

## ESL Criminal Mock Trial Scenario

### *R. v. Lee*

#### What Happened?

On January 5th, 20\*\*, at around 7:00 pm, two friends, Keri Lee and Tom Chang, went shopping at the local mall. They were looking for a joint birthday gift for their friend Andrea who was having a tough year since her parents split up. They went into Musik Box because it was having a “2 for 1” New Year’s CD blowout sale. It was difficult for them to decide how many CDs to buy, so Tom carried a pile of CDs around the store with him as they kept looking.

Keri went over to the mp3 player display counter where there were about 10 people testing players and only one sales person. She picked up a black mp3 player that was on sale for \$150.00. She clipped it to her belt, even though she and Tom had decided it was out of their price range. She tested the mp3 player and continued to walk around the store with it attached to her belt. She wanted to make sure no one else bought the last one, in case they changed their minds.

After twenty minutes of looking at CDs they finally decided to buy six. They waited in line for more than fifteen minutes, because the place was packed and the lineup was huge. Tom finally paid for the CDs and then they left the store. As they were leaving the store, a security guard who identified herself as Fiona Smith stopped them. Keri panicked, and tried to get away, but the security guard held onto her arms firmly and made sure that they both followed her to the security office.

Once at the office, Fiona Smith asked Keri to empty her pockets and remove her belt. She placed her wallet, the belt and the mp3 player unto the desk. Fiona then called the police, and the storeowner Brian Box.

When Constable Swain (the police officer) arrived at the security office, he told Keri and Tom that Brian Box wanted to press charges against Keri for theft. Tom was told he could leave. Constable Swain put the mp3 player into a plastic bag and attached a tag to it. He asked Keri whether she owned the mp3 player and what her age was. He charged her with theft of goods of a value not exceeding five thousand dollars, contrary to section 334(b) of the *Criminal Code of Canada*. He also told her she would have to come to the police station for fingerprinting the next day. Keri was allowed to go home at about 9:00pm.

## ESL Criminal Mock Trial - Key Players (14-26)

1. **Keri Lee** (the accused & defence witness)
2. **Fiona Smith** (the security guard & Crown witness)
3. **Tom Chang** (friend of the accused & defence witness)
4. **Constable Tran Swain** (arresting officer & Crown witness)
5. **Defence Lawyers** (4)
6. **Crown Lawyers** (4)
7. **Court Clerk** (assists the judge)
8. **Court Services Officer** (keeps order in the court)
9. **Jury Members** (optional; ideally 12, but more or fewer can be accommodated)

**\* The judge will be played by a visiting volunteer lawyer.**

# ESL Mock Trial Instructions

1. Once you have recruited enough students to be in the mock trial (12 or 24 – depending on whether you wish to have a jury), divide students into the following categories:
  - Crown lawyers (4 students);
  - Defence lawyers (4 students);
  - Witnesses (2 students);
  - Court services officer (1 student)
  - Court clerk (1 student);
  - Jury (12 students).

The remaining students can participate by being in the audience on the day of the mock trial. Consider assigning roles such as “journalist” and have these students write a story about the mock trial.

2. Give all students the scenario on page 1 of the attached ESL mock trial package beforehand. For students who are taking on the roles of witnesses, lawyers and court clerk, make sure to provide them with the entire package (this includes the scenario, and a description of what they need to do to prepare ahead of time).
3. Lawyers and witnesses should become very familiar with the scenario and the facts. Witnesses should be prepared to answer questions about what happened on the night in question. The court clerk should become familiar with how to “open and close” the courts and how to swear in witnesses and call order.
4. For each team of lawyers decide who will do:
  - The opening statement (1 student);
  - The direct examination of their witness (1 student);
  - The cross-examination of the other side’s witness (1 student);
  - The closing statement (1 student).
5. Lawyers should prepare their opening statements, witness questions, and closing statements ahead of time – based on the facts of the case and what they are trying to prove or disprove. Use the templates in the package to help organize arguments and statements.
6. If your ESL class is small and you do not have enough students to form a jury, consider serving “jury summons” on another ESL class in your school for the day of the mock trial.
7. The ESL mock trial is meant to be fun, and an informal way to learn about the law, so don’t worry if you make mistakes or are not exactly sure what you are doing. The volunteers on hand will walk you through the process so you get to learn more about what a criminal trial is like. GOOD LUCK!

# THE INFORMATION

Canada  
Province of Ontario  
November 16, 20\*\*

IN THE PROVINCIAL COURT OF ONTARIO

Judicial District of Toronto

HER MAJESTY THE QUEEN

AGAINST

KERI LEE

Keri Lee stands charged:

- I. That she in the City of Toronto, Ontario, on or about the 5<sup>th</sup> Day of January, 20\*\* did unlawfully remove goods of a value not exceeding five thousand dollars from the property of Musik Box Store thereby committing theft contrary to section 334(b) of the *Criminal Code of Canada*.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_

Signed \_\_\_\_\_  
Crown Prosecutor

## *Criminal Code*

### C-46

#### Theft

**322.** (1) Every one commits theft who fraudulently and without colour of right takes, or fraudulently and without colour of right converts to his use or to the use of another person, anything, whether animate or inanimate, with intent

- (a) to deprive, temporarily or absolutely, the owner of it, or a person who has a special property or interest in it, of the thing or of his property or interest in it;
- (b) to pledge it or deposit it as security;
- (c) to part with it under a condition with respect to its return that the person who parts with it may be unable to perform; or
- (d) to deal with it in such a manner that it cannot be restored in the condition in which it was at the time it was taken or converted.

#### Time when theft completed

(2) A person commits theft when, with intent to steal anything, he moves it or causes it to move or to be moved, or begins to cause it to become movable.

#### Secrecy

(3) A taking or conversion of anything may be fraudulent notwithstanding that it is effected without secrecy or attempt at concealment.

#### Purpose of taking

(4) For the purposes of this Act, the question whether anything that is converted is taken for the purpose of conversion, or whether it is, at the time it is converted, in the lawful possession of the person who converts it is not material.

[...]

#### Punishment for theft

**334.** Except where otherwise provided by law, every one who commits theft

- (a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years, where the property stolen is a testamentary instrument or the value of what is stolen exceeds five thousand dollars; or
- (b) is guilty
  - (i) of an indictable offence and is liable to imprisonment for a term not exceeding two years, or
  - (ii) of an offence punishable on summary conviction,
 where the value of what is stolen does not exceed five thousand dollars.

# ESL Criminal Mock Trial Schedule

Activity	75 min
Everyone takes their places. Judge gives opening address to the Jury	5 min
Clerk calls the court to order & reads the Charge	2 min
Judge asks Crown to begin its case	1 min
Crown lawyer <u>introduces the team</u> , and gives opening statement	3 min
Clerk swears in Crown witness, Fiona Smith	2 min
Direct examination of Fiona Smith by Crown lawyer	3 min
Defence lawyer <u>introduces the team</u> , and cross examines Fiona Smith	3 min
Clerk swears in Crown witness, Constable Tran Swain	3 min
Direct examination of Constable Tran Swain by Crown lawyer	3 min
Cross examination of Constable Tran Swain by Defence lawyer	3 min
Judge asks Defence to begin its case	1 min
Defence lawyer gives opening statement	3 min
Clerk swears in defence witness, Keri Lee	2 min
Direct examination of Keri Lee by Defence lawyer	3 min
Cross Examination of Kerri Lee by Crown lawyer	3 min
Clerk Swears in defence Witness, Clair Zhang	3 min
Direct Examination of Clair Zhang by Defence Lawyer	3 min
Cross Examination of Clair Zhang by Crown Lawyer	3 min
Defence lawyer gives closing statement	3 min
Crown lawyer gives closing statement	3 min
Judge gives charge to the jury	2 min
Clerk instructs all to rise, judge leaves room, jury deliberates	10 min
Clerk calls Court back into session	1 min
Jury gives verdict	2 min
Debriefing	5 min

## Fact Sheet for Keri Lee (the Accused)

*You are 16 years old and in Grade 11. You have no previous criminal record*

### Your version of what happened

- On January 5, 20\*\*, you decided to go shopping with your friend Tom Chang at the local mall.
- The plan was to combine your money and buy a birthday gift for your friend Andrea.
- You arrived at the mall around 7:00 PM and you entered the Musik Box, which was having a CD sale.
- You and your friend Tom picked up about a dozen CDs and carried them around the store while you decided which ones to buy.
- You picked up a black mp3 player that was on sale and attached it to your belt to try it out. You kept it on your belt as you walked around the store because you didn't want anyone else to buy the last one.
- The store was packed and the line up for paying for the six CDs you chose with Tom was huge. You waited in line for about 15 minutes before he was able to pay for the CDs.
- You were feeling tired and hungry and you had completely forgotten about the mp3 player clipped on your belt until a security guard grabbed you when you were exiting the store.
- You were so scared when it happened you could hardly talk, your first reaction was to try and get away because you were going to get into trouble and you didn't mean to do anything wrong.
- You went with the security guard to the office and gave her the mp3 player.
- She called the police and storeowner. Constable Swain explained that the police were charging you, but they let your friend Tom leave.
- Constable Swain asked a few questions and then charged you with theft. He also told you to go to the police station the next day for fingerprinting. They let you leave the mall around 9:00 PM.

### Questions you should think about when preparing

- What kind of student are you? Have you ever broken rules before?
- Do you have friends who shoplift?
- What is your family like and how do your parents feel about you being charged?
- How do you feel about being charged?
- How were you acting in the store before this happened? (e.g. Did it look like you were laughing and fooling around? Why did you try to escape?)
- Did you have enough money to pay for the mp3 player?
- Was there anything going on in the store that day that might have made you forget you were carrying the mp3 player? (e.g. Was it busy and loud and were you hungry?)
- How did you act when you met the security guard and Constable Swain?
- Did you apologize to the storeowner?

## Fact Sheet for Tom Chang (Witness for Defence)

*You are 16 years old and in Grade 11. You have no previous criminal record.  
You have known Keri Lee since you were both in grade 1.*

### Your version of what happened

- On January 5, 2010, you decided to go shopping with your friend Keri Lee at New World Mall.
- The plan was to combine your money and buy a birthday gift for your friend Andrea.
- You arrived at the mall around 7:00 and you entered Musik Box, thinking you might buy some CDs for Andrea as they were having a big sale.
- You picked up about a dozen CDs and carried them around the store as you and Keri decided which ones to buy.
- Keri decided to look at mp3 players.
- Keri picked up a black mp3 player that was on sale and attached it to her belt so she could try it out. She kept it on her belt as she walked around the store because she didn't want anyone else to buy the last one. She was not thinking of stealing it.
- The store was really packed and the line up for paying for CDs was huge. You waited in line for about 15 minutes before you were able to pay for the CDs that you and Keri chose.
- Keri was feeling really tired and hungry at this point and you left the store to go and get something to eat.
- The security guard stopped you when you left the store. You were as surprised as Keri was. You had no idea of what was going on. She looked panicked and surprised and tried to get away.
- You went with Keri and the security guard to the office. Keri was asked to hand over the mp3 player. She looked shocked and confused.
- The security guard called the police and storeowner. Constable Swain explained that the police were charging Keri, and then they let you leave.

### Questions you should think about when preparing

- What kind of student are you?
- Have you ever done anything to break rules before?
- Do you have friends who shoplift?
- How do you feel about shoplifting?
- How were you acting in the store before this happened? (did it look like you were laughing and fooling around...)
- Did you and Keri talk about buying or stealing the mp3 player?
- Was there anything going on in the store that day that might have made Keri forget that she was carrying the mp3 player?
- How did you act when you met the Security Guard and Constable Swain?



## Fact Sheet for Fiona Smith (Crown Witness)

*You are 35 years old. You have worked for five years as a Security Guard at the Musik Box, at the local mall. You take your job very seriously and believe that shoplifting costs the store thousands of dollars every year. You like young people but cannot understand why they keep getting into trouble by shoplifting, starting fights, and sometimes dealing drugs at the mall.*

### Your version of what happened

- On January 5, 20\*\*, you were working at the Musik Box in the local mall. You noticed these two young people in particular because their arms were full of CDs and they were laughing and fooling around as they shopped.
- You saw the accused, Keri Lee, go over to the mp3 display counter which was very crowded at the time. She picked up a few different mp3 players and then clipped a black one onto her belt and started listening to the earphones. After awhile she took the earphones out and continued to walk around the store with the mp3 player hidden under her sweatshirt, still attached to her belt.
- You kept watching the accused and her friend.
- Eventually they waited in line and paid for the CDs and left the store.
- As soon as they stepped out of the store you stopped the accused for shoplifting. The accused struggled with you and tried to get away, but you held onto her two arms so she couldn't escape.
- You took them both down to the Security Office. The accused was uncooperative and noisy along the way.
- When you asked for mp3 player she handed it to you and you called the owner of the store and the police.
- At around 8:45, Constable Swain and the storeowner, Brian Box, arrived at the Security Office. The officer questioned Keri – she was cooperative. You handed the police the mp3 player and told him what you had seen. Constable Swain told the accused that she was being charged for theft under.
- Her friend was not charged and told to leave. The accused was then released after she was asked some questions by the police officer.

### Questions you should think about when preparing

- Why did you choose to work security in a mall?
- Do you catch a lot of shoplifters in a month?
- How old are most of these shoplifters?
- What do they most often shoplift?
- How do they react when you stop them?
- Do you always call the police or why did you call the police this time?
- Can you identify the accused?

## Fact Sheet for Constable Tran Swain (Crown Witness)

*You are 37 years old. You have been a police constable for 10 years.  
Your patrol area includes the New World Mall. You are often called in for shoplifting incidents.*

### Your version of what happened

- On January 05, 2010 you were on patrol in the area of New World Mall. You received a call from a Musik Box security guard. You arrived at the mall around 8:45.
- In the mall Security Office you met the store security guard, Keri Lee, Tom Chang, and the storeowner Brian Box.
- You questioned the security guard, and were told that she stopped the two young people when they left the store, as she believed that they had stolen an mp3 player.
- The security guard gave you the stolen mp3 player. Its value was \$150.00
- You let Tom Chang go without charging him.
- You questioned Keri Lee, who was very quiet but showed no nervousness or tears. She answered all the questions quickly and was co-operative.
- You charged her with theft and told her to report to the police office for fingerprinting the next day.
- You let her go about 9:00 pm after you put the mp3 player in a bag and marked it. You took it with you back to the police station.

### Questions you should think about when preparing

- What reason did you have for charging the accused?
- Was it clear that she did not own the mp3 player?
- Was the security guard able to identify the accused as the one who stole something?
- Was the accused the only person responsible for the crime?

## Preparing for Your Role as a Defence Lawyer

As a defence lawyer in a criminal hearing you represent the accused. You are trying to raise “a reasonable doubt” in the judge, or judge and jury’s mind, that the accused is not guilty.

In this scenario one defence lawyer will make the **Opening Statement**, a second defence lawyer will do the **Direct Examination**, a third defence lawyer will do the **Cross-Examination**, and a fourth defence lawyer will do the **Closing Statement**.

### How to prepare an Opening Statement

- Become familiar with your witnesses’ fact sheets.
- An Opening Statement presents your theory of the case and provides an outline of the evidence your team will present.
- Select the facts that should be included in the opening statement. Include the central facts to your case that are not likely to be challenged by the other side.
- Stick to facts. The facts are what will paint the picture for the judge and/or jury.
- Check with the lawyer writing the closing arguments for your side to make sure that both the Opening and Closing arguments are similar and cover the same facts.
- Check with the counsel conducting examinations of witnesses to ensure that the facts in your statement match the testimony expected from the witnesses.
- When giving the opening arguments, try to speak in short, clear sentences. Be brief and to the point.
- Have notes handy to refresh your memory.
- Remember that the Opening Statement is very brief but gives an overview of your theory of the case and explains what you are going to show the court during the trial.

### How to prepare for Direct Examination

- Write down all the things that your side is trying to prove.
- Read the witness’ testimony carefully, several times over. Your key witness is the accused.
- Make a list of all the facts in the witness’ testimony that help your case.
- Put a star beside the most important facts that you must make sure that your witness talks about. For example, an important fact for the crown might be if your witness saw the actual crime take place.
- Create questions to ask the witness that will help the witness tell a story:
  - Start with questions that will let the witness tell the court who s/he is. (e.g. “What is your name?” “What do you do?” “How long have you worked in that job?”)

- Move to the events in question. (e.g. "What were you doing on the night in question?" "Where were you?" "When did you first hear there was a problem?")
- Then, move to more specific questions. ("What did you see?" "What did you do after that happened?")
- Remember not to ask leading questions. (Leading questions are questions that suggest the answer or influence the witness to answer in a particular way).
- When your witness is on the stand, do not be afraid to ask a question twice, using different words, if you do not get the answer you were expecting

### How to prepare for Cross-Examination

- Make a list of all the facts in the witness' testimony that hurt your case.
- If there are a lot of facts that hurt your case, can you find a way to challenge the witness' credibility? For example: can you show that the witness made a mistake or has a reason for not telling the truth?
- Put a star beside the facts you must make the witness talk about.
- Write short leading questions that move the witness towards the key points you want to make. Leading questions are ones that feed the witness to answer the way that you want them to. They usually lead to "yes" or "no" answers. For example: "Isn't it true that...", "Wouldn't you say...", "It's a fact isn't it that..."
- Depending on what the witnesses say, you might need to come up with different questions on the spot during the trial. It may be helpful to prepare alternate questions in case you encounter a difficult or stubborn witness.

### How to prepare Closing Statements

- Write down your key arguments and summarize the important facts you want to emphasize for the judge or jury.
- When delivering the closing arguments, try to speak in short, clear sentences. Be brief and to the point.
- Where a witness for the other side admitted something important to your case, point that out. For example: "The witness says she identified Mr. Smith as the man who broke into the car. However, she admitted that she was standing three blocks away from the car when she made the identification. She admitted that it was dark out. There is a real doubt that the witness actually could have identified anyone, let alone someone she had never met before."
- Check with the lawyer writing the Opening Statements for your side, to make sure that both the Opening and Closing Statements are similar and cover the same facts.

## Defence Lawyer OPENING STATEMENT (Template Worksheet)

This is your chance to tell the court your client's version of the case. It's your moment to paint a quick picture of what happened on the night in question and explain why your client is innocent and did not intend to commit the crime.

- ***Good afternoon, your Honour, my name is \_\_\_\_\_, my colleagues are \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, (insert names of the other defence lawyers) and we represent Kerri Lee in this action.***
- ***This case involves...*** (explain briefly what the case is about, and the allegations about the night in question)
- ***Today we will be calling two witnesses, the accused Keri Lee, and her friend, Tom Chang. Through their testimony we will show....*** (explain briefly how you intend to show that Keri is not guilty by calling her and Tom to the stand)
- ***At the end of all of the evidence we will be requesting a verdict of not guilty.***

## Defence Lawyer DIRECT EXAMINATION (Template Worksheet)

This is your chance to call your witnesses to the stand and show that Keri is not guilty. Ask Keri Lee and Tom Chang simple questions about the night in question that allow them to tell the story of what happened

Do not lead the witness, your questions cannot speak for the witness, they should be open questions (*not* "yes" or "no" questions)

- *Good afternoon, your Honour, my name is \_\_\_\_\_.*
- *The defence wishes to call Keri Lee/Tom Chang to the stand.*
- *Keir/Tom can you please tell the court...*

Ask Kerri/Tom questions about what happened on the night in question. Get them to describe what they were doing in the store and why Keri had picked up the mp3 player. Get them to describe what happened as they walked around the store. Ask them questions about how Keri forgot about the mp3 player when the store was so busy and how they became tired and hungry. Get them to speak about how Keri did not intend to steal the mp3 player, and how Keri was surprised and scared when the security guard grabbed her when she left the store. Ask them about whether either of them have a previous criminal record.

- *Question 1:*
- *Question 2:*
- *Question 3:*
- *Question 4:*
- *Question 5:*
- *Question 6:*
- *Question 7:*
- *Question 8:*
- *Question 9:*
- *Question 10:*

At the end of your questioning say, ***"No further questions your Honour".***

## Defence Lawyer CROSS EXAMINATION (Template Worksheet)

This is your chance poke holes in the Crown's evidence. Ask Fiona Smith/Constable Tran Swain questions about the night in question. Use leading questions and try to suggest answers to them. This will cause them to respond with "yes" or "no" and does not give them a chance to tell their own stories.

➤ *Good afternoon, your Honour, my name is \_\_\_\_\_.*

Ask Ms. Smith/Constable Swain questions about what happened on the night in question. Pose questions that suggest to them that the accused is not guilty. Ask them questions about what they saw that evening. For Ms. Smith, ask her if she was watching Kerri the entire time (or trying to watch an entire store at once). Ask her about how busy the store was and propose that it is possible that Kerri would have forgotten about the mp3 player because of the long line up. Try to prove that Keri was surprised by the force she used to grab her, and that Keri was very cooperative after that. Try to prove that Kerri had left the mp3 player in plain view not hiding under her shirt, because she was not intending to steal it. For Constable Swain, get him to admit that Keri was cooperative when interviewed at the security office. Use starting phrases like: "Isn't it true", "Wouldn't you say that...", "Isn't it a fact that...", "Wouldn't it be possible...", or "Would you agree with me that..." These kinds of questions will allow you to make the statement of the fact and the witness will have to agree to it.

➤ *Question 1:*

➤ *Question 2:*

➤ *Question 3:*

➤ *Question 4:*

➤ *Question 5:*

➤ *Question 6:*

➤ *Question 7:*

➤ *Question 8:*

➤ *Question 9:*

➤ *Question 10:*

At the end of your questioning say, ***"No further questions your Honour"***.

## Defence Lawyer CLOSING STATEMENT (Template Worksheet)

This is the last chance you get to sum up for the court that your client is not guilty. Think of 5 reasons why your client is not guilty.

Argue how your version of the facts points to your client's innocence.

- ***Good afternoon, your Honour, my name is \_\_\_\_\_.***
- ***Your Honour today you have heard from my client, Keri Lee, and her friend, Tom Chang. During their testimony they explained that on the night in question ...*** (insert the evidence you want to repeat for the court pointing to Keri Lee's innocence)
- ***Ms. Fiona Smith and Constable Tran Swain testified...*** (insert any more points that either of these witnesses admitted that are important to your case)
- ***It is our submission...*** (outline why your client is not guilty)
- ***For these reasons, we ask the court to find Keri Lee not guilty as charged.***



# Preparing for Your Role as a Crown Lawyer

As a Crown lawyer in a criminal hearing you represent the government and the public. Your job is to show that the accused is guilty "beyond a reasonable doubt".

In this scenario there will be four Crown lawyers, one for the **Opening Statement**, a second for the **Direct Examination**, a third for the **Cross-Examination**, and a fourth for the **Closing Statement**.

## How to prepare an Opening Statement

- Become familiar with your witnesses' fact sheets.
- An Opening Statement presents your theory of the case and provides an outline of the evidence your team will present.
- Select the facts that should be included in the Opening Statement. Include the central facts to your case that are not likely to be challenged by the other side.
- Stick to facts. The facts are what will paint the picture for the judge and/or jury.
- Check with the counsel writing the Closing Arguments for your side to make sure that both the Opening and Closing arguments are similar and cover the same facts.
- Check with the counsel conducting examinations of witnesses to ensure that the facts in your statement match the testimony expected from the witnesses.
- When giving the Opening Arguments, try to speak in short, clear sentences. Be brief and to the point.
- Have notes handy to refresh your memory.
- Remember that the Opening Statement is very brief but gives an overview of your theory of the case and what you will show the court during the trial.

## How to prepare for Direct Examination

- Write down all the things that your side is trying to prove.
- Read the witness' testimony carefully, several times over. Your key witness is the Security Guard (Fiona Smith).
- Make a list of all the facts in the witness' testimony that help your case.
- Put a star beside the most important facts that you must make sure that your witness talks about. For example, an important fact for the crown might be if your witness saw the actual crime take place.
- Create questions to ask the witness that will help the witness tell a story:
  - Start with questions that will let the witness tell the court who s/he is. (e.g. "What is your name?" "What do you do?" "How long have you worked in that job?")
  - Move to the events in question. (e.g. "What were you doing on the night in question?" "Where were you?" "When did you first hear there was a problem?")

- Then, move to more specific questions. (“What did you see?” “What did you do after that happened?”)
- Remember not to ask leading questions. (Leading questions are questions that suggest the answer or influence the witness to answer in a particular way).
- When your witness is on the stand, do not be afraid to ask a question twice, using different words, if you do not get the answer you were expecting

### How to prepare for Cross-Examination

- Make a list of all the facts in the witness’ testimony that hurt your case.
- If there are a lot of facts that hurt your case, can you find a way to challenge the witness’ credibility? For example: can you show that the witness made a mistake or has a reason for not telling the truth?
- Put a star beside the facts you must make the witness talk about.
- Write short leading questions that move the witness towards the key points you want to make. Leading questions are ones that feed the witness to answer they way that you want them to. They usually lead to “yes” or “no” answers. For example: “Isn’t it true that...”, “Wouldn’t you say...”, “It’s a fact isn’t it that...”
- Depending on what the witnesses say, you might need to come up with different questions on the spot during the trial. It may be helpful to prepare alternate questions in case you encounter a difficult or stubborn witness.

### How to prepare Closing Statements

- Write down your key arguments and summarize the important facts you want to emphasize for the judge or jury.
- When delivering the closing arguments, try to speak in short, clear sentences. Be brief and to the point.
- Where a witness for the other side admitted something important to your case, point that out. For example: “The witness says she identified Mr. Smith as the man who broke into the car. However, she admitted that she was standing three blocks away from the car when she made the identification. She admitted that it was dark out. There is a real doubt that the witness actually could have identified anyone, let alone someone she had never met before.”
- Check with the lawyer writing the Opening Statements for your side, to make sure that both the Opening and Closing Statements are similar and cover the same facts.

➤ *At the end of all of the evidence we will be requesting a verdict of guilty.*

## Crown Lawyer DIRECT EXAMINATION (Template Worksheet)

This is your chance to call Fiona Smith/Constable Swain to the witness stand and show how the accused is guilty. Ask the witnesses simple questions so they can tell the story of what happened. Do not lead the witness, your questions cannot speak for the witness, use open ended rather than yes/no questions.

- *Good afternoon, your Honour, my name is \_\_\_\_\_.*
- *The defence wishes to call Fiona Smith/Constable Tran Swain to the stand.*
- *Ms. Smith/Constable Swain can you please tell the court what your job is, and what you were doing on the night of January 5, 20\*\*.*

Ask the witness questions about what happened on the night in question. Get them to describe what they saw. For Ms. Smith, get her to explain what Keri and Tom were doing as they walked around the store. Get her to describe how they were behaving loudly and fooling around. Ask her questions about what Keri was wearing, and get her to describe how Keri hid the mp3 player under her belt. Get her to speak about how she thinks Keri intended to steal the mp3 player, and how she was uncooperative and tried to run away. Ask her whether Keri's behavior is typical of teenagers who shop-lift in the store.

- *Question 1:*
- *Question 2:*
- *Question 3:*
- *Question 4:*
- *Question 5:*
- *Question 6:*
- *Question 7:*
- *Question 8:*
- *Question 9:*
- *Question 10:*

At the end of your questioning say, ***"No further questions your Honour".***

## Crown Lawyer CROSS EXAMINATION (Template Worksheet)

This is your chance poke holes in the Defence's case. Ask Keri and Tom questions about the night in question. Use leading questions and try to suggest answers to them, so that they respond with "yes" or "no" and do not get a chance to tell their own stories.

➤ *Good afternoon, your Honour, my name is \_\_\_\_\_.*

Ask Keri/Tom questions about what happened on the night in question. Pose questions that suggest to them that the way they were acting in the store, and the way Keri hid the mp3 player are evidence of the fact she meant to steal it. Try to show that Keri never had any intention of paying for the mp3 player, because it was out of their price range. Try to show that the way she tried to run away and her uncooperativeness point to the fact she was guilty.

Use starting phrases like: "Isn't it true", "Wouldn't you say that...", "Isn't it a fact that...", "Wouldn't it be possible...", or "Would you agree with me that..." These kinds of questions will allow you to make the statement of the fact and the witness will have to agree to it.

➤ *Question 1:*

➤ *Question 2:*

➤ *Question 3:*

➤ *Question 4:*

➤ *Question 5:*

➤ *Question 6:*

➤ *Question 7:*

➤ *Question 8:*

➤ *Question 9:*

➤ *Question 10:*

At the end of your questioning say, ***"No further questions your Honour".***

## Crown Lawyer CLOSING STATEMENT (Template Worksheet)

This is the last chance you get to sum up for the court that you have proved that Keri Lee is guilty of theft "beyond a reasonable doubt". Think of 5 reasons why the accused is guilty

Argue how your version of the facts points to her guilt, and there is no doubt about this conclusion

- ***Good afternoon, your Honour, my name is \_\_\_\_\_.***
  
- ***Your Honour today you have heard from Fiona Smith, the Security Guard at Musik Box, and Constable Tran Swain, the arresting officer. During their testimony they explained that on the night in question ...*** (insert the evidence you want to repeat for the court pointing to the guilt of the accused)
  
  
  
  
  
  
  
  
  
  
- ***While on the stand, Keri Lee and Tom Chang testified that...*** (insert any more points that are important to your case that the accused and her friend may have admitted to)
  
  
  
  
  
  
  
  
  
  
- ***It is our submission...*** (outline why the accused is guilty beyond a reasonable doubt)

- *For these reasons, we ask the court to find Keri Lee guilty as charged.*

## Preparing for Your Role as a Jury Member

A jury's role is to:

- Listen to all of the evidence without making any decisions until the end of the trial about the guilt or innocence of the accused.
- Listen to the judge describe the evidence and what the law is.
- Elect a foreperson (spokesperson) to head the jury and give the final decision.
- Talk about the evidence with other jurors behind closed doors, and then vote on the guilt or innocence of the accused.
- Come up with a decision that all jurors agree on.

At the end of the trial when a decision has been made, the Foreman will read this out to the court:

*"In the case of R. against Lee, we, the members of the jury find the accused (guilty / not guilty)."*

## Preparing for Your Role as Court Security Officer

Your role is to:

- Bring the accused, and the witnesses into the courtroom.
- Help the judge in keeping order in the courtroom.
- Making sure the participants in the hearing such as the accused, the judge, the witnesses, the jury (if there is one), are not threatened during the hearing.

The judge will expect you to escort anyone who becomes too loud or is not behaving out of the courtroom. Prepare for this role by reviewing the background documents and understanding what will happen during the hearing.

# Preparing for Your Role as a Court Clerk

*Your role is to help the judge to make sure that the trial runs smoothly.*

**You will:**

- Open the court.
- At the beginning of the trial, read the charge to the accused and ask her to plead "guilty" or "not guilty".
- Swear in the witnesses.
- Close the court.

## How to Open the Court

When all participants are in their places, you will bring in the judge and say:

***"Order in the court, all rise."***

After the judge has entered and sat down you say:

***"Court is now in session, with the Honourable Justice \_\_\_\_\_ presiding, please be seated."***

## How to Read the Charge

Stand and say to the accused:

***"Keri Lee is charged that she, on or about the 5<sup>th</sup> day of January 20\*\*, in the City of Brampton, did unlawfully remove goods of a value not exceeding five thousand dollars, from the property of Musik Box Store thereby committing theft contrary to section 334(b) of the Criminal Code of Canada."***

***"Keri Lee, how do you plead to this charge? Guilty or not guilty?"***



## How to Swear in Witnesses

When a lawyer calls a witness, ask the witness to enter the witness box (closest to the reporter) and you will swear them in by saying:

***"Will you please state your name for the court? Please spell your first and last name."***

Ask the witness if they wish to swear on a holy book or affirm. If the witness chooses to affirm, you ask:

***"Do you solemnly affirm that the evidence you are about to give, shall be the truth, the whole truth and nothing but the truth?"***

If the witness chooses to swear on the bible, you ask:

***"Do you swear that the evidence you are about to give, shall be the truth, the whole truth and nothing but the truth, so help you God?"***

## Closing the Court

After the lawyers have made their closing arguments and the jury has given its decision, then the court is closed and you will say:

***"All rise please. Court is adjourned for the day."***



# Teacher Evaluation Form

*Please return completed forms to OJEN by:*

*Email: [info@ojen.ca](mailto:info@ojen.ca) or Fax: 416-947-5248*

**Teacher:**

**Class:**

**School:**

**Date:**

## ESL Criminal Mock Trial: *R. v. Lee*

What did you find most useful about this mock trial activity?

Did you find the language level was appropriate for your students? Any suggestions?

Was the mock trial activity of interest to your students?

Did your students have enough time to prepare for the mock trial?

Was there enough interaction between the justice sector volunteer and your students? Any thoughts or recommendations about this?

Did students have enough time to ask questions at the end of the mock trial?

Were the mock trial preparatory materials useful? Could they be improved in any way?

Do you have any suggestions for new mock hearing activities? (i.e. What other legal subject areas would be of interest to your students?)

Would you be interested in working with OJEN to develop more resources?

Any other suggestions?

*Thank you again for your participation in this project!*



# Student Evaluation Form

*Please fill out the form and give it to your teacher.*

**Class:**

**School:**

**ESL Criminal Mock Trial: *R. v. Lee***

What I most liked about this mock trial activity was:

What I did not like about this mock trial activity was:

What would be good for next time is:

I would be interested in learning more about:



# Justice Sector Volunteer Evaluation Form

*Please return completed form to OJEN by:  
Email: [info@ojen.ca](mailto:info@ojen.ca) or Fax: 416-947-5248*

**Name:**

**Location of Mock Trial Activity:**

**Date of Mock Trial Activity:**

## ESL Criminal Mock Trial: *R. v. Lee*

What did you most enjoy about this mock trial activity?

What did you find most challenging about this mock trial activity?

Were the resources provided for this activity useful? Do you have any suggestions for additional resources we could include in this package?

Do you have any suggestions for new mock hearing activities? (i.e. What other legal subject areas would lend themselves well to an experiential activity?)

Were the students able to understand the subject matter?

Was there an opportunity for the students to ask questions after the mock trial? Did they ask questions? What were they most interested in learning?

Would you be interested in being involved in future workshops?

Would you be interested in working with OJEN to develop more resources? Any in particular?

Any other comments/suggestions?

*Thank you for your participation in this project!*