



*2011-2012*  
*CASE MATERIALS & COMPETITION RULES*

**Rook E. Greenwood vs. Chief Billie Durden, in  
His/Her Individual Capacity as Chief of the  
Reillyville Police Department**

*We extend gratitude to the State Bar of Georgia YLD High School Mock Trial Committee Subcommittee on the Problem who originally authored this fact pattern. It has been adapted with permission for our use by the MSBA Mock Trial Advisory Committee's Case Subcommittee.*

*The Mock Trial Program extends its gratitude for  
the generous support and assistance of:*

MSBA Civil Litigation Section  
MSBA Civil Litigation Certification Board  
MSBA Labor & Employment Law Section  
Minnesota Continuing Legal Education  
Minnesota State Bar Foundation  
First District Bar Association  
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Seventh District Bar Association  
Eighth District Bar Association  
Twelfth District Bar Association  
Sixteenth District Bar Association  
Nineteenth District Bar Association



*Special thanks to the Mock Trial Advisory Committee!*

Committee members: The Honorable Pete Cahill, Chair, Minneapolis;  
The Honorable Jim Dehn, Cambridge; Trina Alvero Iijima, Minneapolis;  
Mark Griffin, White Bear Lake; Amanda Sieling, Cottonwood; Tara  
Ferguson Lopez, St. Cloud; Dyan Ebert, St. Cloud; Tracy Harris, Elk River;  
Andrew Steil, St. Cloud; Kristin Olson, St. Paul

**To:** MSBA Mock Trial Program Participants

**From:** The Honorable Peter Cahill, Chair, MSBA Mock Trial Advisory Committee  
Emily R. Reilly, Mock Trial Manager

**Re:** 2011-2012 Mock Trial Program

**Date:** September 1, 2011

On behalf of the Minnesota State Bar Association and the Mock Trial Advisory Committee, welcome to the 26th season of the MSBA High School Mock Trial Program! We are proud to present to you these case materials and look forward to seeing the arguments you develop.

The MSBA hopes that all the benefits of the Mock Trial Program will go far beyond the rewards associated with competing against one's peers, winning a round or two, or even the state title. The goals of Mock Trial include:

- 1) To develop a practical understanding of the way in which the American legal system functions.
- 2) To enhance cooperation and respect among educators, students, legal professionals and the general community.
- 3) To help students increase basic life and leadership skills such as critical and creative thinking, effective communication and analytical reasoning.
- 4) To heighten appreciation for academic studies and promote positive scholastic achievement.

The mock trial website, located at <http://www2.mnbar.org/mocktrial/>, will be your source for information regarding the case and the tournament throughout the next several months. You will find timekeeper's sheets, score sheets, case clarifications and other resources to help you prepare your case.

The success of this program relies heavily on the hundreds of volunteers acting as coaches and judges; be sure to extend your gratitude to these individuals whenever given the chance throughout the season! Best of luck and enjoy the case!

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## Section 1: MSBA Mock Trial Outstanding Professionalism Performance Award

The MSBA Mock Trials are conducted with the same high professional standards expected of all attorneys and judges within the State of Minnesota. The Mock Trial Outstanding Professionalism Performance Awards were created by the MSBA Professionalism Committee to recognize Mock Trial Participants demonstrating high professional standards while competing in Mock Trials. Student attorneys and judges are invited to nominate participants demonstrating high professional standards. Awards are given in three categories: individual, team and attorney coach.

### 2011 Mock Trial Outstanding Professionalism Performance Award Recipients:

Individual: Sara Morgan, St. Michael-Albertville HS

Team: New Life Academy, Woodbury

We congratulate those recipients and challenge all 2012 participants to follow their example in conducting themselves as professionals and examples for all in the legal profession. Nomination forms are available on the Mock Trial website. In addition, all judges will be provided with forms during the competition. Nominations will be reviewed by the Professionalism Committee. Selection will be based on civility, courtesy, honesty, integrity and trustworthiness demonstrated during the 2011-2012 Mock Trial Competition. The Professionalism Aspirations and Attorney Core Value messages are resources to review to become familiar with these expectations.

The MSBA Professionalism Committee looks forward to presenting the 2012 Mock Trial Outstanding Professionalism Performance Award at the 2012 State Tournament in Rochester on March 7<sup>th</sup>, 2012.

# Respect & Fairness

## A message from the MSBA Student & Professionalism Committees

This is the second in a series of five messages regarding the core values in the legal profession that cover: 1) Respect & Fairness; 2) Service; 3) Honesty, Integrity, and Trustworthiness; 4) Competent, Prompt, and Diligent Representation; and 5) Quality of Justice. This piece addresses Respect & Fairness.

The cliché is true: we are guardians of our profession. The legal profession is one of the remaining self-regulating professions. It is an awesome responsibility and we must fiercely protect its integrity. Take the time now, while you are in a learning environment, to practice respect and fairness.

### Core Value: Respect & Fairness

The Preamble of the **Minnesota Rules of Professional Conduct** states that:

A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

**Rule 4.4** of the **Minnesota Rules of Professional Conduct** states:

In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

### Examples In Action

In a settlement conference, an Attorney cursed at opposing party and then refused to respond to her complaint. After an investigation the court stated: "Lawyers must be encouraged to represent their clients vigorously and we are hesitant in any way to interfere . . .; yet there is a line that should not be crossed and respondent has crossed it." Attorney's comment served no legitimate purpose and was made only to burden or embarrass the other person. - *In re Getty*, 401 N.W.2d 688, 671 (Minn. 1987), [www.courts.state.mn.us/lprb/fc051799.html](http://www.courts.state.mn.us/lprb/fc051799.html)

### What does this mean for me?

Practicing core values forms solid skills:

- **Respect** does not necessarily mean agreement. It means independent regard of another's perspectives, ideas, and contributions. Disagree without being disagreeable.
- **Fairness** includes sharing resources in school and the community. We all use the same materials so be considerate of others.
- **Listening.** You can not win an argument without first listening to and understanding your opponents, your colleagues and your future clients.
- **Promote and celebrate diversity.** Determine what diversity means to you. Familiarize yourself with different cultures, religious beliefs, and ideologies through clubs and organizations.
- **Spirited Debate.** Classroom debate should be spirited and zealous while remaining fair and respectful.
- **Professionalism and ethics.** Good lawyers are ethical, disciplined, and value their reputation. Your reputation never leaves you.
- **Civility.** The law community is surprisingly small. Act civilly in all your dealings. Your colleague may become your boss or a judge.
- **Anger.** Reflect before you act. For example, don't send a hostile e-mail in anger only to regret it later.



# Public Service

## A message from the MSBA Professionalism Committee

There are five core values in the legal profession: 1) Respect and Fairness; 2) Public Service; 3) Honesty, Integrity and Trustworthiness; 4) Competent, Prompt, and Diligent Representation; and 5) Quality of Justice.

Society depends upon lawyers to provide services to those who cannot afford them. But public service is more than just providing free legal services. It is about committing ourselves to civic engagement. As members of the legal profession we are obligated to give back to the community and make it stronger.

### Core Value: Pro Bono Service

Rule 6.1 of the **Minnesota Rules of Professional Conduct** states that:

[a] lawyer should aspire to **render at least 50 hours of *pro bono publico* legal services per year.** In fulfilling this responsibility, the lawyer should provide a substantial majority of the 50 hours of legal services without fee or expectation of fee to (1) persons of limited means or (2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means.

The comment to Rule 6.1 calls pro bono service a “professional responsibility” and an “individual ethical commitment of each lawyer.”

### Examples In Action

Some simple ways to serve others include volunteering in a local soup kitchen, reading books to children, volunteering with a restorative justice program, and volunteering with the Minnesota Justice Foundation (MJF).

“How wonderful it is that nobody need wait a single moment before starting to improve the world.”

*Anne Frank*

### What does this mean for me?

Maintaining the value to serve others means that you:

- **Actively participate in the community.** Seek out volunteer opportunities which interest you.
- **Make time for others.** No matter how busy you are, serving others should be high on your priority list.
- **Use your special gifts and abilities** to give back to your community. Lawyers have a privileged role in society. This privilege comes with responsibility to try to improve our communities.
- **Treat others with fairness and respect.** Recognize that we all contribute differently to a common goal. Make your goal the improvement of the common good.
- **Seek to grow professionally** by learning new areas of law and to grow personally by developing diverse relationships.
- **Help others.** Be committed to promoting equal access to the legal system and educate others about the law.
- **Learn what resources are available** in your community to assist others. When you cannot provide assistance yourself, be able to refer people to agencies that can help them.

Why wait until after law school to begin serving those around you? Life will always be busy and there will always be competition for your time. By serving others as you build your legal career you begin forming the patterns that you should aspire to throughout your legal career. You are developing your credibility as a lawyer by living out the core values of the legal profession.

# Honesty, Integrity, & Trustworthiness

A message from the MSBA Professionalism Committee

There are five core values in the legal profession: 1) Respect and Fairness; 2) Public Service; 3) Honesty, Integrity, and Trustworthiness; 4) Competent, Prompt, and Diligent Representation; and 5) Quality of Justice.

Attorneys are officers of the court appointed to assist the court in the administration of justice. Property, liberty, and sometimes the lives of our clients are committed into our hands. This commitment demands a high degree of intelligence, knowledge of the law, respect for its function in society, sound and faithful judgment and, above all else, integrity of character in conduct.

## Core Values: Honesty, Integrity, & Trustworthiness

**Rule 8.4** of the **Minnesota Rules of Professional Conduct** states in part that:

It is professional misconduct for a lawyer to:

- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (g) harass a person on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual preference or marital status in connection with a lawyer's professional activities; or
- (h) commit a discriminatory act, prohibited by federal, state or local statute or ordinance, that reflects adversely on the lawyer's fitness as a lawyer. . .

"Prefer a loss to a dishonest gain; the one brings pain at the moment, the other for all time." *Chilon*

## I. Resources

For additional resources on honesty, integrity, and trustworthiness in the legal profession, refer to:

- Association of Professional Responsibility Lawyers, <http://www.aprl.net>
- Legalethics.com, <http://www.legalethics.com>
- ABA Center for Professional Responsibility, <http://www.abanet.org/cpr/home.html>
- The Trusted Advisor by David H. Maister, Charles H. Green, Robert M. Galford

## What does this mean for me?

- **Meet commitments and deadlines.** Allow enough time to get assignments and other commitments completed on time.
- **Live up to the aspirations of the legal profession.** Your behaviors should always measure up to the aspirations of the profession. Professional misconduct jeopardizes our ability to be self-regulating.
- **Make your word your bond.** Every day you are building the reputation that will stay with you throughout your career. Do what you say you are going to do.
- **Protect Confidences.** Recognize the conversations that you should not share with others. A casual social story may be a serious breach of confidence. If you are acting as a student lawyer, realize you have both an ethical and legal obligation to protect your client's confidences. Remind your peers when you hear disclosures that you think should be confidential.
- **Candidly complete your applications.** You place yourself at serious risk if you fail to be forthright and candid in your applications for employment and to the Bar.

# Competent, Prompt, and Diligent Representation

## A message from the MSBA Professionalism Committee

There are five core values in the legal profession: 1) Respect and Fairness; 2) Public Service; 3) Honesty, Integrity, and Trustworthiness; 4) Competent, Prompt, and Diligent Representation; and 5) Quality of Justice.

People will rely on you to have the judgment and expertise to serve their legal needs. As a professional you are expected to know the law, the legal process, and how to interact with your clients.

### Core Value: Competence, Promptness and Diligence

The **Minnesota Rules of Professional Conduct** state in part that:

#### Rule 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

#### Rule 1.3 Diligence [and Promptness]

A lawyer shall act with reasonable diligence and promptness in representing a client.

### Resources

Minnesota State Bar Association  
612-333-1183  
[www.mnbar.org](http://www.mnbar.org)

Minnesota Continuing Legal Education  
612-227-8266  
[www.minncle.org](http://www.minncle.org)

Hennepin County Bar Association  
612-752-6601  
[www.hcba.org](http://www.hcba.org)

Ramsey County Bar Association  
651-222-0846  
[www.ramseybar.org](http://www.ramseybar.org)



### What does this mean for me?

Maintaining these values means that you:

- **Be punctual and meet deadlines.** Meet your deadlines whether in class or a clinic. Punctuality is essential whenever you are dealing with the court. Being late is not tolerated in practice, and jeopardizes client interests.
- **Work hard.** Invest time and effort in all assignments. Recognize that you are learning skills that will help you represent real people with real problems. Practicing law is a vocation, not an academic exercise.
- **Expand your knowledge.** Look at research projects as opportunities to further your legal knowledge. The greater your knowledge, the better able you will be to give legal advice to clients in a wider array of situations.
- **Recognize limitations.** The law is highly specialized. Do not expect to be knowledgeable in every area of the law. Your client has the right to demand your utmost competence.
- **Utilize CLE courses and lunchtime lecture opportunities.** The bar offers many opportunities for law students to attend CLE courses for free or at a reduced rate.
- **Seek help when you need it.** If you are working as a student attorney, never hesitate to seek advice and help when you are not sure what to do. Never guess. As you begin your career, seek out a mentor and others to help you provide the best representation you can.

# Quality of Justice

## A message from the MSBA Professionalism Committee

There are five core values in the legal profession: 1) Respect and Fairness; 2) Public Service; 3) Honesty, Integrity and Trustworthiness; 4) Competent, Prompt, and Diligent Representation; and 5) Quality of Justice.

### Core Value: Responsibility for the Quality of Justice

The first sentence of the Preamble to the **Minnesota Rules of Professional Conduct** states that: “[a] lawyer is a representative of clients, an officer of the legal system and a public citizen *having special responsibility for the quality of justice.*”

The Preamble continues, “A lawyer should **demonstrate respect for the legal system** and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.”

“As a public citizen, a lawyer should **seek improvement of the law, the administration of justice and the quality of service rendered by the legal profession.** As a member of a learned profession, a lawyer should **cultivate knowledge of the law** beyond its use for clients, employ that knowledge in **reform of the law and work to strengthen legal education.** A lawyer should be **mindful of deficiencies** in the administration of justice and of the fact that the poor and sometimes persons who are not poor, cannot afford adequate legal assistance, and should therefore devote professional time and civic influence on their behalf. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.”

### What does this mean for me?

Maintaining this value means that you:

- **Actively participate in the legal community.** Seek out ways to improve the law and the legal system by joining and participating in Bar activities and events. Offer your expertise and contribute the skills you are learning to improve justice issues in your community. Find ways to get involved.
- **Consider the public policy when evaluating case decisions.** Public policy arguments are often an expression of the need for justice to be done. These are ways in which lawyers help steer the law in the direction it should go.
- **Understand the legal process.** The public's faith in the justice of the legal process depends upon having a voice in the process.
- **Treat others with fairness and respect.** Recognize that we all contribute differently to a common goal. Make your goal the improvement of the common good.

### Examples In Action

A *non-lawyer* by the name of Clarence Earl Gideon working pro se petitioned the Supreme Court to ensure that a person charged with a crime, for which his freedom could be taken away, was entitled to the assistance of an attorney. Today, law students across the United States assist inmates on death row with appeals through organizations such as the Innocence Project. Law Students participating in national and local bar associations are partnering to improve the law and strengthen legal education. This series of letters on professionalism was developed for you by law students.

## **Case Summary:**

*This introduction is of no legal consequence in terms of the trial and is not admissible for impeachment purposes or for any other purpose.*

This year's problem is a 42 USC § 1983 action brought by Detective Rook E. Greenwood against Chief Billie Durden of the Miltonville Police Department. Greenwood claims that Durden violated his/her civil rights by terminating him/her based on a statement s/he made through a posting on a social networking site called "ReillyBook". Chief Durden disputes that the statement in question had anything to do with Greenwood's firing, and instead claims to have terminated Greenwood "for good cause" due to citizen complaints.

The case of characters is unique. Leslie Loudermouth is a would-be politician and community activist. Rin T. Tin is an animal rights advocate. Myron Goddard and Paul/Polly Schorr are local law enforcement officers. All have a history with one another and with Greenwood and Durden. Each witness has his or her own story to tell and possibly his or her own agenda in this matter. It will be up to each team to find all the tidbits provided by the case writers and to use those tidbits strategically to put together the most compelling case possible for each side.

## **STIPULATIONS:**

1. All exhibits included in the problem are authentic and accurate in all respects, and no objections to the authenticity of the exhibits shall be entertained. *No additional foundational witnesses will be necessary to admit exhibits that the rules otherwise allow to be admitted into evidence.*
2. Stipulations cannot be contradicted or challenged.
3. The signatures on the witness statements and all other documents are authentic.
4. The Jury Instruction Guide is accurate in all respects; no objections to the instructions will be entertained.
5. Chain of custody for evidence is not in dispute.
6. All parties to the litigation are familiar with the allegations and responses found in the pleadings.
7. Rook E. Greenwood has exhausted all administrative remedies as a condition precedent to filing this lawsuit.
8. During pretrial hearings, the trial court found, as a matter of law, that Rook E. Greenwood's ReillyBook post concerned office safety and use of public funds, and the subject of such speech activity was a matter of public concern.
9. The Reillyville mayoral election is scheduled to be held on Tuesday, 8 November 2012.
10. Exhibit One is a screen capture of Rook E. Greenwood's ReillyBook page as it existed on April 9 2011. The screen capture was obtained by Rook E. Greenwood.
11. Exhibits Two and Five are true and accurate excerpts from the City of Reillyville Police Department Handbook, which was in effect during all relevant times during Greenwood's employment.

12. All handwriting on Exhibit Four is that of Chief Billie Durden, with the exception of the signature of the immediate supervisor at the bottom of the page. The signature of the immediate supervisor is that of Sgt. Myron Goddard.
13. Exhibit Nine is a true and accurate copy of a letter retained by the Minnesota Department of Family and Children's Services written and signed by Leslie Loudermouth.
14. The signature on Exhibit 10 is that of Rook E. Greenwood.

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MINNESOTA  
REILLYVILLE DIVISION**

**ROOK E. GREENWOOD**

**Plaintiff,**

**v.**

**CHIEF BILLIE DURDEN, in His/Her Individual Capacity as  
Chief of the Reillyville Police Department,**

**Defendant.**

)  
)  
)  
)  
) **Civil Action No. 2012-MT**  
)  
)  
)  
)  
)

**COMPLAINT**

Plaintiff, by and through undersigned counsel, brings this complaint against the above-named Defendant, and in support thereof alleges the following on information and belief:

1. This court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, as it arises under the Constitution and laws of the United States and presents a federal question.
2. Venue is proper within this judicial district and division, pursuant to 28 U.S.C. § 1391(b)-(c), because the events giving rise to Plaintiff's claims occurred in this judicial district and division.
3. On or about April 4, 2011, Plaintiff was an employee of the Reillyville City Police Department.
4. During all times relevant to Plaintiff's employment with the Reillyville City Police Department, said Department was subject to and covered by policies that provided an employee could only be discharged "for good cause."
5. On or about April 4, 2011, Plaintiff made public comments about matters of public concern in his/her capacity as a private citizen (hereinafter referred to as "protected speech").
6. On or about April 9, 2011, Defendant discharged plaintiff from the Reillyville City Police Department.
7. The actions of the Defendant in discharging Plaintiff was "under color" of the authority of the State.
8. The protected speech was a substantial or motivating factor in the Defendant's decision to discharge the Plaintiff from employment.



**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MINNESOTA  
REILLYVILLE DIVISION**

<b>ROOK E. GREENWOOD</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 2012-MT</b>
	)	
<b>CHIEF BILLIE DURDEN, in His/Her Individual Capacity as</b>	)	
<b>Chief of the Reillyville Police Department,</b>	)	
	)	
<b>Defendant.</b>	)	

**ANSWER**

Now comes Defendant, by and through undersigned counsel, and answers Plaintiff's complaint as follows:

1. Defendant admits the allegations contained in Paragraph 1 of Plaintiff's complaint.
2. Defendant admits the allegations contained in Paragraph 2 of Plaintiff's complaint.
3. Defendant admits the allegations contained in Paragraph 3 of Plaintiff's complaint.
4. Defendant admits the allegations contained in Paragraph 4 of Plaintiff's complaint.
5. In response to the allegations contained in Paragraph 5 of Plaintiff's complaint, Defendant admits that certain public statements were made, but denies the remainder of the paragraph.
6. Defendant admits the allegations contained in Paragraph 6 of Plaintiff's complaint.
7. Defendant admits the allegations contained in Paragraph 7 of Plaintiff's complaint.
8. Defendant denies the allegations contained in Paragraph 8 of Plaintiff's complaint. By way of further answer, Defendant asserts that Plaintiff would have been discharged even in the absence of the alleged protected conduct.
9. Defendant denies the allegations contained in Paragraph 9 of Plaintiff's complaint.

THEREFORE, DEFENSE MAKES THE FOLLOWING PRAYERS FOR RELIEF:

1. That Plaintiff's complaint be dismissed with all costs cast upon Plaintiff;
2. Any other and further relief as this court deems equitable and just.

This 21<sup>st</sup> day of May 2011.

LAW FIRM

By:       /S/        
Attorneys for Defendant  
Reillyville, Minnesota

## AFFIDAVIT OF DETECTIVE ROOK E. GREENWOOD

1  
2  
3 1. My name is Detective Rook Ellison Greenwood. I became a police officer here in Reillyville  
4 on February 14, 2005. It only makes sense for me to have become a police officer on Valentine's  
5 Day since I absolutely love my job. Well, I loved it until I got fired for having an opinion.  
6

7 2. Members of my family have worked for or run this police department longer than old Chief  
8 Durden has been alive. Most notably was my uncle, the former Chief in Reillyville, Joe Greenwood.  
9 Anyone can tell you how beloved Chief Joe was and still is. Even though he's been retired for 15  
10 years, he's still got that old "get up and go" he's always had. I'm proud of his legacy and everyone  
11 has always told me I take after him. I admit it, though. I do tend to talk about Joe's contributions to  
12 the department pretty often. I hear a few groans every now and again, but mostly everyone likes  
13 to hear my stories. It cheers everyone up after a tough day on the beat and sometimes we need  
14 that. Chief Durden is not, in my opinion, very much like my Uncle Joe.  
15

16 3. Even though my family started a legacy around the police department, I made a name for  
17 myself by handling important cases with excellence. Everyone probably remembers how well I  
18 handled that doctor who killed that LaQuinta kid in a car wreck. I worked hard and I made  
19 detective in record time. Even though I don't have as many years on the job, lots of the other  
20 officers come to me for guidance and advice on how to handle cases. Some of my peers nominated  
21 me for Officer of the Year two years ago, but that Schorr beat me out by a couple of votes. It looks  
22 like puckering up to Chief Durden gets you just a bit farther in this world than being a great cop.  
23 Obviously Chief Durden knows how to grease the right palms, too. You should see him/her driving  
24 around town in his/her fancy new car. You'd think I knew how to handle things like everybody else  
25 since they sent me to a weekend communication retreat, but that was all too touchy-feely for me.  
26

27 4. Anyway, I was working the night Lil' Nemesis T got shot, but I got dispatched to yet another  
28 911 call made by Rin T. Tin so another detective got to work the big shooting. I certainly know the  
29 officers involved in the shooting. I have a lot of respect for Cheney, but Johnson is a loose cannon  
30 (no pun intended). That being said, Johnson shouldn't have had to take that bullet. It's well known  
31 in the department that the newest hires get the oldest equipment, and complaining never helped.  
32 For the past two years there has been an internal campaign to get the Chief to put money for new  
33 bullet-proof vests in our budget. Somehow, it never seems to survive the budget process, and we  
34 try to survive another year with sub-par equipment. The latest model vest – the T2000 – would  
35 have stopped that bullet. Everybody says that Johnson was injured because the bullet hit a  
36 seam...well, the T2000 doesn't have seams on the shoulders so it would have done a better job of  
37 protecting him. The shooting caused everyone to go into defensive mode, and to try and sweep all  
38 this under the rug without it turning into a horrible public relations nightmare.  
39

40 5. The so-called investigation into the whole incident was a joke. Internal affairs took the  
41 statements of the officers there and cleared everybody of wrongdoing. A thorough investigation,  
42 like the ones I conduct, would have taken much longer. People would have discovered that the  
43 real culprit was the dilapidated equipment we are forced to use. I don't know if the outcome  
44 would have been any different, but the public would have more faith in the system if it'd been  
45 done right. A big part of that is knowing how their tax money is being spent. You would think that  
46 if the public knew about our old equipment, they would march on City Hall and demand that we  
47 get the support and respect we deserve.  
48

49 6. Well, since that didn't happen, we had to deal with Leslie Loudermouth making political hay  
50 out of the incident. I've met the soon-to-be mayor on a few occasions, most recently when I'm  
51 working security at one of his/her speeches or something. Chief Durden and others have teased  
52 me about being BFFs with Loudermouth because I knew him/her before s/he became a big  
53 politician, and we've all had a few laughs about it. But I was raised to believe that people who  
54 represent the voice of the community deserve a certain amount of respect, even if they sometimes  
55 take things too far in the name of politics.

56

57 7. Anyway, I listened to the Loudermouth rap on April 4 while working security. What  
58 Loudermouth said really connected the dots for me, as I had not associated the extraneous  
59 expenditures with our lack of viable equipment until that moment. That's what got me into this  
60 mess. I'm known as a person who will call it like I see it, so I posted my opinion on my ReillyBook  
61 page at the rally using my standard issue Blackberry. I use that page to communicate with  
62 coworkers, friends and family, and it is clear that I am not expressing an opinion on behalf of the  
63 entire police department. Yes, the page tells people where I work and what I do, but that's just  
64 part of the "Bio" section. Hearing all of those comments about an alleged cover-up and misuse of  
65 funds surrounding the whole Lil' Nemesis T incident made me feel embarrassed for the  
66 department. Even though Loudermouth thinks the Chief is always wrong, this time Loudermouth is  
67 right. And that's exactly what I posted on ReillyBook. There is nothing in the employee manual  
68 that says I always have to agree with Chief Durden. I am not a potted plant.

69

70 8. I definitely started getting the cold shoulder from other people at the department after I  
71 posted my comments. I noticed lots of funny looks and whispered comments when I walked past  
72 the administrative offices and through the locker room. Someone even put a blue strip of tape on  
73 my locker. The thin blue line – very funny. No one ever had the guts to say anything to my face,  
74 though folks obviously thought I'd crossed that line.

75

76 9. Apparently Schorr saw my ReillyBook post, even though we are definitely not friends. I'm  
77 going to have to check my privacy settings. It's obvious s/he tattled to the Chief because I was  
78 handed a letter when I left work on April 8 to see the Chief on April 9 for a "pre-termination  
79 hearing." This was the first I had heard that my job was in jeopardy. I figured I'd talk it over with  
80 the Chief, the truth would come out and I might get a reprimand at worst.

81

82 10. On my way to see the Chief on April 9, Schorr said with a triumphant smirk, "If you lie down  
83 with dogs, you're going to get up with fleas." I can't believe Schorr called Loudermouth a dog! In  
84 retrospect, Schorr might have been talking about Wolf, but I didn't make the connection at that  
85 time. When I got into the Chief's office, s/he blew me away by telling me I was being fired. S/he  
86 said I was being terminated because of some complaint filed by Rin Tin, the town nut job. That's  
87 ridiculous! From what I hear, that kook has filed complaints on tons of officers, and they all still  
88 have jobs. I've even heard the Chief say that Tin pops way too many "allergy" pills. Tin wanted me  
89 to turn the death of some pathetic mutt into an all out murder investigation. I was nice enough to  
90 Tin even though I had no intention of wasting my valuable time on any of his/her many issues. We  
91 had an actual person die that night, and even though Tin would probably disagree with me, people  
92 are higher up on the food chain than dogs. Nonetheless, I treated Tin with all due respect and  
93 handled the dog with care.

94

95 11. I asked the Chief to show me the official complaint form, but s/he refused. My investigative  
96 instincts immediately told me something was fishy. That dog died weeks before I was fired. The  
97 timing was all wrong. I was too shocked to confront the Chief about his/her real reason for firing

98 me, but I know what's up. It looks like Loudermouth was right about everything, including the  
99 Chief and the Mayor covering each other so people don't blame them for Johnson's injuries. I'm  
100 not going to let this get swept under the rug, too. If I can't be a police officer in Reillyville, I don't  
101 know what I'll do. Heck, I can't even be a police officer anywhere right now. Getting fired for  
102 speaking out cost me my POST certification. I've read the Constitution and I know my rights. I  
103 need to get back to work – this community needs officers like me on the job.

104

### WITNESS ADENDUM

105

106

107 I have reviewed this statement, previously made by me, and I have nothing of significance to add at  
108 this time. The material facts are true and correct.

109

110

Signed,

111

112

/S/

113

Rook E. Greenwood

114

115

116

117 SIGNED AND SWORN to me before 8:00 a.m.

118 on this day July 1, 2011

119

/S/

120

C.M. McCormack, Notary Public

121

State of Minnesota

122

My Commission Expires: 05/01/2012

# AFFIDAVIT OF LESLIE LOUDERMOUTH

1  
2  
3 1. My name is Leslie Loudermouth, and I'm going to be the next mayor of Reillyville. I won't  
4 be mayor for only the rich and privileged, like my opponent, but for the voiceless of Reillyville. I  
5 was born April 1, 1968 in Greenville, South Carolina. My family moved around a bit, but I spent a  
6 good deal of my childhood here in Olmsted County. I graduated from Reillyville High School and  
7 then I attended the University of Ohio on a basketball scholarship with a major in political science.  
8

9 2. As an undergrad political science major at the U of O I became very interested in the  
10 inequalities and unfair treatment of certain classes of people by those in power. I attended many  
11 rallies on campus and became known as an activist and radical while an undergraduate. I also  
12 penned a column covering all of the hot political issues of the day in the school newspaper. I wasn't  
13 one of the most popular kids on campus and you know what? I didn't care. Sometimes the path of  
14 the righteous is beset on all sides by the iniquities of the selfish and the tyranny of evil people. I  
15 believe this is what guided me to the field of social work.  
16

17 3. After I received my B.S. at the U of O, I enrolled at the University of Minnesota and  
18 completed their Masters program in social work. After getting my Masters degree, I remained at  
19 the University of Minnesota as a part-time adjunct professor of political science. Although the title  
20 sounds fancy, it really means I only taught a few night classes. It was barely enough to make ends  
21 meet, but it was rewarding and enlightening in a myriad of other ways. It showed me how willfully  
22 ignorant this generation is of the political machines that drive this "democracy," and how  
23 lackadaisical they are when it comes to those who abuse power. I did all I could to educate them  
24 about the realities of the political landscape, but it is tough to change the world twenty students at  
25 a time. They probably don't even vote.  
26

27 4. Although my mission was by no means complete, I left teaching and returned to my beloved  
28 Reillyville. I became a social worker for the Minnesota Department of Family and Children Services.  
29 That is where I saw the face of Reillyville -- in the men, women and children who were most in  
30 need. I listened to their stories and shared my experiences. I danced at their weddings and cried at  
31 their funerals. I tried to provide help and hope to the ignored and forgotten. I know I did good  
32 work while I was with DFACS. I made a difference, despite Chief Durden's opinion about the  
33 Jeanette Smith case. Jeanette had been through so much (including the death of her father), and  
34 she was having trouble coping. She made some mistakes with her priorities, and she needed a  
35 wake-up call to help her choose the right path. Instead of the knee-jerk reaction of taking her kids  
36 from her like Officer Schorr suggested, the juvenile court judge agreed with me and allowed her to  
37 mend her ways. I'm proud to say that the last time I saw Jeanette she had turned everything  
38 around and was using her food stamps exclusively to feed her kids. Chief Durden had the gall to  
39 tell my supervisor that I had some sort of "agenda" related to that situation and that my judgment  
40 in the matter wasn't sound and Schorr said I lied to the judge about whether Jeanette was in drug  
41 treatment at the time of the hearing. Durden had no clue what was happening. S/he just listened  
42 to that trigger-happy Officer Schorr and based his/her opinion on that. You would think that the  
43 Chief would have taken the time to get his/her facts straight before hightailing it in to my boss's  
44 office to express his/her negative opinion about my handling of the case. Besides, in my opinion, if  
45 you have scheduled an appointment to get drug treatment, you are "in" the program as far as I am  
46 concerned. But that's water under the bridge. It's over and I'm over it.  
47

48 5. While working at DFACS, and then after I'd left that department to start my own consulting  
49 agency, I got to know and became friends with many of Reillyville's finest. In particular, Detective  
50 Greenwood has been a tremendous help to my clients over the years. S/he and I have developed  
51 such a rapport that I have his/her cell phone number in case of emergency. I have yet to use it, but  
52 it is nice to have. Detective Greenwood has a heart of gold, and his/her devotion to alternative  
53 dispute resolution (as opposed to blindly arresting all interested parties) has earned a great deal of  
54 credibility on the street. I've never seen Greenwood treat anybody with anything but the utmost  
55 respect, no matter how mundane or tedious the complaint. In particular, his/her work with the  
56 eastside neighborhoods should be rewarded with a promotion. S/he really must take after his/her  
57 uncle, old Chief Joe.

58

59 6. Unfortunately, all police officers are not created equal. Take Officer Schorr for example –  
60 we butt heads so often we should put on horns and meet on a mountaintop. Schorr is the single  
61 most unresponsive officer I have ever met. Just as an example, I called and asked for an officer to  
62 report a missing pet. Officer Schorr responded, and proceeded to tell us how we were wasting  
63 his/her time with such trivial matters and the cat ("Mr. Mabel") was probably better off  
64 somewhere else. I made a citizen's report about the incident, but to my knowledge nothing ever  
65 came of it. I even called Chief Durden personally, and was barely given lip service to a legitimate  
66 complaint. Durden told me that one insignificant complaint didn't mean that Schorr was a bad  
67 officer and refused to listen to any more.

68

69 7. The call to Chief Durden inspired me to make more of a difference in my community. If my  
70 voice could not be heard from among the huddled masses, then I was going to climb to a spot  
71 where my voice could be heard. I decided to run for mayor.

72

73 8. While I am in politics, I am not a politician. I believe people will respond to good intentions  
74 and common sense. I have very little money from a campaign perspective, but I have excellent  
75 "grass roots" support. My election rallies are growing in size to the point that the Reillyville Police  
76 Department sends officers to handle traffic and crowd control. In fear of being sent Schorr (or  
77 someone worse), I began requesting Detective Greenwood be included in the detail. I have also  
78 requested that Officer Schorr be kept as far away from my appearances as possible, at least from a  
79 professional standpoint. For the most part, my request is being honored, I guess the Chief can  
80 listen when s/he wants.

81

82 9. It all came to a head on March 15, 2011 during the brouhaha at Bob's Country Bunker when  
83 Lil' Nemesis T was killed in a gunfight with two Reillyville officers. One of the officers was seriously  
84 injured when a bullet struck his dilapidated "bullet-proof" vest and went right through into his  
85 shoulder. Despite initial reports that Nemesis T was the shooter, it turned out that the bullet that  
86 hit the officer was a ricochet from the other officer's gun that accidentally discharged when  
87 removing it from the holster, but that was beside the point. It turns out that the Mayor and Chief  
88 Durden put officer safety second and their own personal comforts first.

89

90 10. In late March of 2011, I became aware of something the current Mayor and City Council did  
91 right before the end of the fiscal year that made my blood pressure shoot through the roof. In  
92 Reillyville, the Mayor and Council have to approve all individual unbudgeted expenditures over  
93 \$10,000.00. Well, it turns out that the Reillyville Police Department ended up with a surplus for  
94 Fiscal Year 2010, so they wanted to spend it before December 31. It is well known that the Police  
95 Department could use several upgrades to equipment and technology, but none are more crucial

96 than bullet-proof vests. The idea of sending Reillyville's finest out in aging equipment that only  
97 provides them a false sense of security is chilling. Internally, the Chief's subordinates have been  
98 complaining about the poor condition of their bullet-proof vests for several years, but the money  
99 was never in the budget. The horrible incident at Bob's Country Bunker just drove that point home.  
100 All of a sudden, the Department has a windfall that they can use to provide much needed  
101 protection to our men and women who regularly go in harm's way. But what did the Chief do?  
102 S/he decided to spend the money on a brand new personal car. What's worse, the Mayor and  
103 Council went along with it.

104

105 11. At my next regularly scheduled rally on April 4, I was quite vocal in my displeasure  
106 concerning the recent expenditure. I told the crowd that for the price of the Chief's new car we  
107 could have bought 10 new bullet-proof vests, and an investment in our rank and file police force  
108 would pay more dividends than a new Guzzler XS for the Chief's personal enjoyment. I put it all in a  
109 rhyme (much to the cheers of the crowd):

110

111 When word of the mayor's decision  
112 Came down to the local division  
113 That their lives aren't on par  
114 With the Chief's brand new car  
115 It was met with unanimous derision.

116

117 I was also incensed at how the Chief conducted the post-shooting investigation. A special grand  
118 jury should have been convened to determine the true cause of that officer's injury, including how  
119 both the Chief and the Mayor were complicit in consciously ignoring the needs of the officers. We  
120 all know that the Chief of Police is appointed by and serves at the pleasure of the Mayor and  
121 Council...snug as a bug in a rug. The fact that the District Attorney signed off on all this only means  
122 that the truth isn't out yet. I guess that's my job. The public needs to know!

123

124 12. The crowd was so riled up, I decided we needed to march on City Hall and let our voices be  
125 heard. Unfortunately, downtown Reillyville is pretty empty on a Sunday evening, so it didn't go as  
126 well as I had anticipated. It did get a good write up in the paper, so I guess the message was  
127 delivered eventually.

128

129 13. Detective Greenwood was at the April 4 rally, and now I am told that Detective Greenwood  
130 was fired because s/he agreed with what I said and posted it on a social media network. This  
131 action against Detective Greenwood illustrates that oppression is not limited to formal government  
132 actions against the public but against an individual particularly focusing on oppression of what the  
133 public needs to know. If I am elected mayor, the first thing I will do is fire Chief Durden and make a  
134 seasoned, well-respected person, like Detective Greenwood, the new chief.

135



# AFFIDAVIT OF SERGEANT MYRON GODDARD

1  
2  
3 1. My name is Myron Goddard; my friends call me “My”. I am a Police Sergeant for the City of  
4 Reillyville. I entered the Army right after high school, but did not re-up and left after 4 years. I am a  
5 P.O.S.T. Certified Peace Officer, I have received supervisory-level P.O.S.T. certifications and am  
6 currently enrolled at the University of Phoenix to obtain a Criminal Justice Administration degree. Over  
7 the past 10 years I have worked my way up the ranks and am a supervisor to 3 junior officers - Michael  
8 Cheney, Bryan Johnson and Rook E. Greenwood. Once I get my degree hopefully the Chief will  
9 promote me to Lieutenant.

10  
11 2. Rook E. Greenwood worked under me for the last 4 years. Before that s/he was a newbie and  
12 was underneath a different supervising officer. Rook was one of my best officers – you could always  
13 count on a painstakingly thorough investigation. Still, occasionally we would get word that Rook’s  
14 interpersonal skills left a little to be desired. I know s/he likes to be all “Dagnet” with people (“Just the  
15 facts.”), but sometimes a police officer needs to use more subtle skills to handle situations. We tried to  
16 counsel him/her on the need to improve personal interactions with coworkers and citizens alike. We  
17 had several discussions about it and then, we sent him/her to a weekend retreat for communication  
18 and trust building exercises. If I had my way I would have sent Pauly/Polly Schorr to that workshop, but  
19 I’m not his/her supervisor. Anyway, those skills must have paid off, because Greenwood is a local hero  
20 in the formerly rough Eastside neighborhood. His/her work in that area of town should have earned  
21 him/her Officer of the Year, but sadly I only have one vote.

22  
23 3. Greenwood isn’t perfect, though. One example of Greenwood not applying those newfound  
24 interaction skills involved one of our local, albeit colorful, citizens, Rin T. Tin. Mr./Ms. Tin is one of  
25 those people that you love to hate. Rin thinks of him/herself as a junior agent for an unnamed (and  
26 unformed) secret service agency. I am pretty sure that s/he has used crafting supplies to fashion a  
27 badge purporting authority to act on behalf of the People Against Discrimination of Animals. Don’t  
28 mistake PADA for a real organization – Tin is the only regular member of the “organization” that I am  
29 aware of.

30  
31 4. For the most part Rin is harmless. However, every once in a while s/he will incite a brouhaha.  
32 The same night that the Bob’s Country Bunker calls were coming in, Tin called and said s/he saw a dog  
33 after it was hit by a car. I dispatched Rook to the dog call because I needed two officers to cover the  
34 Bunker, and nobody wants to ride with Greenwood. Rook was a little irked that s/he had to deal with  
35 Tin instead of being able to work the shooting, but someone had to answer the call. If I had my way,  
36 we would draw straws to see who responds to Tin’s latest crisis.

37  
38 5. It did not surprise me that there was an altercation at the infamous Bob’s Country Bunker.  
39 What did surprise me was Michael Cheney’s accidental discharge of his firearm. It was towards the end  
40 of the shift for the Bryan Johnson and Michael Cheney team. When I arrived, it was a mess. There  
41 were the basics - overturned tables, broken chairs, broken glass, and the floor sticky with overturned  
42 alcoholic beverages. But, there was more than that. A banjo where no one ever imagined! It looked  
43 as though the audience threw food, drinks, and pool balls at the performer, Lil’ Nemesis T. After that,  
44 the band tried to skip out on their liquor bill – which was over and above their fee for their  
45 performance that night.

46  
47 6. After discussing the situation with the bar manager, I heard Officers Cheney and Johnson talk  
48 with Lil’ Nemesis T, to get his side of the story. Apparently Lil’ Nemesis T was offended that the officers

49 spoke with the manager before him. This was compounded when Cheney informed him that the  
50 manager was on the verge of pressing charges for the bar tab. For some reason, this sent Lil' Nemesis  
51 over the edge. Lil' Nemesis T went for Cheney's sidearm or nightstick while yelling incoherently. In a  
52 situation like that it is a tough call. Officer Johnson was able to draw his service revolver and shoot the  
53 imminent threat. Unfortunately, in the heat of the moment Officer Cheney's gun misfired while he was  
54 simultaneously drawing his weapon to respond to the threat, striking Johnson. It was a relief to me  
55 that both of these Officers were wearing their Department-issued bullet-resistant vests. In this case,  
56 however, it appears that the bullet caught Officer Johnson right at the seam joining the back of the vest  
57 to the front of the vest. The bullet penetrated the seam, not the vest, leaving Officer Johnson  
58 wounded. Both Officer Johnson and Lil' Nemesis T were taken to Reillyville General Hospital. Lil'  
59 Nemesis T was dead upon arrival, while Officer Johnson was treated and released a day or two later.  
60

61 7. As is true for any discharge of a weapon by an officer, an internal investigation was started, and  
62 a hearing was conducted on March 22. Both Officers Cheney and Johnson were cleared of wrongdoing  
63 associated with the incident. Two days later, the Olmsted County District Attorneys' Office convened a  
64 Grand Jury which also cleared both officers. It was obvious that Officer Cheney fired his weapon by  
65 accident, and Officer Johnson clearly acted in self-defense (as well as in defense of Officer Cheney).  
66

67 8. Despite taking all of these measures, vocal opposition came from a well-known anti-  
68 establishment activist named Leslie Loudermouth. Loudermouth was critical about the way the  
69 investigation was handled, but s/he was even more critical of the fact that Johnson was injured  
70 because he was wearing an old bullet-proof vest at the time. S/he made a big stink about something to  
71 do with some expenditure this past December and the Chief's new car. Now, I really think we need  
72 new equipment around here, and I've been telling the Chief that for years – we all have, but every year  
73 the money never seems to be there. However, I don't write the budget and I don't sign the checks. I  
74 give the Chief my opinion, and s/he does what s/he thinks is best.  
75

76 9. It is most unfortunate for everyone involved that Loudermouth held one of these rallies in town  
77 on April 4, 2011. We sent Greenwood and a few others to work the rally, just to make sure there were  
78 no disturbances. After Loudermouth worked the crowd up, they marched on city hall to express their  
79 displeasure to the powers-that-be. I know this for a fact because they marched right by my window on  
80 their way there and I could hear the crowd chanting, "Invest in vests! Invest in vests!" over and over  
81 again. However, I guess nobody told Loudermouth that City Hall was closed on Sunday, so that took  
82 what little wind was in their sails and the crowd quickly dissipated.  
83

84 10. The Chief called me into his/her office as soon as I got to work on April 5. Schorr was already in  
85 there, smiling. The Chief was pointing to his/her computer monitor, and I swear I thought s/he was  
86 going to have a stroke. The Chief showed me the screen, which had a post from Greenwood on his/her  
87 ReillyBook page about the Loudermouth rally. I immediately noticed two things – first, Schorr had  
88 signed on to ReillyBook using his/her account so the Chief could see the post. Second, the post was  
89 made from a mobile device during the rally itself! I figured the Chief was upset that Greenwood posted  
90 something personal using the department's Blackberry while s/he was supposed to be working, but the  
91 Chief mentioned nothing about that. The Chief was upset about what Greenwood posted, and how  
92 embarrassing it was to the Chief and the department. The Chief also said that s/he got a call from the  
93 mayor about the march on City Hall the night before, and was told about what Loudermouth was  
94 saying about the two of them.  
95

96 11. The Chief was furious! Chief Durden said that s/he wanted to send Rook up on the town water  
97 tower all day to watch for Russian MiGs. I offered to give Rook some sunscreen, but s/he was not



# AFFIDAVIT OF CHIEF BILLIE DURDEN

1  
2  
3 1. My name is Billie Durden. I am the Chief of Police for the City of Reillyville. I attended the  
4 University of Georgia where I earned a Bachelor's Degree in Criminal Justice. I am a POST Certified  
5 Officer with more than 35 years of law enforcement experience. I have been the Chief of Police for the  
6 City of Reillyville for the last 15 years.

7  
8 2. On the night of March 15, 2011 Officers Michael Cheney and Bryan Johnson were on routine  
9 patrol when they received a call about a disturbance at a nightclub called Bob's Country Bunker. The  
10 location is well known to Reillyville Police Officers as it is patronized by rather unsavory sorts and  
11 officers are frequently dispatched to the location to break up drunken bar fights. While police officers  
12 always have to be alert to danger, any officer would be on edge whenever entering a location such as  
13 Bob's Country Bunker.

14  
15 3. When Officers Cheney and Johnson arrived on the scene, the situation was chaotic. The officers  
16 were advised by the manager that the altercation was provoked by the scheduled entertainer, one  
17 Kirby Farnsworth a/k/a Lil' Nemesis "T". It seems that the bar patrons intensely disliked the hip hop  
18 banjo music being performed resulting in a near riot. Further, the officers were advised the band had a  
19 rather large bar tab which they were refusing to settle with the establishment. Sergeant Goddard  
20 arrived shortly thereafter.

21  
22 4. Officers Cheney and Johnson confronted the suspect, Kirby Farnsworth, who was advised that  
23 the manager might also press charges for theft by taking unless Farnsworth's band's bar tab was  
24 settled promptly. At this point, the suspect became agitated and aggressive with the officers. In the  
25 ensuing scuffle with the officers, the suspect attempted to grab Officer Cheney's sidearm. During the  
26 struggle, Officer Cheney's sidearm discharged. The bullet pierced Officer Johnson's bullet-proof vest at  
27 the seam, striking him in the shoulder. Despite his wound, Officer Johnson drew his sidearm and fired  
28 one shot at the suspect striking him in the chest. The suspect was subsequently pronounced dead at  
29 Reillyville General Hospital.

30  
31 5. An internal affairs investigation of the incident cleared Officers Cheney and Johnson of any  
32 wrongdoing. Similarly, the Milton County District Attorneys' Office convened a grand jury to review the  
33 matter which similarly cleared the officers involved and ruled that the shooting was lawful.  
34 Nevertheless, the incident drew criticism from certain anti-establishment segments within the  
35 community. The primary agitator was Leslie Loudermouth, a local ne're-do-well activist who is always  
36 quick to find fault with the Department. Loudermouth organized a rally to condemn the fact that the  
37 bullet-proof vests were supposedly dilapidated and to demand that I resign or be fired. Loudermouth  
38 is, well, Loudermouth is a nutcase. Loudermouth doesn't get along well with most of my officers.  
39 Loudermouth even wanted to file an internal affairs complaint once against Officer Schorr over a  
40 missing cat. We have some real pet nuts here in Reillyville – I thought it was the Fire Department's job  
41 to get cats out of trees. I talked it over with Officer Schorr, and discovered that Loudermouth had an  
42 ulterior motive for trying to get Schorr into trouble. With Loudermouth, every grudge is personal.

43  
44 6. Officer Schorr is one of our brightest and finest. I was so pleased when Schorr won Officer of  
45 the Year...s/he really deserved it. I would have promoted Schorr to detective after that, but his/her  
46 supervisor didn't really go to bat for him/her at the promotion meeting we had. At the same time,  
47 Goddard was talking all about how Rook E. Greenwood was making a name for him/herself on the  
48 Eastside, and how s/he was the next best thing. Greenwood is somewhat new to the force, having

49 joined the Reillyville Department in 2005, and frankly I think s/he thinks a little too highly of  
50 him/herself and of his/her family's contributions to this department. I have overheard him/her on  
51 numerous occasions in the squad room telling tall tales about the "glory days" of the department when  
52 his/her Uncle Joe was in charge. S/he annoyed the other officers with all his/her talk and if I had to  
53 hear one more time about how much everyone loved Chief Joe, revered Chief Joe, worshipped Chief  
54 Joe... well, I would have tossed my cookies. I had my reservations about Greenwood deserving a  
55 promotion when Goddard brought it up, but s/he was adamant and convinced all the other supervisors  
56 that Greenwood should be promoted to Detective. I try to keep an open mind when the staff  
57 expresses an opinion, so I didn't oppose it.

58

59 7. On April 4, 2011, Loudermouth, held the subject rally at Veterans Park here in Reillyville. After  
60 hearing Loudermouth's speeches railing against me and the Police Department, the protestors  
61 marched on Reillyville City Hall denouncing the fact that the department replaced my old car with a  
62 new vehicle instead of buying new bullet-proof vests. I mean nothing is more important to me than  
63 the safety of my officers, but I have to have a vehicle to do my job as well. What gets me is that  
64 Loudermouth's "followers" think s/he has any credibility whatsoever. It appears that those people  
65 have the attention span of a gnat. Hippies, Yuppies, Yahoos and all the protesting rabble alike – I would  
66 swap the whole dadgum zoo for the kind of young Americans I saw in Viet Nam. If they only knew the  
67 truth, like how badly Loudermouth handled that Smith case for DFACS. His/her judgment on that case  
68 was, in my opinion, so off base that I made a point of telling his/her supervisor exactly what I thought  
69 about it. S/he seemed to have an agenda then, and does now with this whole vest thing, but what an  
70 agitator like Loudermouth doesn't understand, or want to understand, is that even a brand new vest  
71 wouldn't stop a bullet which hits on the seam. Anyway, the rally and march ended with a whimper,  
72 when Loudermouth must have realized that City Hall wasn't open on Sunday evenings. I did talk to the  
73 Mayor about the rally that night, but it was just to provide a security briefing.

74

75 8. One of the officers working the rally for security was Rook E. Greenwood. The next day Officer  
76 Schorr told me that Detective Greenwood posted a comment on his/her ReillyBook page repeating a  
77 poem about me written by Loudermouth. I admit I am shocked that an officer on my force would say  
78 anything in praise of that nattering nabob of negativism. I did call Goddard in to show him/her the  
79 post, but Goddard just shrugged his/her shoulders. I took that to mean that Goddard wasn't going to  
80 be of any help, so I did say I would take care of it. I meant I was going to talk to Greenwood about why  
81 s/he posted the poem and try to counsel him/her on any latent hostility issues that needed to be  
82 resolved for him/her to become a productive member of the police family. I did call the Mayor that  
83 morning (there was a message to call the Mayor on my desk first thing Monday morning), but I don't  
84 remember exactly when. I can say it had absolutely nothing to do with Greenwood. Heck, the Mayor  
85 couldn't pick Greenwood out of a line-up.

86

87 9. I also know that Greenwood has First Amendment rights and I can't fire him/her because of  
88 that, but I strongly disagree with what Greenwood posted. However, since I can't fire Greenwood, I  
89 wished I could station him/her up on the town water tower all day to watch for Russian MiGs, but I  
90 guess that would look like retaliation.

91

92 10. However, I did not take any adverse employment action against Detective Greenwood due to  
93 his/her ReillyBook posting. Right after that, I became aware of a citizen complaint from Rin T. Tin.  
94 Mr./Ms. Tin filed an internal affairs complaint about Detective Greenwood on April 2nd. It seems  
95 Detective Greenwood encountered Mr./Ms. Tin during a crisis concerning a stray dog. Tin stated in  
96 that letter that Officer Greenwood showed an astounding lack of sensitivity while dealing with the  
97 situation. Mr./Ms. Tin wanted the driver of the car who hit Wolf to be charged with vehicular



# AFFIDAVIT OF PAULY/POLLY SCHORR

1  
2  
3 1. My name is Pauly/Polly Schorr. When I was a kid growing up in Seaside Manor, New Jersey,  
4 my dad used to break the ice by saying, "That's Schorr, like the newsman Daniel Schorr, not Shore,  
5 like Dinah Shore." But every generation has its own cultural associations. While a smattering of  
6 people might still have been listening to Daniel Schorr do news analyses on NPR until he was 93,  
7 probably no one thinks any more of Dinah Shore when they are seeing the USA in their Chevrolets.  
8

9 2. When I moved down to Reillyville to attend Milton State College, I'd never been in the  
10 South before. So, I focused more on geography than spelling. To break the ice, I'd tell people, "I'm  
11 Pauly/Polly Schorr from the Jersey Shore." That would naturally lead the conversation to my having  
12 grown up in New Jersey and working summers as a lifeguard and how that helped me get the  
13 swimming scholarship that brought me to Milton State.  
14

15 3. I majored in criminal justice and after I got my B.S. degree, I joined the Reillyville Police  
16 Department. I love the shore, but I really had no desire to go back north to those Jersey winters.  
17 For years, I kept in touch with just a few friends from my lifeguard days. But now with ReillyBook,  
18 everyday is like a virtual high school class reunion.  
19

20 4. At first I was just ReillyBook friends with the people I'd kept up with from the lifeguard crew  
21 and a couple of Seaside Manor High School swim teammates. But then other classmates that my  
22 ReillyBook friends were friends with on ReillyBook started friending me. The next thing I knew I was  
23 being bombarded with pictures from their vacations and family events; status updates expressing  
24 political views from the far left and the far right, but hardly anything in between; and, requests for  
25 help burying dead bodies in the pumpkin patch of the Hooterville Acres game. I check in to  
26 ReillyBook a couple of times a day to keep up with developments back home. But I almost never  
27 post anything myself because I really have no desire for everyone to know what I'm up to.  
28

29 5. Probably because I never got around to increasing my security settings on ReillyBook, I also  
30 get a bunch of friend requests from people I'm not really friends with in real life. Some of them I  
31 don't even like one bit. Like Rook E. Greenwood. I think s/he must be planning on running for  
32 political office someday. Every day s/he is adding ten or fifteen friends. Since I have a really hard  
33 time with the concept of "No, I won't be your friend," I confirm all friend requests. Even Rook's. I  
34 think s/he's up to 3,592 friends. No one can possibly have that many real friends and I don't know  
35 how it's possible to keep up with that many ReillyBook friends. Especially if they are anything like  
36 Rook in the amount of postings. S/he is constantly updating his/her location with FourScore. Do I  
37 really care that Rook is sitting down for a burger at the Tip Top Café or is jogging at the Reillyville  
38 Family Fun Run?  
39

40 6. I don't know what it is about Rook, but we just never hit it off. I'd been on the force for a  
41 few years trying to take all the right POST training courses to work my way up to detective, when  
42 Rook started working there about six years ago. S/he came in with this attitude, like s/he had been  
43 born with a silver badge on his/her chest because his/her ancestors ran the police department back  
44 at the beginning of time. I think it's probably because of that birthright attitude that I beat out  
45 Rook for Officer of the Year a couple of years ago. But I guess s/he got the last laugh because s/he  
46 got promoted to detective right after that.  
47

48 7. That was also about the time MTV launched that reality show *Jersey Shore*. Talk about a  
49 triumph of vulgarity! That is the most vain and profane assemblage of lowlifes I've ever seen. I can't  
50 believe anyone watches that show and it gives the Jersey shore a bad name. But Rook really seized  
51 on it. S/he started coming up to me and saying, "Yo, Jersey, your spray-on tan is running." Or asking  
52 how many bottles of hair gel I have in my locker.  
53

54 8. Rook was really starting to get on my last nerve. Not just with the Jersey insults, but also  
55 his/her ReillyBook posts. And I'm not talking about what s/he said about the limerick Leslie  
56 Loudermouth recited at that rally.  
57

58 9. Look, I'm no Loudermouth fan. We've butted heads so many times I've taken to calling  
59 him/her Bully Goat Gruff, especially after the Mr. Mabel incident. Loudermouth had a lot of nerve  
60 filing a complaint against me over that. S/he has twenty cats in his/her house. How s/he knows  
61 whether one is missing is a mystery to me. I think s/he is a hoarder, like on that TV show *Hoarders*  
62 on A&E, and I think that cats are much better off in groups of just two or three. I would have called  
63 in animal control if it wasn't for the fact that all the kitties looked well-fed, their litter pans seemed  
64 to have been meticulously scooped and Loudermouth had proof they were all up to date on their  
65 shots.  
66

67 10. Shortly before Loudermouth announced his/her candidacy for mayor, I was called out to  
68 investigate a child deprivation case involving one Jeanette Smith. Ms. Smith is a known drug  
69 addict. When I arrived at the scene, I found that Smith's children (ages 2 and 4) had not eaten in  
70 five days. I found this very alarming because Smith receives government assistance for their care.  
71 Also, Smith's trailer was in a deplorable state, and Smith admitted that she had used the food  
72 stamps to get food to party with her drug friends. While I was not previously involved in this case, I  
73 was made aware that my visit was the fourth time the police have been called out for similar  
74 problems with Smith. The case was referred to DFACS, and assigned to Loudermouth.  
75 Loudermouth told me s/he has known Smith for a long time, and knows she's had a hard time since  
76 her father (who was her only living relative besides her children) died the year before.  
77 Loudermouth told me how s/he cried at Smith's father's funeral. Looking back, politics seems a  
78 natural fit for Loudermouth, because s/he can say things like that with a straight face.  
79

80 11. At the deprivation hearing (at which I testified), Loudermouth should have asked that the  
81 children be removed from Smith's care. Instead, s/he told the juvenile court judge that Smith was  
82 currently successfully completing drug treatment and needs one more chance. I knew that to be a  
83 complete lie, as Smith had told me right before the hearing that she had not started treatment yet.  
84 Loudermouth stated that taking Smith's children away might send Smith over the edge into a  
85 suicidal state. Although the judge agreed, I was very unhappy with this recommendation. I felt  
86 that I was the only one keeping the children's best interests at heart. I told Chief Durden about it,  
87 and the Chief promised to go talk to Loudermouth's supervisor.  
88

89 12. Look – I agree that the Chief's new armored bullet-proof SUV is like something out of that  
90 old MTV show *Pimp My Ride*. Certainly, in light of the officer injury down at Bob's Country Bunker I  
91 think that the money would have been better spent on bullet-proof vests. Though I got to say I'd  
92 never put any of that on ReillyBook. However, I did casually mention that I saw Rook's posting to  
93 the Chief and Sergeant Goddard shortly after I saw it, and the Chief exploded. The Chief said  
94 something about, "That's it" and "Nobody makes a fool of me."  
95



# AFFIDAVIT OF RIN T. TIN

1  
2  
3 1. My name is Rin T. Tin, and I live in Reillyville, Minnesota. Indeed, I've lived here practically  
4 all my life, interrupted only by my time away at the College of Veterinary Medicine in Athens, after  
5 I completed Olmsted Community College as a commuter student. I did not complete my goal to  
6 become a veterinarian, however. Imagine my distress when I discovered that I, too, inherited the  
7 parental allergy which prevented my family from having furry pets in our home as I grew up!  
8 Perhaps that is why I feel such a strong desire to protect our animal brethren and serve them  
9 vicariously. I'm not a "purist," of course, I do eat custards, even omelettes, and I'm very fond of  
10 escargot, but I've abjured consuming anything which can smile or talk back. I also contribute to  
11 several animal advocacy and rescue organizations including the ASPCA, PETA and Ducks Unlimited.  
12

13 2. That is how I came into contact with Detective Rook Greenwood. Oh, yes, we've  
14 encountered each other in passing before, naturally, but neither of us took much serious notice of  
15 the other. Would be that the detective and department had taken more notice of the "surveillance  
16 & retaliation" episode I reported some time ago, but they all chose to dismiss it and perhaps  
17 ridicule my concerns behind my back. Fortunately for me, that threat seems to have subsided on its  
18 own, no thanks to the police!  
19

20 3. But, to the matter at hand. As I was bicycling home (my doctor prefers I not drive while  
21 taking my medications) on the night of March 15, I came across the most marvelous canine in the  
22 most obvious distress. I had only seen the animal at a distance (my infernal affliction, again) but I  
23 believe his name to be Walter or Wolfie or Wolf or something like that. As I drew close, I could hear  
24 the labored breathing over his dry, pink tongue. As I drew closer still, I could see the agony in his  
25 pleading, jewel-like brown eyes.  
26

27 4. Using my cellular, I dialed 911, and was put through to the Reillyville Police. They  
28 dispatched Detective Greenwood, who arrived about the same time as my first-emerging rashes.  
29 With eyes swollen by grief as well as allergic reaction, I watched the police officer take over  
30 administering first aid. Greenwood's heart was not in it, although I'm not sure what could've been  
31 done anyway.  
32

33 5. That beautiful beast expired in our arms. Disdaining the foreseeable consequences—hives,  
34 asthma, congestion—I helped Greenwood load the dog's body into the rear of a cruiser. I could feel  
35 signs of internal injury. My guess was that the dog probably had been hit by a vehicle or fallen, but  
36 clearly to me, that trauma was merely ancillary to whatever had poisoned the poor animal. At my  
37 insistence, Greenwood was to transport the body for a necropsy. I returned home immediately to  
38 double-up on my prescriptions.  
39

40 6. I do not know who belonged to the dog because I'd only seen him (from a distance, of  
41 course) wandering about the neighborhood so I was stymied: both in conveying the tragic news  
42 and in scolding the animal's "human" for not keeping a closer watch on him. I suspected Stacy  
43 Rieke, who lives some distance away, but I couldn't be sure, so I had to rely on Detective  
44 Greenwood to solve the twinned mysteries of the animal's source and death.  
45

46 7. Imagine, then, my outrage when I discovered, upon following up the next day, that  
47 Greenwood had done nearly nothing: simply delivered the dog and collar (if there was one, which I  
48 doubted, having not noticed it) to be disposed of as so much veterinary waste in the laboratory

49 crematorium. No justice for Wolf: no memorial, no report, no investigation into where or who the  
50 poison came from. Reillyville being still somewhat exurban (no longer really rural), residents do  
51 keep chickens and such. I could understand someone being upset at a wandering dog... but that is  
52 no excuse to lay poison traps! And it's the job of the police to do something about it!

53

54 8. When I confronted the detective, s/he dismissed my concern and dismissed me saying that  
55 s/he saw no sign of poison; Wolf had probably been hit by a car, not hard enough to be visibly  
56 crushed, but sufficiently injured internally to wander off and expire from his trauma or whatever. In  
57 this developing neighborhood, with ornamental plantings, weed-killers, pesticides and the like,  
58 there are plenty of so-called "benign" ways for a wandering dog to get into something or other; the  
59 detective said s/he saw no reason to infer foul play... and had no time to "waste" investigating  
60 fantasies.

61

62 9. Imagine the heartlessness, the professional slackness! Naturally, once I'd regained control  
63 of my temper, I sat right down and wrote a blistering letter to Chief Durden, Reillyville is a close  
64 community and the Chief and I are fellow members of several civic organizations, even if we  
65 previously knew one another "only to nod". I followed up the letter in person and made very clear  
66 to the Chief that, unless something was done, this episode would not be forgotten at the next  
67 election. Who doesn't—couldn't—love dogs? I told him/her that once I made the news public  
68 everyone would be on my side.

69

70 10. So, if Detective Greenwood wants to gripe that my nagging got him/her fired, that it was  
71 "politics", so much the better! In fact, although I don't know, I'm sure the Chief made his/her own  
72 review of the situation before taking action. Now, I realize there was no hard evidence someone  
73 poisoned the dog, especially not after poor Wolf had gone up in smoke! So the investigation was a  
74 judgment call... but Greenwood made the wrong one!

75

76 11. Yes, although this is the first time my complaints got noticed (finally!) this is not the first  
77 complaint I've filed with the police. Indeed, the first time I encountered Detective Greenwood to  
78 notice (as I said, we've only had a passing acquaintance until this time), was only a few months ago,  
79 now that I think about it. I telephoned the police department in the middle of the night to get help  
80 with prowlers. I heard noises, I tell you (just as I told them!); I saw ghostly figures flitting about in  
81 the shadows from bush to bush, just on the periphery of my security lights. I was scared; even after  
82 I'd cut off my internal lights and crawled from window to window, so they wouldn't know where I  
83 was, I couldn't get a definite enough sighting to identify the culprits. This is an exurban, transitional  
84 community, as I've said before, with lots of people who still raise and keep animals for food and  
85 who still hunt animals. I've gotten known as a "rescuer", in local parlance (yes, I hear them  
86 whisper!), but you know, I don't care. I will continue to save animals as I did the chickens in that  
87 horrific, barbaric tic-tac-toe game at Davey Crockettland up north. I was young, but I knew that  
88 game treated those chickens like they were nothing. Anyway, I was sure that there were strangers  
89 on my property that night who meant me harm... maybe even some of my putative "friends"!

90

91 12. After I called in about the prowlers, I waited, but the police were very slow to respond. (So  
92 you can see why, this time, when I found Wolf, I had to pester the Chief in order to be taken  
93 seriously.) I couldn't just lurk there, in the dark, being a victim (like those poor animals led to the  
94 slaughter; like poor Wolf, never suspecting...). Retrieving a weapon (I may be a vegetarian, most  
95 times, and a peaceful person, but I'm not an idiot; I believe in self-defense!) and grabbing my  
96 camera (this was before I upgraded my phone), I set out to collect the positive evidence on those  
97 prowlers I'd probably lose if the police didn't arrive soon.

98

99 13. I was pretty frustrated by the time Detective Greenwood arrived, so I suppose I didn't make  
100 a good first impression. Crawling around my back yard, as low and silent as I could like in the action  
101 movies, I'd pop up and snap a shot (with the camera..., the camera...) every time I thought I saw  
102 someone. Every time, they'd duck out of sight or disappear somehow, but thank goodness for  
103 digital; I wasn't wasting film, but the immediate feedback of my failures was awfully discouraging  
104 and I'd gotten nothing. Detective Greenwood arrived, and I turned the pursuit over to the  
105 authorities. I could see Greenwood anxiously adjusting some vest s/he was wearing as s/he  
106 disappeared into the darkness. It wasn't very long, not nearly long enough, before the knock on my  
107 kitchen door announced an "All clear."

108  
109 14. In fact, it was Detective Greenwood telling me s/he'd found nothing. Greenwood seemed  
110 eager to leave, and I was too irritated by such a "casual" (not to say slack) attitude to argue; I  
111 consciously reminded myself not to say anything I'd regret. I've always shown due respect for the  
112 authorities, so it's hardly surprising the two of us didn't linger to get to know one another better. (I  
113 hadn't even thought about which police officer had been involved, until the Wolf episode brought  
114 us back together.) I comforted myself that, after the police had tracked about, the culprits surely  
115 wouldn't be back, that night—they'd never be so brazen—and I could collect pictures of their  
116 footprints or whatever, by the light of morning. Worse luck: in the wee hours, a downpour  
117 obliterated everything!

118  
119 15. The second time, a few nights later, I don't know which officer responded. The cruiser  
120 hardly stopped outside my house once I'd shouted (rather angrily, I know) that the "busy night"  
121 response delay had allowed the ominous strangers to taunt me and move on long before help  
122 arrived. That time, I didn't try to go after them. They'd obviously learned a lesson the first night and  
123 remained on the road's hard-packed shoulders where their footprints wouldn't be discernible. I  
124 was worried they'd learned two lessons and might be ready to ambush me if I went out after them  
125 alone.

126  
127 16. Since then, nothing definite enough has happened to bother summoning the police again if  
128 the cops are going to dawdle, then give my case the "quick once over," of course they won't catch  
129 anyone. And my neighbors have been civil (too civil, perhaps) to me, face to face. Still, I lock my  
130 doors, I keep my phone and protection within arm's length, and I keep an "eagle-eye" for trouble.  
131 That's how I spotted poor Wolf panting and moaning in undergrowth beside the bicycle path.

132





View Photos of Rook (237)

View Videos of Rook (8)

Send Rook a Message

Poke Rook

"Every society gets the kind of criminal it deserves. What is equally true is that every community gets the kind of law enforcement it insists on." - Robert Kennedy

Information

Relationship Status: Single

Current City: Reillyville, MN

Networks:

Friends

Currently 6 of 113 friends are online

Click [here](#) to see who is online

**Rook E. Greenwood** When word of the mayor's decision came down to the local division that our lives aren't on par with the Chief's brand new car it was met with unanimous derision. Fo shizzle.

- Wall
- Info
- Photos
- Boxes
- >>

Write something...

Share



**Rook E. Greenwood** When word of the mayor's decision came down to the local division that our lives aren't on par with the Chief's brand new car it was met with unanimous derision. Fo shizzle.

- 20 people like this.
- View all 12 comments
- Marge Gunderson** I can't believe they send you out in worn-out equipment like that...it is amazing nobody has died because of it. April 5 at 1:22 am · Like

RECENT ACTIVITY

Rook changed his profile picture. March 30 at 8:04 am via MiltFace for Blackberry™ · Comment · Like



**Rook E. Greenwood** In God we trust, all others we run through NCIC.

March 30 at 8:04 am · Comment · Like



**Joe Friday** Meet you @ Bob's CB for a soda?

March 21 at 7:26 pm · Comment · Like



**Rook E. Greenwood** May your pockets be heavy and your heart be light; may good luck pursue you each morning and night.- Irish Blessing

March 17 at 9:55 am · Comment · Like



**Rook E. Greenwood** My dog has no nose!

March 16 at 10:50 pm · Comment · Like

- Lewis Erskine** How does he smell? March 16 at 11:16 pm · Like
- Rook E. Greenwood** Awful! lol March 16 at 11:40 pm · Like
- Lewis Erskine** ROFL I walked into that one. March 17 at 12:05 am · Like



**Rook E. Greenwood** Just whistle while you work! What a little jerk! ...Just hum a little tune!  
What a loony-goon! LOL!

March 16 at 11:55 am · Comment · Like



**Pepper Anderson** Rough day at work?

March 16 at 12:43 pm · Like



**Rook E. Greenwood** You don't know the half of it.

March 16 at 1:58 pm · Like



**Rook E. Greenwood** Winston Churchill and Rodney Atkins have it right. Wonder if they were talking about scraping a dead dog off the side of the road while a lunatic yelled at you?

March 16 at 8:15 pm via MiltFace for Blackberry™ · Comment · Like

RECENT ACTIVITY



Rook was poked by Dexter Morgan.

March 10 at 9:53 pm · Comment · Like



**Mark McClusky**

Needs your help with Mafia Battles. Mark found a secret stash of M1A1 Thompson sub-machine guns and wants to share.

There are only 5 remaining!

March 7 at 7:42 pm · Comment · Like



**Phil Esterhaus** Let's be careful out there.

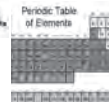
March 7 at 7:53 pm · Like



**Pauly/Polly Schorr**

Took the Which element on the periodic table are you? quiz.

February 27 at 8:00 am · Comment · Like · Take this Quiz



You have the highest equivalent weight of any element and are the most unstable of the first 101 elements of the periodic system.



**Pauly/Polly Schorr** Stan is francium. Hee.

February 28 at 3:42 pm · Like



**Don Stark**

Likes The Vintage Automobile Club.

February 12 at 10:43 pm · Comment · Like · Join the Club



Older posts ▾

Edit Options

# City of Reillyville Police Department Handbook



## Section 222

### Employees: Types and Termination

#### 222.10 Definition of Employee Status

There shall be three types of employees with the Reillyville Police Department – temporary employees, probationary employees and permanent employees. A temporary employee is one whose employment is for a fixed and limited duration, such as a seasonal hire. A probationary employee is an employee who is hired for an indefinite duration, but has not completed the six month probationary period. A permanent employee is an employee hired for an infinite duration who has completed the six month probationary period.

#### 222.20 Termination of Employees

All temporary and probationary employees may be terminated at any time, with or without cause. All permanent employees may be terminated only for good cause.

#### 222.30 Definition of Good Cause

Good cause means reasonable job-related grounds for dismissal based on a failure to satisfactorily perform job duties, disruption of the employer's operation, or other legitimate business reasons.

#### 222.40 Termination Procedures

Before any action is taken to terminate an employee for cause, a pre-termination hearing must be held unless safety concerns or other circumstances dictate otherwise.

 **People Against**  **Discrimination Of Animals** 

Route 21  
Reillyville, MN 55102

Rin T. Tin  
**FOUNDER & CO-ORGANIZER**

April 2, 2011

Chief Billie Durden  
Reillyville Police Station  
Reillyville, MN 55102

**DELIVERED BY HAND**

My Dear Chief,

I cannot TELL you how upset I am!!

I have just returned from the 2<sup>nd</sup> Precinct house, having discovered the most AWFUL betrayal (again) by one of your police officers... YES, it was Rook E. Greenwood, just as before, taking threats against the helpless, animals of this, our community as though they were merely TRIVIAL!

On March 15<sup>th</sup>, on my way home, I was ANGUISHED to see the most noble canine in HORRIBLE distress by the side of Route 21. Luckily, I had my telephone with me (I swear, those things seem to have legs...), and was able to sound the alarm. After what seemed an eternity, Rook E. Greenwood arrived on the scene, but we were too late to SAVE the poor beast. In the struggle to render aid the identifying collar was lost –or maybe it was never there, I don't know– but I'm almost sure the deceased is Wolf who lives with that (too careless) Stacy Rieke person.

I am QUITE sure, even though the immediate cause of death seemed to be some physical blow (probably a car, given the location), that the same MALEFACTORS who have been stalking me (and our efforts at PADA to speak for the voiceless) are behind the beautiful canine's demise. There are those EVIL-DOERS in Miltonville who resent a noble animal's natural right to wander free. I told Greenwood that I was SURE a proper examination would turn up signs of POISON – why else would Wolf have been unable to avoid a car? – And then we'd HAVE them! Finally, hard evidence! The evidence Officer Greenwood's disappointing efforts have failed to produce so far. I assisted the good officer in loading the corpse into a cruiser to be taken for necropsy.

Imagine my DISTRESS to learn from the desk officer (Schorr) that poor Wolf has been cremated and the vital evidence DESTROYED irretrievably! I am not an impulsive person, I will NOT lodge accusations of conspiracy or cover-up without proof, I have great RESPECT for the duties of our local constabulary, but... This goes BEYOND forgivable negligence (even ignoring the broken promise to ME, personally) when it comes to protecting our four-footed citizens!

Fortunately (however low the voter turn-out seems to be for down-ballot races), our Public

Safety officials are ELECTED. Fortunately, there are those in this community to have a conscience where animal welfare is concerned... and who VOTE that conscience conscientiously! THEREFORE, unless something is done about this lamentable episode –promptly and clearly– I think you can expect to hear about this AGAIN! This issue is not vanishing in smoke like that poor beast; Wolf shall NOT have perished in vain!

Yours civically,

*/s/ Rin T. Fin*

# City of Reillyville Police Department



## INTERNAL REPORT FORM

DATE: April 5, 2011

<input checked="" type="checkbox"/>	Citizen Complaint
<input type="checkbox"/>	Fellow Officer Complaint
<input type="checkbox"/>	Administrative complaint– Supervisory
<input type="checkbox"/>	Administrative Complaint–Prosecutor/Court
<input type="checkbox"/>	City hall/Political

**OFFICER INVOLVED** Det. Rook E. Greenwood

**OFFICER IN-TAKING** Billie Durden, Chief

**COMPLAINANT** Rin T. Tin

**COMPLAINANT ADDRESS** RR 21; Reillyville 55102

**DESCRIPTION**

See attached letter. R.T. Tin came to the Stationhouse, Friday (4/2), to complain about Det. Greenwood's handling of a dead dog incident on the highway (21), Monday night (3/15), twilight into evening. Officer was supposed to deliver animal for forensic examination. Citizen sure animal poisoned by unknowns before collision but apparently took dog direct to cremation. Citizen very upset. Cross-reference & Review police reports 3/15 (Greenwood) & 3/16 (Schorr). Check records (early Feb.) for possible background. Citizen reports past trouble from (same?) unknowns & Greenwood investigation of same and review discipline: poor citizen relations and/or sub-standard diligence? Possibility that St. Patrick's crush preparations prevented greater effort to assuage Citizen promised Dept. follow-up & information response? (Citizen community-sensitive: PADA)

2011-4/5; 1041 hours

**[FILED]**

# City of Reillyville Police Department



## TERMINATION NOTICE

**Employee name:** Rook E. Greenwood

**Position:** Detective

**Date terminated:** 9 April 2011

**Reason for termination (attach additional pages if necessary):**

Conduct unbecoming an officer, to wit: insensitive and unprofessional handling of citizen report

**Was pre-termination notice given? If not, why not?**

Pre-termination notice was given.

**If a pre-termination hearing was held, did the results of that hearing change the employment decision?**

No

Billie Durden /S/

**Chief of Police**

Sergeant Myron Goddard /S/

**Immediate Supervisor (if applicable)**

Employee refused to sign

**Employee**

# City of Reillyville Police Department Handbook



## Section 253

### Internet and Social Networking Policy

#### 253.10 Purpose

The purpose of this policy is to direct the employees of this agency with respect to the use of the Internet, the world-wide web, and social networking as a medium of communication impacting this department.

#### 253.11 Policy

The Internet, blogs, Twitter™, the worldwide web, social networking sites and any other medium of electronic communication shall not be used in a manner which is detrimental to the mission and function of this agency.

It is essential for every employee of this agency to recognize that the proper functioning of any law enforcement agency relies upon the public's confidence and trust in the individual officers and this agency to carry out the law enforcement function. Therefore, any matter which brings individual employees of the agency into disrepute has the corresponding effect of reducing public confidence and trust in our agency, thus, impeding our ability to work with and serve the public. Professionalism is the most significant factor in high level performance which in turn builds the public confidence and trust. While employees have the right to use personal/social networking pages or sites, as employees of this agency, they are public servants who are held to a higher standard than the general public with regard to standards of conduct and ethics. As such, the policy of this agency is to maintain a level of professionalism in both on-duty and off-duty conduct that fulfills the mission of our agency. Any publication, through any medium which is potentially adverse to the operation, morale, or efficiency of this agency will be deemed as violation of this policy.

**Section 253****Internet and Social Networking Policy****253.12 Procedure**

A. Employees of this agency are prohibited from using agency computers for any unauthorized purpose including surfing the Internet or participating in social networking sites.

B. Employees of this agency are prohibited from posting, or in any other way broadcasting, without prior agency approval, information on the Internet, or other medium of communication, the business of this agency to include but not limited to:

1. Photographs/images relating to any investigation of this agency.
2. Video or audio files related to any investigation of this agency.
3. Video, audio, photographs, or any other images etc. which memorialize a law enforcement related action of this agency.
4. Logos/Uniforms/Badges or other items which are symbols associated with this agency.
5. Any other item or material which is identifiable to this agency.

C. Employees of this agency who utilize social networking sites, blogs, Twitter™ or other mediums of electronic communication in their off-duty time shall maintain an appropriate level of professionalism and appropriate conduct so as not to broadcast in a manner which is detrimental to the mission and function of this agency.

1. Employees shall not use references in these social networking sites or other mediums of communication that in any way represent themselves as an employee of this agency without prior agency approval. This shall include but not be limited to:

- a. Text which identifies this agency.
- b. Photos that depict the logos, patches, badge or other identifying symbol of this agency.
- c. Accounts of events which occur within this agency.
- d. Any other material, text, audio, video, photograph, or image which would be identifiable to this agency.

2. Employees shall not use a social networking site or other medium of Internet communication to post any materials of a sexually graphic nature.

3. Employees shall not use a social networking site or other medium of communication to post any materials which promote violence or weaponry.

4. Employees shall not use a social networking site or other medium of communication to post or broadcast any materials which would be detrimental to the mission and function of this agency.

D. Employees of this agency are prohibited from using their title as well as any reference to this agency in any correspondence to include emails, postings, blogs, Twitter™, social network sites such as ReillyBook unless the communication is of an official nature and is serving the mission of this agency. This prohibition also includes signature lines in personal email accounts. An employee may seek agency approval for such use.

E. New employees: All candidates seeking employment with this agency shall be required to complete an affidavit indicating their participation in any social networking sites. This affidavit shall include the name of the sites. The candidate shall provide the agency with access to their site as part of any background information.

F. Administrative Investigations: Employees who are subject to administrative investigations may be ordered to provide the agency with access to the social networking site when the subject of the investigation is directly, narrowly, and specifically related to the employee's performance or ability to perform his or her function within the agency or when the subject of the investigation is potentially adverse to the operation, morale, or efficiency of the agency.



## City of Reillyville Police Department—Incident Report

<b>CASE NUMBER:</b> 010-16001664		<b>DATE OF REPORT - TIME:</b> 03/15/11 22:05		<input checked="" type="checkbox"/> ORIGINAL REPORT <input type="checkbox"/> SUPPLEMENTAL REPORT	
<b>DATE OF OCCURRENCE:</b> 3/15/11		<b>TIME OF OCCURRENCE:</b> 19:55		<b>DOW:</b> <input type="checkbox"/> 1 Sun <input checked="" type="checkbox"/> 2 Mon <input type="checkbox"/> 3 Tues <input type="checkbox"/> 4 Wed <input type="checkbox"/> 5 Thur <input type="checkbox"/> 6 Fri <input type="checkbox"/> 7 Sat <input type="checkbox"/> 98 Unk	
<b>INCIDENT LOCATION:</b> Route 21, Reillyville, MN 55102					
<b>COMMON/BUSINESS NAME:</b>		<b>BEAT:</b>		<b>MAPR:</b>	
<b>DISTRICT:</b>		<b>ALCOHOL:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK		<b>DRUG:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK	
<b>LOCATION TYPE:</b> Residential		<b>DEPT. CLASSIFICATION:</b>			
<b>CASE STATUS:</b> <input type="checkbox"/> 1 cleared by arrest <input type="checkbox"/> 2 exceptionally cleared <input type="checkbox"/> 3 unfounded <input type="checkbox"/> 4 inactive <input type="checkbox"/> 5 pending arrest <input type="checkbox"/> 6 pending inv. results <input type="checkbox"/> 7 info. Only <input checked="" type="checkbox"/> 8 admin. cleared					<b>DATE:</b> 03/15/10
<b>UCR STATE CLASSIFICATION: (STATUTE NUMBER AND TEXT)</b>				<b>UCR CLASSIFICATION:</b> (TABLE #8)	
<b>ATTEMPTED/COMMITTED:</b> <input type="checkbox"/> 1 Committed <input type="checkbox"/> 2 Accessory After <input type="checkbox"/> 3 Accessory Before <input type="checkbox"/> 4 Aid/Abet <input type="checkbox"/> 5 Assault To Victim <input type="checkbox"/> 6 Attempt to <input type="checkbox"/> 7 Conspiracy To <input type="checkbox"/> 8 Facilitation Of <input type="checkbox"/> 9 Solicitation To <input type="checkbox"/> 10 Threat To <input type="checkbox"/> 11 Unfounded					
<b>ATTACK REASON:</b> <input type="checkbox"/> 1 Assault <input type="checkbox"/> 2 Theft <input type="checkbox"/> 3 Menace <input type="checkbox"/> 4 Concerned Citizen <input type="checkbox"/> 5 Mental		<b>WEAPON TYPE:</b> <input type="checkbox"/> 1 Firearm <input type="checkbox"/> 2 Knife/Cutting Instrument <input type="checkbox"/> 3 Hands/Fists/Feet, etc. <input type="checkbox"/> 4 Other Weapon			
<b>ENTERED:</b>	<b>STRUCTURE OCCUPANCY:</b>	<b>EVIDENCE OBTAINED:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK		<b>LOCATION TYPE:</b>	
<b>JUVENILE DISPOSITION:</b> <input type="checkbox"/> 1 Handled w/in Dept. <input type="checkbox"/> 2 Referred to Juvenile Court <input type="checkbox"/> 3 Referred to Welfare Agency <input type="checkbox"/> 4 Referred to Other Police <input type="checkbox"/> 5 Referred to Adult Court					
<b>UCR DISPOSITION:</b> <input type="checkbox"/> 1 Cleared by Arrest - Adult <input type="checkbox"/> 2 Cleared by Arrest - JUV <input type="checkbox"/> 3 Exceptionally Cleared - Adult <input type="checkbox"/> 4 Exception Cleared - JUV <input type="checkbox"/> 5 Unfounded <input type="checkbox"/> 6 Active					
<b>EX CLEARED TYPE:</b> <input type="checkbox"/> 1 Extradition Declined <input type="checkbox"/> 2 Arrest on Primary Ofns <input type="checkbox"/> 3 Death of Offender <input type="checkbox"/> 4 Vict/Witn Refused Cooperate <input type="checkbox"/> 5 Prosecution Declined <input type="checkbox"/> 6 Juvenile/No Custody					
<b>THEFT BY COMPUTER?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		<b>FORCED ENTRY?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		<b>DATE CLEARED:</b> 03/15/10	
<b># ARRESTED:</b>					
<b>DRUG ACTIVITY:</b> <input checked="" type="checkbox"/> 1 N/A <input type="checkbox"/> 2 Buy <input type="checkbox"/> 3 Deliver <input type="checkbox"/> 4 Use <input type="checkbox"/> 5 Distribute <input type="checkbox"/> 6 Manufacture <input type="checkbox"/> 7 Produce <input type="checkbox"/> 8 Cultivate <input type="checkbox"/> 9 Possess <input type="checkbox"/> 10 Smuggle <input type="checkbox"/> 11 Sell <input type="checkbox"/> 12 Traffic <input type="checkbox"/> 13 Other					
<b>DRUG TYPE:</b> <input checked="" type="checkbox"/> 1 N/A <input type="checkbox"/> 2 Amphetamine <input type="checkbox"/> 3 Barbiturate <input type="checkbox"/> 4 Cocaine <input type="checkbox"/> 5 Heroin <input type="checkbox"/> 6 Hallucinogen <input type="checkbox"/> 7 Marijuana <input type="checkbox"/> 8 Opium/Derivative <input type="checkbox"/> 9 Paraphernalia <input type="checkbox"/> 10 Synthetic					
<b>QUANTITY:</b>		<b>UNITS:</b> <input type="checkbox"/> 1 Gram <input type="checkbox"/> 2 Milligram <input type="checkbox"/> 3 Kilogram <input type="checkbox"/> 4 Ounce <input type="checkbox"/> 5 Pound <input type="checkbox"/> 6 Ton <input type="checkbox"/> 7 Liter <input type="checkbox"/> 8 Milliliter <input type="checkbox"/> 9 Dose		<b>VALUE</b>	
<b>VICTIM/OFFENDER RELATIONSHIP:</b> N/A			<b>ASSAULT/HOMICIDE CIRCUMSTANCES:</b>		
<b>CHILDREN WERE...</b> <input type="checkbox"/> 1 Involved <input type="checkbox"/> 2 Present <input checked="" type="checkbox"/> 3 N/A <input type="checkbox"/> 4 Both			<b>OFFICER ACTION:</b> <input type="checkbox"/> 1 Arrest Family Violence <input type="checkbox"/> 2 Arrest Other Offence <input type="checkbox"/> 3 Summons <input type="checkbox"/> 4 Separation <input type="checkbox"/> 5 Unfounded <input type="checkbox"/> 6 Referred to Social		
<b>PRIOR COURT ORDERS:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		<b>ALCOHOL:</b> <input type="checkbox"/> Aggressor <input type="checkbox"/> Victim <b>USED BY:</b> <input type="checkbox"/> Both Used <input type="checkbox"/> Neither Used		<b>DRUGS:</b> <input type="checkbox"/> Aggressor <input type="checkbox"/> Victim <b>USED BY:</b> <input type="checkbox"/> Both Used <input type="checkbox"/> Neither Used	
<b>PREVIOUS COMPLAINTS:</b> <input type="checkbox"/> 1 None <input type="checkbox"/> 2 one-Five <input type="checkbox"/> 3 Six-Ten <input type="checkbox"/> 4 More than 10 <input checked="" type="checkbox"/> 5 Unknown		<b>SERVICES:</b> <input type="checkbox"/> Advised <input type="checkbox"/> Not Advised		<b>AGGRESSOR IDENTIFIED BY:</b> <input type="checkbox"/> 1 Physical Evidence <input type="checkbox"/> 2 Testimonial <input type="checkbox"/> 3 Both	

<b>CASE NUMBER:</b> 010-16001664	<b>DATE OF REPORT – TIME:</b> 03/15/11 22:05	<input checked="" type="checkbox"/> ORIGINAL REPORT <input type="checkbox"/> SUPPLEMENTAL REPORT
<b>BRIEF DESCRIPTION:</b>		
<p>At approximately 19:00, a call came in from Rin T. Tin, and I was dispatched. Upon arrival, I found the civilian in a state of distress, kneeling on the clay shoulder of Route 21. Parking my cruiser with blue lights flashing for safety, I moved the civilian’s bicycle out of the roadway, then crossed the erosion ditch beside the gravel and climbed onto the clay. In so doing, I looked for skid marks and/or disturbed foliage, but saw neither. It then being approximately 20:07, most ambient light had faded, and I considered securing the scene for a follow-up inspection by daylight (although, in the event, I later decided that unnecessary). By my cruiser’s headlights, I saw that the civilian, Rin T. Tin, was attending a medium-large canine of unknown or mixed breed. I did not notice a collar or (upon later inspection) lip tattoo, but the civilian identified the dog tentatively as “Wolf.” The civilian speculated that the dog’s owner was a “Stacy Rieke,” but such person had not been located to verify this by the time of this report. There was no sign of blood or external injury, but the canine was obviously near death: eyes unfocused and dry tongue hanging from its mouth. Tin protested (“cruelty”) as I secured the dog’s muzzle with a length of string (all immediately available) to prevent being bitten, and I had to order the civilian back while I attempted first aid. These attempts proved unsuccessful. Inspecting the corpse, I saw that the paws were clotted with red clay and bits of roadway grit, the nails intact. The teeth were intact as well, with no obvious aroma or trace particles between them. Further inspection of the body showed signs of subcutaneous, sub-fur trauma: damaged internal organs and probably broken bones. This confirmed my analysis that the cause of death was being struck by a car, not the more exotic possibilities being suggested to me by the civilian. Judging that discretion, not arrest, was the best case management technique for the distressed Tin, I allowed the civilian to assist in loading the animal into my cruiser for what Tin believed to be a forensic examination. I then transported the corpse to the crematorium. After a brief call to my superior, Sgt. Goddard, reporting the location and circumstances of the casualty, I released the body to them for disposal rather than transfer for necropsy.</p>		
<b>ATTACHMENTS:</b> <input type="checkbox"/> Persons <input type="checkbox"/> Property <input type="checkbox"/> Offenses <input type="checkbox"/> Narrative		<b>GCIC ENTRY</b> <input type="checkbox"/> Warrant <input type="checkbox"/> Vehicle <input type="checkbox"/> Article <input type="checkbox"/> Boat <input type="checkbox"/> Gun
<b>REPORTING OFFICER:</b> Detective R. Greenwood <u>/sl/</u>	<b>BADGE:</b> 714	<b>DATE:</b> 03/15/11
<b>SUPERVISOR:</b> Sgt. M. Goddard <u>/sl/</u>	<b>BADGE:</b> 899	<b>DATE:</b>
<b>DATA ENTRY:</b>	<b>BADGE:</b>	<b>DATE:</b>
<b>GCIC OPERATOR:</b>	<b>BADGE:</b>	<b>DATE:</b>



### City of Reillyville Police Department—Incident Report

<b>CASE NUMBER:</b> 010-16001624		<b>DATE OF REPORT - TIME:</b> 02/06/11 23:31		<input checked="" type="checkbox"/> ORIGINAL REPORT <input type="checkbox"/> SUPPLEMENTAL REPORT	
<b>DATE OF OCCURRENCE:</b> 2/6/11		<b>TIME OF OCCURRENCE:</b> 23:03		<b>DOW:</b> <input type="checkbox"/> 1 Sun <input type="checkbox"/> 2 Mon <input type="checkbox"/> 3 Tues <input type="checkbox"/> 4 Wed <input type="checkbox"/> 5 Thur <input type="checkbox"/> 6 Fri <input checked="" type="checkbox"/> 7 Sat <input type="checkbox"/> 98 Unk	
<b>INCIDENT LOCATION:</b> Route 21, Reillyville, MN 55102					
<b>COMMON/BUSINESS NAME:</b>		<b>BEAT:</b>		<b>MAPR:</b>	
<b>DISTRICT:</b>		<b>ALCOHOL:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNK		<b>DRUG:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNK	
<b>LOCATION TYPE:</b> Residential		<b>DEPT. CLASSIFICATION:</b>			
<b>CASE STATUS:</b> <input type="checkbox"/> 1 cleared by arrest <input type="checkbox"/> 2 exceptionally cleared <input checked="" type="checkbox"/> 3 unfounded <input type="checkbox"/> 4 inactive <input type="checkbox"/> 5 pending arrest <input type="checkbox"/> 6 pending inv. results <input type="checkbox"/> 7 info. Only <input type="checkbox"/> 8 admin. cleared				<b>DATE:</b> 2/6/11	
<b>UCR STATE CLASSIFICATION: (STATUTE NUMBER AND TEXT)</b>				<b>UCR CLASSIFICATION: (TABLE #8)</b>	
<b>ATTEMPTED/COMMITTED:</b> <input type="checkbox"/> 1 Committed <input type="checkbox"/> 2 Accessory After <input type="checkbox"/> 3 Accessory Before <input type="checkbox"/> 4 Aid/Abet <input type="checkbox"/> 5 Assault To Victim <input type="checkbox"/> 6 Attempt to <input type="checkbox"/> 7 Conspiracy To <input type="checkbox"/> 8 Facilitation Of <input type="checkbox"/> 9 Solicitation To <input type="checkbox"/> 10 Threat To <input checked="" type="checkbox"/> 11 Unfounded					
<b>ATTACK REASON:</b> <input type="checkbox"/> 1 Assault <input type="checkbox"/> 2 Theft <input type="checkbox"/> 3 Menace <input type="checkbox"/> 4 Concerned Citizen <input type="checkbox"/> 5 Mental			<b>WEAPON TYPE:</b> <input type="checkbox"/> 1 Firearm <input type="checkbox"/> 2 Knife/Cutting Instrument <input type="checkbox"/> 3 Hands/Fists/Feet, etc. <input type="checkbox"/> 4 Other Weapon		
<b>ENTERED:</b>		<b>STRUCTURE OCCUPANCY:</b>		<b>EVIDENCE OBTAINED:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK	
<b>LOCATION TYPE:</b> residential					
<b>JUVENILE DISPOSITION:</b> <input type="checkbox"/> 1 Handled w/in Dept. <input type="checkbox"/> 2 Referred to Juvenile Court <input type="checkbox"/> 3 Referred to Welfare Agency <input type="checkbox"/> 4 Referred to Other Police <input type="checkbox"/> 5 Referred to Adult Court					
<b>UCR DISPOSITION:</b> <input type="checkbox"/> 1 Cleared by Arrest - Adult <input type="checkbox"/> 2 Cleared by Arrest - JUV <input type="checkbox"/> 3 Exceptionally Cleared - Adult <input type="checkbox"/> 4 Exception Cleared - JUV <input checked="" type="checkbox"/> 5 Unfounded <input type="checkbox"/> 6 Active					
<b>EX CLEARED TYPE:</b> <input type="checkbox"/> 1 Extradition Declined <input type="checkbox"/> 2 Arrest on Primary Ofns <input type="checkbox"/> 3 Death of Offender <input type="checkbox"/> 4 Vict/Witn Refused Cooperate <input type="checkbox"/> 5 Prosecution Declined <input type="checkbox"/> 6 Juvenile/No Custody					
<b>THEFT BY COMPUTER?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		<b>FORCED ENTRY?</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK		<b>DATE CLEARED:</b> 2/6/10	
<b># ARRESTED:</b> 0					
<b>DRUG ACTIVITY:</b> <input checked="" type="checkbox"/> 1 N/A <input type="checkbox"/> 2 Buy <input type="checkbox"/> 3 Deliver <input type="checkbox"/> 4 Use <input type="checkbox"/> 5 Distribute <input type="checkbox"/> 6 Manufacture <input type="checkbox"/> 7 Produce <input type="checkbox"/> 8 Cultivate <input type="checkbox"/> 9 Possess <input type="checkbox"/> 10 Smuggle <input type="checkbox"/> 11 Sell <input type="checkbox"/> 12 Traffic <input type="checkbox"/> 13 Other					
<b>DRUG TYPE:</b> <input checked="" type="checkbox"/> 1 N/A <input type="checkbox"/> 2 Amphetamine <input type="checkbox"/> 3 Barbiturate <input type="checkbox"/> 4 Cocaine <input type="checkbox"/> 5 Heroin <input type="checkbox"/> 6 Hallucinogen <input type="checkbox"/> 7 Marijuana <input type="checkbox"/> 8 Opium/Derivative <input type="checkbox"/> 9 Paraphernalia <input type="checkbox"/> 10 Synthetic					
<b>QUANTITY:</b>		<b>UNITS:</b> <input type="checkbox"/> 1 Gram <input type="checkbox"/> 2 Milligram <input type="checkbox"/> 3 Kilogram <input type="checkbox"/> 4 Ounce <input type="checkbox"/> 5 Pound <input type="checkbox"/> 6 Ton <input type="checkbox"/> 7 Liter <input type="checkbox"/> 8 Milliliter <input type="checkbox"/> 9 Dose		<b>VALUE</b>	
<b>VICTIM/OFFENDER RELATIONSHIP:</b> N/A				<b>ASSAULT/HOMICIDE CIRCUMSTANCES:</b>	
<b>CHILDREN WERE...</b> <input type="checkbox"/> 1 Involved <input type="checkbox"/> 2 Present <input checked="" type="checkbox"/> 3 N/A <input type="checkbox"/> 4 Both				<b>OFFICER ACTION:</b> <input type="checkbox"/> 1 Arrest Family Violence <input type="checkbox"/> 2 Arrest Other Offence <input type="checkbox"/> 3 Summons <input type="checkbox"/> 4 Separation <input type="checkbox"/> 5 Unfounded <input type="checkbox"/> 6 Referred to Social	
<b>PRIOR COURT ORDERS:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		<b>ALCOHOL:</b> <input type="checkbox"/> Aggressor <input type="checkbox"/> Victim <b>USED BY:</b> <input type="checkbox"/> Both Used <input type="checkbox"/> Neither Used		<b>DRUGS:</b> <input type="checkbox"/> Aggressor <input type="checkbox"/> Victim <b>USED BY:</b> <input type="checkbox"/> Both Used <input type="checkbox"/> Neither Used	
<b>PREVIOUS COMPLAINTS:</b> <input checked="" type="checkbox"/> 1 None <input type="checkbox"/> 2 one-Five <input type="checkbox"/> 3 Six-Ten <input type="checkbox"/> 4 More than 10 <input type="checkbox"/> 5 Unknown		<b>SERVICES:</b> <input type="checkbox"/> Advised <input type="checkbox"/> Not Advised		<b>AGGRESSOR IDENTIFIED BY:</b> <input type="checkbox"/> 1 Physical Evidence <input type="checkbox"/> 2 Testimonial <input type="checkbox"/> 3 Both	

<b>CASE NUMBER:</b> 010-16001664	<b>DATE OF REPORT – TIME:</b> 02/06/11 23:31	<input checked="" type="checkbox"/> ORIGINAL REPORT <input type="checkbox"/> SUPPLEMENTAL REPORT
<b>BRIEF DESCRIPTION:</b>		
<p>At approximately 21:50, a call was logged in from Rin T. Tin, and I was dispatched in the course of my Saturday night rounds. Upon arrival, I found the civilian in the yard of the private residence in an emotionally aroused state, clothing disheveled and stained with earth and plant material. Positioning my cruiser to illuminate the scene and checking my side arm, I surveyed visually and auditorily, discerning no threat, before advancing to investigate. The civilian held a camera and (small) flashlight, but neither presented an obvious threat as a weapon. Still, I was eager to control the situation, whatever the civilian’s “weapon.” Upon inquiry, the civilian reported prowlers, but evidenced considerable frustration that the digital pictures (which Tin insisted upon displaying) showed nothing besides the empty landscape around us. Suggestions that the so-called “ghostly” intruders might’ve been passing shadows and weekend revelry from Route 431 proved decidedly unwelcome, and at the civilian’s insistence, I examined the yard and outside of the residence while the homeowner (at my suggestion) returned inside. A light precipitation had commenced, but the temperature remained too high for actual sleet to accumulate. Numerous footprints were in evidence, but none could be identified as inconsistent with the homeowner’s own boots. Foliage had been disturbed, but the civilian had reported having climbed through the bushes. Close to the road, I found three nearly-empty containers of beer. The house itself was well-illuminated with security lights, and I saw no evidence of attempted entry. Through the windows, I noticed several items dislodged or dislocated by the civilian’s reported movements from location to location inside before my arrival. Having found nothing, I so notified the civilian. The civilian declined my escort to an off-site location for the rest of evening, and I returned to my duties. Precipitation intensified during my return to the station house and, upon consulting my supervisor, Sgt. Goddard, I determined that further investigation the next morning would likely be unrewarding, so I closed the file.</p>		
<b>ATTACHMENTS:</b> <input type="checkbox"/> Persons <input type="checkbox"/> Property <input type="checkbox"/> Offenses <input type="checkbox"/> Narrative		<b>GCIC ENTRY</b> <input type="checkbox"/> Warrant <input type="checkbox"/> Vehicle <input type="checkbox"/> Article <input type="checkbox"/> Boat <input type="checkbox"/> Gun
<b>REPORTING OFFICER:</b> Detective R. Greenwood <u>/s/</u>	<b>BADGE:</b> 714	<b>DATE:</b> 02/06/11
<b>SUPERVISOR:</b> Sgt. M. Goddard <u>/s/</u>	<b>BADGE:</b> 899	<b>DATE:</b>
<b>DATA ENTRY:</b>	<b>BADGE:</b>	<b>DATE:</b>
<b>GCIC OPERATOR:</b>	<b>BADGE:</b>	<b>DATE:</b>



### City of Reillyville Police Department—Incident Report

<b>CASE NUMBER:</b> 010-16001664		<b>DATE OF REPORT - TIME:</b> 03/16/11 11:23		<input type="checkbox"/> ORIGINAL REPORT <input checked="" type="checkbox"/> SUPPLEMENTAL REPORT	
<b>DATE OF OCCURRENCE:</b> 3/16/11		<b>TIME OF OCCURRENCE:</b> 11:04		<b>DOW:</b> <input type="checkbox"/> 1 Sun <input type="checkbox"/> 2 Mon <input checked="" type="checkbox"/> 3 Tues <input type="checkbox"/> 4 Wed <input type="checkbox"/> 5 Thur <input type="checkbox"/> 6 Fri <input type="checkbox"/> 7 Sat <input type="checkbox"/> 98 Unk	
<b>INCIDENT LOCATION:</b> 2 <sup>nd</sup> Precinct, Reillyville, MN 55102					
<b>COMMON/BUSINESS NAME:</b>		<b>BEAT:</b>		<b>MAPR:</b>	
<b>DISTRICT:</b>		<b>ALCOHOL:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK		<b>DRUG:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK	
<b>LOCATION TYPE:</b> Commercial		<b>DEPT. CLASSIFICATION:</b>			
<b>CASE STATUS:</b> <input type="checkbox"/> 1 cleared by arrest <input type="checkbox"/> 2 exceptionally cleared <input checked="" type="checkbox"/> 3 unfounded <input type="checkbox"/> 4 inactive <input type="checkbox"/> 5 pending arrest <input type="checkbox"/> 6 pending inv. results <input type="checkbox"/> 7 info. Only <input type="checkbox"/> 8 admin. cleared					<b>DATE:</b> 03/16/11
<b>UCR STATE CLASSIFICATION: (STATUTE NUMBER AND TEXT)</b>				<b>UCR CLASSIFICATION:</b> (TABLE #8)	
<b>ATTEMPTED/COMMITTED:</b> <input type="checkbox"/> 1 Committed <input type="checkbox"/> 2 Accessory After <input type="checkbox"/> 3 Accessory Before <input type="checkbox"/> 4 Aid/Abet <input type="checkbox"/> 5 Assault To Victim <input type="checkbox"/> 6 Attempt to <input type="checkbox"/> 7 Conspiracy To <input type="checkbox"/> 8 Facilitation Of <input type="checkbox"/> 9 Solicitation To <input type="checkbox"/> 10 Threat To <input type="checkbox"/> 11 Unfounded					
<b>ATTACK REASON:</b> <input type="checkbox"/> 1 Assault <input type="checkbox"/> 2 Theft <input type="checkbox"/> 3 Menace <input type="checkbox"/> 4 Concerned Citizen <input type="checkbox"/> 5 Mental		<b>WEAPON TYPE:</b> <input type="checkbox"/> 1 Firearm <input type="checkbox"/> 2 Knife/Cutting Instrument <input type="checkbox"/> 3 Hands/Fists/Feet, etc. <input type="checkbox"/> 4 Other Weapon			
<b>ENTERED:</b>	<b>STRUCTURE OCCUPANCY:</b>	<b>EVIDENCE OBTAINED:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		<b>LOCATION TYPE:</b>	
<b>JUVENILE DISPOSITION:</b> <input type="checkbox"/> 1 Handled w/in Dept. <input type="checkbox"/> 2 Referred to Juvenile Court <input type="checkbox"/> 3 Referred to Welfare Agency <input type="checkbox"/> 4 Referred to Other Police <input type="checkbox"/> 5 Referred to Adult Court					
<b>UCR DISPOSITION:</b> <input type="checkbox"/> 1 Cleared by Arrest - Adult <input type="checkbox"/> 2 Cleared by Arrest - JUV <input type="checkbox"/> 3 Exceptionally Cleared - Adult <input type="checkbox"/> 4 Exception Cleared - JUV <input type="checkbox"/> 5 Unfounded <input type="checkbox"/> 6 Active					
<b>EX CLEARED TYPE:</b> <input type="checkbox"/> 1 Extradition Declined <input type="checkbox"/> 2 Arrest on Primary Ofns <input type="checkbox"/> 3 Death of Offender <input type="checkbox"/> 4 Vict/Witn Refused Cooperate <input type="checkbox"/> 5 Prosecution Declined <input type="checkbox"/> 6 Juvenile/No Custody					
<b>THEFT BY COMPUTER?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		<b>FORCED ENTRY?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		<b>DATE CLEARED:</b> 03/16/11	
<b>DRUG ACTIVITY:</b> <input checked="" type="checkbox"/> 1 N/A <input type="checkbox"/> 2 Buy <input type="checkbox"/> 3 Deliver <input type="checkbox"/> 4 Use <input type="checkbox"/> 5 Distribute <input type="checkbox"/> 6 Manufacture <input type="checkbox"/> 7 Produce <input type="checkbox"/> 8 Cultivate <input type="checkbox"/> 9 Possess <input type="checkbox"/> 10 Smuggle <input type="checkbox"/> 11 Sell <input type="checkbox"/> 12 Traffic <input type="checkbox"/> 13 Other		<b>DRUG TYPE:</b> <input checked="" type="checkbox"/> 1 N/A <input type="checkbox"/> 2 Amphetamine <input type="checkbox"/> 3 Barbiturate <input type="checkbox"/> 4 Cocaine <input type="checkbox"/> 5 Heroin <input type="checkbox"/> 6 Hallucinogen <input type="checkbox"/> 7 Marijuana <input type="checkbox"/> 8 Opium/Derivative <input type="checkbox"/> 9 Paraphernalia <input type="checkbox"/> 10 Synthetic			
<b>QUANTITY:</b>		<b>UNITS:</b> <input type="checkbox"/> 1 Gram <input type="checkbox"/> 2 Milligram <input type="checkbox"/> 3 Kilogram <input type="checkbox"/> 4 Ounce <input type="checkbox"/> 5 Pound <input type="checkbox"/> 6 Ton <input type="checkbox"/> 7 Liter <input type="checkbox"/> 8 Milliliter <input type="checkbox"/> 9 Dose		<b>VALUE</b>	
<b>VICTIM/OFFENDER RELATIONSHIP:</b> N/A			<b>ASSAULT/HOMICIDE CIRCUMSTANCES:</b>		
<b>CHILDREN WERE...</b> <input type="checkbox"/> 1 Involved <input type="checkbox"/> 2 Present <input checked="" type="checkbox"/> 3 N/A <input type="checkbox"/> 4 Both			<b>OFFICER ACTION:</b> <input type="checkbox"/> 1 Arrest Family Violence <input type="checkbox"/> 2 Arrest Other Offence <input type="checkbox"/> 3 Summons <input type="checkbox"/> 4 Separation <input type="checkbox"/> 5 Unfounded <input type="checkbox"/> 6 Referred to Social		
<b>PRIOR COURT ORDERS:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		<b>ALCOHOL:</b> <input type="checkbox"/> Aggressor <input type="checkbox"/> Victim <b>USED BY:</b> <input type="checkbox"/> Both Used <input type="checkbox"/> Neither Used		<b>DRUGS:</b> <input type="checkbox"/> Aggressor <input type="checkbox"/> Victim <b>USED BY:</b> <input type="checkbox"/> Both Used <input type="checkbox"/> Neither Used	
<b>PREVIOUS COMPLAINTS:</b> <input type="checkbox"/> 1 None <input checked="" type="checkbox"/> 2 one-Five <input type="checkbox"/> 3 Six-Ten <input type="checkbox"/> 4 More than 10 <input type="checkbox"/> 5 Unknown		<b>SERVICES:</b> <input type="checkbox"/> Advised <input type="checkbox"/> Not Advised		<b>AGGRESSOR IDENTIFIED BY:</b> <input type="checkbox"/> 1 Physical Evidence <input type="checkbox"/> 2 Testimonial <input type="checkbox"/> 3 Both	

<b>CASE NUMBER:</b> 010-16001664	<b>DATE OF REPORT – TIME:</b> 03/16/11 11:23	<input type="checkbox"/> ORIGINAL REPORT <input checked="" type="checkbox"/> SUPPLEMENTAL REPORT
<b>BRIEF DESCRIPTION:</b>		
<p>At approximately 11:00, Rin T. Tin arrived at the station house to “follow up” on an incident the previous evening. I determined that Detective R. Greenwood had already filed a report on a deceased canine found in the company of Tin. Nothing on the computer advised not to release the case status, and the civilian appeared calm upon arrival, so I informed Tin that the body had already been released for cremation and the file closed. At this point, Tin became excited, demanding that the body be immediately retrieved for necropsy. When advised that such was not possible, Tin became over-wrought. Forceful tact persuaded the civilian to accept the entry of a supplemental report in lieu of making a physical disturbance, so arrest was not considered necessary (nor advisable in light of other case pressures in the station house). Tin departed, to write a complaint letter to the Chief, and I notified my superior, Sgt. Caldwell.</p>		
<b>ATTACHMENTS:</b>		<b>GCIC ENTRY</b>
<input type="checkbox"/> Persons <input type="checkbox"/> Property <input type="checkbox"/> Offenses <input type="checkbox"/> Narrative		<input type="checkbox"/> Warrant <input type="checkbox"/> Vehicle <input type="checkbox"/> Article <input type="checkbox"/> Boat <input type="checkbox"/> Gun
<b>REPORTING OFFICER:</b> Officer P. Schorr <u>/sl</u>	<b>BADGE:</b> 307	<b>DATE:</b> 03/16/11
<b>SUPERVISOR:</b> Sgt. P. Caldwell <u>/sl</u>	<b>BADGE:</b> 823	<b>DATE:</b>
<b>DATA ENTRY:</b>	<b>BADGE:</b>	<b>DATE:</b>
<b>GCIC OPERATOR:</b>	<b>BADGE:</b>	<b>DATE:</b>

**Leslie Loudermouth  
1060 W. Addison St  
Reillyville, MN**

RE: Jeanette Smith, Case No. 101102

Dear Director:

At your request, I am memorializing my involvement in the Jeanette Smith case beyond previously written reports and testimony. I do want to note that this request is highly unorthodox, and I feel as if my authority is being undermined because of a verbal complaint made by the Chief of Police.

I became involved in the case after Officer Pauly/Polly Schorr initiated a child deprivation investigation involving Ms. Smith. I am familiar with Ms. Smith, and I know many things that Officer Schorr's cursory investigation did not reveal. For instance, Ms. Smith has had a difficult time making ends meet (like many in her community), but those problems were exacerbated when her father recently died. He was her only living relative besides her children, and his death deprived her of her last bit of familial support. Without that moral compass, her life choices deteriorated.

By the time the juvenile court hearing was held, Ms. Smith had contacted the appropriate drug and social counseling programs and is now making great strides in her progress. Any accusation that I lied to the judge is baseless – as Ms. Smith had enrolled in the drug program at the time of the hearing, I truthfully testified that she was currently in the drug treatment program.

Based on those Herculean efforts, I testified it was my opinion that Ms. Smith be given another chance. If her children were taken away, that would leave Ms. Smith completely alone in the world, and in that situation I would fear for her personal well-being. The judge agreed, and the court has continued to closely monitor her progress. And she is making progress.

Sincerely,

*/S/ Leslie Loudermouth*

# City of Reillyville Police Department Handbook



## Receipt

The undersigned hereby acknowledges receipt of the City of Reillyville Police Department Handbook (including all updates), and the undersigned further states that s/he is familiar with the contents found herein.

          /S/          Rook E. Greenwood            
Employee

          14 February 2005            
Date:

## Candidate for Mayor of Reillyville: Leslie Loudermouth

by: Walter Writer

Leslie Loudermouth is running for Mayor. You may know Loudermouth from the many rallies that the "Loudermouth for Mayor" campaign has organized around Reillyville. I sat down with Loudermouth to help you (the voter) get to know one of the candidates in the race to be next mayor of Reillyville.

What is your number one asset you will bring to the job of mayor? *Definitely my ability to be an effective leader. I have been working to affect social change since college. As mayor I will continue to fight for those on the fringes of our society.*

What is the one thing you will accomplish during your first month in office?

*My first order of business will be to sell the unnecessary vehicle purchased by the city for the current*

*Mayor and use those funds to purchase appropriate safety gear for the police department. We cannot have Reillyville's finest walking around in unsafe gear.*

Is there one single event in your past that has played a large part in shaping you today?

*Yes. During college I made social change on my campus. Even though I was sort of an outcast, I was really making a difference in the lives of all of the students.*

*That was before the days of social media...networking the old fashioned way! We would spread the word of our rallies via word-of-mouth and flyers. Today we use Tweeter, ReillyBook and YourSpace. The social media of the 21st century is much more efficient and frankly, cheaper.*

# LIFE AND TIMES OF RINT.TIN

POSTED ON: 3/22/11

FRIEND OF ANIMALS, ENEMY OF NONE

## WHERE IS YOUR MORAL COMPASS POINTING?

Last Saturday night my significant other and I were driving home from dinner at a friend's house. As we were turning onto Hwy 92, we spotted a small furry animal. As we drove closer, I could see that it was a big old Tom Cat all of sudden it darted out into the road and hit the car and then limped off. It must have broken its shoulder. I was horrified! The question of this blog post today is: Should you stop to rescue the cat or not? Where is your moral compass on this issue? My significant other thought we should keep driving, after all it was "a feral cat just roaming around". (I could not believe my ears. It sounded

like something one of those people who kill their pets to relieve themselves of the burden! We are lucky to have pets and they should only be euthanized to relieve the animal of pain, not for purposes of relieving our supposed burden.) I thought the cat should be rescued for certain. This incident brought to mind the recent one with Reillyville's Officer Greenwood and that poor dog, Wolf. Should Greenwood have done more to help Wolf? I don't think that Greenwood did enough to help Wolf. Wolf was a defenseless animal. As founder of the People Against the Discrimination of Animals, I was called upon to testify

before congress on this very issue. There was some legislation being offered regarding helping animals...you know it's like the "Good Samaritan" law protecting people for helping humans...shouldn't people helping animals be given the same protection? I can't wait to read your thoughts on the Wolf and Tom Cat tragedies. Where is your moral compass pointing?

### Upcoming Events:

Euthanasia Forum: Are we relying on Euthanasia to relieve our pet responsibilities?

I will be facilitating another panel discussion at Cahill College on April 24, 2011 (3 PM) about pet euthanasia. (Recently presented at Dehn University & Iijima Institute.) Recent statistics are staggering and demonstrate that we are relying on euthanasia to relieve our perceived burden as pet owners.

### Come join the discussion!

\$5 cost; free for members of PADA (People Against the Discrimination of Animals)

# LEGAL AUTHORITIES

## **Statutes**

*Specific statutes, portions of specific statutes and/or references to specific statutes are provided below. Only these portions/references are relevant to this mock trial case. Teams may only use the statute information noted below in the course of the trial.*

### **28 U.S.C. § 1331**

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

### **42 U.S.C. § 1983**

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

### **OCGA § 24-3-30**

Without offering the same in evidence, either party may avail himself of allegations or admissions made in the pleadings of the other.

## **Case Law**

*The following excerpts are from Case Law concerning the legal issues raised in this mock trial case. Only portions of the opinions are provided, and only those portions may be used in the course of the trial. Citations and internal quotation marks are omitted in the excerpts of the cases that follow.*

Public employees do not surrender all their First Amendment rights by reason of their employment. Rather, the First Amendment protects a public employee's right in certain circumstances to speak as a citizen addressing matters of public concern.

**Garcetti v. Ceballos, 547 U.S. 410, 417 (2006).**

The state has interests as an employer in regulating the speech of its employees that differ significantly from those it possesses in connection with regulation of the speech of the citizenry in general. The problem in any case is to arrive at a balance between the interests of the employee as a citizen, in commenting upon matters of public concern and the interest of the state, as an employer, in promoting the efficiency of the public services it performs through its employees.

**Pickering v. Board of Education, 391 U.S. 563 (1968).**

In cases where the state denies discharging the employee because of speech, a four-stage analysis has evolved. At the first stage, the court determines the threshold issue raised in Pickering, whether the employee's speech may be "fairly characterized as constituting speech on a matter of public concern." The court examines the content, form, and context of the employee's speech to

determine whether it addresses a matter of public concern. Second, if the speech addresses a matter of public concern, the court then applies the second prong of Pickering, the balancing test, weighing the employee's first amendment interests against "the interest of the state, as an employer, in promoting the efficiency of the public services it performs through its employees." Again, the context and circumstances of the employee's speech must be considered. If the public employee prevails on the balancing test, the fact-finder determines whether the employee's speech played a "substantial part" in the government's decision to demote or discharge the employee. Fourth, if the employee prevails by showing that the speech was a substantial motivating factor in the state's employment decision, the state must prove by a preponderance of the evidence that "it would have reached the same decision . . . even in the absence of the protected conduct." This fourth stage has been referred to as a "but for" test; the employer must show that "its legitimate reason, standing alone, would have induced it to make the same decision."

**Bryson v. City of Waycross, 888 F.2d 1562, 1565-66 (11<sup>th</sup> Cir. 1989).**

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MINNESOTA  
REILLYVILLE DIVISION**

<b>ROOK E. GREENWOOD</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Jury Instruction Guide</b>
	)	
<b>CHIEF BILLIE DURDEN, in His/Her Individual Capacity as</b>	)	
<b>Chief of the Reillyville Police Department,</b>	)	
	)	
<b>Defendant.</b>	)	

**THE CHARGE OF THE COURT**  
[Not to be read in open court]

**Pleadings**

You have been considering the case of Rook E. Greenwood v. Chief Billie Durden, in His/Her Individual Capacity as Chief of the Reillyville Police Department. You have heard the evidence and the allegations of the parties, and I will not repeat them here. It is now my duty to instruct you on the law which you will use to render a verdict in this case.

**Burden of Proof; Generally; Preponderance of Evidence, Defined**

Plaintiff has the burden of proof, which means that the plaintiff must prove whatever it takes to make out his/her case, except for any admissions by the defendant. Plaintiff must prove his/her case by what is known as a preponderance of the evidence, that is, evidence upon the issues involved which, while not enough to wholly free the mind from a reasonable doubt, is yet sufficient to incline a reasonable and impartial mind to one side of the issue rather than the other.

Your verdict will only deal with liability – the issue of damages will be reserved for a later time.

**Credibility of Witnesses**

The jury must determine the credibility of the witnesses. In deciding this, you may consider all the facts and circumstances of the case, including the witnesses' manner of testifying, their intelligence, means and opportunity of knowing the facts to which they testify, the nature of the facts to which they testify, the probability or improbability of their testimony, their interest or lack of interest, and their personal credibility as you observe it. While you may consider the number of witnesses on each side, you are not required to decide in favor of the side with the most witnesses. You make all decisions as to the facts of this case, under the law as given you in this charge.

**Conflicting Evidence; Reconciliation**

Any conflicts in the evidence are to be reconciled wherever possible. All witnesses are presumed to speak the truth and, if possible, you should not attribute a false statement to any of them. If you find that this cannot be done, then you should believe the evidence that is most reasonable and believable to you and decide the case by the preponderance of the evidence as you find it to be.

**Circumstantial Evidence; Direct Evidence**

Direct evidence is evidence, which immediately points to the question at issue. Indirect or circumstantial evidence is evidence, which only tends to establish a fact; it must be such as to reasonably establish that fact rather than anything else. The comparative weight of circumstantial and direct evidence on any given issue is a question of fact for you to decide.

Stated differently, direct evidence is the testimony of a witness who has seen or heard the facts to which the witness testifies and which, if believed, is sufficient to prove or establish these facts.

Circumstantial evidence is the testimony of a witness who has seen or heard the facts to which the witness testifies where from such facts, if believed, you may find other facts to exist, which are reasonable and believable to you in the light of your experience.

Where circumstantial evidence is relied upon to establish a fact or theory, it must be such as to reasonably establish that fact or theory rather than anything else.

### **Admissions**

An admission is a statement by a party, which tends to aid the cause of the opposing party. All admissions shall be carefully considered.

### **Impeachment of Witnesses**

When witnesses appear and testify, they are presumed to speak the truth unless impeached in some manner provided by law.

To impeach a witness means to discredit the witness, or prove the witness unworthy of belief.

A witness may be impeached:

- a. By disproving the facts to which the witness testifies;
- b. By proof of contradictory statements previously made by the witness about matters relevant to the testimony and to the case;
- c. By evidence as to the witness's general bad character; or
- d. By the conviction of the witness of an offense involving dishonesty or false statement.

If it is sought to impeach a witness by "b," "c," or "d," above, proof of the general good character of the witness may be shown. The effect of the evidence is to be determined by the jury.

When a witness is successfully contradicted as to a material matter, the witness's credibility as to other matters shall be a question for the jury.

Since believability of witnesses is a matter to be determined by the jury under proper instructions from the court, if an effort is made to impeach a witness, it is the duty of the jury to determine whether the effort has been successful and whether the witness is to be believed.

### **42 U.S.C. § 1983**

In this case the Plaintiff claims that the Defendant, while acting "under color" of state law, intentionally deprived the Plaintiff of the Plaintiff's rights under the Constitution of the United States. Specifically, the Plaintiff claims that while the Defendant was acting under color of authority of the City of Miltonville s/he intentionally violated the Plaintiff's constitutional rights under the First Amendment to the Constitution when the Defendant discharged the Plaintiff from employment because of the Plaintiff's exercise of the right of free speech.

The Defendant denies that s/he violated the Plaintiff's rights in any way, and alternatively asserts that there was sufficient cause to discharge Plaintiff despite the alleged violation.

Under the First Amendment to the Constitution of the United States, every public employee has the right to "freedom of speech" addressing issues of public concern. The law further provides that a person may sue in this Court for an award of money damages against anyone who, "under color" of any state law or custom, intentionally violates the Plaintiff's rights under the Constitution of the United States.

In order to prevail on this claim, the Plaintiff must prove each of the following facts by a preponderance of the evidence: (Bryson v. City of Waycross)

First: That the actions of the Defendant were "under color" of the authority of the State;

Second: That the Plaintiff engaged in speech activity concerning a matter of public concern;

Third: That such speech activity was a substantial or motivating factor in the Defendant's decision to discharge the Plaintiff from employment; and

Fourth: That the Defendant's acts were the proximate or legal cause of damages sustained by the Plaintiff.

Again, you are only to be concerned with liability in this phase of the trial.

A state or local official acts "under color" of the authority of the state not only when the official acts within the limits of lawful authority, but also when the official acts without or beyond the bounds of lawful authority. In order for unlawful acts of an official to be done "under color" of state law, however, the unlawful acts must be done while the official is purporting or pretending to act in the performance of official duty; that is, the unlawful acts must be an abuse or misuse of power which is possessed by the official only because of the position held by the official.

I instruct you that Plaintiff engaged in speech activity concerning officer safety and use of public funds. Therefore, you are instructed that the subject of such speech activity was a matter of public concern; and, as a public employee, the Plaintiff could not legally be penalized because of the Plaintiff's exercise of First Amendment rights in discussing that subject of public concern.

In order to prove that the Plaintiff's protected speech activities were a "substantial or motivating" factor in the Defendant's decision, the Plaintiff does not have to prove that the protected speech activities were the only reason the Defendant acted against the Plaintiff. It is sufficient if the Plaintiff proves that the Plaintiff's protected speech activities were a determinative consideration that made a difference in the Defendant's adverse employment decision. You should be mindful that the law does not require that a public employer extend any special or favorable treatment to public employees because of their exercise of protected First Amendment rights.

If you find in the Plaintiff's favor with respect to each of the facts that the Plaintiff must prove, you must then decide whether the Defendant has shown by a preponderance of the evidence that the Plaintiff would have been dismissed for other reasons even in the absence of the protected speech activity. If you find that the Plaintiff would have been dismissed for reasons apart from the speech activity, then your verdict should be for the Defendant.

#### **Form of Verdict**

If you believe from a preponderance of the evidence that the plaintiff is entitled to recover, you would find for the plaintiff and the form of your verdict would be: "We, the jury, find for plaintiff and against defendant on the issue of liability." Otherwise, your verdict would be ""We, the jury, find for defendant."

**Verdict in Writing**

Whatever your verdict in the case, it must be agreed to by each juror, it must be in writing, dated and signed by your foreperson, and it must be returned and read in court. You may write your verdict on the back of plaintiff's petition.

**Verdict; Unanimity**

Your verdict must be unanimous. If you cannot unanimously agree on a verdict, the judge is required by law to declare a mistrial and retry the case before another jury. Jurors should carefully consider all the evidence in the case, consult with one another, and deliberate with a view toward reaching a unanimous verdict, consistent with your consciences and oaths as jurors.

Avoid premature fixed opinions. Do not hesitate to reexamine your views and change your opinions if, after fair and impartial discussions and deliberations with your fellow jurors, you are honestly convinced that your opinion should be changed. However, no juror is required to surrender an honest opinion differing from that of another juror merely for the purposes of reaching a unanimous verdict.

**Court Has No Interest in Case**

I want to emphasize that anything the court did or said during the trial of this case was not intended to, and did not intimate, hint, or suggest to you which of the parties should prevail in this case. Whichever of the parties is entitled to a verdict is a matter entirely for you to determine, and whatever your verdict, it must be agreed upon by all of you.

The court's interest in the matter is that the case be fairly presented according to law and that you — as honest, conscientious, impartial jurors — consider the case as the court has instructed you and return a verdict that speaks the truth as you find the truth of the case to be.

**Jury; Final Instructions**

One of your first duties in the jury room will be to select one of your number to act as foreperson, who will preside over your deliberations and who will sign the verdict to which all twelve of you freely and voluntarily agree.

You should start your deliberations with an open mind. Consult with one another and consider each other's view. Each of you must decide this case for yourself, but you should do so only after a discussion and consideration of the case with your fellow jurors. Do not hesitate to change an opinion if convinced that it is wrong. However, you should never surrender honest convictions or opinions in order to be congenial or to reach a verdict solely because of the opinions of the other jurors.

You may go now to the jury room, but do not begin your deliberations until I send you the pleadings and exhibits, which I will do shortly. Then you may begin your deliberations.

**MINNESOTA HIGH SCHOOL MOCK TRIAL  
COMPETITION RULES**

Any clarification of rules or case materials will be issued in writing to all participating teams no less than two weeks prior to the tournament.

Each team is responsible for the conduct of persons associated with the team throughout the mock trial event.

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## **I. RULES OF THE COMPETITION**

### **A. ADMINISTRATION**

#### **Rule 1.1. Rules**

All trials will be governed by the Rules of the Minnesota High School Mock Trial Competition and the Minnesota High School Mock Trial Rules of Evidence.

Rules with the “NHSMTTC” designation appear in these rules only as notification to the team representing Minnesota at the National High School Mock Trial Championship (NHSMTTC) that additional and different rules govern that tournament. (See Rule 1.3 for an example.) This designation does not imply that rules governing the NHSMTTC govern this, the Minnesota Mock Trial Tournament, in any way.

Questions or interpretations of these rules are within the discretion of the Minnesota State Bar Association (MSBA), whose decision is final.

#### **Rule 1.2. Code of Conduct**

The rules of competition, as well as proper rules of courthouse and courtroom decorum and security, must be followed. Coaches, judges, spectators and students alike are expected to work with one another on a professional level at all times. The MSBA possesses discretion to impose sanctions, up to and including forfeiture or disqualification, for any misconduct, flagrant rule violations or breaches of decorum which affect the conduct of a trial or which impugn the reputation or integrity of any team, school, participant, court officer, judge or the mock trial program.

#### **Rule 1.3. Emergencies (NHSMTTC)**

### **B. THE PROBLEM**

#### **Rule 2.1. The Problem**

The problem will be a fictional fact pattern which may contain any or all of the following: statement of facts, indictment, stipulations, witness statements/affidavits, jury charges, exhibits, etc. Stipulations may not be disputed at trial. Witness statements may not be altered.

The problem shall consist of three witnesses per side, all of whom shall have names and characteristics which would allow them to be played by either males or females. All three of the witnesses must be called.

The fact that information is contained in a statement of facts, indictment, witness statement/affidavit, or exhibit does not mean that the information is admissible or has been admitted into evidence. Proffers of evidence must be made and ruled upon during the course of the trial itself.

#### **Rule 2.2. Witnesses Bound by Statements**

While students are encouraged to research the topic for their own general benefit or as part of a class project, the information, data, or citations generated from outside research may not be introduced at trial, and may result in point deductions. Thus, students may cite only the cases and laws given in the

official case materials, and may introduce as evidence only those documents provided as exhibits in the trial script.

Each witness is bound by the facts contained in his/her own witness statement, the Statement of Facts, if present, and/or any necessary documentation relevant to his/her testimony. Fair extrapolations may be allowed, provided reasonable inference may be made from the witness' statement. Some extrapolations of facts not in the record are allowed since some additional information may be necessary to make the case realistic. As an example of a fair extrapolation, background information such as date or place of birth would be a minor construction and allowed to amplify or humanize the case. Unfair extrapolation that would not be allowed includes information pivotal to the particular facts at issue. Only those facts which are neutral to both sides are fair extrapolations. If you have a question as to whether a particular added fact would be allowable background information, or if you believe it might be an unfair extrapolation, do not add the questionable fact. As a general rule of thumb, the more the "supplemental" information helps your case, the more cautious you should be in adding it to the witness' testimony. *When in doubt, leave it out!*

It is virtually impossible to provide witnesses with detailed answers to every conceivable question that lawyers can ask. The witness statements are not intended as a complete life history and, for the most part, information not in the statements will be irrelevant and should be subject to objection. If an attorney's question solicits unknown information, the witness may supply an answer of his/her choice, so long as it does not materially affect the witness' testimony. Try to avoid a rigid, mechanical approach to the trial (the witness statements are not scripts), but stay within the bounds of honest competition. Remember that your *presentation* is graded –not the merits of the case. Just as in our judicial system, lawyers must deal with the facts which exist. Attempts to bolster the witness' testimony with added facts may be met with disapproval from the judges.

If, in direct examination, an attorney asks a question which calls for extrapolated information pivotal to the facts at issue, the information is subject to objection under Rule 2.3, "unfair extrapolation."

If, in cross-examination, an attorney asks for unknown information, the witness may or may not respond, so long as any response is consistent with the witness' statement or affidavit and does not materially affect the witness' testimony (i.e., would not be considered "unfair extrapolation" under Rule 2.3).

A witness is not bound by facts contained in other witness statements. Witnesses must be prepared to deal with any inconsistencies between their own statement and the case materials. Witness statements are subject to all of the human inaccuracies that people make in similar situations. These include distortion and even dishonesty.

### **Rule 2.3. Unfair Extrapolation**

Unfair extrapolations are best attacked through impeachment and closing arguments and are to be dealt with in the course of the trial. A fair extrapolation is one that is neutral.

Attorneys shall not ask questions calling for information outside the scope of the case materials or requesting an unfair extrapolation.

If a witness is asked information not contained in the witness' statement, the answer must be consistent with the statement and may not materially affect the witness' testimony or any substantive

issue of the case. If the question would elicit an unfair extrapolation the witness may answer, "There is no information in my witness statement to answer this question."

When an attorney objects to an extrapolation, a witness responds to an extrapolation, or a witness responds to a question with an answer of "no information in my statement," the judge should rule immediately in open court to clarify the course of future proceedings. The burden of proof with respect to the objection is on the objector. The purpose of the rulings is to avoid an irrelevant digression from the statement of facts either through attorney questions or witness responses. Participants should understand that any ruling by a judge from the bench is not to be taken as an indication of scoring merit or of the eventual outcome of the trial. Student attorneys should be aware of these alternatives and feel free to use them as they might benefit the strategy of the team. Do not become overly obsessed with handling extrapolations. *Bring your concerns to the judges' attention and move on* with the rest of the trial.

Attorneys for the opposing team may refer to Rule 2.3 in a special objection, such as "unfair extrapolation" or "This information is beyond the scope of the statement of facts."

Possible rulings by a judge include:

- a. No extrapolation has occurred;
- b. An unfair extrapolation has occurred;
- c. The extrapolation was fair.

When an attorney objects to an extrapolation, the judge will rule in open court to clarify the course of further proceedings.

The decision of the presiding judge regarding extrapolations or evidentiary matters is final. Judges should use their scores to reflect whether they believe that unfair extrapolation has occurred, but scoring judges may not do so if the presiding judge has ruled in open court that no such extrapolation has occurred.

#### **Rule 2.4. Gender of Witnesses**

All witnesses are gender neutral. Personal pronoun changes in witness statements indicating gender of the characters may be made. Any student may portray the role of any witness of either gender.

#### **Rule 2.5. Voir Dire**

Voir dire examination of a witness is not permitted.

### **C. TEAMS**

#### **Rule 3.1. School and Student Eligibility**

The competition is open to students currently enrolled in grades seven through twelve in all Minnesota schools. Program information and registration forms are mailed to appropriate school personnel at the beginning of the school year.

To participate in the competition schools must return a completed entry form and registration fee for each team entered. Registration fees will not be refunded after November 1. In addition to the registration fee, a \$50.00 late drop deposit is required to register for the season. The late drop deposit will be refunded to teams that remain in the tournament after the team drop-out deadline. Teams may

opt to apply the current year's late drop deposit refund to next year's late drop deposit. Any team that drops out of the tournament after the drop-out deadline forfeits their late drop deposit. Registration forms received after October 17 will not be guaranteed trials in the competition.

Schools may enter any number of teams in the competition.

For schools with more students interested in participating than can be accommodated on the number of mock trial teams for which the school is eligible, there are various options:

- Hold tryouts for the mock trial team(s) and have the teacher coach (the attorney coach may also want to participate) select team members.
- Hold intraschool rounds to determine which students will represent the school in regional and state competition.
- Create "practice teams" comprised of less experienced members and allow only upper class students to be on the school's "official" teams.

Schools must follow the MSBA procedures for confirming their trial schedules or be disqualified from entering the competition the following year.

### **Rule 3.2. Team Composition**

Each team must consist of at least **eight** primary members: three witnesses, three attorneys, a timekeeper and one alternate. In any given round of competition, seven students must participate. There is no limit to the total number of students who can be members of the team.

At least two students on the team must participate in a scoring role in every round for which the team qualifies. Once a student has participated in a scoring role on a team, that student cannot participate on another team for the remainder of the rounds for which the team qualifies. A student need not participate in the same scoring role in each round.

A scoring role is defined as an attorney or witness that receives a score during a round.

Every team must be fully prepared to argue both sides of the case. Schools cannot have a separate "prosecution team" and "defense team". Only one team from each school may be eligible to compete at the state tournament.

Each team may include as many as three 7<sup>th</sup> and 8<sup>th</sup> grade students per round. These students may participate in scoring or non-scoring roles. Any school that utilizes seventh and eighth grade participants cannot field more than two teams. Teams should be advised that the team representing Minnesota at the National High School Mock Trial Championship must be comprised of 9-12 grade students and that its team roster cannot be altered after the Minnesota State Championship or during the National competition.

Refer to Section D: The Trial for more details on the student attorney roles.

Refer to Rule 4.5 for more details on the timekeeper's role.

### **Rule 3.3 Team Presentation (NHSMTC)**

### **Rule 3.4 Team Duties**

Team members are to evenly divide their duties. During pre-trial matters, teams shall read the Pre-Trial Conference script (p. 103) aloud to the court. The prosecution/plaintiff team shall read one through five and the defense shall read six through ten. These requests may be read by any team member, including non-scoring and scoring team members. There shall be three attorneys and three witnesses. Each of the three attorneys will conduct one direct examination and one cross-examination; one of the three attorneys will present the opening statement and another will present the closing argument and rebuttal. [See Rule 4.5]

The attorney who will examine a particular witness on direct examination is the only person who may make the objections to the opposing attorney's questions of that witness' cross-examination, and the attorney who will cross-examine a witness is the only one permitted to make objections during the direct examination of that witness.

Each team must call each of the three witnesses. Witnesses must be called only by their own team during their case-in-chief and examined by both sides. Witnesses may not be recalled by either side.

### **Rule 3.5 Team Roster**

Copies of a Team Roster must be completed and duplicated by each team prior to arrival at the courtroom for each round of competition. Teams must be identified *only* by the side they are arguing (e.g. prosecution or defense). No information identifying team origin (name, location, etc.) should appear on the roster. Before beginning a trial, the teams must exchange copies of their Team Roster. The roster should identify the gender of each witness so that references to such parties will be made in the proper gender. Copies of the Team Roster also should be given to the judging panel and presiding judge before each round. A sample roster format is included at the end of the case packet.

## **D. THE TRIAL**

All trials will be governed by the "Simplified Rules of Evidence" contained in these materials. Other more complex rules may not be raised in the trial.

### **Rule 4.1 Courtroom Setting (2-5, Minnesota only)**

1. The Plaintiff/Prosecution team shall be seated closest to the jury box. If a team wants to rearrange the courtroom, the teacher coach must ensure that the courtroom is returned to its original arrangement before the team leaves the courtroom at the end of the trial.

2. Coaches must sit so they are behind the student attorneys (i.e., coaches should not be visible to the attorneys during their presentations).

3. All participants are expected to display proper courtroom behavior. The following rules should be observed in the courtroom at all times:

A. Students should dress appropriately for a courtroom setting. (Suits are not required.) A student playing the part of a witness may wear clothing consistent with that witness' character, but may not wear a costume. [Refer to Rule 4.11 for rule about costumes.]

B. Be courteous and respectful to witnesses, other attorneys, and the judge.

C. Ask permission of the judge to approach the witness.

- D. If you receive a ruling against your side on a point or on the case, accept the decision gracefully.
4. All participants are expected to display proper behavior in the courthouse. The following rules should be observed in the courthouse at all times. Any violation of these rules (e.g., going into other parts of the courthouse) will be grounds for requesting that school to leave the courthouse.
- A. Each team must have an adult chaperone assigned to it while at the courthouse. The chaperone must remain with the team at all times, while the team is waiting for a trial to begin, competing in the courtroom, waiting for another team to finish competing, etc.
  - B. All students must stay in the area of the courthouse where the competition is being held. Students will be allowed to use the restrooms which are nearest to the courtroom being used for competition.
  - C. Teams should be advised that some courthouses prohibit cell phones on the premises. Courthouses do not have provisions to store them during trials and teams (including students, coaches and spectators) should be prepared to follow courthouse policy.
  - D. Students may not have in their possession any food, beverage or gum while in the courtroom.
  - E. Following completion of the trial, the coaches will inspect the area used for the competition, including the restrooms, to ensure that everything is left in the same condition in which it was found. *Any furniture in the courtroom that was moved before or during the trial MUST be restored to its original configuration!*
  - F. If requested to do so by the Court Administrator, the coaches will notify the administrator's office when their team arrives and when it leaves. The latter will provide an opportunity for the Court Administrator to arrange for an inspection of the area.
5. In order to avoid the appearance of impropriety or bias, coaches should not interact with the judges until after the trial.

**Rule 4.1(A) Pretrial Matters (Minnesota only)**

1. Teams are expected to be present in the courtroom fifteen minutes before the starting time of the trial. To assist in enforcing these rules, presiding judges, upon taking the bench before the start of the trial, will handle the following pre-trial matters:
- A. Ask each side if it is ready for trial. Ask each team to read aloud their portion of the Pre-Trial Matters script (p. 103) put forth on a trial basis by the Mock Trial Advisory Committee. Ask each side to provide the judges with copies of its team roster (a sample roster it provided in the back of these rules). Ask each member of a team to rise and identify himself/herself by name and role.
  - B. If video recorders are present, the judge will remind the teams that the tape cannot be shared with any other team. (See Rule 4.14 for more on videotaping.)
  - C. The judge will remind all present in the courtroom of the rule prohibiting verbal or written communication between the team members and the coaches, spectators or anyone

else throughout the trial round, including any recesses. (This is to be especially stressed in crowded court settings where there is close proximity between audience and teams.) Communication is allowed once the trial is complete. Judges should announce that the trial is complete and communication is permitted.

2. The judge will remind all present that the courtroom should be put back in order, all trash removed, and that no food or drink is allowed anywhere, at any time, by anyone.
3. Team members will meet the judges for introductions and to assure that the rules of evidence and procedure are uniformly interpreted. Each team should submit to the judges a roster of the students' names and the roles they will play. The Mock Trial Program will receive team rosters from all judges. The parties should also ask the judges when the exhibits (if any) should be marked for identification.
4. The starting time of any trial will not be delayed for longer than ten minutes, except with the agreement of the teacher coaches for both teams and the presiding judge. Incomplete teams may proceed with the trial by having one or more members play up to two roles. However, incomplete teams will be assigned a two (2) point deduction by each judge for each missing attorney, witness or timekeeper. Teams missing a bailiff will not be assigned a point deduction.
5. Once a trial has been scheduled, the trial will not be rescheduled due to the absence of a team member or illness, unless approved by the Mock Trial Manager. Teams should include alternates to replace absent members. Trials may be rescheduled due to inclement weather conditions at the discretion of the Mock Trial Manager.
6. All team members must remain in the courtroom during the entire trial. During a formal recess called by the judge, team members may leave the courtroom but should not communicate with anyone other than their student team members.

#### **Rule 4.2        Stipulations**

Stipulations shall be considered part of the record and already admitted into evidence.

#### **Rule 4.3        Reading Into The Record Not Permitted**

Stipulations, the indictment, or the Charge to the Jury will not be read into the record.

#### **Rule 4.4        Swearing of Witnesses**

The following oath may be used before questioning begins:

"Do you promise that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the mock trial competition?"

#### **Rule 4.5        Trial Sequence and Time Limits**

The trial sequence and time limits are as follows:

1. Opening Statement (5 minutes per side)
2. Direct and Redirect (optional) Examination (25 minutes per side)
3. Cross and Re-cross (optional) Examination (18 minutes per side)
4. Preparation for closing argument (2 minutes)
5. Closing Argument and Rebuttal (7 minutes per side)

The prosecution/plaintiff attorney may reserve up to 3 minutes of his/her time for rebuttal. The attorney must advise the court at the beginning of his/her argument what portion (if any) of the allotted 3 minutes s/he wishes to set aside for rebuttal.

6. Team Conference (2 minutes)

The Prosecution/Plaintiff gives the opening statement and the closing argument first.

The Plaintiff's Opening Statement must be given at the beginning of the trial. The Defense may choose to postpone its Opening Statement until after the conclusion of the Plaintiff's case-in-chief.

Attorneys are not required to use the entire time allotted to each part of the trial. Time remaining in one part of the trial may not be transferred to another part of the trial.

#### **Rule 4.6 Timekeeping**

Time limits are mandatory and will be enforced. Each team is required to have its own timekeeper and timekeeping aids. Timekeepers must use these standard time increments on their timecards: 7:00; 6:00; 5:00; 4:00; 3:00; 2:00; 1:00; :45; :30; :15; STOP. (See sample timekeeping aids on the mock trial website.)

Time for objections, extensive questioning from the judge, or administering the oath will not be counted as part of the allotted time during examination of witnesses and opening and closing statements.

Time does not stop for introduction of exhibits. If at any point during the trial time expires any timekeeper should say "stop" aloud for the court and parties to hear at the point of time expiration. Failure of a timekeeper to say "stop" aloud for the court and parties to hear will be considered a waiver of the time violation.

Every effort should be made to respect the time limits. Judges will be asked to use their scores to reflect a team's ability to adhere to the time guidelines. Perceived time violations are an issue which generates much controversy every year during the Mock Trial Competition. Due to the nature of the event and in the interest of keeping the competition good-spirited, teams are urged to adhere to the time limits indicated and to give their opponents the benefit of the doubt if minor infractions occur.

#### **Rule 4.7 Time Extensions and Scoring**

The presiding judge has sole discretion to grant time extensions. If time has expired and an attorney continues without permission from the Court, the presiding judge should request that the student stop his/her presentation. Scoring judges shall determine individually whether or not to discount points in a category because of over-runs in time.

#### **Rule 4.8 Motions Prohibited**

Motions which defeat the purpose of the trials (such as those to dismiss or to sequester or motions in limine) will not be allowed.

#### **Rule 4.9 Sequestration**

Teams may not invoke the rule of sequestration.

#### **Rule 4.10 No Bench Conferences**

All matters should be handled in open court, without bench conferences.

#### **Rule 4.11 Supplemental Material/Costuming/Exhibits**

Teams may refer only to materials included in the trial packet. No illustrative aids of any kind may be used, unless provided in the case packet. No enlargements of the case materials will be permitted. Absolutely no props or costumes are permitted unless authorized specifically in the case materials. Costuming is defined as hairstyles, clothing, accessories, and makeup which are case specific.

The only documents which the teams may present to the presiding judge or scoring panel are the team roster forms and the individual exhibits as they are introduced into evidence. Exhibit notebooks are not to be provided to the presiding judge or scoring panel.

In order to allow teams to use Exhibit 5B during the trial, teams may laminate and enlarge this exhibit to a maximum size of 24 by 36 inches. There can be no other enhancement of the exhibits (e.g., color, additional words), but they can be mounted on poster board or foam core in order to allow them to be handled more easily.

No other chalkboards, posters or other visual aids are permitted during the trial, except that during closing arguments a flip chart or other paper (e.g. newsprint) with hand lettering or hand drawing may be used. A flip chart or other paper (e.g. newsprint) with hand lettering or hand drawing may be prepared either prior to or during the trial. Students may write on their own or the other team's demonstrative tools so long as it is not destructive.

#### **Rule 4.12 Trial Communication**

Instructors, alternates and observers shall not talk to, signal, communicate with, or coach their teams during trial. This rule remains in force during any emergency recess which may occur. Signaling of time by the teams' timekeepers shall not be considered a violation of this rule.

Non-team members, alternate team members, teachers, and coaches must remain outside the bar in the spectator section of the courtroom. Only team members participating in this round may sit inside the bar. Attorneys and witnesses may communicate with each other during the trial. Attorneys may consult with each other at counsel table verbally or through the use of notes. During the permitted conference at the close of the trial regarding rules infractions, all team members (witnesses, attorneys, bailiff and time keeper) may communicate with each other. No disruptive communication is allowed.

#### **Rule 4.13 Viewing a Trial**

Team members, alternates, attorney/coaches, teacher-sponsors and any other persons directly associated with a mock trial team, except for those authorized by the MSBA, are not allowed to view other teams' performances, so long as their team remains in the competition.

Everyone attending a trial should be reminded that appropriate courtroom decorum and behavior must be observed and that absolutely no food or drink is permitted in the courtroom.

#### **Rule 4.14 Videotaping/Photography**

Videotaping can be an effective teaching tool and is permitted in each round of competition provided that:

1. Courthouse policy permits videotaping.

2. A team only tapes a trial in which it is competing.
3. The taping must not disrupt the trial. Photographers should position themselves carefully to avoid distracting the participants during the course of the trial.
4. The tape will be used only by the competing team and will not be shared with any other team (even from the same school) or used for the purposes of “scouting.”
5. There are no objections to videotaping from either team or any judge(s).

**Rule 4.15      Jury Trial (NHSMTC only)**

**Rule 4.16      Standing During Trial**

Unless excused by the judge, attorneys will stand while giving opening and closing statements, during direct and cross examinations, and for all objections.

**Rule 4.17      Objections During Opening Statement/Closing Argument**

No objections may be raised during opening statements or during closing arguments.

If a team believes an objection would have been proper during the opposing team's opening statement or closing argument, one of its attorneys may, following the opening statement or closing argument, stand to be recognized by the judge and may say, "If I had been permitted to object during closing arguments, I would have objected to the opposing team's statement that \_\_\_\_\_." The presiding judge will not rule on this "objection," but all of the judges will weigh the "objection" individually and use their scores to reflect whether they believe a rules violation has occurred. A brief response by the opposing team will be heard under the presiding judge's discretion.

**Rule 4.18      Objections**

The attorney wishing to object should stand up and do so at the time of the violation. When an objection is made, the judge should ask the reason for it. Then the judge should allow the attorney who asked the question to explain why the objection should not be accepted (“sustained”) by the judge. The judge will then decide whether a rule of evidence has been violated (“objection sustained”), or whether to allow the question or answer to remain on the trial record (“objection overruled”).

**1. Argumentative Question:** An attorney shall not ask argumentative questions, i.e. one that asks the witness to agree to a conclusion drawn by the questioner without eliciting testimony as to new facts. The court, however, in its discretion, may allow limited use of argumentative questions on cross-exam.

**2. Assuming Facts Not in Evidence:** Attorneys may not ask a question that assumes unproved facts. However, an expert witness may be asked a question based upon stated assumptions, the truth of which is reasonably supported by evidence (sometimes called a "hypothetical question").

**3. Badgering the Witness:** An attorney may not harass or continue to annoy/aggravate a witness.

**4. Beyond the Scope:** Refer to Rule 611(b); applies only to redirect & re-cross.

**5. Character Evidence:** Refer to Rule 608.

**6. Hearsay:** Refer to Mock Trial Rules of Evidence, Article VIII for an explanation of hearsay and the exceptions allowed for purposes of mock trial competition.

**7. Irrelevant:** Refer to Article IV.

**8. Lack of Personal Knowledge:** A witness may not testify on any matter of which the witness has no personal knowledge. (See Rule 602, Article VI)

**9. Lack of Proper Predicate/Foundation:** Attorneys shall lay a proper foundation prior to moving the admission of evidence. The basic idea is that before a witness can testify to anything important, it must be shown that the testimony rests on adequate foundation. After the exhibit has been offered into evidence, the exhibit may still be objected to on other grounds.

**10. Lack of Qualification of the Witness as an Expert:** See Rule 702.

**11. Leading Question:** Refer to Rule 611(c).

**12. Non-Responsive Answer:** A witness' answer is objectionable if it fails to respond to the question asked.

**13. Opinion on Ultimate Issue:** Refer to Rule 704.

**14. Question Calling for Narrative or General Answer:** Questions must be stated so as to call for a specific answer. (Example of improper question: "Tell us what you know about this case.")

**15. Repetition:** Questions designed to elicit the same testimony or evidence previously presented in its entirety are improper if merely offered as a repetition of the same testimony or evidence from the same or similar source.

**16. Speculation:** A witness' testimony should be based on the facts and issues of the case being argued. An attorney shall not ask a question which allows the witness to make suppositions based on hypothetical situations.

**17. Unfair Extrapolation:** Refer to explanation in Rule 2.3.

**Note:** Teams are not precluded from raising additional objections which may be available under the Minnesota Mock Trial Competition Rules of Evidence.

**Rule 4.19**      **Reserved.**

**Rule 4.20**      **Procedure for Introduction of Exhibits**

As an example only, the following steps effectively introduce evidence:

1. All evidence will be pre-marked as exhibits.
2. Ask for permission to approach the bench. Show the presiding judge the marked exhibit. "Your honor, may I approach the bench to show you what has been marked

as Exhibit No. \_\_\_?" (Because judges may not have seen the evidence, this rule departs from real life trial procedure.)

3. Show the exhibit to opposing counsel.
4. Ask for permission to approach the witness. Give the exhibit to the witness.
5. "I now hand you what has been marked as Exhibit No. \_\_\_ for identification."
6. Ask the witness to identify the exhibit. "Would you identify it please?"
7. Witness answers with identification only.
8. Offer the exhibit into evidence. "Your Honor, we offer Exhibit No. \_\_\_ into evidence at this time. The authenticity of this exhibit has been stipulated."
9. Court: "Is there an objection?" (If opposing counsel believes a proper foundation has not be laid, the attorney should be prepared to object at this time.)
10. Opposing Counsel: "No, your Honor", or "Yes, your Honor." If the response is "yes", the objection will be stated on the record. Court: "Is there any response to the objection?"
11. Court: "Exhibit No. \_\_\_ is/is not admitted."

**Witness affidavits may be used to impeach or refresh recollection and when used for those purposes, need not be admitted into evidence.**

#### **Rule 4.21 Use of Notes and Standards for Judging**

The standards for judging are contained in the MSBA Mock Trial Performance Rating Standards. Extensive reliance on notes by attorneys during opening, closing or examinations is subject to a point deduction. Witnesses are not permitted to use notes while testifying during the trial; any use of notes by witnesses is subject to a point deduction.

#### **Rule 4.22 Redirect/Re-cross**

Redirect and re-cross examinations are permitted, provided they conform to the restrictions in Rule 611(d) in the Minnesota High School Mock Trial Rules of Evidence.

#### **Rule 4.23 Scope of Closing Arguments**

Closing Arguments must be based on the actual evidence and testimony presented during the trial.

#### **Rule 4.231 Team Conference (Minnesota Only)**

The following rule is designed to deal with the extraordinary circumstance where a team believes that a significant rules violation occurred during the trial which the judges may not have observed. This rule is not designed to increase the contentiousness of the trial process or to encourage teams to try to find rules violations. At the conclusion of final arguments, the presiding judge will allow two minutes for the three student attorneys, three witnesses, bailiff and timekeeper to confer. The purpose of this team conference is to give these team members a chance to discuss among themselves whether

they believe any significant rules violations occurred during the trial of which the judges could not be aware or have observed themselves.

After the allotted two minutes, the presiding judge will ask if either team wishes to report any significant rules violations. If a team feels point deductions should be assessed against the opposing team, one attorney from the team will have two minutes to explain why point deductions should be assessed. Following this explanation, one attorney from the opposing team will have two minutes to explain why point deductions should not be assessed. Further discussion will be limited to five minutes total, at which time the judges will decide individually about making any point deductions on their scoresheets. The amount of such point deductions, if any, is at the discretion of each individual judge. **These decisions (about point deductions) are final!**

Of course the judges may, at their discretion, award point deductions for a rules violation regardless of whether the opposing team brings a rules violation to the attention of the judges.

If the presiding judge fails to ask the teams if they wish to ask for point deductions, and one or both teams wish to do so, it must be brought to the attention of the judge at this time.

#### **Rule 4.24 The Critique**

The judging panel is allowed 10 minutes for debriefing. The timekeeper will monitor the critique following the trial. Presiding judges are to limit critique sessions to a combined total of fifteen minutes.

The presiding judge will render two decisions at the end of the trial:

1. The merits of the legal case and the applicable law (i.e., a decision about guilt or innocence in a criminal trial, or in favor of the plaintiff or respondent in a civil trial). **This decision is not used to determine the team's win/loss record or standing in the competition** (i.e. you can win the case on the merits but still lose the trial for mock trial purposes, or you can lose on the merits and still be the trial winner for mock trial purposes).

2. The quality of the teams' performances, i.e., the nature/success of the team's strategy, the students' level of preparedness, the individual student performances, etc.. The total points awarded to each team by each judge will be added together; the team with the higher point total will be considered the winning team. **The team that wins on its performance is considered the winner of the trial for mock trial purposes.**

#### **Rule 4.25 Offers of Proof.**

No offers of proof may be requested or tendered.

### **E. JUDGING AND TEAM ADVANCEMENT**

#### **Rule 5.1 Finality of Decisions**

All decisions of the judging panel are **FINAL**. The only exception is when there is a computational error in the math on a judge's scoresheet. In the event of a mathematical error, the trial will be awarded to the team with the higher number of **ACTUAL** ballots or points as determined by the corrected math, even if this result is different than the one announced to the teams by the judge(s).

**PLEASE NOTE:** Many trial lawyers say that trial is an art and not a science. Thus, as beauty is in the eye of the beholder, trial performance may also lie in the eye of the beholder. This competition makes every effort possible to establish objective criteria by which student competitors are to be evaluated. However, it is a fact of life that not every attorney will evaluate a competitor the same. It is also true that not every juror will evaluate an attorney and his or her case the same. Thus trial competitions are very similar to real trials and the tournament could not progress without the selection of winners. We have therefore developed a rather detailed scoring process for the judges to use. Once the scoring process is complete, the decision of the judge(s) is final, as long as the team's scores have been added correctly.

It is also true that judges will often make different rulings on motions and objections during trial. That is true in real life as well. It is an inherent part of the trial system based on judges' discretion. Therefore, as in real life, the rulings of the trial judge are final, even if you disagree.

This competition is intended to not only teach students about how the legal system functions, but also to provoke thought about the issues involved. We encourage instructors to use this packet as a vehicle for education toward both goals.

### **Rule 5.2          Composition of Judging Panels (Minnesota only)**

Every effort is made to have two volunteer judges evaluating each trial at the regional level. One is the presiding judge, whose role is to both conduct the trial and to evaluate the teams' performances. The other judge's responsibility is solely that of an evaluator. Both judges have been instructed to rate the performance of all witnesses and attorneys on the team. In the event only one lawyer is able to judge a trial, the one score will be doubled for purposes of calculating the point differential score. If there are three judges during a regional tournament trial, the evaluating and presiding will be handled in the same fashion as the state finals: one judge will be the presiding judge, the other two will be the evaluating judges. The scoring judges' evaluations will determine the trial winner. In the event of a tie, the presiding judge's ballot will determine the winner.

There will be three judges for each trial in the state finals. One judge will be the presiding judge, the other two will be the scoring judges. The scoring judges' evaluations will determine the trial winner. In the event of a tie, the presiding judge's ballot will determine the winner.

### **Rule 5.3          Score Sheets/Ballots (NHSMTC)**

### **Rule 5.4          Completion of Score Sheets**

Score sheets are to be completed individually by each judge without consultation with the other judges. Each scoring judge shall record a number of points (1-10) for each presentation of the trial. At the end of the trial, each judge shall total the sum of each team's individual point and place this sum in the Column Totals box. The Mock Trial Manager has the authority to correct any mathematical errors on score sheets. The coach of the winning team from each trial shall e-mail the scores from the trial to the Mock Trial Manager as soon as possible.

### **Rule 5.5          Contest Format/Team Advancement (Minnesota only)**

In the Minnesota competition there are three phases: sub-regionals (Rounds 1, 2 & 3), regional playoffs (Rounds 4 & 5), and the state finals.

**Team attendance is expected at all trials in each phase of the competition for which the team is eligible.**

1. Invitationals: Mock Trial Invitationals, camps and other non-MSBA Mock Trial related events are encouraged by the MSBA. The MSBA's Mock Trial webpage is available to serve as a place for such events to be publicized, however the MSBA and its Mock Trial program does not specifically endorse such events. The MSBA encourages such events to include teams/individuals from schools across Minnesota and also encourages organizations hosting these events to establish subsidies to enable all teams/individuals who are interested in attending to do so.

2. Sub-regionals: For mock trial purposes, the state will be divided into regions. The exact number of regions will be determined by the number of teams entered in the competition.

All teams shall compete in three trials (Rounds 1, 2 and 3), the MSBA makes every effort to ensure each team argues both sides of the case.

The MSBA shall set the trial schedule and determine which teams compete against each other. The fact that a team has scrimmaged another team will not preclude the same two teams from facing each other in competition. Teams from the same school may compete against each other at the option of the Mock Trial Manager, although every effort will be made to guarantee "immunity" for teams from the same school in Rounds 1, 2 and 3.

3. Regionals: After all teams in a region have argued three times, teams will be ranked based first upon win-loss record; second based upon the cumulative point differential scores; third based upon cumulative points earned. [Note: A team's point differential score is the total point spread between that team's score and its opponent's score in a given trial. For example, if team A scores 95 points in a trial and its opponent, team B, scores 92 points, then team A will have an adjusted score of plus 3 and team B will have an adjusted score of minus 3.] Teams ranked one thru four after three rounds of competition will advance into Round 4.

a. Regional finalists will compete in a single elimination playoff format to determine the region winner (Rounds 4 and 5). Pairings for these Rounds will be done according to a *power-match system*, with the highest-ranked team matched with the lowest-ranked team, the next highest with the next lowest, and so on until all of the teams are paired. Power matching may be superseded by travel considerations in regions where the sites for Rounds 4 & 5 would require significant additional travel for a team. Teams from the same school will not be immune from meeting one another if their ranking within the region results in their being paired.

b. Sides for Rounds 4 and 5 will be assigned in advance. Teams with a 2-1 record will be assigned the side on which they *lost* in Rounds 1, 2 or 3; if this would result in the same pairing/sides as a trial in Round 1, 2 or 3, the teams will switch sides (so, if it was Liberty Blue v. City Green in Round 2, and power-matching would result in the exact same pairing in Round 4, the teams would switch sides). To the greatest extent possible, teams will switch sides in subsequent rounds if both teams can do so; otherwise, the team that is first alphabetically will present the defense side of the case.

4. State Finals: Each regional champion is eligible to attend the state competition. If the first place team from a region decides it does not want to attend the state tournament, the second place team will be eligible to compete. The state tournament format differs from that of the regional competition. All teams at the State Competition will participate in at least three rounds of trials and will present each side of the case at least once. There will be two scoring judges and a presiding judge at each trial. After each round of competition a designee of the Mock Trial Advisory Committee will review the power-matching results and ensure that the trial pairings are correct. The power-matching system is

subject to human error. Generally, the final results of power-matching cannot be appealed. The Mock Trial Advisory Committee has final authority to interpret these rules. State Finals Power-matching criteria for the first three rounds are: 1) Win/loss record (the team receiving the most ballots in a trial shall be deemed the winner of the trial regardless of the number of points earned by each team), 2) total number of ballots won, 3) cumulative point differential, 4) cumulative points earned. Pairings for the first round will be assigned at random. After round one of the competition, teams will be divided into two brackets (1-0 and 0-1). Teams will be ranked within the brackets and power-matched. After round two of the competition, teams will be divided into three brackets (2-0, 0-2 and 1-1). Teams will be ranked within the brackets and power-matched. After three rounds of competition, final championship trial participants will be determined using this criteria: 1) Win/loss record, 2) Total number of ballots won, 3) Number of wins against 2-1 teams, 4) Number of wins against 1-2 teams, 5) Cumulative point differential. (Provided that, if by application of the criteria a team is ranked higher than a team with the same win/loss record that defeated it, the losing team shall be placed immediately below the winning team) The top two ranked teams will compete in the final championship round. Side-assignments will be determined by a coin-flip after the final championship round teams are announced. The state champion is then eligible to represent Minnesota at the annual National High School Mock Trial Championship, which is held in a different city each year (2012 Albuquerque, NM; 2013 Indianapolis, IN).

**Rule 5.6 Power Matching/Seeding (NHSMTTC Only; see Rule 5.5(3) for MN version)**

**Rule 5.7 Selection of Sides For Championship Round (NHSMTTC)**

**Rule 5.8 Effect of Bye Round**

In the event of a bye, the team receiving a bye for any round, for any reason will be awarded a win and a point differential of zero for the round in which the team is given a bye.

## **F. DISPUTE RESOLUTION**

**Rule 6.1 Reporting a Rules Violation/Inside the Bar (NHSMTTC Only)**

Disputes which (a) involve students competing in a competition round and (b) occur within the bar, must be filed immediately following the conclusion of that trial round. Disputes must be brought to the attention of the presiding judge at the conclusion of the trial.

If any team believes that a substantial rules violation has occurred, one of its student attorneys must indicate that the team intends to file a dispute. The scoring panel will be excused from the courtroom, and the presiding judge will provide the student attorney with a dispute form, on which the student will record in writing the nature of the dispute. The student may communicate with counsel and/or student witnesses before lodging the notice of dispute or in preparing the form.

At no time in this process may team sponsors or coaches communicate or consult with the student attorneys. Only student attorneys may invoke the dispute procedure.

**Rule 6.2 Dispute Resolution Procedures**

**During trial:** If a team has serious reason to believe that a significant rules violation has occurred during the course of a trial, and that the violation involved an act that may be corrected during the course of the trial, a member of that team shall make an objection and communicate the complaint to the presiding judge. To the extent possible, the presiding judge will attempt to resolve the dispute

during the course of the trial without disrupting the trial, and may consider the validity or invalidity of the complaint in his/her determination of which team gave the better performance during the trial.

**After trial:** After the trial has been completed, if a teacher coach or attorney coach has serious reason to believe that a significant rules violation has occurred of which their team members could not have been aware, the coach shall communicate the complaint to the presiding judge while the judges are still in the courtroom. In this case the presiding judge will give the teams two minutes to discuss the alleged violation among themselves.

Each team will then designate one team member to present its case to the judges. Each team must limit its statement to two minutes.

The judges will be allowed to consider the dispute before completing their scoresheets. The dispute may or may not affect the scoring. The matter will be left to the discretion of the judges.

**The judges' decision will be final.**

### **Rule 6.21 Complaint/Grievance Process:**

If any team believes that blatantly unprofessional misconduct, unethical behavior, or a serious and substantial rules violation has occurred outside of a trial a teacher, attorney coach or judge may advise the Mock Trial Manager that they intend to file a complaint. This complaint must be with regard to matters that could not be resolved in the course of the trial and could not be resolved through Rule 6.2 or Rule 4.231. The resolution of the Complaint/Grievance Process **will not affect** the outcome of any trial. See Rule 5.1. Complaints/Grievances in regard to a judge's rulings, points awarded, or who won the trial will not be entertained. *Coach concerns about a judge's performance that that do not merit a Complaint/Grievance under this rule, should be directed to the Mock Trial Manager*

The complaint/grievance process will be governed by this rule and will follow these guidelines:

- 1) Within 48 hours of the incident, the written complaint must be received by the Mock Trial Manager. The complaint may be sent electronically and must contain specific information about the violation.
- 2) All complaints will be referred to the Mock Trial Advisory Committee.
- 3) After a complaint is received by the Mock Trial Manager, the Mock Trial Advisory Committee will convene as soon as practicable. A quorum of the Committee is required for any decision. The Committee will alert the party(ies) against which the complaint was lodged and share the nature of the grievance. The Committee may invite further comment in writing or in person from those involved, in its discretion. The Committee will take action based on a majority vote and all parties shall be notified of the decision. All decisions of the Committee shall be final. See Rule 1.1.
- 4) The Committee may decide to issue any one of the following in order of increasing severity:
  - a) **Warning:** A private conversation discussing the alleged violation with the offending party or parties.
  - b) **Reprimand:** A written letter to the offending party or parties advising them of the Rules violation. This letter may be sent to the individual and/or school and/or employer.
  - c) **Suspension:** Suspension of an offending individual(s) or team(s) from participation in mock trial for a time period to be specified by the Committee.
  - d) **Disqualifications:** Disqualification of an offending individual(s) or team(s) for a time period specified by the Committee, but no less than one competition season.
  - e) The Committee will report violations where appropriate to governing ethical bodies such as the Lawyers Professional Responsibility Board.

### **Rule 6.22 Unsolicited Communication between Coaches and Judges**

Unsolicited communication between coaches and judges is strictly prohibited. Judges may file a grievance against a coach that he/she believes has violated this rule. The grievance must be filed within 48 hours of the alleged communication. The grievance process will be governed by the guidelines set forth in Rule 6.21 Complaint/Grievance.

Refer to Rule 4.231 for dealing with student team members' concerns about rules violation.

**Rule 6.3           Effect of Violation on Score (NHSMTC)**

**Rule 6.4           Reporting of Rules Violation/Outside the Bar (NHSMTC)**

## MINNESOTA MOCK TRIAL SIMPLIFIED RULES OF EVIDENCE

In American trials complex rules are used to govern the admission of proof (i.e., oral or physical evidence). These rules are designed to ensure that all parties receive a fair hearing and to exclude evidence deemed irrelevant, incompetent, untrustworthy, unduly prejudicial, or otherwise improper. If it appears that a rule of evidence is being violated, an attorney may raise an objection to the judge. The judge then decides whether the rule has been violated and whether the evidence must be excluded from the record of the trial. In the absence of a properly made objection, however, the evidence will probably be allowed by the judge. The burden is on the mock trial team to know the Minnesota High School Mock Trial Rules of Evidence and to be able to use them to protect their client and fairly limit the actions of opposing counsel and their witnesses.

For purposes of the mock trial competition, the Rules of Evidence have been modified and simplified. They are based on the Federal Rules of Evidence, and its numbering system. Where rule numbers or letters are skipped, those rules were not deemed applicable to mock trial procedure. Text in italics or underlined represent simplified or modified language.

Not all judges will interpret the Rules of Evidence (or procedure) the same way, and mock trial attorneys should be prepared to point out specific rules (quoting, if necessary) and to argue persuasively for the interpretation and application of the rule they think appropriate. The Mock Trial Rules of Competition and these Minnesota High School Mock Trial Rules of Evidence govern the Minnesota High School Mock Trial Program.

The fact that information is contained in a statement of facts, indictment, witness statement/affidavit, or exhibit does not mean that the information is admissible or has been admitted into evidence. Proffers of evidence must be made and ruled upon during the course of the trial itself.

### **Article I. General Provisions**

#### **Rule 101. Scope**

These Minnesota High School Mock Trial Rules of Evidence govern the trial proceedings of the Minnesota High School Mock Trial Program.

#### **Rule 102. Purpose and Construction**

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

### **Article II. Judicial Notice**

#### **Rule 201. Judicial Notice**

1. This rule governs only judicial notice of adjudicative facts.
2. A judicially noticed fact must be one not subject to reasonable dispute in that it is either
  - a. generally known within the territorial jurisdiction of the trial court or
  - b. capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.
3. A judge or court shall take judicial notice if requested by a party and supplied with the necessary information.
4. Judicial notice may be taken at any stage of the proceeding.

5. In a civil action or proceeding, the judge shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case, the judge shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

### **Article III. Reserved**

### **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, Waste of Time**

Although relevant, evidence may 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.

#### **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 a pertinent character trait offered by an accused, or by the prosecution 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 prosecution to rebut same, or evidence of a character trait of peacefulness of the victim offered by the prosecution 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 607-609.

(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 eye-witnesses, 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, after an injury or harm allegedly caused by an event, measures are taken that, if taken previously, would have made the injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove negligence, culpable conduct, a defect in a product, a defect in a product's design, or a need for a warning or instruction. 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 408. Compromise and Offers to Compromise**

- (a) Prohibited uses. Evidence of the following is not admissible on behalf of any party, when offered to prove liability for, invalidity of, or amount of a claim that was disputed as to validity or amount, or to impeach through a prior consistent state or contradiction:
- (1) furnishing or offering or promising to furnish—or accepting or offering or promising to accept—a valuable consideration in compromising or attempting to compromise the claim; and
  - (2) conduct or statements made in compromise negotiations regarding the claim, except when offered in a criminal case and the negotiations related to a claim by a public office or agency in the exercise of regulatory, investigative, or enforcement authority.
- (b) Permitted uses. This rule does not require exclusion if the evidence is offered for purposes not prohibited by subdivision (a). Examples of permissible purposes include proving a witness's bias or prejudice; negating a contention of undue delay; and proving an effort to obstruct a criminal investigation or prosecution.

**Rule 409. Payment of Medical or Similar Expenses**

Evidence of furnishing of offering or promising to pay medical, hospital, or similar expenses occasioned by an injury is not admissible to prove liability for the injury.

**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 procedure regarding either of the forgoing pleas; or
4. any statement made in the course of plea discussions made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty which is later withdrawn.

However, such a statement is admissible (a) 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 (b) 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.

#### **Rule 411. Liability Insurance (civil case only)**

Evidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of witness.

### **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. (See Rule 2.2.)

#### **Rule 607. Who may Impeach (i.e., show that a witness should not be believed)**

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**

(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 ten 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 of 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, other equivalent procedure based on a finding of innocence.

(d) Juvenile adjudications. Evidence of juvenile adjudications is generally not admissible but the court may, 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.

### **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 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 & 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 exam. Likewise, additional questions may be asked by the cross examining attorney on 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 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 702.1 Expert Witness Qualifications**

Any witness testifying as an expert must be recognized as an expert by the trier of fact. Proper foundation must be laid in order for the witness to be recognized as an expert.

As an example only, the following steps effectively lay foundation for tendering witnesses as experts:

1. Ask the witness questions to establish foundation for the witness's education, training and other experience that illustrates his/her qualifications. Example: Dr. Smith, can you please summarize your educational background for the court?
2. If there is a Resume/Curriculum Vitae available documenting the witnesses qualifications, take the proper steps (example in Rule 4.20) to enter the document into evidence.
3. After laying proper foundation, ask the judge to allow the witness to testify as an expert in the appropriate subject area.  
"Your honor, I ask that you allow this witness to testify as an expert in the area of \_\_\_\_."
4. Court: "Is there an objection?" (If opposing counsel believes proper foundation has not been laid, the attorney should be prepared to object at this time.)
5. Opposing Counsel: "No, your honor", or "Yes, your honor." If the response is "yes", the objection will be stated on the record. Court: "Is there any response to the objection?"
6. Court: "The court will/will not allow the witness to express an expert opinion in the area of \_\_\_\_."

### **Rule 703. Basis 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 therefore 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:** an oral or written assertion or nonverbal conduct of a person, if it is intended by the person as an assertion.
- (b) **Declarant:** a person who makes a statement.
- (c) **Hearsay:** 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) 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 or
    - (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 the 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 not admissible, except as provided by these rules.

*Example:* Witness A testifies, "Some of the other tenants told me that Jones often failed to keep his apartments in good repair." This would not be admissible to prove that Jones often failed to keep his apartments in good repair, which was the matter asserted in the out-of-court statement. But, it might be admissible to prove that A had some warning that Jones did not keep his apartments in good repair, if that were an issue in the case, since it would not then be offered for the truth of the matter asserted.

*Comment:* Why should the complicated and confusing condition be added that the out-of-court statement is only hearsay when "offered for the truth of the matter asserted?" The answer is clear when we look to the primary reasons for the exclusion of hearsay, which are the absence in hearsay testimony of the normal safeguards of oath, confrontation, and cross-examination which test the credibility and accuracy of the out-of-court speaker.

*For example,* if Ms. Jones testified in court, "My best friend, Ms. Smith, told me that Bill was driving 80 miles per hour" and that out-of-court statement was offered to prove the truth of the matter asserted (that Bill was driving 80 miles per hour), we would be interested in Smith's credibility, i.e., her opportunity and capacity to observe, the accuracy of her reporting, and tendency to lie or tell the truth. The lack of an oath, confrontation, and cross-examination would make the admission into evidence of Smith's assertion about Bill unfair to the opposing party. If the statement was offered,

however, to show that Ms. Smith could speak English, then its value would hinge on Ms. Jones' credibility (who is under oath, present, and subject to cross-examination) rather than Ms. Smith's, and it would not be hearsay.

*Another example:* While on the stand, the witness says, "The salesperson told me that the car had never been involved in an accident." This statement would not be hearsay if offered to prove that the salesman made such a representation to the witness. (The statement is not offered to prove the truth of the matter asserted.) If offered to prove that the car had never been in an accident, it would not be allowed because it would be hearsay.

*Objections:* "Objection. Counsel's question is seeking a hearsay response," or "Objection. The witness' answer is based on hearsay. I ask that the statement be stricken from the record."

*Response to objection:* "Your Honor, the testimony is not offered to prove the truth of the matter asserted, but only to show..."

### **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/physical conditions.** A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, 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 made for purposes 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 exam 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 prosecution 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. can’t 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 of impending death.** In a prosecution for homicide or in a civil proceeding, a statement made by a declarant while believing that his/her 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 to be likely to have accurate information concerning the matter declared.

**5. 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 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**

**Rule 1103. Title**

These rules may be known and cited as the Minnesota High School Mock Trial Rules of Evidence.



## Pre-Trial Conference

*Pursuant to Rule 3.4 of the Minnesota Mock Trial Rules, the following pre-trial motions and advisories must be read aloud before commencement of the mock trial competition. Recitation of these items is not scored.*

1. **Standard of Review.** The parties jointly move the Court to judge this mock trial according to the mock trial standards, not the legal merits of the case.
2. **Rating Standards.** The parties jointly move the Court to use the evaluative criteria provided on the official mock trial score sheet. By these standards, scores below “4” are reserved for unprofessional conduct. A high score of “10” is reserved for superlative presentations.
3. **Full Hearing of Evidentiary Objections and Argument.** The parties jointly move the Court to allow both sides to fully argue objections. Under mock trial procedures, objections are generally heard unless repetitive or the case is running over time limits.
4. **Testimony Deemed Admissible Even if Irrelevant.** The parties jointly advise the Court that mock trial testimony is customarily deemed admissible regardless of legal relevance. Full testimony from each witness must be heard unless the party’s time has expired.
5. **Tie-Breaker Point Award in All Cases.** The parties jointly move the Court to place a point in the tie-breaker box on his or her official score sheet. This applies to the presiding judge only.
6. **Constructive Critique.** The parties jointly advise the Court that, pursuant to Rule 4.24, the judging panel is allowed a combined total of fifteen minutes after the trial for constructive comments. It is recommended that each judge limit themselves to a maximum of three comments. The timekeeper will monitor the time following the trial.
7. **Scoring the Use of Notes.** The parties jointly advise the Court that, pursuant to Rule 4.21, a point deduction for use of notes by attorneys should be considered in overall score and not as an additional point deduction.
8. **Mathematical Computation and Error Checking.** The parties jointly move the Court to use a calculator to check the score tabulation. Judges should double check each other’s math.
9. **Unfair Extrapolations.** The parties jointly advise the Court to take notice of Rule 2.3 Unfair Extrapolations, located at page 75 of the Mock Trial Case Materials. According to this rule, if a witness is asked information not contained in the witness’ statement, the answer must be consistent with the statement and may not materially affect the witness’ testimony or any substantive issue of the case. A fair extrapolation is one that is neutral.
10. **Roster Sheet.** The parties may submit their roster sheets if these have not been presented already and may raise any other pre-trial matters at this time. Let’s have fun!

**Minnesota High School  
Mock Trial State Champions**

**2011 Breck School, Minneapolis**  
**2010 Breck School, Minneapolis**  
**2009 Lakeville North High School, Lakeville**  
**2008 Lakeville North High School, Lakeville**  
**2007 Buffalo High School, Buffalo**  
**2006 South, Minneapolis**  
**2005 South, Minneapolis**  
**2004 Meadow Creek Christian, Andover**  
**2003 South, Minneapolis**  
**2002 South, Minneapolis**  
**2001 Meadow Creek Christian, Andover**  
**2000 Meadow Creek Christian, Andover**  
**1999 South, Minneapolis**  
**1998 Fergus Falls**  
**1997 St. Thomas Academy, Mendota Heights**  
**1996 Eden Prairie**  
**1995 Dassel-Cokato**  
**1994 Christ's Household of Faith, St. Paul**  
**1993 Kennedy, Bloomington**  
**1992 South, Minneapolis**  
**1991 Visitation, Mendota Heights**  
**1990 South, Minneapolis**  
**1989 Chisago Lakes**  
**1988 Waseca**  
**1987 Waseca**