



R. v. Lee

*Justice Sector Volunteer
(JUDGE) Package*

Newcomer Youth: Programming in the ESL Classroom

Part of your role as a justice sector volunteer in this project is to help the participating newcomer youth become more familiar with the justice system in Canada and to think about their rights and responsibilities as they participate in this system.

- Please remember to *simplify your language* and *try to avoid using overly technical language* so that students can follow your presentation and do not become overwhelmed with information.
- Speak slowly and clearly and try to use examples and visuals to explain the material (students enjoy hearing first hand experiences which help to explain complex ideas).
- Ask students for their opinions and insights and leave enough time for questions.
- Keep in mind that some students may be intimidated by having a member of the justice sector visit, so try to keep the tone informal and friendly.

About Criminal Mock Trials

A youth criminal mock trial is a simulation of a real criminal trial, with youth playing the roles of lawyers, witnesses, accused and court staff. During mock trials, youth reenact every step of a real criminal trial, including: opening the case, examining witnesses, making and responding to objections, delivering closing statements and receiving a judgment.

Mock trials are a great way to bring the law to life for youth. Participants develop their advocacy, public speaking, organization, research, and reasoning skills. They work as members of a team, developing a theory of a case, and making sure all elements of their case are presented harmoniously. Individually, either as a lawyer presenting arguments or leading evidence, or as a witness giving evidence, they develop personal confidence and self-esteem. And youth participants learn to think on their feet!

Through mock trials, youth experience many different aspects of the justice system and consider different legal and procedural issues; they enable youth to be part of the adjudication process and learn the fundamentals of courtroom etiquette, the order of a trial, and the rules of evidence. When justice sector representatives get involved, youth also benefit from positive interactions with members of the legal profession. The opportunity to discuss different aspects of the judicial process deepens youths' understanding and provides positive role modeling and career information. Active engagement with the justice system benefits their academic progress and establishes a foundation for a lifelong understanding of their role in our democracy.

Criminal Mock Trial Judges

Thank you for volunteering to assist with this criminal mock trial! Your time and enthusiasm will greatly enhance the learning process. The purpose of this mock trial is to:

- Help students better understand how the justice system works
- Provide students with a participatory learning experience
- Empower students by encouraging them to have a sense of ownership over the justice system
- Develop self-esteem and public speaking skills
- Encourage students to consider careers in the justice system

The role of a judge in a criminal mock trial is to preside over the hearing, make a decision on the particular case being heard and provide feedback to the participating youth. Please remember that for many youth, the opportunity to plead a case – even in a mock trial – will be a momentous and perhaps intimidating experience. Focus on the educational and participatory aspects of the exercise.

Keep in mind:

- Students may need reminding about proper courtroom procedure (such as when to stand up, how to refer to the opposing counsel, and when to make an objection)
- There may be a wide range in the education and literacy levels of the participants
- Note that students are expecting a verdict! They want to know who ‘won’ the case.

Suggestions for judging a mock hearing:

- Be familiar with the facts of the case
- Feel free to intervene and help with examinations or procedure
- Try to keep students to the time restrictions as much as possible
- Remind students to speak up, or slow down
- If you will be giving feedback to the students at the end of the hearing, take note of each participant’s name so that you can individualize your comments

Prepare for the hearing by:

- Reading the information provided
- Contacting OJEN if you have any questions about the criminal mock trial. (For Newcomer Outreach Programming, please contact OJEN Program Manager, Jessica Reekie, at 416-947-5237, jreekie@ojen.ca.)

Evaluation Scheme for Judges

As the judge of the criminal mock trial, you may wish to consider the following when evaluating the performances of the youth:

Trial Process and Procedure

- Did each team member/lawyer observe proper trial procedure (e.g. order of case, appropriate objections, appropriate responses to objections, court decorum, entering of exhibits, witnesses etc.)?
- Did the team members, including witnesses, unfairly deviate from the scenario?
- Did team members conduct themselves professionally and civilly, treating opposing counsel and witnesses respectfully? Did the team focus on presenting the case to the judge, rather than engaging in an argument with opposing counsel?

Development and Presentation of Legal Argument

- Did the opening and closing statements set out the theory of the case?
- Did the direct examination utilize appropriate, effective, non-leading questions?
- Did the cross examination questions bring out contradictions and/or weakness in the other case?
- Were the closing statements organized, well-reasoned and did they summarize the important areas of the evidence and the team's case?

Oral Advocacy

- Did team members speak clearly and distinctly, could they be heard?
- Did team members keep their presentations within the prescribed time limits?
- Were the team members compelling in their arguments?
- How did students deal with objections or other unexpected developments in the trial?

Witness Performance

- Were the witnesses (including accused, police etc.) convincing in their testimony, well-prepared for questions and answering the questions appropriately?

PACKAGE FOR VOLUNTEER JUDGE

R. v. Lee

Theft under \$5000
(s.334(b) of the *Criminal Code of Canada*)



OPENING ADDRESS TO THE JURY

Members of the jury. The clerk has just read out the charges. Kerri Lee has pleaded not guilty.

We have chosen the twelve of you as jurors for two reasons.

Impartiality

First, you are able to sit on this jury because you are impartial. That means that you are not biased toward one side or the other.

You do not have any personal knowledge of the circumstances of this case beyond what you have seen in the news. You are not closely associated with a person involved in the case. This includes the lawyers and myself, the judge.

Personal Hardship

The second reason we were able to choose you as jurors is because serving on this jury will not cause you any personal or financial hardship.

We do not wish to cause anyone exceptional hardship from jury duty. When we find that a person will suffer hardship as a result of jury service, we excuse them from jury duty.

It is hard to say what will count as exceptional hardship in any particular case; this will depend on the person's circumstances. Travel plans, loss of income and an important event like a wedding or exam have all been found to be legitimate reasons to excuse someone from jury duty.

CHARGE TO THE JURY

Introduction

I will now explain to you your duties as jurors and tell you about the rules of law that govern this case.

I will then explain what Crown counsel must do to prove that Kerri Lee is guilty beyond a reasonable doubt.

The Task of the Jury: Assessing the Evidence

Your first job is to decide what happened in this case. You must base your decision only on the evidence that you heard at trial. You are not allowed to guess about what other evidence is out there.

In determining what happened, you must decide what evidence you believe and what evidence you do not believe. You must decide whether the witnesses knew what they were talking about and whether they were telling the truth. Here are some questions that you might ask yourselves in deciding whether to believe something a witness says:

- i. Did the witness seem honest?
- ii. Was there any reason for the witness to lie?
- iii. Was there anything stopping the witness from making accurate and complete observations? For example, how well could the witness see or hear what was going on?

Once you have reached a conclusion about what actually happened, you must decide whether or not the Crown has proven Kerri Lee guilty beyond a reasonable doubt.

Reasonable Doubt

Your only responsibility is to determine whether the Crown has proved Kerri Lee guilty beyond a reasonable doubt.

It is not enough for you to believe that Ms. Lee is *probably* guilty. If the Crown has shown only that she is probably or likely guilty, you must still find her not guilty.

A far-fetched or impossible doubt does not count as a reasonable doubt. Reasonable doubts about guilt are based on the evidence that came out at trial.

If, at the end of the case, you are sure that Ms. Lee committed the offence beyond a reasonable doubt, you should find her guilty of it. If you are *not* sure that Ms. Lee committed the offence beyond a reasonable doubt, you should find her not guilty.

Elements of the Offence

I will now explain to you what the Crown needs to do to prove beyond a reasonable doubt that Kerri Lee is guilty of this particular offence.

Ms. Lee is charged with theft – contrary to s. 334(b) of the *Criminal Code of Canada*.

For you to find Ms. Lee guilty of theft, the Crown must prove two things:

Please take a moment to explain the actus reus and mens rea involved in this fact scenario