555670078	5554543301		
9/9/2012	1:59 p.m.	SMS	5554351733	5555670078		
9/9/2012	1:59 p.m.	SMS	5554543301	5555670078		
9/9/2012	1:59 p.m.	SMS	5555670078	5555671121		
9/9/2012	2:00 p.m.	SMS	5554543301	5555670078		
9/9/2012	2:00 p.m.	SMS	5555670078	5555671121		
9/9/2012	2:00 p.m.	SMS	5554341657	5555670078		
9/9/2012	2:00 p.m.	SMS	5555670078	5554341657		
9/9/2012	2:00 p.m.	SMS	5555670078	5554543301		
9/9/2012	2:00 p.m.	SMS	5554543301	5555670078		

Date	Time	Record Type	Caller/Sender	Received	Duration in Seconds	Duration in Minutes
9/9/2012	2:00 p.m.	SMS	5555670078	5554341657		
9/9/2012	2:00 p.m.	SMS	5554341657	5555670078		
9/9/2012	2:00 p.m.	SMS	5555670078	5554341657		
9/9/2012	2:00 p.m.	SMS	5555671121	5555670078		
9/9/2012	2:00 p.m.	SMS	5555671121	5555670078		
9/9/2012	2:00 p.m.	SMS	5555670078	5554341657		
9/9/2012	2:00 p.m.	SMS	5554341657	5555670078		
9/9/2012	2:00 p.m.	SMS	5554341657	5555670078		
9/9/2012	2:00 p.m.	SMS	5555670078	5554543301		
9/9/2012	2:00 p.m.	SMS	5554543301	5555670078		
9/9/2012	2:00 p.m.	SMS	5555670078	5554543301		
9/9/2012	2:00 p.m.	SMS	5554543301	5555670078		
9/9/2012	2:00 p.m.	SMS	5555670078	5554341657		
9/9/2012	2:00 p.m.	SMS	5555670078	5554543301		
9/9/2012	2:00 p.m.	SMS	5555670078	5554341657		
9/9/2012	2:00 p.m.	SMS	5555671121	5555670078		
9/9/2012	2:00 p.m.	SMS	5555670078	5555671121		
9/9/2012	2:00 p.m.	SMS	5555671121	5555670078		
9/9/2012	2:00 p.m.	SMS	5555671121	5555670078		
9/9/2012	2:00 p.m.	SMS	5554341657	5555670078		
9/9/2012	2:00 p.m.	SMS	5555670078	5554351733		
9/9/2012	2:01 p.m.	Call	5555670078	911	:127	2:07
9/9/2012	2:01 p.m.	SMS	5555671121	5555670078		
9/9/2012	2:01 p.m.	SMS	5555671121	5555670078		
9/9/2012	2:01 p.m.	SMS	5554351733	5555670078		
9/9/2012	2:03 p.m.	SMS	5554341657	5555670078		
9/9/2012	2:04 p.m.	Call	5555670078	5554542424	:342	5:42
9/9/2012	2:04 p.m.	SMS	5554543301	5555670078		
9/9/2012	2:05 p.m.	SMS	5555679547	5555670078		
9/9/2012	2:07 p.m.	SMS	5555678668	5555670078		
9/9/2012	2:07 p.m.	SMS	5555671121	5555670078		
9/9/2012	2:08 p.m.	SMS	5555679547	5555670078		
9/9/2012	2:09 p.m.	SMS	5555671121	5555670078		
9/9/2012	2:10 p.m.	SMS	5555670078	5555671121		
9/9/2012	2:10 p.m.	SMS	5555670078	5555679547		

Date	Time	Record Type	Caller/Sender	Received	Duration in Seconds	Duration in Minutes
9/9/2012	2:10 p.m.	SMS	5555670078	5554351733		
9/9/2012	2:11 p.m.	SMS	5555670078	5554542424		
9/9/2012	2:11 p.m.	SMS	5555670078	5554351733		
9/9/2012	2:11 p.m.	SMS	5555671121	5555670078		
9/9/2012	2:11 p.m.	SMS	5555671121	5555670078		
9/9/2012	2:11 p.m.	SMS	5555670078	5555671121		
9/9/2012	2:12 p.m.	SMS	5554341657	5555670078		
9/9/2012	2:13 p.m.	SMS	5554341657	5555670078		
9/9/2012	2:15 p.m.	SMS	5555671121	5555670078		
9/9/2012	2:17 p.m.	SMS	5554543301	5555670078		
9/9/2012	2:20 p.m.	SMS	5555679547	5555670078		
9/9/2012	2:29 p.m.	SMS	5554543301	5555670078		
9/9/2012	2:32 p.m.	SMS	5554542424	5555670078		
9/9/2012	2:47 p.m.	SMS	5555673009	5555670078		
9/9/2012	2:47 p.m.	SMS	5555673009	5555670078		
9/9/2012	3:02 p.m.	SMS	5555679547	5555670078		
9/9/2012	3:43 p.m.	SMS	5555670078	5555671121		
9/9/2012	3:43 p.m.	SMS	5555671121	5555670078		
9/9/2012	3:44 p.m.	SMS	5554351733	5555670078		
9/9/2012	3:45 p.m.	SMS	5554351733	5555670078		
9/9/2012	4:12 p.m.	SMS	5555670078	5554351733		
9/9/2012	4:28 p.m.	SMS	5554345553	5555670078		
9/9/2012	4:31 p.m.	SMS	5555671121	5555670078		
9/9/2012	4:53 p.m.	SMS	5555671121	5555670078		
9/9/2012	5:59 p.m.	SMS	5555670078	5554355220		
9/9/2012	5:59 p.m.	SMS	5555670078	5555671121		
9/9/2012	6:00 p.m.	SMS	5554351733	5555670078		
9/9/2012	6:00 p.m.	SMS	5555671121	5555670078		
9/9/2012	6:01 p.m.	SMS	5555670078	5555671121		
9/9/2012	6:55 p.m.	SMS	5555678668	5555670078		
9/9/2012	7:08 p.m.	SMS	5555670078	5555671121		
9/9/2012	7:08 p.m.	SMS	5555671121	5555670078		
9/9/2012	7:09 p.m.	SMS	5555670078	5555679547		
9/9/2012	7:09 p.m.	SMS	5555670078	5555678668		
9/9/2012	7:09 p.m.	SMS	5555670078	5555671121		

Date	Time	Record Type	Caller/Sender	Received	Duration in Seconds	Duration in Minutes
9/9/2012	7:10 p.m.	SMS	5555671121	5555670078		
9/9/2012	7:10 p.m.	SMS	5555671121	5555670078		
9/9/2012	7:10 p.m.	SMS	5555670078	5555671121		
9/9/2012	7:10 p.m.	SMS*	5555671121	5555670078		
9/9/2012	7:10 p.m.	SMS	5555671121	5555670078		
9/9/2012	7:10 p.m.	SMS	5555670078	5555671121		
9/9/2012	7:10 p.m.	SMS	5555671121	5555670078		
9/9/2012	7:10 p.m.	SMS	5555671121	5555670078		
9/9/2012	7:11 p.m.	SMS	5555671121	5555670078		
9/9/2012	7:11 p.m.	SMS	5554547703	5555670078		
9/9/2012	7:11 p.m.	SMS	5555670078	5555671121		
9/9/2012	7:11 p.m.	SMS	5555670078	5555671121		
9/9/2012	7:11 p.m.	SMS	5555679584	5555670078		
9/9/2012	7:11 p.m.	SMS	5555673009	5555670078		
9/9/2012	7:11 p.m.	SMS	5555678686	5555670078		
9/9/2012	7:11 p.m.	SMS	5555679547	5555670078		
9/9/2012	7:11 p.m.	SMS	5555670078	5555679584		
9/9/2012	7:11 p.m.	SMS	5555671121	5555670078		
9/9/2012	7:13 p.m.	SMS	5554351733	5555670078		
9/9/2012	7:13 p.m.	SMS	5554351733	5555670078		
9/9/2012	7:13 p.m.	SMS	5555670078	5554351733		
9/9/2012	7:13 p.m.	SMS	5554345553	5555670078		
9/9/2012	7:13 p.m.	SMS	5555671121	5555670078		
9/9/2012	7:13 p.m.	SMS	5555671121	5555670078		
9/9/2012	7:13 p.m.	SMS	5555670078	5555678686		
9/9/2012	7:13 p.m.	SMS	5555670078	5554547703		
9/9/2012	7:13 p.m.	SMS	5554547703	5555670078		
9/9/2012	7:13 p.m.	SMS	5555671121	5555670078		
9/9/2012	7:13 p.m.	SMS	5555670078	5555671121		
9/9/2012	7:13 p.m.	SMS	5555678686	5555670078		
9/9/2012	7:13 p.m.	SMS	5555670078	5555671121		
9/9/2012	7:14 p.m.	SMS	5555671121	5555670078		
9/9/2012	7:14 p.m.	SMS	5555670078	5555679547		
9/9/2012	7:14 p.m.	SMS	5555670078	5554341884		
9/9/2012	7:14 p.m.	SMS	5555670078	5554355220		

Date	Time	Record Type	Caller/Sender	Received	Duration in Seconds	Duration in Minutes
9/9/2012	7:14 p.m.	SMS	5555670078	5554341657		
9/9/2012	7:14 p.m.	SMS	5554341657	5555670078		
9/9/2012	7:14 p.m.	SMS	5555670078	5555678686		
9/9/2012	7:14 p.m.	SMS	5555671121	5555670078		
9/9/2012	7:14 p.m.	SMS	5555671121	5555670078		
9/9/2012	7:14 p.m.	SMS	5555670078	5554341657		
9/9/2012	7:14 p.m.	SMS	5554341657	5555670078		
9/9/2012	7:14 p.m.	SMS	5554341657	5555670078		
9/9/2012	7:15 p.m.	SMS	5555670078	5554543301		
9/9/2012	7:15 p.m.	SMS	5554543301	5555670078		
9/9/2012	7:15 p.m.	SMS	5555670078	5554543301		
9/9/2012	7:15 p.m.	SMS	5554543301	5555670078		
9/9/2012	7:15 p.m.	SMS	5555670078	5554341657		
9/9/2012	7:15 p.m.	SMS	5555670078	5554543301		
9/9/2012	7:15 p.m.	SMS	5555670078	5554341657		
9/9/2012	7:15 p.m.	SMS	5554341884	5555670078		
9/9/2012	7:15 p.m.	SMS	5555670078	5555671121		
9/9/2012	7:15 p.m.	SMS	5555671121	5555670078		
9/9/2012	7:15 p.m.	SMS	5554351733	5555670078		
9/9/2012	7:15 p.m.	SMS	5554569972	5555670078		
9/9/2012	7:15 p.m.	SMS	5555670078	5554341884		
9/9/2012	7:22 p.m.	SMS	5554345553	5555670078		
9/9/2012	8:13 p.m.	SMS	5555671121	5555670078		
9/9/2012	8:13 p.m.	SMS	5555671121	5555670078		
9/9/2012	8:13 p.m.	SMS	5555670078	5554569972		
9/9/2012	8:13 p.m.	SMS	5555670078	5554345553		
9/9/2012	8:13 p.m.	SMS	5554351733	5555670078		
9/9/2012	9:04 p.m.	SMS	5555679547	5555670078		
9/9/2012	9:57 p.m.	SMS	5555670078	5554345553		
9/9/2012	10:03 p.m.	SMS	5555678668	5555670078		
9/9/2012	10:36 p.m.	SMS	5555670078	5555671121		
9/9/2012	10:36 p.m.	SMS	5555671121	5555670078		
9/9/2012	10:36 p.m.	SMS	5555671121	5555670078		
9/9/2012	10:36 p.m.	SMS	5555670078	5554355220		
9/9/2012	10:37 p.m.	SMS	5555670078	5555671121		

Date	Time	Record Type	Caller/Sender	Received	Duration in Seconds	Duration in Minutes
9/9/2012	10:37 p.m.	SMS	5554544040	5555670078		
9/9/2012	10:37 p.m.	SMS	5554341657	5555670078		
9/9/2012	10:37 p.m.	SMS	5554544040	5555670078		
9/9/2012	10:37 p.m.	SMS	5555677355	5555670078		
9/9/2012	10:37 p.m.	SMS	5555671121	5555670078		
9/9/2012	10:37 p.m.	SMS	5555670078	5555677355		
9/9/2012	10:38 p.m.	SMS	5554349226	5555670078		
9/9/2012	10:38 p.m.	SMS	5554341657	5555670078		
9/9/2012	10:38 p.m.	SMS	5555670078	5554349226		
9/9/2012	10:38 p.m.	SMS	5554543301	5555670078		
9/9/2012	10:38 p.m.	SMS	5555670078	5554543301		
9/9/2012	10:38 p.m.	SMS	5554541751	5555670078		
9/9/2012	10:38 p.m.	SMS	5555670078	5554341657		
9/9/2012	10:38 p.m.	SMS	5555670078	5554543301		
9/9/2012	10:38 p.m.	SMS	5555670078	5554341657		
9/9/2012	10:38 p.m.	SMS	5554341884	5555670078		
9/9/2012	10:38 p.m.	SMS	5555670078	5554541751		
9/9/2012	10:39 p.m.	SMS	5555671121	5555670078		
9/9/2012	10:39 p.m.	SMS	5554355220	5555670078		
9/9/2012	10:39 p.m.	SMS	5554569972	5555670078		
9/9/2012	10:39 p.m.	SMS	5555670078	5554355220		
9/9/2012	10:39 p.m.	SMS	5554340387	5555670078		
9/9/2012	10:40 p.m.	SMS	5555671121	5555670078		
9/9/2012	10:40 p.m.	SMS	5555671121	5555670078		
9/9/2012	10:40 p.m.	SMS	5555670078	5554569972		
9/9/2012	10:40 p.m.	SMS	5555670078	5554340387		
9/9/2012	10:41 p.m.	SMS	5554351873	5555670078		
9/9/2012	10:41 p.m.	SMS	5555679547	5555670078		
9/9/2012	10:44 p.m.	SMS	5555670078	5554351873		
9/9/2012	10:44 p.m.	SMS	5555674518	5555670078		
9/9/2012	10:46 p.m.	SMS	5555670078	5555671121		
9/9/2012	10:46 p.m.	SMS	5555671121	5555670078		
9/9/2012	10:52 p.m.	SMS	5555671121	5555670078		
9/9/2012	10:52 p.m.	SMS	5555670078	5555674518		
9/9/2012	11:11 p.m.	SMS	5555670078	5555671121		

Date	Time	Record Type	Caller/Sender	Received	Duration in Seconds	Duration in Minutes
9/9/2012	11:11 p.m.	SMS	5555670078	5554341657		
9/9/2012	11:29 p.m.	SMS	5554341657	5555670078		
9/9/2012	11:29 p.m.	SMS	5554341657	5555670078		
9/9/2012	11:30 p.m.	SMS	5554341657	5555670078		
9/9/2012	11:43 p.m.	SMS	5555671121	5555670078		
9/9/2012	11:43 p.m.	SMS	5555670078	5555671121		
9/9/2012	11:51 p.m.	SMS	5554341657	5555670078		
9/9/2012	11:51 p.m.	SMS	5554341657	5555670078		
9/9/2012	11:59 p.m.	SMS	5554543301	5555670078		
9/9/2012	11:59 p.m.	SMS	5554543301	5555670078		
9/9/2012	11:59 p.m.	SMS	5555670078	5554543301		
9/9/2012	11:59 p.m.	SMS	5554543301	5555670078		

STIPULATIONS

1. There are no traffic cameras on Highway 29.
2. The speed limit on Highway 29 is 60 miles per hour.
3. Road conditions and weather conditions were good and not the cause of the collision.
4. All exhibits included in the materials are authentic and admissible.
5. All investigations were performed in accordance with all relevant policies, procedures, and constitutional provisions. None of Jordan Young's civil rights were violated at any time leading up to the trial.

ORDER OF TRIAL

1. The judge states the charges against the defendant.
2. The State's Attorney makes his or her opening statement to the jury.
3. The Defense Attorney either makes his or her opening statement to the jury or waits to open until after the State has put on its case.
4. The State calls its witnesses and conducts direct examination.
5. After the State's direct examination of each witness, the defense may cross-examine the witness.
6. After each cross-examination, the State may conduct re-direct examination, if necessary. If so, the Defense may conduct re-cross-examination, if necessary.
7. The State rests.
8. The Defense Attorney may make his or her opening statement, if not done earlier.
9. The Defense calls its witnesses and conducts direct examination.
10. After the Defense's direct examination of each witness, the State may cross-examine the witness.
11. After each cross-examination, the Defense may conduct re-direct examination, if necessary. If so, the State may conduct re-cross-examination, if necessary.
12. The Defense rests.
13. The State closes.
14. The Defense closes.
15. The State's Attorney makes his or her closing argument.
16. The Defense Attorney makes his or her closing argument.
17. The State's Attorney gives a rebuttal (optional).

18. The judge reads the charge to the jury and dismisses the jury for deliberation.
19. After reaching a unanimous verdict, the foreperson reads the verdict in open court.
20. The judge dismisses the jury.

WITNESSES

Witness statements are intended to be more challenging than the witness scripts. Students will have to strategize and devise their own questions for direct and cross examination and witnesses will find it more challenging to respond to questioning without a script. Witness scripts, if used, should only be given to students with parts that correspond with the scripts. The scripts include a suggested dialogue for questioning each of the witnesses on the stand. The script of course may be adapted and revised to fit the needs of the individuals participating. It may also need to be changed to fit the gender of the student playing a particular part. Each side may call witnesses in any order, subject to the order of trial. No additional witnesses may be called.

Witnesses:

Detective Harper Miller, witness for the State

Dr. Angel Ramsey, witness for the State

Jaime Davis, accident reconstruction and forensic engineer, witness for the State

Logan Moore, phone records custodian, witness for the State

Jordan Young, Defendant

Justice Lewis, human factors engineer, witness for the Defendant

WITNESS STATEMENT: JAIME DAVIS

My name is Jaime Davis, and I am an accident reconstruction and forensic engineer. The types of accidents handled in forensic engineering include industrial, commercial, fires and explosions, hazardous combustion, chemical and gas-related, and traffic-related collisions. An engineer handling a traffic-related collision, as I did in this case, investigates and reconstructs the collision to determine how it happened and what caused it.

To investigate this collision, I went out to the collision site on Highway 29 to inspect it, take measurements and photographs, and look at sight distance. I also evaluated the roadway surface condition and analyzed skid marks, tire marks, and other roadway surface damage and debris. I evaluated vehicle damage and human injuries associated with the collision. After I collected all the data, I performed a collision analysis.

In a collision analysis, I prepare site drawings. I also determine pre-collision positions and movements of the vehicles, acceleration and maneuverability capabilities of the vehicles, speeds of the vehicles at various points in the collision, effects of roadway and weather conditions, and ultimately, the cause of the collision.

My ultimate conclusion is that Jordan Young caused the collision by veering into oncoming traffic and hitting Danny Walker on his motorcycle.

The basis for my conclusion is that the skid mark patterns show that Danny suddenly braked about 50 feet from the point of impact, which, based on skid mark patterns, tire marks, and debris, occurred in Danny's lane. Jordan didn't brake until after impact. This is shown by another skid pattern made by Jordan's truck that begins west of the point of impact in Danny's lane and continues for 100 feet ending in Jordan's lane. So Danny saw Jordan's truck veer into the eastbound lane and applied the brakes in an attempt to avoid a collision.

It is my opinion that Jordan was not watching the road. If he was, then he was watching the road as he moved into oncoming traffic and didn't apply his brakes until after he hit Danny's motorcycle. That is hard to explain, because humans have an automatic reflex to hit the brakes when they see they are about to be in a collision. That is what we call a human factor.

WITNESS STATEMENT: JUSTICE LEWIS

My name is Justice Lewis and I am a human factors engineer. Human factors engineering is a very broad field that can best be described as the study of human behavior and interaction. My expertise is perception and reaction time. When applied to a forensic evaluation of a collision, human factors can establish the role of human behavior and decision making in the collision.

I received my Master's Degree in Experimental Psychology from Duke University. I have been a human factors consultant for 40 years.

In this case, I served as a consultant. I took the information provided to me by the defense to analyze and form an opinion on Mr. Young's reaction time during the collision in question. I did not investigate the collision myself. After reviewing the information, I concluded that it is possible, even though Mr. Young was watching the road, for him not to react by hitting the brakes until after the point of impact. The basis for that conclusion is that in a collision, greater reaction time is due to several factors, including the need to interpret an unexpected situation and also to decide whether there is time to brake or whether steering is a safer response. Also, drivers facing another vehicle, for example, may expect the other vehicle to eventually stop or get out of the way. When drivers are faced with another vehicle in the distance, there is extra time needed to interpret what is happening and choose a response. The best estimate is 1.8 seconds. So Mr. Young could have seen he was about to hit Mr. Walker and taken almost two seconds to decide on a response to hit the brakes. If the vehicles were traveling the speed limit, which was 60 mph, the impact could have occurred in less than two seconds, placing Mr. Young's response after the point of impact.

WITNESS STATEMENT: DETECTIVE HARPER MILLER

My name is Harper Miller. I've been an officer for the Georgetown Police Department for 17 years. I handled collisions on patrol for 6 years before joining the vehicular homicide unit. I've been working on that unit for 11 years as a detective. I was called out to the collision on Highway 29, Sunday, September 9, 2012, to investigate the scene.

When I arrived on scene, EMS and several patrol officers had already arrived. It was before 2:15 p.m. I observed that Jordan Young's truck was parked partially on and partially off the road, west of the rest of the scene. There was damage to the truck on the driver's side on the front and side of the truck. There were two sets of skid marks, both with an origin in the eastbound lane. Danny Walker's motorcycle was on its side on the road about 100 feet east of the skid marks. Danny Walker's body was found 185 feet from the road, on the south side. I took a statement from Jordan Young about the collision. He said he didn't know how it happened—that the next thing he knew he had hit something. He said he called 911 first. Then he said he got out and saw pieces of something on the road but didn't see anyone. He said he kept walking and eventually saw the motorcycle. He said he was still looking for the person on the bike when police and EMS arrived.

I first suspected driver distraction of some kind after I took Jordan Young's statement. When I approached him, he was sitting in his truck, which was what one of the officers on scene told him to do. As I walked up, he was looking at his phone. When he said he didn't know what happened or know that he had hit someone on a motorcycle, my first thought was that he wasn't watching the road.

I asked him if he was distracted by anything like a phone call or text message. He said he wasn't texting, but couldn't explain why he didn't know what happened or give me any detail leading up to the crash. He seemed very nervous.

When a person is unable to give any detail related to a significant event like a collision, and there is no evidence of blacking out or memory problems, that usually indicates the person is lying or withholding information. Also, based on the skid mark patterns, I concluded that Jordan Young had drifted into Danny Walker's lane, but didn't hit his brakes until after he hit Danny Walker. That is consistent with my theory that Jordan wasn't watching the road and Jordan's statement that he didn't see Danny Walker or a motorcycle before impact. Unfortunately, Danny Walker didn't live to tell what happened.

Based on my experience, texting while driving is not safe. Using your phone in any capacity while driving is dangerous. A driver who takes his eyes off the road is a distracted driver who puts other drivers in danger. Even if a driver uses speakerphone, he still has to pick it up and select speaker. Most people who use speakerphone or voice texting are still holding the phone with one hand and driving with the other. And they still have to look at their phone instead of the road at some point. Texting is especially dangerous because of the frequency with which the driver has to look at the phone, even if using voice texting. The more texts, the greater the risk of a collision.

According to Jordan Young's phone records, he was sending and receiving between 19 and 27 texts per minute right before and at the time of the collision. In my opinion, a person driving 60 miles per hour on a two-lane road with no barrier while sending and receiving 19-27 texts per minute is driving recklessly. That person is spending just as much time, if not more time, texting as he is looking at the road. It only takes a second to drift out of your lane or not

realize a car has stopped in front of you. With that many texts, a collision would be inevitable. Cars can be like weapons. It's like firing a gun while texting and not looking at where you're firing. That's reckless.

WITNESS STATEMENT: LOGAN MOORE

My name is Logan Moore and I am an electronic records manager for the phone company AGH, Inc. I can verify that the phone records contained in State's Exhibit D were made by, or from information transmitted by, a person with knowledge of the events or conditions recorded, were made at or near the time of the events or conditions recorded, and were made and kept in the regular course of business. I can also verify that the phone number associated with those phone records is (555) 567-0078 and the name listed on those records that is associated with that phone number is Jordan Young.

Jordan made and received numerous text messages Sunday, September 9, 2012 from 1:50 p.m. to 2:01 p.m. In fact, there are only two one-minute periods during that time with no activity, occurring from 1:52-1:53 and 1:54-1:55. Nineteen texts were sent and received by Jordan Young between 1:58 and 1:59. Twenty-three texts were sent and received between 1:59 and 2:00. Twenty-seven texts were sent and received between 2:00 and 2:01.

According to the records, Jordan Young called 911 at 2:01.

WITNESS STATEMENT: DR. ANGEL RAMSEY

My name is Angel Ramsey. I am an attending physician in the emergency department at St. David's Hospital in Georgetown, Texas. I was on duty when Danny Walker arrived at the hospital. I pronounced him dead.

I went to medical school at the University of Texas Medical School at Houston. I completed my residency in Houston as well. I have been practicing emergency medicine for 18 years. I have also been board certified in emergency medicine since 1998.

Danny Walker sustained numerous injuries. His helmet protected his head, but he had significant blunt force chest trauma and multiple rib fractures. He also sustained fractures to both upper and lower extremities. His body was covered in bruises, abrasions, and lacerations. His toxicology report showed no trace of drugs or alcohol in his system.

In my professional opinion, Danny died of multiple blunt force trauma in the collision. I pronounced him dead after he arrived at the hospital, but due to the severity of the impact, he died on scene or on the way to the hospital.

WITNESS STATEMENT: JORDAN YOUNG

My name is Jordan Young. I'm 18 years old and a senior in high school. I live with my parents here in town. I have a younger sister, Emily, who is 15. On September 9, 2012, I went to my girlfriend's house. It was her birthday so I brought her a gift. I didn't want to wait until school on Monday to give it to her. I wanted to give it to her on her actual birthday. We've been together since freshman year and birthdays are important to her. After I left my girlfriend's house, I drove home. On my way home, I received several text messages from some friends and my girlfriend. I texted them back using voice texting. It's a way to send a text message without having to type anything. I don't even have to look at my phone. I just say out loud what I want the text to say and my phone sends it. I used voice texting because it's safer. It's dangerous to look at your phone and not keep your eyes on the road.

When the accident happened, I was just driving like normal. It was an accident. The lanes are really close together. There's no barrier in between. I wasn't even looking at my phone when it happened. I was watching the road. I mean, I had to look at my phone to see who texted me and what they said, but that was only briefly. I don't know how it happened. I've never been in an accident before.

After the accident, I immediately called 911.

Jaime Davis, P.E.

565 Colorado Street, Austin, Texas, 78756

jdavis@tfe.com

Accident Reconstruction and Forensic Engineer

PROFESSIONAL HIGHLIGHTS

Forensic practice, having investigated and reconstructed over 400 traffic collisions – 26 years

Private Consulting Engineer – 8 years

PROFESSIONAL EXPERIENCE

Texas Forensic Engineering 1997 – Present
Accident Reconstruction and Forensic Engineer
Austin, Texas

Accident Analysis Consulting Engineers, LLC 1989 – 1997
Forensic Engineer, Consultant
Houston, Texas

RHC Engineering, LLC 1986 – 1989
Forensic Engineer
Houston, Texas

EDUCATION

Cornell University
Master of Engineering
Ithaca, New York
1986

Northwestern University
Bachelor of Science, Double Major in Mechanical and Chemical Engineering
Evanston, Illinois
1984

Earned Certificates of Successful Completion from the Northwestern University Traffic Institute, Evanston, Illinois, for 8 full-time (40 hour) weeks of coursework and fieldwork in traffic collision investigation and reconstruction, including the following courses: (1) Technical Collision Investigation (2 weeks); (2) Vehicle Dynamics (1 week); (3) Traffic Collision Reconstruction (2 weeks); (4) Continued Case Studies in Traffic Collision Reconstruction (1 week); (5) Microcomputer-Assisted Traffic Collision Reconstruction (1 week); (6) Motorcycle Collision Reconstruction (2 days); (7) Vehicle Lamp Examination (3 days).

CERTIFICATIONS

Licensed as a Professional Engineer: license earned by taking the National Council of Engineering Examiners' (NCEE) examination in Fundamentals of Engineering, and MECHANICAL ENGINEERING and CHEMICAL ENGINEERING sections of the National Council of Engineering Examiners' examination in Principles and Practices of Engineering. Registered under Texas Certificate Number E-50707.

Certified as a Diplomate Forensic Engineer in accordance with the standards of the Council of Engineering Specialty Boards (CESB). Senior Member No. 476 in the National Academy of Forensic Engineers.

CURRENT MEMBERSHIP IN PROFESSIONAL SOCIETIES

American Institute of Chemical Engineers ● American Society of Mechanical Engineers ● National Society of Professional Engineers ● National Academy of Forensic Engineers ● Institute of Transportation Engineers

Justice Lewis, P.E.
12 Rockies Boulevard, Colorado Springs, CO 80903
jlewis@hfe.com

EDUCATION

Duke University, Durham, NC **1972**
M.S. in Experimental Psychology
Thesis: "Effect of Perception on Driver Reaction Times"

University of Colorado-Boulder, Boulder, CO **1970**
B.S. in Psychology

AWARDS

President's Fellowship, Duke University **1971 – 1972**

PUBLICATIONS AND PAPERS

"Effects of Noise"
Presentation to the Biomedical Sciences Symposium, Singapore, 2007

"Breakthroughs in Perception Research"
Paper presented to the Association of Research in Vision and Ophthalmology Meeting, Texas, 2005

"What Determines Reaction Times?"
Paper presented to the Psychological Society Meeting, Washington, D.C., 2004

"The Wheels on the Bus: Reaction Times in School Zones"
Presentation to the National Safety Council, Nebraska, 2003

"Caution!"
Presentation to the Optical Society of America Meeting, Canada, 2002

"Human Factors Engineering Applied to Traffic Safety"
Guest speaker at the Human Factors Engineering Convention, Los Angeles, CA 2001

"Perception and Reaction Time in Drivers: A Cross-Cultural Comparison"
Paper presented at the Annual Meeting Psychology Professors, New York 1999

"The Myth of Bad Female Drivers"
Paper presented to the Historical Society for American Women, Pennsylvania 1997

MEMBERSHIPS

Human Factors and Ergonomic Society: Transportation Technical Group, Aging Technical Group,
Safety Technical Group

Forensic Professional Technical Group

Society Risk Analysis: Risk Science and Law Specialty Group

EXPERT TESTIMONY

Retained as an expert in 400 cases
Cases include criminal and personal injury defense

ANGEL RAMSEY, M.D.

2000 Scenic Drive, Georgetown, TX 78626 | (555) 943-2000 | Angel_Ramsey@stdavids.com

EDUCATION

University of Texas Health Sciences Center **1994 - 1997**
Emergency Medicine Residency

University of Texas Medical School at Houston **1994**
Doctor of Medicine
Houston, Texas

University of California **1990**
Bachelor of Science in Biological Sciences
Davis, California

BOARD CERTIFICATION

American Board of Emergency Medicine **June 1998**

PROFESSIONAL APPOINTMENTS

Texas College of Emergency Physicians **September 2002 - Present**
Member, Board of Directors

American Red Cross **1999 - 2000**
Medical Consultant

COMMITTEES

St. David's Georgetown Hospital **2006 - Present**
Chairman
ER CMPI Committee

St. David's Georgetown Hospital **2005 - Present**
Vice Chairman
Disaster Medical Response Committee

St. David's Georgetown Hospital **2002 - Present**
Co-Chairman
Nominating Committee

St. David's North Austin Medical Center **2000 - 2002**
Chief Chairman
Patient Safety Committee

PUBLICATIONS AND PAPERS

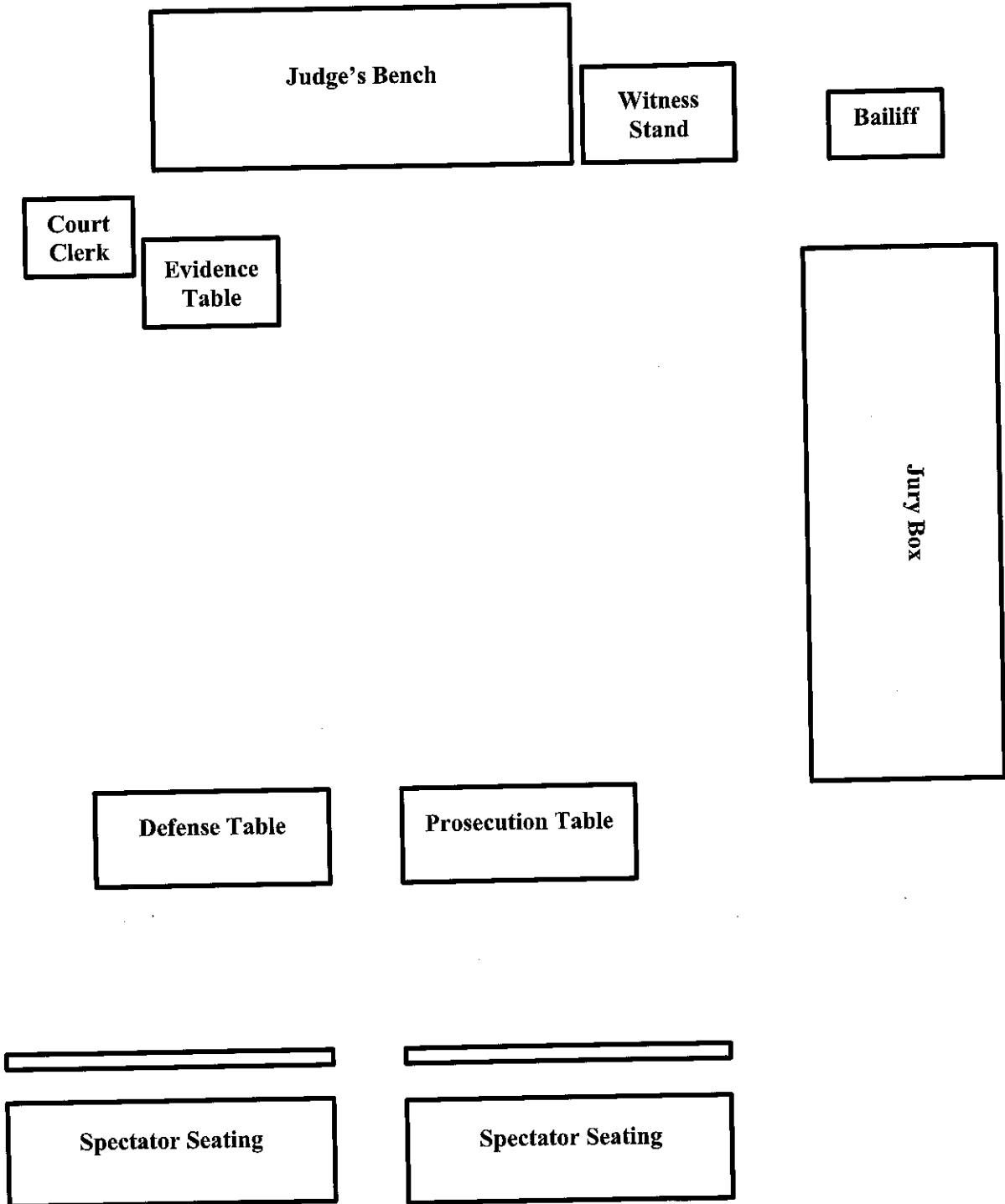
Patient or Customer: The alarming trend
Annals of Emergency Medicine, June 2010

Pediatric issues in the emergency room
Emergency Medicine Journal, September 2009, Volume 20, Issue 9

LANGUAGES

English – native language
Spanish – speak fluently and read/write with high proficiency

COURTROOM DIAGRAM



ASPECTS OF A CRIMINAL TRIAL

Elements of a Criminal Offense:

Most crimes specify a physical act, such as firing a gun, and a mental state, such as intent or recklessness. Some crimes, however, do not require a mental state in order for the defendant to be guilty. The State must prove all elements of a criminal offense. Students should understand whether each offense includes a mental state. Manslaughter and reckless driving include a mental state element the State must prove. Criminally negligent homicide does not.

The Presumption of Innocence:

In the criminal justice system, defendants are presumed innocent. The State must prove its case beyond a reasonable doubt, which is a heavy burden of proof.

Beyond a Reasonable Doubt:

The term “beyond a reasonable doubt” is not defined. It does not mean beyond all doubt. A defendant may be found guilty even though a possible doubt remains in the mind of the juror. Conversely, a defendant may be found not guilty even though jurors believe the defendant probably committed the crime.

ROLE DESCRIPTIONS

Judge:

- Maintain order in the courtroom.
- Read the charges against the defendant.
- Rule on objections and rule violations.
- Read the jury charge to the jury and make sure the foreperson receives a copy of the charge and the verdict form.
- Ask the jury foreperson to read the verdict when reached.
- Dismiss the jury.

Attorneys:

- Make opening and closing statements.
- Conduct direct and cross-examination.
- Conduct re-direct or re-cross-examination, if necessary.
- Make appropriate objections.

Witnesses:

- Supply the facts in the case.
- Take an oath.
- Testify only to the facts specifically contained in the Statement of Facts and witness statement, or reasonably inferred therefrom.

- If asked a question that cannot be reasonably inferred, respond with “I don’t know” or “I don’t remember.”

Court Clerk:

- Mark exhibits.
- Swear in the witnesses if directed to do so by the judge.

Court Bailiff:

- Announce the judge before he or she enters the courtroom, “All rise, the District Court in and for Williamson County, Texas, the Honorable Judge _____ presiding, is now in session. Please be seated and come to order.”
- Serve as the liaison between the jury and the judge during deliberations.

CONDUCT OF THE TRIAL

1. All students participating are expected to maintain proper courtroom decorum and courtesy.
2. The teacher is encouraged to implement his or her own local rules to supplement the rules contained herein.
3. Student attorneys should stand when speaking to the judge.
4. The gender-neutral names allow students of either gender to play the role of any witness.
5. Witnesses are to stay outside the courtroom until called to testify. They may remain in the courtroom after testifying.
6. The Statement of Facts and the Witness Statements are the sole sources of information for testimony. Witnesses may only testify to facts stated in or reasonably inferred from his or her witness statement or the Statement of Facts. A witness can be impeached if he or she contradicts the facts contained in his or her witness statement or the Statement of Facts using the procedure outlined in Procedures.
7. All witnesses must be called. Cross-examination is required for all witnesses. No other witnesses aside from those listed in these materials may be called.
8. It is within the teacher's discretion where the student attorneys should stand during examination of witnesses. Possibilities include remaining at the counsel's table, standing at a podium, or free range to move about the courtroom.
9. The State must offer the exhibits listed in Evidence. Students may create additional exhibits subject to the reasonable inference rule. However, such additional exhibits require teacher approval and production of the exhibit to the opposing party prior to trial and with reasonable notice.
10. Student attorneys may conduct re-direct or re-cross-examination when appropriate.

11. Whether witnesses may use notes while testifying is within the discretion of the teacher.
12. This mock trial is governed by the Rules of Evidence contained in these materials. Only specified types of objections may be used.
13. Objections are not allowed during opening statements or closing arguments.
14. Only issues raised in closing arguments may be raised during rebuttal. The State does not have to formally reserve rebuttal.
15. If there is a rule violation, it is up to the student attorney to bring it to the attention of the judge. Approaching the bench for bench conferences is not allowed. The judge will determine whether the rule was violated and his or her ruling is final. Consequences for rule violations are within the discretion of the teacher and could include exclusion of the violator's evidence or a reduction in time allowed for opening statement, direct examination, or closing statement.
16. The courtroom diagram is only a suggestion.
17. Whether time limits are imposed during the trial is within the discretion of the teacher.

Suggested time limits, if imposed at all, are as follows:
 - a. Opening Statement and Closing Argument – 10 minutes
 - b. Direct and Re-direct Examination – 20 minutes
 - c. Cross-Examination – 10 minutes
 - d. Re-Cross-Examination – 5 minutes
 - e. Rebuttal – 5 minutes

PROCEDURES

Opening Statements:

1. The attorney should introduce himself or herself to the jury.
2. Present the facts of the case in the form of a story.
3. The State's Attorney should tell the jury what he or she will prove, mentioning the burden of proof, and how he or she will prove it. The Defense Attorney should tell the jury the defendant is not guilty and highlight the facts that support innocence.
4. The Defense Attorney should introduce the defendant.
5. Do not make arguments. Only give facts.

Offering Exhibits:

1. Say to the judge, "Your Honor, may I approach the witness?" Wait for permission.
2. After the judge grants permission, say to the witness, "I hand you what has been marked for identification as State's Exhibit _____. What is it?"
3. After the witness responds, take the exhibit back from the witness and say, "The State offers Exhibit _____."
4. Show the exhibit to opposing counsel and wait to see if he or she objects.
5. Respond to any objection and wait for the judge to admit the exhibit.
6. Once the judge admits the exhibit, the attorney may ask to publish to the jury or may hand the exhibit back to the witness for further questions about the exhibit.

Direct Examination:

1. Choose questions that are organized and tell the story.
2. Do not use leading questions. Start a question with who, what, where, when, why, or how.
3. Call the witness by saying, "The State/Defense calls _____."
4. The judge will give the oath to the witness, "Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?"
5. After the witness is sworn in, ask introductory questions, such as the witness's name, occupation, professional qualifications, and/or connection to the case.
6. Keep the witness on topic.
7. Conclude by thanking the witness and passing the witness to opposing counsel for cross examination. "Thank you. Pass the witness."

Cross-Examination:

1. Choose organized questions that force the witness to tell the story the cross-examining attorney told in opening statement.
2. Use leading questions. Example: "You called three times, didn't you?"
3. Conclude by saying, "No further questions."

Impeaching a Witness:

Impeaching a witness calls the credibility of the witness into question. This can be done with a prior inconsistent statement, for example something the witness told police in a statement that

contradicts what he or she is testifying to on the stand. Other methods for impeaching a witness are not applicable to the Statement of Facts herein. On cross-examination, the attorney should:

1. Identify the statement given by the witness during direct examination.
2. Point out that the witness took an oath before giving his or her testimony.
3. Ask the witness if he or she was telling the truth when he or she made the statement.
4. Ask the witness if he or she made the contradictory statement, possibly reading it from the source to the witness.
5. Do not argue with the witness. Take the answer given. Even if the witness lies, the jury will doubt the witness's credibility.

Re-Direct Examination:

1. If re-direct is necessary, only ask questions related to issues and facts brought out in the preceding cross-examination.
2. Do not use leading questions.
3. Ask questions that clarify the issue or fact brought out in the preceding cross-examination or redeem the credibility of the witness if attacked in cross-examination.

Re-Cross-Examination:

1. If re-cross is necessary, only ask questions related to issues and facts brought out in the re-direct examination.
2. Use leading questions.
3. Ask questions that attack the clarification or the attempt to redeem credibility.

Closing Argument:

1. Be organized.
2. Summarize the case.
3. Be passionate.
4. Emphasize supporting facts.
5. Do not raise any new facts.
6. Address any weaknesses brought out by the opposing side.
7. The State's Attorney should show how the State has proved its case beyond a reasonable doubt.
8. The Defense Attorney should raise questions that show the existence of a reasonable doubt.
9. Conclude with an appeal to convict or acquit the defendant.

Rebuttal:

1. Only address issues raised in the opponent's closing argument.
2. Do not merely repeat arguments made in closing.

OBJECTIONS

All evidence will be admissible unless a student attorney objects. Because the rules of evidence are complex, in order to promote the educational objectives of this mock trial, students are restricted to using the following objections during trial. It is the responsibility of the party opposing admission of a statement or evidence to prevent its admission by making a timely and specific objection. Objections not raised in a timely manner are waived. Students should understand the effect of objections on a jury. Jurors see the judge as the smartest person in the room. An overruled objection can have a detrimental effect on the jury's perception of the lawyer who made the objection. Objections make a lawyer seem argumentative, and thus, unlikeable. Also, objecting may be perceived as trying to hide something. Therefore, a student attorney should only make an objection in a situation that is truly harmful to his or her case.

The judge will rule on all objections and his or her ruling is final. Students should learn how to proceed in the face of an unfavorable ruling. A proper objection includes what the student objects to and the specific grounds for objecting. Example: "Objection, Your Honor. The question calls for speculation."

Allowable Objections¹:

1. Argumentative Question

This type of question is asked for the purpose of arguing with the witness. Example: "Do you really expect the jury to believe you?"

"Objection. The question is argumentative."

2. Character Evidence

Witnesses generally cannot testify about a person's character unless it is an issue. In criminal trials, the defendant may introduce evidence of his or her good character, and if

relevant, show the bad character of another witness. Once the defendant does so, the prosecution can prove the opposite is true.

“Objection, Your Honor. The question calls for inadmissible character evidence.”

3. Compound Question

A question that contains two or more questions is multifarious, or compound.

“Objection. The question is a compound question.”

4. Facts Not in Record

Though not available in a real trial, if a student believes a witness has stated facts not specified in the Statement of Facts or witness statement or not reasonably inferred, he or she should use the following objection:

“Objection. The witness has stated a material fact that is not in the record.”

5. Hearsay

Hearsay is an out-of-court statement offered to prove the truth of the matter asserted. Hearsay is considered untrustworthy because the speaker, or declarant, is not under oath or cross-examined. Example: “Matt told me that he saw Jeremiah stab Cameron.” If offered to prove Jeremiah stabbed Cameron, this is inadmissible hearsay. Students must understand that if the statement is not offered to prove the truth of the matter asserted, it is not hearsay. Example: “Jeremiah told me Cameron was after him.” If offered to prove Jeremiah believed Cameron was after him and not that Cameron was in fact after Jeremiah, the statement is not hearsay.

“Objection. The question calls for hearsay.”

See the Rules of Evidence for exceptions to the hearsay rule.

6. Leading Question

A leading question is one that suggests the desired answer. Leading questions are only permitted on cross-examination or re-cross—not on direct or re-direct examination. Example: “Didn’t Jeremiah tell you Cameron was after him?” To rephrase into a non-leading question, the attorney should ask, “What did Jeremiah tell you?”

“Objection. The question is leading.”

7. Narrative Question

A narrative question is a general question that asks the witness to recite what the witness knows instead of asking specific questions. This makes it impossible for opposing counsel to object to potentially inadmissible testimony before it is given. Example: "Tell us everything you did that day."

"Objection. The question calls for a narrative."

8. Non-Responsive Witness

A non-responsive witness either fails to respond to a question or exceeds the scope of the question. Technically, this objection is available only to the attorney who is examining the witness. The examining attorney has a right to require a witness to respond to a proper question.

"Objection. The witness is non-responsive."

9. Opinion of Expert Witness

An expert witness may give an opinion based on his or her education, training, professional experience, and/or knowledge. A qualified expert may give an opinion based upon what he or she observes as well as facts made known to him or her outside the courtroom. Experts may give opinions on ultimate issues like causation.

"Objection. The witness is not qualified to give an opinion about _____."

10. Opinion of Lay Witness

Generally, lay witnesses are limited to testimony of their perception and not their opinion. However, a lay witness may give his or her opinion if it is rationally based on the witness' perception and will help the jury clearly understand the testimony or determine a fact in issue. Example: A witness could give his or her opinion that the defendant was drunk based on observation that the defendant was staggering, slurring his words, smelled of alcohol, and had blood shot eyes.

"Objection. The question calls for inadmissible opinion testimony."

11. Personal Knowledge

A witness may not testify unless he or she has personal knowledge about the matter. This means the witness has directly observed what he or she is testifying about. If a witness is making inferences, speculating, or guessing, an attorney may properly object because the witness has no personal knowledge of the inference, speculation, or guess.

“Objection. The witness has no personal knowledge to answer that question.”

12. Relevance

Evidence must be relevant to be admissible. Evidence is relevant if it makes a fact more or less probable than it would be without the evidence.

“Objection. The question calls for testimony that is not relevant because _____.”

Since the admissibility of the exhibits included in these materials is stipulated, this objection will only pertain to newly created exhibits or examination of witnesses.

Students should understand that both direct and circumstantial evidence may be admitted. Direct evidence proves the fact asserted while circumstantial evidence is a fact that, if shown to exist, implies the existence of an additional fact. Example: Eyewitness testimony that the defendant stabbed the victim is direct evidence of murder. Testimony that the defendant and victim were in a heated argument hours before the murder occurred is circumstantial evidence of murder.

RULES OF EVIDENCE²

ARTICLE I. GENERAL PROVISIONS

Rule 101. Scope

These Rules of Evidence govern the mock trial of *State v. Young*.

Rule 102. Purpose and Construction

These Rules are intended to secure fairness in administration of the trial, eliminate unjust delay, and promote the laws of evidence so that the truth may be ascertained.

ARTICLE II. JUDICIAL NOTICE -- Not Applicable

ARTICLE III. PRESUMPTIONS IN CIVIL ACTIONS AND PROCEEDINGS -- Not Applicable

ARTICLE IV. RELEVANCY AND ITS LIMITS

Rule 401. Definition of "Relevant Evidence"

"Relevant Evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

Rule 402. Relevant Evidence Generally Admissible: Irrelevant Evidence Inadmissible

All relevant evidence is admissible, except as otherwise provided in these Rules. Irrelevant evidence is not admissible.

Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time

Although relevant, evidence must be excluded if its probative value is outweighed by the danger of unfair prejudice, if it confuses the issues, if it is misleading, or if it causes undue delay, wastes time, or is a needless presentation of cumulative evidence.

Generally, only relevant testimony and evidence may be presented. This means that the only physical evidence and testimony allowed is that which tends to make a fact that is important to the case more or less probable than the fact would be without the evidence. However, if the relevant evidence is unfairly prejudicial, may confuse the issue, or is a waste of time, the court may exclude it. This may include testimony, pieces of evidence,

and demonstrations that have no direct bearing on the issues of the case and have nothing to do with making the issues clearer.

Rule 404. Character Evidence Not Admissible to Prove Conduct, Exceptions; Other Crimes

(a) Character Evidence. Evidence of a person's character or character trait, is not admissible to prove action regarding a particular occasion, except:

- (1) Character of accused. Evidence of pertinent character trait offered by an accused, or by the Plaintiff to rebut same;
- (2) Character of victim. Evidence of a pertinent character trait of the victim of the crime offered by an accused, or by the Plaintiff to rebut same, or evidence of a character trait of peacefulness of the victim offered by the Plaintiff in a homicide case to rebut evidence that the victim was the aggressor;
- (3) Character of witness. Evidence of the character of a witness as provided in Rules 607, 608 and 609.

Evidence about the character of a party or witness (other than his character for truthfulness or untruthfulness) may not be introduced unless the person's character is at issue in the case. (For example, whether one spouse has been unfaithful to another is a relevant issue in a civil trial for divorce, but is not an issue in a criminal trial for theft. Similarly, a person's good character may be relevant in a criminal trial where entrapment is a defense, but not an issue in a civil trial for breach of contract.)

(b) Other crimes, wrongs, or acts. Evidence of other crimes, wrongs, or acts is not admissible to prove character of a person in order to show an action conforms to character. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Rule 405. Methods of Proving Character

(a) Reputation or opinion. In all cases where evidence of character or a character trait is admissible, proof may be made by testimony as to reputation or in the form of an opinion. On cross-examination, questions may be asked regarding relevant, specific conduct.

(b) Specific instances of conduct. In cases where character or a character trait is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person's conduct.

Rule 406. Habit, Routine Practice

Evidence of the habit of a person or the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization, on a particular occasion, was in conformity with the habit or routine practice.

Rule 407. Subsequent Remedial Measures

When measures are taken after an event which, if taken before, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose - such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

Rule 410. Inadmissibility of Pleas, Plea Discussions, and Related Statements

Except as otherwise provided in this Rule, evidence of the following is not, in any civil or criminal proceeding, admissible against a defendant who made the plea or was a participant in the plea discussions:

- (1) a plea of guilty which was later withdrawn;
- (2) a plea of nolo contendere;
- (3) any statement made in the course of any proceeding under Rule 11 of the Federal Rules of Criminal Procedure or comparable state proceeding regarding either of the foregoing pleas; or
- (4) any statement made in the course of plea discussions with an attorney for the prosecuting authority which does not result in a plea of guilty or which results in a plea of guilty which is later withdrawn.

However, such a statement is admissible (1) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought, in fairness, be considered with it, or (2) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record and in the presence of counsel.

ARTICLE V. PRIVILEGES

Rule 501. General Rule

There are certain admissions and communications excluded from evidence on grounds of public policy. Among these are:

- (1) communications between husband and wife;
- (2) communications between attorney and client;
- (3) communications among grand jurors;
- (4) secrets of state; and
- (5) communications between psychiatrist and patient.

ARTICLE VI. WITNESSES

Rule 601. General Rule of Competency

Every person is competent to be a witness.

Rule 602. Lack of Personal Knowledge

A witness may not testify to a matter unless the witness has personal knowledge of the matter.

Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, related to opinion testimony by expert witnesses.

Rule 603. Oath or Affirmation

Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation, administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so.

Rule 607. Who May Impeach

The credibility of a witness may be attacked by any party, including the party calling the witness.

Rule 608. Evidence of Character and Conduct of Witness

(a) Opinion and reputation evidence of character. The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence, or otherwise.

(b) Specific instances of conduct. Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime

as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the Court, if probative of truthfulness or untruthfulness, be asked on cross examination of the witness (1) concerning the witness' character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross examined has testified.

Testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination with respect to matters related only to credibility.

Rule 609. Impeachment by Evidence of Conviction of Crime (This rule applies only to witnesses with prior convictions.)

(a) **General Rule.** For the purpose of attacking the credibility of a witness, evidence that a witness other than the accused has been convicted of a crime shall be admitted if elicited from the witness or established by public record during cross-examination, but only if the crime was punishable by death or imprisonment in excess of one year, and the Court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused. Evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of the punishment.

(b) **Time Limit.** Evidence of a conviction under this Rule is not admissible if a period of more than 10 years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the Court determines that the value of the conviction substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

(c) **Effect of pardon, annulment, or certificate or rehabilitation.** Evidence of a conviction is not admissible if (1) the conviction has been the subject of a pardon or other equivalent procedure based on a finding of the rehabilitation of the person convicted of a subsequent crime which was punishable by death or imprisonment in excess of one year, or (2) the conviction has been the subject of a pardon or other equivalent procedure based on a finding of innocence.

(d) **Juvenile adjudication.** Evidence of juvenile adjudication is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.

(e) Not Applicable

Rule 610. Religious Beliefs or Opinions

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced;

Rule 611. Mode and Order of Interrogation and Presentation

(a) Control by Court. The Court shall exercise reasonable control over questioning of witnesses and presenting evidence so as to:

- (1) make the questioning and presentation effective for ascertaining the truth,
- (2) avoid needless use of time, and
- (3) protect witnesses from harassment or undue embarrassment.

(b) Scope of cross examination. The scope of the cross examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness' statement, including all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement that are otherwise material and admissible.

(c) Leading questions. Leading questions should not be used on direct examination of a witness (except as may be necessary to develop the witness' testimony). Ordinarily, leading questions are permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, leading questions may be used.

(d) Redirect/Re-cross. After cross examination, additional questions may be asked by the direct examining attorney, but questions must be limited to matters raised by the attorney on cross examination. Likewise, additional questions may be asked by the cross examining attorney or re-cross, but such questions must be limited to matters raised on redirect examination and should avoid repetition.

Rule 612. Writing Used to Refresh Memory

If a written statement is used to refresh the memory of a witness either while testifying or before testifying, the Court shall determine that the adverse party is entitled to have the writing produced for inspection. The adverse party may cross examine the witness on the material and introduce into evidence those portions which relate to the testimony of the witness.

Rule 613. Prior Statements of Witnesses

Examining witness concerning prior statement: In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.

Extrinsic evidence of prior inconsistent statement of witness: Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate.

ARTICLE VII. OPINIONS AND EXPERT TESTIMONY

Rule 701. Opinion Testimony by Lay Witness

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue.

Rule 702. Testimony by Experts

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify in the form of an opinion or otherwise.

Rule 703. Bases of Opinion Testimony by Experts

The facts or data upon which an expert bases an opinion may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the field in forming opinions or inferences, the facts or data need not be admissible in evidence.

Rule 704. Opinion on Ultimate Issue

- (a) Opinion or inference testimony otherwise admissible is not objectionable because it embraces an issue to be decided by the trier of fact.
- (b) In a criminal case, an expert witness shall not express an opinion as to the guilt or innocence of the accused.

Rule 705. Disclosure of Facts or Data Underlying Expert Opinion

The expert may testify in terms of opinion or inference and give reasons therefor without prior disclosure of the underlying facts or data, unless the Court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross examination.

ARTICLE VIII. HEARSAY

Rule 801. Definitions

The following definitions apply under this article:

(a) Statement. A “statement” is an oral or written assertion or nonverbal conduct of a person, if it is intended by the person as an assertion.

(b) Declarant. A “declarant” is a person who makes a statement.

(c) Hearsay. “Hearsay” is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(d) Statements which are not hearsay. A statement is not hearsay if:

(1) Prior statement by witness. The declarant testifies at the trial or hearing and is subject to cross examination concerning the statement and the statement is (A) inconsistent with the declarant’s testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with the declarant’s testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person; or

(2) Admission by a party-opponent. The statement is offered against a party and is (A) the party’s own statement in either an individual or a representative capacity of (B) a statement of which the party has manifested an adoption or belief in its truth, or (C) a statement by a person authorized by the party to make a statement concerning the subject, or (D) a statement by the party’s agent or servant concerning a matter within the scope of the agency or employment, made during the existence of relationship, or (E) a statement by a co-conspirator of a party during the course in furtherance of the conspiracy.

Rule 802. Hearsay Rule

Hearsay is any statement that is made out of court that is offered in evidence to prove that the matter asserted in the statement is true. Hearsay is not admissible, except as provided by these rules.

Rule 803. Hearsay Exceptions, Availability of Declarant Immaterial

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

- (1) Present sense impression. A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.
- (2) Excited utterance. A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.
- (3) Then existing mental, emotional, or physical conditions. A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.
- (4) Statements for purposes of medical diagnosis or treatment. Statements made for the purpose of medical diagnosis or treatment.
- (5) Recorded Recollection. A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly.
- (6) Records of regularly conducted activity. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.
- (18) Learned treatises. To the extent called to the attention of an expert witness upon cross examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the

testimony or admission of the witness or by other expert testimony or by judicial notice.

(21) Reputation as to character. Reputation of a person's character among associates or in the community.

(22) Judgment of previous conviction. Evidence of a judgment finding a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a criminal Plaintiff for purposes other than impeachment, judgments against persons other than the accused.

Rule 804. Hearsay Exceptions, Declarant Unavailable

(a) Definition of unavailability. "Unavailability as a witness" includes situations in which the declarant

(1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement; or

(2) persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so; or

(3) testifies to a lack of memory of the subject matter of the declarant's statement; or

(4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(5) is absent from the hearing and the proponent of a statement has been unable to procure the declarant's attendance (or in the case of a hearsay exception under subdivision (b)(2), (3), or (4), the declarant's attendance or testimony) by process or other reasonable means.

A Declarant is not unavailable as a witness if exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.

(b) Hearsay exceptions: The following are not excluded by the hearsay rule if the Declarant is unavailable as a witness:

(1) Former testimony. Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered or, in a civil action or proceeding, a predecessor in interest, had an

opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(2) Statement under belief or impending death. In a prosecution for homicide or in a civil action or proceeding, a statement made by a Declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the Declarant believed to be impending death.

(3) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the Declarant to civil or criminal liability, or to render invalid a claim by the Declarant against another, that a reasonable person in the Declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the Declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

(4) Statement of personal or family history. (A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though Declarant had no means of acquiring personal knowledge of the matter stated; (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as likely to have accurate information concerning the matter declared.

(6) Forfeiture by wrongdoing. A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

Rule 805. Hearsay within Hearsay

Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statement conforms with an exception to the hearsay rule provided in these rules.

ARTICLE IX. AUTHENTICATION AND IDENTIFICATION – Not Applicable

ARTICLE X. CONTENTS OF WRITING, RECORDINGS AND PHOTOGRAPHS – Not Applicable

ARTICLE XI. OTHER