

RIGHTS OF THE ACCUSED

MINNESOTA V. RONALD RIFF: A CRIMINAL MOCK TRIAL

Procedure cont.

Day 7-8: Learn rules of evidence. Complete **Students Handouts: RULES OF EVIDENCE WORKSHEETS NUMBER 1 AND NUMBER 2**. Practice making ruling on objections.

Day 1-12: Conduct Mock Trial

Day 13-15: Have students read **Student Handout: SEARCH AND SEIZURE** and complete **Student Handout: HYPOTHETICAL SEARCH SITUATIONS**. Discuss.

Student Handout: SEARCH AND SEIZURE

Search and Seizure with a Warrant

The police officer needs to conduct searches to gather evidence against persons suspected of crimes. In interpreting the Fourth Amendment, the Courts have set down general guidelines for issuing search warrants for searches and seizures. To get a search warrant, the person - usually a police officer, must have **PROBABLE CAUSE**. This means that he/she has facts and information that provides a good reason to believe that a search is justified. The officer must swear under oath that the information he/she is giving is true to the best of his/her knowledge. The search warrant must specifically describe the person or place to be searched and the items to be seized. This warrant does not authorize a **GENERAL SEARCH**. This warrant must be issued by a judge.

Searches and Seizures without a Warrant

The courts have recognized that there are some situations in which a search can be conducted without a search warrant.

- 1. LAWFUL INSPECTION:** airport and border searches.
- 2. CONSENT:** A person (suspect) agrees to be searched without a warrant or probable cause.

Example: Two police officers knock on the door of a home. The owner of the house answers the door. The officers ask to search the room of the woman's sixteen year old son for narcotics. The officers say: "You need not give consent if you do not wish to. The search will not be made if you do not consent. If you consent, anything we may find may be used against your son in criminal prosecution."

The father gives consent, and the officers find some narcotics under the son's pillow.

- 3. INCIDENT TO LAWFUL ARREST:** Police search a lawfully arrested person for weapons or evidence before it is destroyed.

Example: A person breaks into a drugstore window and sets off a burglar alarm. An officer, responding to the alarm, arrives just as the burglar is climbing into his car. The officer arrests the burglar and searches his car, finding watches, electric razors, and other items possibly stolen from the drugstore or other stores.

- 4. EMERGENCY:** Situations such as bomb threats and fires when there isn't time to get a warrant.

Student Handout: SEARCH AND SEIZURE cont.

Example: Neighbors call the police to report that they have not seen a seventy year old man in or around his home for the past two days. The neighbors say they are worried because he lives alone and had a heart attack a few years previously.

When the officers approach the house, they see the newspapers from the last two days at the front door. After ringing the door bell and knocking at the front and back doors, they look in and knock on the window. Finding all the doors and windows locked, they break a window and enter.

5. PLAIN VIEW: Objects related to a crime are in plain view of an officer during lawful performance of his/her duty.

Example: A police officer is asked to go to a residence because of a complaint from a neighbor. The police officer is waiting for someone to answer the door, the officer observes controlled substances on the kitchen table. The officer also observes people using different methods of ingesting these substances. The officer goes into the house and arrests the people for illegal use of a controlled substance.

6. STOP AND FRISK: A police officer stops a person when the officer has good reason to believe the person has weapons and is acting suspiciously. Personal safety of the officer and the public good allow the police to stop and frisk.

Example: An officer sees three men on a street corner. The three men take turns walking up and down the street. They go into a store on the street and then meet outside and confer. After they have done this numerous times, the police officer approaches them, identifies himself/herself as a police officer and asks them for identification. The individuals give inarticulate responses. The officer fearing that they may be armed, pats them down and finds guns on two of the three individuals. The officer arrests the two individuals for having concealed weapons. (The arrest was based on years of experience as a police officer. This experience lead him/her to believe that these individuals were acting in a manner that might suggest they were "casing" the store for a robbery. The officer feared for his life and the well being of the public.)

7. SEARCHING AN AUTOMOBILE FOR ILLEGAL ITEMS: If an officer has good reason (probable cause) to believe an automobile contains illegal items he/she may conduct a legal search of the automobile. An automobile requires less probable cause than a residence because evidence in an automobile may be moved and destroyed.

Example: A police officer is given information by a reliable informant that an individual has a large amount of cocaine in his car. The informant identifies the individual and the automobile. The police observe the automobile and make a positive identification. They stop the car and search it for the cocaine.

Student Handout: HYPOTHETICAL SEARCH SITUATIONS

1. Use the information contained in the *prosecution witness sheets* in the **CASEBOOK** to gather information designed to help Officer Terry Schield of the Midtown, Minnesota Police Department to obtain a warrant for the search of the home of Ronald Riff, a suspect in the burglary of Marquette's Market.
 - A. What do you think Officer Terry Schield would expect to find at the Riff residence?
 - B. From which witnesses did Officer Schield obtain information to convince him/her that these items are **probably** in the Riff home? Rate the reliability of each of these witnesses.
 - C. What information would be included on the warrant that Officer Schield is trying to obtain?
 - D. List two situations in which Officer Schield could conduct a legal search without a search warrant.
 - E. If Officer Schield searches the home of Ronald Riff illegally, and finds absolute proof that Riff burglarized the market, should the proof be allowed to be used in court? Why or why not?

2. Examine the following hypothetical situations and decide if Officer Schield is conducting a legal search or not, and state facts from the **Student Handout: SEARCH AND SEIZURE** to support your answer.
 - A. Officer Schield knocks on Riff's door. Riff answers the door and invites the officer in. The officer spots the money bag and hammer on Riff's kitchen table.
 - B. Officer Schield knocks on Riff's door. No one answers the knock. The officer tries the door and discovers that it's unlocked. He/she enters the house and conducts a complete search.
 - C. Officer Schield knocks on Riff's door. Riff is not home but his mother answers the knock. She gives the officer permission to search her son's room. He/she finds a money bag, a hammer and several checks made out to Marquette's Market in Riff's room.
 - D. Officer Schield does not search Riff's home, but does a search of the trash can in the alley at the rear of the house. The officer finds the money bag, a hammer, and checks made out to Marquette's market.
 - E. Officer Schield conducts a search of the bushes along the property line between the Riff home and Betty Biddy's house next door, where he/she finds the items listed in the example above.

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Student Handout: HYPOTHETICAL SEARCH SITUATIONS cont.

F. Officer Schield spots Riff exit the rear door of Marquette's Market at 12:25 a.m. Riff is carrying a money bag and hammer. The lock on the rear door of the market has clearly been smashed. Schield arrests Riff and searches the bag. He/she finds \$910.00 and several checks made out to Marquette's Market in the bag.

G. Officer Schield stops Riff's vehicle for failure to yield as he exits the alley behind Marquette's Market. The officer's search of the car turns up the \$910.00, the money bag, the hammer, and the checks made out to the market.

H. Officer Schield, with an arrest warrant, enters Riff's home and makes an arrest. He/she then conducts a search of the house. In the attic, Schield finds the money bag, hammer, and checks made out to the market.

I. Officer Schield sees Ronald Riff acting in a suspicious manner in the alley behind Marquette's Market. He asks Riff a few questions, to which Riff fails to respond. The officer then frisk searches Riff and in the pocket of Riff's jacket finds a hammer and money bag containing \$910.00 and several checks.

J. Ronald Riff lives in apartment 22B. Officer Schield mistakenly lists the address on a search warrant as 22A. The officer uses the warrant to search the Riff apartment and finds the money bag, hammer, and cash.

K. Based upon a tip from a reliable informant, Officer Schield goes to the R. V. in which Riff lives. Fearing that Riff might soon leave, Schield searches the R.V. without a warrant and finds the money bag, \$910.00, the hammer and the checks.

L. Officer Schield pretends to be a person willing to cash checks made out to others. Riff invites the officer into his home for a discussion. The officer conducts a search of Riff's kitchen while Riff is elsewhere in the house. The officer finds the money bag, \$910.00, the checks and the hammer.

M. Riff spots officer Schield following him from the market. Riff runs to his house with the officer in pursuit, the officer enters Riff's home and searches Riff. He/she finds the money bag, \$910.00, hammer and checks.

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ANSWER KEY: Hypothetical Search Situations

- 2. **A.** This is a legal search under the plain view doctrine. *Coolidge v. New Hampshire.*
- 2. **B.** This is an illegal search of a home without a warrant. *Mapp v. Ohio.*
- 2. **C.** This is a legal search because of parental consent. *Schneckloth v. Bustamonte.*
- 2. **D.** Not considered a search by the court due to lack of a reasonable expectation of privacy. *California v. Greenwood/ Katz v. United States.*
- 2. **E.** Not a search. (See 2.d.)
- 2. **F.** This is a legal search incident to lawful arrest. *Chimel v. California.*
- 2. **G.** Legal search of a vehicle. Vehicles require less probable cause because they can be moved and evidence destroyed. *Bailey v. United States.*
- 2. **H.** Illegal search of the house. The arrest warrant only allows the police officer to search the area within the suspects reach. *Chimel v. California.*
- 2. **I.** This is a legal frisk search based on suspicion, danger to the officer, and danger to the public. *Terry v. Ohio.*
- 2. **J.** This is a legal search because the police officer acted in good faith. *Maryland v. Garrison.*
- 2. **K.** This is a legal search of a vehicle. *California v. Carney.*
- 2. **L.** This is a legal search based on trickery (undercover police officer posing as a drug buyer). *Lewis v. United States.*
- 2. **M.** This is a legal search because the police were in "hot pursuit" of a suspect. *Warden v. Hayden.*

Student Handout: RULES OF EVIDENCE WORKSHEET NUMBER 1

DIRECTIONS: The following statements have been given on the witness stand. Read each statement carefully and decide if it is *admissible* or *inadmissible* based on the Rules of Evidence. If you decide the statement constitutes inadmissible evidence, give the Rule(s) of Evidence that was violated.

1. CROSS EXAMINE BY THE DEFENSE ATTORNEY-

"Isn't it true that the defendant was wearing a green jacket when you saw him?"

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

2. DIRECT EXAMINATION BY THE PROSECUTION ATTORNEY-

"Officer Badge, entry into the drug store was made through the broken window, wasn't it?"

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

3. WITNESS TESTIMONY DURING CROSS EXAMINATION-

"The defendant has never been arrested before and is a good student at Midtown High School."

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

4. CROSS EXAMINATION BY THE DEFENSE ATTORNEY-

"On the night of the alleged burglary the bartender stopped serving drinks at 6:45 P.M., isn't that true?"

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

5. WITNESS TESTIMONY DURING DIRECT TESTIMONY-

"The next morning when I heard about the drug store being broken into I reported to the police that I had seen the defendant in the area of the break in the night of the crime."

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

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Student Handout: RULES OF EVIDENCER WORKSHEET NUMBER 1 cont.

6. WITNESS TESTIMONY DURING DIRECT EXAMINATION-

"The knife I sold to the defendant could have been used to pry open the cash register and drug cabinet in the drug store."

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

7. WITNESS TESTIMONY DURING DIRECT EXAMINATION-

"The defendant ran underneath the light in the alley, and I saw his band jacket from the back."

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

8. DIRECT EXAMINATION BY THE PROSECUTION ATTORNEY-

"Isn't it true that Ronnie Riff is the best guitar player in Midtown?"

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

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Student Handout: RULES OF EVIDENCE WORKSHEET NUMBER 2

DIRECTIONS: The following statements have been given on the witness stand. Read each statement carefully and decide if it is *admissible* or *inadmissible* based on the Rules of Evidence. Give the Rule(s) of Evidence that has been violated and a brief explanation.

1. CROSS EXAMINATION BY DEFENSE ATTORNEY-

"Isn't it true, Mr. Ripple, that on the night of the alleged burglary you had been drinking?"

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

2. DIRECT EXAMINATION BY PROSECUTION ATTORNEY-

"I've lived next door to the Riff family all of my life. I've watched Gordy grow up. He is a nice boy and would never rob anyone."

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

3. DIRECTION EXAMINATION BY PROSECUTION ATTORNEY-

"I saw the Riff kid in front of the drug store at about 12:30 A.M., right before he robbed it."

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

4. DIRECT EXAMINATION BY DEFENSE ATTORNEY-

"Ben Leick told me that he heard from Don Burroughs that Ronnie Riff had lost a great deal of money at Red's Pleasure Palace."

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

5. WITNESS EXAMINATION BY DEFENSE ATTORNEY-

"The day after Ronnie Riff burglarized my store, he was arrested."

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

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Student Handout: RULES OF EVIDENCE WORKSHEET NUMBER 2 cont.

6. WITNESS TESTIMONY DURING DIRECT EXAMINATION-

"I think the hammer taken by the defendant from my auto repair shop was the object that was used to break into the cash register." (witness is Rusty Fender - auto body repair person)

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

7. WITNESS TESTIMONY DURING DIRECT EXAMINATION-

"The defendant ran underneath the light in the alley and I saw his band jacket from the back."

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

8. DIRECT EXAMINATION BY THE PROSECUTION ATTORNEY-

"Isn't it true that the defendant is a person with a gambling problem who seldom pays his debts?"

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

9. DIRECT EXAMINATION BY PROSECUTION ATTORNEY-

"On the night of the alleged burglary, you saw Ronnie Riff in the alley behind the market?"

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

10. CROSS EXAMINATION BY THE DEFENSE ATTORNEY-

"On the night of the alleged burglary, the poker game broke up at 12:05 A.M., isn't that true?"

ADMISSIBLE _____ INADMISSIBLE _____ REASONS:

ANSWER KEY: Rules of Evidence Worksheet Number 1 and Number 2

Rules of Evidence Worksheet Number 1

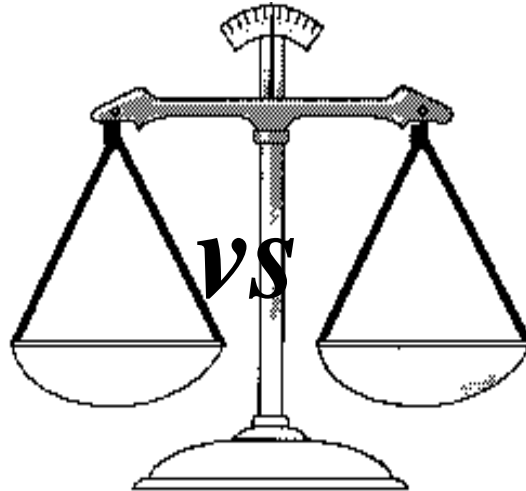
- 1.** Admissible (leading questions during cross examination are proper.)
- 2.** Inadmissible (leading questions on direct)
- 3.** Inadmissible (character of the accused)
- 4.** Admissible
- 5.** Inadmissible (use of the word "crime" is a conclusion)
- 6.** Inadmissible (opinion by a non-expert witness)
- 7.** Admissible
- 8.** Inadmissible (leading question on direct, calls for an opinion, is irrelevant)

Rules of Evidence Worksheet 2

- 1.** Admissible
- 2.** Inadmissible (opinion and character)
- 3.** Inadmissible (conclusion)
- 4.** Inadmissible (hearsay)
- 5.** Inadmissible (conclusion)
- 6.** Inadmissible (opinion)
- 7.** Admissible
- 8.** Inadmissible (leading question on direct, and character)
- 9.** Inadmissible (leading)
- 10.** Admissible

Simulation Casebook

Minnesota



Ronald Riff

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Pat Curran and Gary Strauch
Oak-Land Junior High School
Lake Elmo, MN*

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PLAYER ROSTER FOR: STATE OF MINNESOTA V. RONALD RIFF

JUDGE: HON. RICH CHAMBERS

PROSECUTION ATTORNEYS (2 OR 3)

DEFENSE ATTORNEYS (2 OR 3)

PROSECUTION WITNESSES (10):

BETTY BIDDY

GUIDO CONCERTINO

RUSTY FENDER

SPEEDY MARQUETTE

MARTY MARTINI

OTIS RIPPLE

TERRY SCHIELD

C. SHARP

MELVIN STRONGARM

SOAPY WATERS

DEFENSE WITNESSES (9):

HAROLD ANGEL

VIBES BLARE

RED CHIPS

GIGIGIG

ACE HARTE

JACQUES ORBEDDER

RONALD RIFF

MATILDA SLICK

SALLY SLICK

JURY MEMBERS: (2-8)

PROSECUTION CASE SUMMARY

- 1.** Defendant Ronald Riff left Red's Pleasure Palace, a gambling establishment on Devotion Avenue in Midtown, Minnesota, just after 12:00 A.M. the early morning of the alleged burglary.
- 2.** Between 12:05 and 12:10 A.M. the defendant stopped at Rusty Fender's Body Shop at which time he stole a hammer.
- 3.** Between 12:10 and 12:20 A.M. the defendant used the hammer to gain entry to Marquette's Market located on the corner of Main Street and First Street. Entry was gained by smashing the lock on the alley entrance of the store. The defendant obtained \$910.00 (in a cloth money bag) from the cash register in the store.
- 4.** At about 12:20 A.M. the defendant left the store by the rear exit at which time he discarded the stolen hammer in the side alley between Marquette's Market and Art Own's Hardware.
- 5.** The defendant then began to run to his home and was seen by Soapy Waters (who saw the defendant drop \$2.00 of the money) and Betty Biddy (who saw the defendant throw away the money bag).
- 6.** The day after the alleged burglary the defendant used the stolen money to purchase a guitar at C. Sharp's Music City store. Included in the money he used for this purpose was a Canadian five dollar bill. (A bill identified by store owner Speedy Marquette as being in the store cash register the night before.)
- 7.** Ronald Riff, the defendant, was arrested by Officer Schield at 3:30 P.M. the day after the alleged burglary.
- 8.** The defendant, Ronald Riff, is being charged with the crime of breaking and entering and burglarizing Marquette's Market.

DEFENSE CASE SUMMARY

- 1.** Defendant Ronald Riff won over \$900.00 in a poker game between 8:30 P.M. and 12:00 A.M. the night of the alleged burglary.
- 2.** Witnesses Sally Slick, Vibes Blare, Jacques Orbedder, Ace Harte and Red Chips all saw Ronald Riff win a great deal of money.
- 3.** Ronald Riff called witnesses Matilda Slick and Gigi Gig and told them of his winnings also.
- 4.** Included in the amount of money Ronald Riff won was a Canadian five dollar bill.
- 5.** Ronald borrowed a tan cloth money bag from Red's Pleasure Palace in which to put his winnings.
- 6.** Ronald left Red's shortly after 12:00 A.M. and began to walk home. He saw store owner Speedy Marquette in the alley behind Red's at that time.
- 7.** Ronald took a hammer from Rusty Fender's to protect himself and his money.
- 8.** Ronald never stopped by Marquette's market but he did toss away the hammer at that point as he began to run home.
- 9.** As Ronald approached his back door, he began to count his winnings. He tossed the money bag away as he began to count.
- 10.** Ronald had no motive to steal from Marquette's Market - he had won enough to pay off his debt to Vibes and buy his new guitar.

ORDER OF PROSECUTION WITNESSES

- 1.** *Speedy Marquette* - owner and manager of Marquette's Market.
- 2.** *Marty Martini* - bartender at Red's Pleasure Palace.
- 3.** *Melvin Strongarm* - owner of a local dairy store.
- 4.** *Rusty Fender* - owner of Rusty's Auto Body Shop.
- 5.** *Otis Ripple* - nightshift baker at Midtown Bakery.
- 6.** *Soapy Waters* - janitor at Mickey's Diner.
- 7.** *Betty Biddy* - nurse at Midtown Memorial Hospital and neighbor of the defendant.
- 8.** *C. Sharp* - owner of Sharp's Music City.
- 9.** *Guido Concertino* - owner and operator of "Midtown Dance Magic" nightclub.
- 10.** *Officer Terry Schield* - investigating officer.

**PROSECUTION WITNESS:
SPEEDY MARQUETTE-OWNER OF MARQUETTE'S MARKET**

- 1.** Ronald Riff worked for me as a stock boy and part time cashier for about two years.
- 2.** I paid Riff \$4.00 an hour and he worked twenty hours every week.
- 3.** About once a month, Riff would try to get an advance on his pay check. He always said the same thing - that he needed the money to pay off gambling debts.
- 4.** I fired Riff about three weeks before the alleged burglary because he was late for work. I found him in a poker game at Red's Pleasure Palace.
- 5.** When I fired Riff he said, *"I'll get you for this, and put your lousy store out of business too."*
- 6.** The night of the alleged burglary, I locked up the store at midnight after counting the money in the cash register. There was \$910.00. I put the money in a tan cloth bag from the Midtown State Bank. I was going to deposit the money the following morning.
- 7.** I locked the money in the cash register, checked the rear door to make sure it was locked, turned off the lights, went out through the front door and locked it from the outside.
- 8.** I was on my way home (about three miles from the store) when I remembered I left my apartment keys on the counter. I returned to the store to get them and arrived at 12:25 P.M.
- 9.** As soon as I entered the store I realized it had been broken into. The rear door had been smashed open as was the cash register. The money bag was missing.
- 10.** I called the Midtown Police Department and Officer Schield arrived at 12:35 P.M.
- 11.** Yes, Ronnie Riff was dating my ex-girlfriend but that's not why I fired him. He just wasn't doing the job.
- 12.** The day after the alleged burglary, Officer Schield returned and asked if there was anything unusual about the money that was stolen from the cash register. It was then I remembered the Canadian five dollar bill I had taken in the day before.

Prosecution Witness:

Marty Martini - bartender at Red's Pleasure Palace

1. I've been the night bartender at Red's Pleasure Palace since Midtown passed the law legalizing poker games.
2. Red hired me to serve the players in the card room. The card room is in the back of the Pleasure Palace. The main entrance is on the south side of the service alley that runs behind the building.
3. The night of the alleged burglary Ronnie Riff came into the card room at about 8:00 P.M. He was a regular customer and I knew him pretty well.
4. The first thing he did when he came in is ask me for change for a fifty dollar bill. He said, *"I better win quick tonight, Marty, this is all I got."*
5. Riff took his change and went over to table number 1. There were five guys playing poker at the table and Ronnie joined the game.
6. Besides Ronnie I knew three of the other guys playing cards at table number one. Ace Harte was there and so was that Canadian truck driver, Jacques Orbedder, and Mel Strongarm was in the game that night too.
7. My job is to serve drinks to the card players so I visited the table about every 20 minutes or so. Ronnie wasn't losing money but judging by the pile of bills in front of him he wasn't winning too much either.
8. At about 11:00 P.M. Ronnie came up to the bar to buy a pack of cigarettes. I said, *"How you doing, Ronnie?"* He answered, *"O.K. I'm a few bucks to the good, but nothing to retire on."*
9. The poker game broke up early that night, it was about 12:00. Ronnie tried to talk the other guys into playing a little longer but they said no. I remember thinking Ronnie couldn't have done too well or he'd want to quit while he was ahead.
10. Ronnie came back up to the bar after the game broke up and changed all the coins he had into paper money. He had about \$30.00 in change.
11. After I gave him the paper money he said, *"Hey Marty, you got a bag I can have? I got a couple hundred bucks here and I don't want to lose it."* I told him I didn't have a bag, so he left by the alley door. It was a little after 12:00 A.M. when he left.
12. The night after the alleged burglary at Marquette's Market, Officer Schield came in and asked me about the card game. He said Ronnie told him he won over \$800.00 the night before. I told Schield it was probably more like \$150 - \$200 at most.

Prosecution Witness:

Melvin Strongarm - owner of local dairy store

- 1.** I have lived in Canton thirty two years.
- 2.** I own and operate the local dairy. I took over the business from my father. It has been family owned and operated for the last four generations of Strongarms.
- 3.** I have known the Riff family and I have gotten to know Ronnie by playing poker with him at Red's.
- 4.** I like to play poker over at Red's three to four times a week. Ronnie is a regular at Red's. Ronnie is an okay poker player. Ronnie wins as much as he loses. An average player. The type of poker played at Red's is only small town poker and a super night might mean walking away with three to four hundred dollars. It sure isn't Las Vegas.
- 5.** Ronnie won a few hands in the beginning of the night of the alleged burglary, but the pots weren't that big. In fact they weren't that big any time during the night. I won about two hundred and eighty dollars that night and was the big winner at our table. Ronnie lost about six hands in a row from about eleven o'clock on.
- 6.** Ronnie could not have won more than a few hundred dollars. He lost almost every hand the last hour we played. I won the biggest pots of the evening and many more hands than Riff. He might have won a hundred, maybe two hundred max.
- 7.** At about quarter to twelve Ronnie got up to use the pay phone and told me to deal him out of this hand. He also said with the way his luck had turned he would probably be better off not playing. We started the hand without him. As we anted Jacques ran out of U.S. money and started to use Canadian dollars. We all gave him a hard time about using "phony" money. I won that hand and the game broke up because no one wanted to take Jacques' money. It was the only hand where Canadian money was used.
- 8.** The last half of the evening Ronnie couldn't buy a good hand. His luck changed from good to terrible.
- 9.** The hands were different poker games like five card stud, seven card no peek, rotation and like that.
- 10.** We played the first part of the evening with quarter and half dollar antes, but as the night went on we were betting dollar bills to raise. The pots were fifteen to twenty dollars max.
- 11.** Ronnie came back to the table after his phone call and wanted to keep playing so he could try to win some of his money back, but the game broke up and he left Red's by the alley door. It was about midnight.
- 12.** Most of the other players at the table won a few hands here and there throughout the night, but nothing to brag about. Jacques was the big loser.

Prosecution Witness:

Rusty Fender - owner of Rusty's Auto Body

- 1.** I opened Rusty's Auto Body 27 years ago this coming August 1.
- 2.** I've got a small but profitable business. It's located on Main Street with the garage entrance on the alley which runs between Main Street and Devotion Avenue.
- 3.** I usually close up the shop about 5:30 P.M. each evening but the night of the alleged burglary I was working on a rush order. It must have been around 12:00 or a little later when Ronnie Riff stopped by.
- 4.** He stood and watched me work for a few minutes but he didn't say much. I asked him how it was going and he said *"Not good. I just won a few bucks over at Red's but I need a lot more."*
- 5.** He stood around for a few seconds more, watching me. I was working on this car right outside my garage right next to the alley. Ronnie said *"Hey, Rusty, it sounds like someone pounding on your front door."* I was pounding out a fender dent myself so I didn't hear anything, but I went to check.
- 6.** I checked the front door but no one was there. I decided that as-long as I was in the office I would call my wife and tell her I probably wouldn't be home for another hour or so.
- 7.** When I finished talking on the phone, I came out back to work on the car. When I got out there Ronnie was gone. I looked up and down the alley but he was no where in sight.
- 8.** It was then that I discovered the hammer I was using was gone also. I thought maybe I had carried it into the office but it wasn't there either. I decided to quit for the night and go home. It was a little after 12:30 when I left for home.
- 9.** The next day Officer Schield stopped by and told me he was investigating a possible burglary down the street at Marquette's Market. He asked me if I had seen anyone in the area.
- 10.** I told the policeman that I had talked to Riff the night before and mentioned that I locked up at 12:30 cause I misplaced my hammer.
- 11.** Schield left for a few minutes and then came back with my hammer. I identified it as the one I had been using the night before.
- 12.** Schield told me that he'd have to keep the hammer as evidence.

Prosecution Witness:
Otis Ripple - Nightshift baker at Midtown Bakery

- 1.** I've worked at the Midtown Bakery for 22 years.
- 2.** The Midtown Bakery is on the corner of Devotion Avenue and First Street. It is just south (across the alley) from Marquette's Market.
- 3.** The night of the alleged burglary I was working my normal "night" shift from 10:00 P.M. to 6:00 A.M.
- 4.** I took my break that night at 15 minutes after midnight. It was a warm spring evening and it was hot in the bakery. I decided to go out into the alley on my break to get some cool air.
- 5.** I was sitting on the back steps of the bakery, when I noticed a light flickering in the market across the alley. I was about to take a closer look when someone came out the back door.
- 6.** The person who came out the back door walked over to the southeast corner of the building and tossed something towards the trash cans between the store and Art Own's Hard ware next door.
- 7.** The person then walked back towards First Street. It was at that time I thought I recognized the person, it looked like Ronnie Riff, the kid that helps Mr. Marquette in the store. I yelled, "*Hi ya Ronnie!*" but he didn't answer. He just started running and disappeared to the left down First Street (south down First Street).
- 8.** At about 1:00 A.M. Officer Schield knocked on the back door of the bakery. He told me that it looked like someone had burglarized the market across the alley. He asked me if I noticed anything unusual and I told him what I had seen.
- 9.** I took him to the place where I saw the kid toss something towards the trash cans and we found a large hammer laying on the ground.
- 10.** When Officer Shield asked if I could positively identify the person who I had seen, I refused to do so. It looked a lot like the defendant, Ronnie Riff, but I just couldn't be sure.

**Prosecution Witness:
Soapy Waters - Janitor at Mickey's Diner
and neighbor of the defendant, Ronnie Riff**

- 1.** I'm a janitor at Mickey's Diner on Main Street in the city of Midtown, Minnesota.
- 2.** On the night of the alleged burglary I got off work at 12:15 A.M. and began to walk home.
- 3.** I live on Riff Avenue between First and Second Streets so I walked west down Main Street to First Street and then turned south on First.
- 4.** When I got to the corner of First Street and the service alley which runs behind the Marquette Market and other businesses on Main Street the defendant ran into me and almost knocked me down. He had run from out of the alley.
- 5.** When Riff ran into me I yelled at him and asked him what his hurry was. He said, *"None of your business old man."*
- 6.** One thing I noticed about Riff was that he had a tan money bag in his right hand. When he ran into me he dropped two one dollar bills out of the bag which he didn't bother to pick up - he just ran on down First Street towards his house.
- 7.** I yelled to Riff that He'd dropped something, but he didn't stop so I picked up the money myself and decided to have a few beers over at Tony's.
- 8.** I left Tony's a little after 1:00 A.M. and started for home again and saw a squad car parked in front of Marquette's Market. Officer Schield was by the car and I asked him what was going on.
- 9.** Schield told me the store had been burglarized, probably between 12:05 and 12:25. It was then I told him about Riff and his wad of money. He got a description from me.
- 10.** Riff was dressed in blue jeans and a blue jacket. The jacket was one of those band jackets the kids around town wear.

Prosecution Witness:

Betty Bidy - nurse at Midtown Memorial Hospital
and Neighbor of Ronnie Riff

- 1.** My name is Betty Bidy. I'm a nurse at Midtown Memorial Hospital. I work the evening shift in the coronary care unit.
- 2.** On the night of the alleged burglary I got done with work at 12:15 A.M. I punched out on the time clock and walked to the hospital parking lot with a friend of mine. We talked for a few minutes, and then I got in my car and drove home.
- 3.** I only live two blocks from the hospital so I got home around 12:25. I just got my car in the garage, which is behind my house and I was closing my garage door, when I saw someone running towards me.
- 4.** I have two flood lights on my garage and they were on so the alley was well lighted for at least 35 to 40 feet in either direction.
- 5.** The person in the alley was running right at me (coming from the east end of the alley and running to the west end). When the person got about 30 feet away I recognized that it was Ronald Riff, my next door neighbor.
- 6.** I don't know if Ronnie saw me or not. I was standing next to my garage, sort of back in the shadows, so I doubt he saw me.
- 7.** Ronnie was wearing blue jeans and his navy blue (dark blue) band jacket. I've seen the jacket many times before. It has the letters DWR on the front left hand side and it says "DEEP WATER REUNION" on the back. The letters are in white. He was carrying a bag in his right hand.
- 8.** I watched Ronnie run by me towards the back door of his house. His whole back yard was lighted from my flood light.
- 9.** Just before Ronnie got to his back door, he stopped. He opened the bag he was carrying and took something out of it. He then went to the line of bushes between my property and his and tossed the bag under the bushes. Then he went into his house.
- 10.** I was curious as to why Ronnie would do that and I walked over to look at the bag he had thrown away. It was a cloth bag, tan in color, it was labeled with the words "Midtown State Bank."
- 11.** The next day I was on Main Street shopping and saw Officer Shield. Someone told me he was investigating "last night's burglary." I said, "*Was it the bank?*" I said that cause I remembered the cloth bag that Ronnie had thrown away.
- 12.** I overheard Officer Schield say something about a bag of money so I told him what I had seen. He went with me back to my house and we looked for the bag, but it was gone. I gave him a description of it and he wrote it down.

Prosecution Witness:
C. Sharp - owner of Sharp's Music Store

- 1.** I own and operate Sharp's Music City on Devotion Avenue.
- 2.** I sell a variety of items in my store including records, tapes, recorders, stereos, and musical instruments.
- 3.** I've known Ronnie Riff for several months due to his interest in purchasing a new guitar from my store.
- 4.** About four months ago Riff gave me \$100.00 as a deposit on a guitar. He promised to have the remaining amount (\$875.00) in a few weeks.
- 5.** Since that time he's been in my store a number of times, but never to pay the rest of what he owes on the guitar. Finally, a week or so before the alleged burglary of the Marquette Market, I told Riff that I would have to refund his deposit because another buyer was interested in the guitar.
- 6.** Riff begged me to hold the guitar for him. He said he would get the money somehow - he said he'd have it within a week.
- 7.** I refused to sell the guitar to Ronald Riff on a time payment plan after checking on his credit. I found that he had recently been fired from his job at Marquette's Market, that he made very little playing for that rock band he belongs to, and that he gambled a great deal and usually lost.
- 8.** The morning after the alleged burglary of Marquette's Market, Ronald Riff arrived at my store. Riff got there at about 10:30 A.M. He was carrying a huge wad of bills -- mostly ones, fives and tens.
- 9.** Riff counted out \$875.00 in cash on my counter. I refused to take one bill -- a Canadian five dollar bill, so he replaced it with a U.S. five.
- 10.** When I asked Riff where he got all the money he said, "*Mr. Sharp, - I had the best card playin' night of my life last night. I just couldn't lose.*"
- 11.** Later in the day, Officer Schield came to my store and interviewed me about the alleged burglary. I told him I was at home at the time of the burglary so I didn't know anything about it. But, then, I mentioned all the money the Riff kid had given me that day.
- 12.** When I told Officer Schield about the Riff kid he said, "*that name keeps coming up no matter who I talk to.*" I then showed him the money and he noted the size of the bills. I mentioned the deal about the Canadian money Riff had tried to give me.

Prosecution Witness:

Guido Concertino - owner/operator of "Midtown Dance Magic" nightclub

- 1.** "Midtown Dance Magic" is a night club on Rt. 27, 3 miles north of Midtown City.
- 2.** I've owned the nightclub for 3 years and since the time of purchase I've presented nightly live rock music in my dance hall.
- 3.** One of the rock bands that performs at my dance hall is "Deep Water Reunion." Ronnie Riff is one of the members of that band. He plays guitar.
- 4.** The manager of "Deep Water Reunion" is Vibes Blare, a 35 year old resident of Midtown City.
- 5.** On a Wednesday night about a week before the alleged burglary I witnessed a shouting match between Ronald Riff and Vibes Blare.
- 6.** The argument started when Ronnie Riff was late for Deep Water's first show. When Ronnie arrived Vibes asked him where he'd been and finally Ronnie admitted he was playing cards at Red's Pleasure Palace.
- 7.** Vibes told Ronnie that if he was late again Ronnie could find another band to play for. Vibes said *"this kinda thing has happened once too often."*
- 8.** Vibes also told Ronnie he had one week to get a new guitar or he'd be through with the band anyway.
- 9.** After the argument I asked Ronnie what it was all about. He said Vibes had been after him for months to get a better guitar. He said that it would take over \$800 to get one and he had no way to get that kind of money.
- 10.** The day after the alleged burglary of Marquette's Market I was working on my books at the dance hall and heard someone pounding on the front door.
- 11.** It was Ronnie at the door, he had a brand new guitar and he wanted to practice playing it at the dance hall.
- 12.** When Ronnie finished practicing I asked him how he got the guitar. I said it looked pretty expensive. Ronnie said it cost him over \$900 altogether. He said he got *"real lucky"* the night before.

Prosecution Witness:
Officer Terry Schield - investigating officer

- 1.** I've been with the Midtown, Minnesota police force for 7 1/2 years.
- 2.** Before coming to Midtown, I worked with the Caton City Police for 2 years.
- 3.** At 12:30 A.M. the early morning of the alleged burglary, the desk sergeant on duty told me to investigate a possible burglary at Marquette's Market which is on the corner of Main Street and First Street in Midtown, Minnesota.
- 4.** I arrived at Marquette's Market a few minutes later and talked briefly to owner Speedy Marquette. I then began investigating the alleged burglary. During the course of that investigation I discovered the following:
 - > the lock on the rear door of the market had been smashed open with a heavy, blunt object.
 - > the cash register drawer had been similarly smashed open and was empty except for \$7.83 in coin and two checks (one for \$10.00 and a second for \$5.80)
 - > in the alley next to the store I found a heavy hammer (wiped clean of finger prints)
- 5.** In an interview with store owner Speedy Marquette I discovered the following:
 - > that \$910.00 had allegedly been taken from the cash drawer of the register.
 - > that the money had been placed in a tan cloth bag labeled "Midtown State Bank".
 - > that the alleged burglary would have had to have occurred between 12:00 A.M. and 12:25 A.M. that early morning.
 - > that included in the missing \$910.00 was a Canadian five dollar bill.
- 6.** After talking to Mr. Marquette I checked the area outside the store. I found two people in the area: Soapy Waters, the janitor at Mickey's Diner, and Otis Ripple, the baker at Midtown Bakery.

Mr. Waters stated:

 - > he had seen Ronnie Riff in the area at about 12:20 A.M.
 - > that Riff had been carrying a tan money bag and had dropped two dollars from the bag.
 - > that Riff was wearing blue jeans and a blue band jacket.

Prosecution Witness: Officer Terry Schield - Investigating Officer cont.

Mr. Ripple stated:

- > that at around 12:15 A.M. he had seen someone exit the market by the rear door.
- > he said the person threw something into the side alley east of the store.
- > he took me to the location and I found the hammer.
- > Ripple refused to positively identify the person he saw.

7. The morning after the alleged burglary, I questioned several other people in the area:

- > Rusty Fender identified the hammer and mentioned he had seen Riff a little after 12:00 A.M. the night of the alleged burglary (in the alley behind Fenders Body Shop.
- > Melvin Strongarm, who had played poker with Riff the night of the alleged burglary, and who stated Riff had won \$200.00 at most in the game.
- > Marty Martini estimated Riff's winnings at poker at between \$150-200.
- > Betty Bidy stated she saw Riff toss away a tan money bag at just after 12:25 A.M. the night of the alleged burglary. She stated the bag was labeled "Mid town State Bank," but we could not locate the bag in the area the next morning.
- > C. Sharp stated Ronnie had purchased a guitar from Sharp's Music city the day after the alleged burglary for \$875.00. Riff paid cash and tried to include a Canadian five dollar bill in the payment.
- > Guido Concertino stated Riff practiced at the "Midtown Dance Magic" club the day after the alleged burglary on a guitar worth about \$900.00.

8. I was unsatisfied with Riff's story when I questioned him the afternoon after the alleged burglary. I obtained a warrant and arrested Riff at 3:30 P.M. on that day. In his possession was a receipt from the Sharp Music City store for \$875.00

ORDER OF DEFENSE WITNESSES

1. *Sally Slick*: girl friend of defendant, Ronald Riff.
2. *Jacques Orbedder*: over-the-road trucker from Canada.
3. *Ace Harte*: professional gambler and acquaintance of defendant Riff.
4. *Vibes Blare*: employer of defendant Riff.
5. *Matilda Slick*: parent of the defendant's girl friend.
6. *Gigi Gig*: co-worker with the defendant in the "Deep Water Reunion" rock band.
7. *Red Chips*: owner of Red's Pleasure Palace, a gambling establishment in Midtown.
8. *Harold Angel*: employee at Marquette's Market.
9. *Ronald Riff*: defendant

Defense Witness:

Sally Slick - girl friend of defendant Ronnie Riff

- 1.** I've been going with Ronnie Riff ever since I broke up with Speedy Marquette about five months ago.
- 2.** Ronnie worked for Speedy at the market. After I broke up with Speedy he said, "*When Ronnie doesn't have any money you'll drop him and come crawling back to me.*" About 4 months later Speedy fired Ronnie.
- 3.** On the afternoon of the alleged burglary, Ronnie and I had a date. We went to a movie and had a sandwich at Mickey's Diner, then we went over to Red's Pleasure Palace.
- 4.** My mother didn't want me going out with Ronnie because of his card playing but I love to watch him play cards - it's exciting.
- 5.** Ronnie started playing that night at around 8:00 P.M. I watched for about 2 1/2 hours. Ronnie was really lucky while I watched.
- 6.** At 10:30 P.M. Ronnie got up from the table and came over to where I was sitting. Ronnie told me some of the guys at his table were complaining because I was watching.
- 7.** Ronnie said the guys were complaining 'cause he was winning so much and they didn't like it. I told him I would leave so they would get off his back.
- 8.** When I left, I told Ronnie to call me when the game broke up and let me know how much he had won. He told me that he had won about \$500 already - he said he'd have enough for his new guitar by 1:00 A.M.
- 9.** I got home from Red's about 10:00. My mother asked where Ronnie was and I told her he was playing cards. She really got mad and started screaming at me for being over at Red's and for going out with Ronnie. I got sick of it and went up to my room.
- 10.** At a little after 12:00 I heard the phone ring and then I heard my mother start yelling all over again.
- 11.** A few minutes later she came up to my room and said, "*He says he won \$900. He must be awful lucky cause he sure ain't smart.*"

Defense Witness:

Jacques Orbedder - over-the-road trucker from Canada

- 1.** I've worked for Yukon-Hudson Bay Transport Company for 12 years. The company headquarters are in Canada but I make weekly trips into Midtown in Minnesota.
- 2.** Usually, when I'm in Midtown overnight, I play cards at Red's Pleasure Palace. It's the only place on my route that you can gamble legally.
- 3.** The night of the alleged burglary, I got over to Red's card room by 7:30 P.M. I sat down at table number one and started to play poker.
- 4.** Ronnie Riff and his girl friend come in about 8:00 P.M. Ronnie sat down at our table and started playing poker. His girl friend was sitting about ten feet away watching.
- 5.** I've told Ronnie before about having his girl there. I hate it when someone watches us play cards.
- 6.** Ronnie started winning the minute he sat down. He took about \$100 off me by 10:00 P.M. The more he won the madder I got about having his girl friend there.
- 7.** Finally about 10:30 P.M. Ronnie's girl friend left, but it didn't change my luck any - I kept right on losing.
- 8.** Right after his girl friend left, about fifteen minutes after, this Vibes Blare guy comes in to talk to Ronnie. Vibes wanted some money Ronnie owed him.
- 9.** I saw Ronnie pay Vibes. Ronnie kept stuffing money in his pocket all night. When he paid Vibes he pulled it all out. That was when I realized how much Ronnie had won. He must have had \$500 in his pocket.
- 10.** The game broke up about midnight. I had lost so much by then that I was out of U.S. money. I started playing with Canadian bills.
- 11.** Some of the guys at the table complained about my Canadian money. I told them that it was worth 97 cents on the dollar, but if they didn't like it, I'd quit. That was when the game broke up - at about midnight.
- 12.** When I left, Ronnie was putting his money in a bag. I think it was a tan paper bag but I'm not sure.

Defense Witness:

Ace Harte - professional card player and acquaintance of R. Riff

- 1.** I moved to Midtown right after they legalized certain kinds of gambling in the town.
- 2.** I'm a professional card player. I work out of Red's Pleasure Palace. I know the defendant because he plays cards in the Palace at least once a week.
- 3.** At first Ronnie lost most of the time but lately he's become a very good poker player - not as good as me, but very good.
- 4.** On the night of the alleged burglary Ronnie Riff, Jacques Orbedder, and I played cards at Red's Pleasure Palace at table number one. There were three other guys playing that night at the table but I don't remember their names.
- 5.** Ronnie's girl friend was there that night watching Ronnie play. I told him I don't like that. People might get the wrong idea. Ronnie finally told her to leave around 10:30 P.M.
- 6.** Ronnie was winning big that night. He took over \$125 off me. He kept shoving money in his pocket so he only had \$100 in front of him at any particular time.
- 7.** Most everybody but Ronnie was losing that night. Starting at about 11:30 all Jacques Orbedder had left was Canadian money. The other guys gave him a rough time about passing "phoney" money on us.
- 8.** At a little before midnight, Ronnie said he had to make a few calls. He took some change over to the pay phone in the corner.
- 9.** When Ronnie got off the phone, we decided to break up the game. Ronnie was the only one who wanted to keep playing - I don't blame him.
- 10.** When I left the Palace that night, Ronnie was talking to Red up in the office. That was about 12:00 A.M.
- 11.** I told Officer Schield what had happened that night but he only talked to me for a few minutes and didn't write anything down.

Defense Witness:

Vibes Blare - Manager of "Deep Water Reunion" Rock Band
and Employer of the Defendant

- 1.** I organized Deep Water Reunion rock band about 2 years ago. The band is one of the best in the Midtown area and getting better all the time.
- 2.** Ronnie Riff started playing for us over a year ago. He's an above average guitar player.
- 3.** Riff and I have had a few arguments lately. They've been about the same problem - him not showing up for rehearsal or not being on time for a show.
- 4.** Riff's excuse is always the same - he's playing cards at Red's card room and loses track of the time. I finally told him to make a choice - cards or the band.
- 5.** Riff's gambling has caused another problem too - he's always borrowing money. I've been after him since he joined the band to get a better guitar but he didn't have the money for that either.
- 6.** About a week before the alleged burglary Riff was late for a show - I had it out with him right there in the dance hall. I told him one more time late and he was done. I also told him to pay up the \$50 he owed me and get a new guitar within two weeks.
- 7.** The night of the alleged burglary I had dinner at Mickey's diner and a few beers at Tony's bar. I left Tony's about 20 minutes to eleven.
- 8.** On the way home from Tony's I saw Sally Slick, Ronnie's girl friend coming out of Red's Pleasure Palace. She saw me and came over to talk.
- 9.** Sally admitted that Ronnie was gambling again, but she said he was winning big money. She said if I didn't believe her I should go over and see for myself.
- 10.** When I walked into Red's card room I saw Ronnie right away, he was playing cards with 5 or 6 other guys. He had about \$100 in front of him.
- 11.** I watched Ronnie play for a few minutes, then he got up and came over to talk. The first thing he did was pull this big bank roll out of his pocket and peel off two twenties and a ten dollar bill.
- 12.** He said he was over \$500 to the good and that he'd have enough money to buy a new guitar before he was done for the night.
- 13.** I left Red's right after I talked to Ronnie. I got home at 11:00 P.M.

Defense Witness:

Matilda Slick - Parent of the defendant's girlfriend

1. On the day of the alleged burglary, the defendant, Ronald Riff picked up my daughter Sally for a date.
2. He picked her up in the early afternoon they said they were going to a movie. I wasn't happy about her going out with him.
3. I don't like Ronnie, he can't keep a job and he spends all his time gambling or playing in that rock band. I wish Sally was still going out with Speedy Marquette, he's such a nice young man.
4. At a little before 11:00 Sally came in the house. She was alone. I said, *"Isn't Riff even gentleman enough to come in and say hello?"*
5. Sally said, *"Ronnie's still at Red's so he couldn't very well come in and say hello."*
6. I really got mad when she said that. To think he'd let her walk home in the dark, just so he could continue his wicked gambling.
7. I told Sally that Riff was no good, that she should stop going with him, but you can't tell that girl anything. Sally went up to her room and slammed the door.
8. At almost midnight the phone started ringing. I'm sure about the time because I remember thinking, *"Who would be so rude as to call at this hour."* Sure enough it was Ronald Riff.
9. I told Riff exactly what I thought of him but I don't even think he was listening. I could hear arguing in the background and someone kept saying, *"Don't try to pass off that lousy Canadian money around here."*
10. Finally Riff says, *"Just tell Sally I won big. Over \$900."* Then he hung up the phone without saying as much as good bye.
11. I went up to Sally's room and told her what Riff had said.
12. The next day when I heard about the alleged burglary, at first I thought - *"It doesn't surprise me a bit."* But then I found out that the store was supposedly burglarized after 12:00. I know Ronnie had the money before that time.
13. I told Officer Shield about Ronnie's call, but he arrested him anyway.

Defense Witness:

Gigi Gig - singer with Deep Water Reunion Band
and close friend of the defendant

- 1.** I've known Ronnie since he joined the band over a year ago.
- 2.** I've really worried about Ronnie lately. First he lost his job at the market and then he started gambling more and more.
- 3.** Ronnie never seems to have enough money for anything but poker. He's been saving for a new guitar since he joined the band but all he's managed to save was \$100 for the down payment.
- 4.** I heard the argument between Vibes and Ronnie about 2 weeks before the alleged burglary. When it was over I told Ronnie not to worry I'd buy the guitar and he could pay me back a little at a time.
- 5.** I told Ronnie he'd have to do me a favor if I bought the guitar for him - he'd have to give up playing cards.
- 6.** He told me to forget it then - that he'd come up with the money somehow.
- 7.** On the night of the alleged burglary, at about midnight, I got a call from Ronnie. Right away I could tell where he was 'cause I could hear people playing cards in the back ground.
- 8.** Ronnie asked me to meet him at C. Sharp's Music Store the next morning. He said he wanted to buy that guitar.
- 9.** I figured Ronnie wanted me there to pay for it - I told him that I'd have to stop at the bank first to get money out of my savings account.
- 10.** Ronnie just laughed. He said, "*You don't need any money, you just be there to watch me buy it.*" He said he won a ton of money playing cards.
- 11.** The next morning I met him at the music store. I watched him count out the money on Sharp's counter. Ronnie got a bill of sale marked paid and his new guitar.
- 12.** We left the music store and Ronnie asked me to go out to the dance hall with him - he said he wanted to practice with the new guitar. I told him I couldn't, that I had to meet someone for lunch.

Defense Witness:

Red Chips - Owner of Red's Pleasure Palace, A Gambling Hall in Midtown

- 1.** As soon as Midtown legalized gambling I opened the palace. I offer honest games, good food and good service.
- 2.** I've known Ronnie Riff since he started coming in to play cards. Lately he's been in at least once a week.
- 3.** On the night of the alleged burglary I was in my office at Red's Pleasure Palace working on my books.
- 4.** My office overlooks the card room in the back of the Palace. I can see the whole room through a window in the office.
- 5.** Table one is just off to my right. I knew three of the players at the table: Ace Harte, Jacques Orbedder, and Ronnie Riff. Jacques and Ace started playing at 7:30, Ronnie came in with his girl friend at 8:00 P.M.
- 6.** I didn't keep a real close watch on the table but I did notice that Ronnie was winning more than his share of the pots.
- 7.** At about 10:30 there was an argument at the table and then Ronnie got up and talked to his girl friend and then she left.
- 8.** About 10 or 15 minutes later Vibes Blare came in. He watched the game for a while and then Ronnie pulled him aside and gave him some money. It was then I saw how much Ronnie had won. He must have had at least \$200.
- 9.** At about midnight another argument broke out. The players were complaining about Jacques Orbedder starting to play with Canadian money.
- 10.** Ace Harte called to me and asked me what a Canadian dollar was worth. I looked it up and told him it was worth 97 cents in U.S. money.
- 11.** I noticed that Ronnie wasn't at the table. I saw him on the pay phone near the card room exit.
- 12.** At around midnight the game broke up Ronnie came up to the office and asked if had a money bag he could borrow. I told him there were some old ones under the service bar.
- 13.** Officer Schield questioned me about all this. He asked me if any of the bags were from the Midtown State Bank. I told him there might have been, but I doubted it. We bank at the National City Bank in the new shopping center.

Defense Witness:

Harold Angel - Employee in Marquette's Market

- 1.** I've worked for Speedy Marquette for several weeks. Marquette hired me the day he fired Ronnie Riff.
- 2.** When I read about the supposed burglary of the market it just didn't make sense. When I told the police they weren't interested so I got in touch with Ronnie's attorneys.
- 3.** First, everyone claims that there was over \$900 in the register. That just couldn't be true. Marquette takes most of the money we've made over to the bank every afternoon at 5:1 p.m. He usually leaves about \$75.00 in the cash register.
- 4.** The store has never taken in more than \$200 - \$300 from 5:15 until closing time at midnight. There couldn't have been that much in the register.
- 5.** Another thing that bothers me is the Canadian five dollar bill. Marquette says he took the bill the day of the alleged burglary. If he did, he was going against his own rules. He almost fired me when I took a one dollar Canadian bill. He made up a big sign and hung it up over the counter. The sign says "NO CANADIAN MONEY ACCEPTED."
- 6.** The last thing that bothers me is that Marquette said he left the store for home a little after midnight. He always parks his car, a 1979 Pontiac Firebird, in the Devotion Church parking lot, between 1st and 2nd streets on Devotion Avenue.
- 7.** I was at the high school gym that night, helping decorate for the spring dance. At about 12:00 midnight we finished decorating. I came out the Devotion Ave. door of the high school at 12:10 and there was Speedy's car sitting where it always does - right next to the church.
- 8.** I remember, thinking, Speedy must be having a few at Tony's tonight cause he sure isn't working over time.
- 9.** I sat down on the steps of the school and had a cigarette then I started walking for home. Just as I got to the corner of First and Devotion I saw Ronnie run by on the far side of 1st Street. He was heading for his house.
- 10.** Maybe that doesn't look as good for Ronnie but remember, Speedy's car was still sitting in the Devotion Church lot. That doesn't look too good for Speedy either.

Defense Witness:
Ronald Riff - Defendant

- 1.** The day of the alleged burglary I had \$58.00 to my name, and I owed \$50.00 of it to my band manager Vibes Blare.
- 2.** That afternoon I called my girlfriend, Sally Slick, and asked her if she wanted to go out. We went to a movie and then got a sandwich at Mickey's Diner. I had \$50.00 and some change left.
- 3.** I decided to go over to Red's card room and try my luck. I thought maybe I could win enough to pay back Vibes and still have some money to last until my next pay day.
- 4.** Vibes told me he'd fire me from the "Deep Water Reunion Band" unless I bought a new guitar, but I wasn't worried about that because my friend Gigi said she'd loan me the money for it.
- 5.** Sally and I got to Red's Pleasure Palace about 8:00 p.m. I got in a poker game with Ace Harte, Jacques Orbedder, and some other guys. Sally watched us play.
- 6.** I started winning the minute I sat down at the table. I think that's why Ace, Jacques and those other guys started complaining about Sally watching the game -they were just mad because I was taking their money.
- 7.** Finally, at about 10:30 p.m. I told Sally she'd better leave. I told her I must have won \$500.00 already. She said I should call her when the game was over and let her know how I had done.
- 8.** About ten or fifteen minutes after Sally left, Vibes Blare came in. He looked mad cause I was playing cards. I got up from the table and pulled him over to one side. I handed him the fifty bucks I owed him. I said, "*Vibes, the way things are going tonight, I'll have a new guitar by tomorrow.*"
- 9.** Vibes stopped being mad when he found out I was winning big. He took his fifty bucks and left. I got back in the game. This was a little before 11:00.
- 10.** By midnight I figured I had won about \$800 or \$900. I took some change and went over to the pay phone and called Sally to let her know. Sally's mother answered the phone.
- 11.** She started yelling at me for calling so late, for gambling, for taking Sally to Red's card room and for letting her walk home alone. That woman just doesn't like me. Finally I said, "*Mrs Slick, just tell Sally I won \$900.*" Then I hung up the phone.

Defense Witness: *Ronald Riff* - Defendant cont.

- 12.** Next I called Gigi Gig. I told her I wanted her to go with me to the music store the next morning to buy the guitar. She said she'd have to stop at the bank to get the money for it. I said, "*Gigi, I got the money, you just be there and watch me buy the guitar.*"
- 13.** When I got back to the table the guys said they'd had enough. They were mad about Jacques Orbedder laying all that Canadian money on them. I think they were madder because I had all their money.
- 14.** On my way out of the card room I stopped by Red Chip's office. I asked him if I could get a bag from him. He said there were some under the service counter. I grabbed a tan one and stuffed all my money in it. The bag had something written on it, but I didn't notice what.
- 15.** I went out the alley door of the card room and headed for home. I saw Rusty Fender working on a car out in the parts yard next to the alley. I stopped to talk to him. I was going to brag a little about all the money I'd won but then I remembered the \$100 I owed him. He asked me, "*How's it going?*" I said "*not too good, Rusty.*"
- 16.** I heard someone banging on Rusty's door. I told him and he went in. It was then I saw someone in the shadows behind Mickey's Diner. It looked like Speedy Marquette. I didn't want anyone hitting me on the head and taking my money. I grabbed an old hammer that was laying there and took off down the alley.
- 17.** When I got near the corner of the alley and first street I tossed the hammer and kept running. I heard someone yell my name so I just kept running. Then I ran into that jerk, Soapy Waters.
- 18.** Water's started yelling at me but I just kept running towards home. When I got home the whole alley way was lit up from Betty Bidy's flood lights. When I got to my yard I took the money out of the bag and started counting. I just tossed the bag away.
- 19.** I went into the house and finished counting my money, \$917.00 (counting a Canadian \$5.00 bill from Jacques), then I went to bed.
- 20.** Gigi and I went to the music store and bought the guitar the next morning. I went to practice at the music hall. Then that cop, Schield, comes to my house and asks me all these questions. I told him just what happened but he didn't believe me. He came back later with an arrest warrant. It seems even when I win, I lose.

ATTORNEY PREPARATION SHEET

- A.** As an attorney in the courtroom simulation game it is your job to represent either:
- 1.)** the people of the state of Minnesota if you are a prosecuting attorney. This means that you present witnesses who by their testimony will convince the jury, beyond any doubt, that the defendant is guilty of the charges that you have brought against him.
- OR**
- 2.)** the defendant in this criminal case with the purpose of establishing innocence by challenging the prosecution's charges and witnesses and by presenting witnesses who establish innocence or create doubt as to the guilt of the defendant.
- B.** In order to do the best job possible for your side in the case you should:
- 1.)** Read and become completely familiar with the situation stated in the case book.
 - 2.)** Read carefully all the testimony the witnesses on your side can give to help your cause.
 - 3.)** Write questions which will bring that testimony out when a witness is on the stand. (See Direct Examination Hints.)
 - 4.)** Work with each witness-asking them questions and receiving answers until both of you are satisfied that all testimony is being presented in an accurate and believable way.
 - 5.)** Become familiar with the witness testimony of your opponent's case. Know what your opponent in this case plans to do and think of ways to challenge it. You should read through all of the opposition testimony and begin to write up questions for each of their witnesses. These questions should create doubt or unbelievability in the testimony. You should also look for a motive that each witness might have for lying on the stand or for bending the truth. Examples - jilted lover, owes money, doesn't like the person, had a fight with the defendant, etc. (See Cross Examination Hints.)
 - 6.)** Review the rules of evidence completely and be ready to make objections whenever your opponent violates one of the rules.
 - 7.)** Prepare and practice giving an opening statement which informs the judge and jury what your side will prove in the case. (See Opening Statement Hints.)

RIGHTS OF THE ACCUSED

MINNESOTA V. RONALD RIFF: A CRIMINAL MOCK TRIAL

ATTORNEY PREPARATION cont.

- 8.)** When the case begins you will follow the step by step procedure below:
- a)** Prosecution makes opening statement.
 - b)** Defense makes opening statement.
 - c)** Prosecution presents witnesses in logical order for direct examination. The defense attorney then cross examines each witness.
 - d)** Defense then presents its case by calling witnesses in logical order for direct examination. The prosecution attorney will cross examine each of the defense witnesses.
 - e)** When all the witnesses have testified and have been cross examined, the prosecution attorney will make his closing statement and then the defense attorney will make his closing statement. (See Closing Statement Hints.)

WITNESS PREPARATION SHEET

- 1.** You have been assigned a role in a courtroom simulation of a criminal trial. You will be on the defense (trying to show the innocence of the accused) or you will be on the prosecution (trying to prove the guilt of the accused).

- 2.** In order to prepare your role, you have been given a **CASEBOOK** which contains the following information:
 - a)** The prosecution case summary and the defense case summary - which tells you the nature of the alleged crime and the charges that are being brought against the accused.
 - b)** Testimony - the statements that will be made by the other witnesses on your side in the case. You must become completely familiar with the testimony of all friendly witnesses because their testimony directly relates to your own.
 - c)** Your testimony - this is a list of statements which contains all the information you know which is important to your side of the case.
 - d)** Opposition testimony - these are statements that will be made by witnesses that are hostile (against your case). Read their statements over carefully so that you are completely familiar with all aspects of the case.

- 3.** Once you are completely familiar with the case, do the following:
 - a)** Build a realistic story which includes all the facts you know regarding the case.
 - b)** Practice telling your story until you can do so without the help of notes or prompting from others.
 - c)** Check your story with the testimony of other witnesses so that you don't contradict something that they will say as part of their testimony.
 - d)** Write down questions which will bring out every fact that you know. Your attorney will ask you these questions on the witness stand so practice them before the trial starts.
 - e)** If time permits, each witness should try to tell his/her story to all of the attorneys. Check over the important points, remove all the contradictions. Be sure you don't say anything to goof up other witnesses on your team.

RIGHTS OF THE ACCUSED

MINNESOTA V. RONALD RIFF: A CRIMINAL MOCK TRIAL

WITNESS PREPARATION SHEET cont.

- 4. Evaluation:** As a witness in the court simulation you will be graded on the following:
- 1.** The questions you have written for your attorney.
 - 2.** The story you tell on the witness stand during direct examination for both content and realism.
 - 3.** How well your story holds up during cross examination.

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JUDGE'S INSTRUCTION SHEET

1. The judge presides over the court trial simulation. The judge rules on attorney objections, acts as a referee to insure both sides in the case are treated fairly and that the defendant receives a fair trial. The judge provides both sides in the case the opportunity to state their case in a fair and legal way in accordance with the law and the rules of evidence. The judge's decisions are final.
2. The judge sees that the trial moves along. He or she does not accept unnecessary delays by attorneys or witnesses who are unprepared. In such circumstances the judge will warn those involved that case preparation takes place before and not during a court session. If the problem continues, the judge will warn those involved that they can be charged with contempt of court and removed from the court room for the day.
3. The judge disciplines those who in any way disrupt the trial. The judge gives one warning then charges the offender with contempt and has him removed. Common disruptions include unnecessary talking, continual arguing between attorneys and coaching witnesses on the witness stand.

TRIAL PROCEDURE

1. Open the trial each day by rapping the gavel and saying, *"This court is now in session. It will hear the State of Minnesota vs. _____ (name of the defendant)"*
2. On the opening day of the trial make the following statement to the jury:

"You have been chosen as a fair and impartial panel to hear the testimony and to make judgement regarding guilt or innocence. You are to remember that under our court system the defendant is innocent until proven guilty beyond reasonable doubt. in order to make a fair judgement in this case, you must review those notes before making a final decision. Your decision must be based only on the facts as you see them, therefore you must set aside any personal feelings for or against anyone involved in this case. If you cannot hear an attorney or witness, inform me immediately and I will have those involved repeat the question or answer and remind them to speak up."

RIGHTS OF THE ACCUSED

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JUDGES INSTRUCTION SHEET cont.

3. After making comments to the jury, call for opening statements by saying:
"The prosecution may now make its opening statement."

After the prosecution has finished its opening statement say:
"The defense may now make its opening statement."

4. Next the prosecution presents its case. Open by saying,
"The prosecution may call its first witness."

From then on say, *"The prosecution may call its next witness."*

5. When a witness approaches the stand, say, *"Raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth, under penalty of perjury so help you God."* The witness should answer by saying, *"I do."* you then say, *"Take the stand."*

6. During both direct and cross examination of witnesses, your job as judge is to listen closely to the questions asked and answers given on the stand. Concentrate especially on possible violations of the rules of evidence. If an objection is made by an attorney, rule on the objection based on your knowledge of the rules of evidence and your good judgement. Once an objection has been made, you must rule on that objection before any other questions can be asked or answers given. Remember that only an attorney may make an objection and he must state the rule of evidence he feels has been violated when he does so any argument or discussion regarding an objection should take place quickly and quietly at your bench. Your decision is final.

7. After the prosecution has called its last witness and the witness has been cross examined by the defense, the defense presents its case. You say,
"The defense may call its first witness."

8. The procedure for swearing in defense witnesses and ruling on objections remains the same as during the prosecution case.

9. When the last defense witness has stepped down from the witness stand, it is time for closing statements. You say,
"The prosecution may make its closing statement."

Then say, *"The defense may make its closing statement."*

RIGHTS OF THE ACCUSED

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JUDGE'S INSTRUCTION SHEET cont.

10. After the closing statements have been presented, give your final instructions to the jury by saying,

"According to the law (Minnesota statute number 609.58 which carries a maximum penalty of 20 years in prison and/or a maximum fine of \$20,000) burglary is committed when a person unlawfully breaks into and enters a building without the consent of the owner with the intent to commit a crime therein. You have heard the evidence in this case and have notes regarding that evidence. It is time for you to weigh that evidence and make a fair and impartial decision regarding guilt or innocence. You are reminded once again that personal feelings for or against the defendant or any other members of this court should not in any way influence your decision. You are to discuss all aspects of the case and then vote on the defendant's innocence or guilt. When you have reached a unanimous verdict, return to this courtroom and inform the court of your verdict."

Then say, *"court will recess until the jury returns with a verdict."*

11. After a verdict is announced - say, *"Court is adjourned."*

OPENING STATEMENTS

- A.** Opening statements provide a preview of evidence in a court case. In the opening statements, attorneys briefly outline what they will prove with their witnesses.
- B.** Attorneys direct their opening statements to the judge and jury in the case.
- C.** Opening statements should include:
 - (1)** Comments regarding the background of the case and of the defendant. The prosecution attorney should show the defendant's motive for committing the crime. The defense attorney should show that the defendant had no motive for committing the crime.
 - (2)** Comments regarding the evidence the prosecution will present to prove guilt, and the defense will present to show innocence.
 - (3)** A positive presentation. (Say, "We will prove..." Don't say, "We hope to prove...")

CLOSING STATEMENTS

- A.** The closing statements are final appeals by the attorneys to the jury. Closing statements are made after all the witnesses for both sides in the case have testified. The statements summarize all the evidence that each side has presented.
- B.** Closing statements are directed by the attorneys to the judge and jury.
- C.** Closing statements should include:
 - (1)** A summary of the important points presented during the case.
 - (2)** A mention of the mistakes and contradictions in the case of the opposition side.
 - (3)** Comments regarding the defendant's motive or lack of motive for committing the crime.
 - (4)** Comments by the prosecution showing that it has proved the defendant's guilt beyond a reasonable doubt.
 - (5)** Comments by the defense that it has shown lack of motive and the impossibility of the defendant having committed the crime.

DIRECT EXAMINATION
(Tips for attorneys and witnesses)

- A.** Prepare your witnesses before the trial begins.
- 1.** Read over the testimony for each witness and discuss the information with the witness to make sure he understands the importance of his testimony to your case.
 - 2.** Help the witness develop a story around the testimony statements in his role. Make sure the story does not contradict the facts in the case or the stories of other witnesses for your side.
 - 3.** Develop questions to be asked of the witness designed to bring out the story on the witness stand.
 - 4.** Questions should be arranged in a logical order and should bring out the witness' story in a step by step manner that is easy to understand.
 - 5.** Make sure the questions for the witness do not violate the rules of evidence for direct examination.
 - 6.** Help the witness prepare for cross examination by looking for weaknesses in the testimony and developing comments and answers to explain away those weaknesses.
- B.** Direct examination should:
- 1.** Begin by calling the witness to the stand. Say, "*Your honor, the (defense/prosecution) would like to call _____ to the stand.*" (name of witness)
 - 2.** After the witness has been sworn in say, "*State your name and your connection with the case.*"
 - 3.** Ask the questions you have prepared for direct examination. Go slowly. Emphasize important points by asking follow-up questions. Clarify anything that may be attacked by the other side in cross examination.
 - 4.** The goal of each witness is to strengthen your side in the case and to weaken the opposition's case. Make sure that any evidence your witness has which contradicts the opposition's case is brought out during direct examination.

CROSS EXAMINATION
(Tips for attorneys and witnesses)

- A.** Cross examination allows an attorney to attack the testimony of an opposition witness. The attorney attempts to cast doubt on the testimony given in direct examination by showing contradictions, inaccuracies, unbelievable statements or outright lies. The goal of cross examination is to cause the jury to doubt part or all of the witnesses testimony.
- B.** In preparing cross examination questions:
- 1.** Read over the testimony for each of the opposition's witnesses in the case book. Take note of weaknesses, contradictions or unbelievable testimony and prepare questions to attack them.
 - 2.** Listen carefully to the direct examination of each of the opposition's witnesses. Make note of contradictions with testimony in the case book and with previous opposition witnesses. Ask cross examination questions designed to show those contradictions to the judge and jury.
- C.** Impeaching the witness (showing that he is lying under oath) is seldom done except by T.V. lawyers. However, this is a simulated trial and each witness has made up his testimony. Well designed cross examination, therefore, can usually cast some doubt on the testimony of even the strongest witness.
- D.** The opposition witnesses will be leaning toward their own side in the case and may, therefore, exaggerate parts of their testimony to help their side. Try to point out those exaggerations to the jury.
- E.** You must be prepared to make a point -- then try to get the witness to agree to that point. Once the point has been made, drop that line of questioning and move on to something else.
- 1.** Start with simple questions or statements.
 - 2.** Get the witness to agree to them.
 - 3.** Work up to your main point gradually, get the witness to agree, then move on to the next point you wish to make.
 - 4.** Cross examination is a trap. Lead the witness into the trap with simple innocent sounding questions, then spring the trap with the real point you wish to make.

RIGHTS OF THE ACCUSED

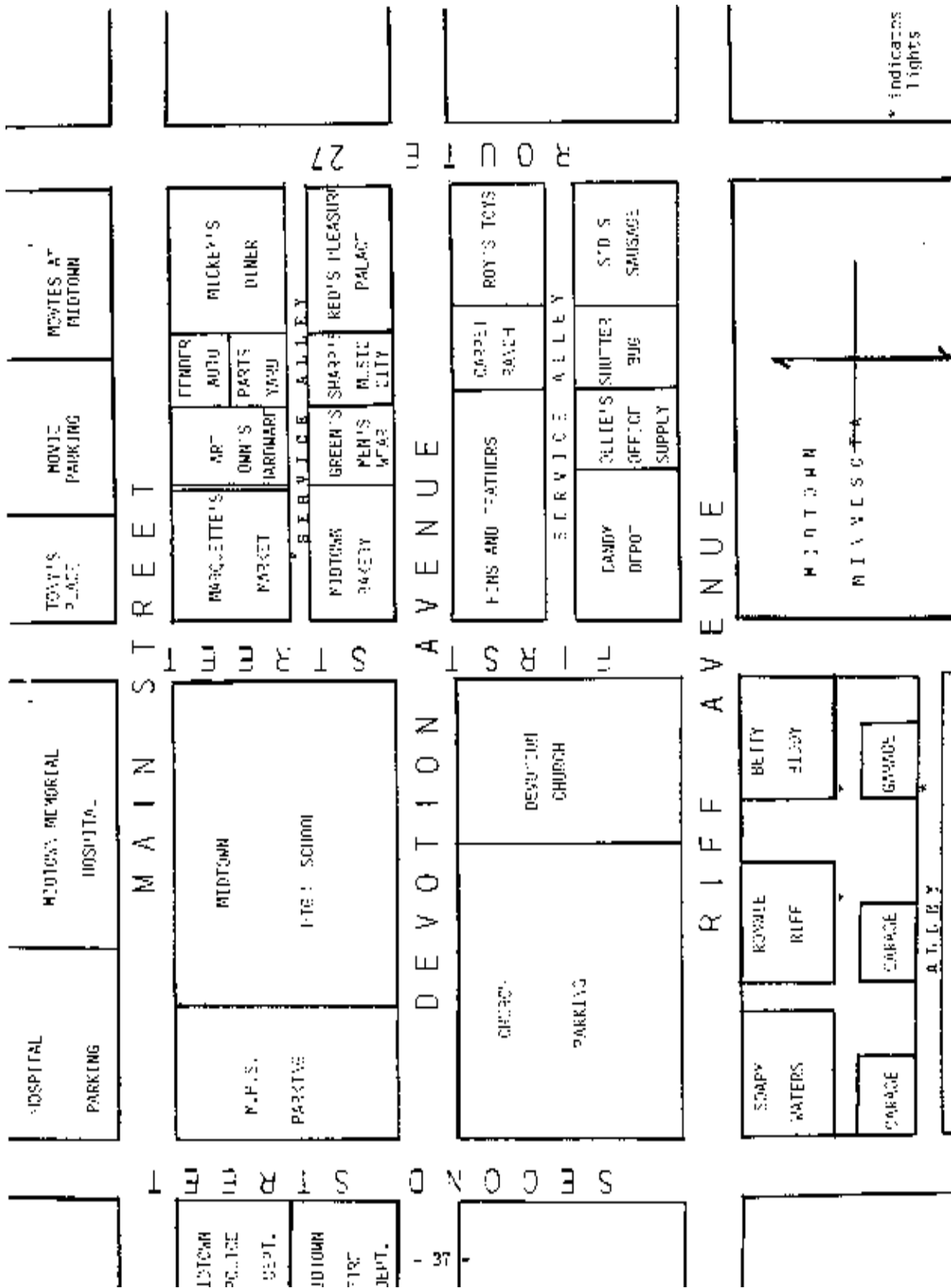
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CROSS EXAMINATION cont.

- F.** Cross examination is carried out by a team of attorneys.
- 1.** The team should divide up the work to be done.
 - 2.** Each attorney should develop cross examination questions for each witness.
 - 3.** While one attorney is questioning the witness, the others can think of additional ways to attack the testimony.
 - 4.** Each attorney should take notes during the direct examination of the witness and base his attack on those notes.
 - 5.** Don't be afraid to occasionally ask the judge for a short recess to work out cross examination strategy if you are stumped or if a new and unexpected situation develops.
 - 6.** If you have a hunch that a witness knows something he isn't talking about, ask questions designed to bring this out.
 - 7.** Take notes on all errors and contradictions in the testimony of the opposition and remind the jury of these during your closing statements.
- G.** You may ask leading questions during cross examination.

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RULES OF EVIDENCE

A criminal trial is a contest between the defense and the prosecution. Like any contest, certain rules have been developed to try to insure that both sides will compete fairly. Below are some of the rules that have been developed regarding the types of questions attorneys may ask and the types of answers witnesses may give.

If an attorney for one side in a criminal trial feels that an attorney or witness for the other side has violated one of the rules, he objects to the judge.

(Example: "I object, your honor, that's a leading question.")

If the judge **agrees** with the **objection**, the judge will say "**Objection sustained**" or "**Objection upheld.**"

(In the above example the question would then have to be re-worded or withdrawn.)

If the judge **disagrees** with the **objection**, the judge would say "**Objection overruled,**" and the questioning would continue.

Evidence which follows the rules is called **admissible**. Evidence which violates the rules is **inadmissible**. Below are some of the rules which must be followed to guarantee that the evidence is admissible:

1. Hearsay

A witness must not give "second hand" information on the witness stand.

(Example: "Vibes Blare told me that he saw the defendant with a gun that night.")

This evidence, that the defendant had a gun, must come from Vibes Blare not from this witness who is passing on second hand information.

2. Opinion

A witness must limit his comments to facts and not give opinions on the witness stand, nor may an attorney ask for such an opinion. The opposing attorney may object when the attorney asks a question calling for an opinion or when the witness answers with an opinion.

(Example: "I saw the defendant at 3:30 P.M. that day. He looked scared to death.")

In the above example, the first sentence is a statement of fact and therefore is admissible. The second sentence is an opinion of the witness and is inadmissible. An exception to this rule is when the witness is an expert and is giving an opinion in his/her field.

RULES OF EVIDENCE cont.

3. Irrelevant Testimony

A witness who gives testimony which has nothing to do with the case is wasting the court's time and violating a rule of evidence.

Also a lawyer must have reasons for asking direct and cross examination questions or be prepared to get an objection of "*Irrelevant Questions*" from the opposition attorney.

4. Character of the Accused

Trying to prove the defendant is innocent by showing that he has had a good reputation in the past or trying to prove guilt by showing that the defendant has had a bad reputation in the past is usually not allowed. The court feels that a past pattern of behavior is not a good predictor of behavior on a particular occasion.

5. Asked and Answered

While an attorney may ask review or clarification questions, the court does not allow an attorney to ask the same questions over and over for the purpose of buying time or for the purpose of confusing a witness.

6. Conclusion of Law (Assuming to be true what is still to be proved)

An attorney would be violating this rule of evidence if he/she referred to the defendant in a burglary case as "the burglar" or said "on the night of the burglary." It is the prosecution's job to prove there was a burglary and that the defendant committed it. Attorneys avoid violating this rule by saying: *On the night of the alleged burglary.*

7. Leading Questions

An attorney during direct examination (when the attorney is questioning a witness he/she has called to the witness stand) may not coach the witness by asking leading questions.

(**Example:** "*Officer Schield, isn't it true that on the night of the alleged burglary, you by the market at 11:58 P.M.?*")

8. Making A Statement

A lawyer during direct and cross examination should be asking questions of the witness. Statements or comments by the lawyers are not appropriate bet during opening or closing arguments.

9. Harassing the Witness

During cross examination when an attorney intentionally confuses the witness by asking questions rapidly without allowing time to think or answer the questions.