

MOCK TRIAL SCRIPT

Bailiff: All rise. [*Wait for everyone-except the judge- to stand.*]

Department One of the Superior Court is now in session.

Judge (*first name*) presiding. Please be seated.

Judge: Good morning, ladies and gentlemen. Calling the case of the People of the State of California versus (*defendant's first name*). Are both sides ready?

District Attorney: Ready for the People, Your Honor.

Public Defender: Ready for the defense, Your Honor

Judge: Will the clerk please swear in the jury?

Clerk: Will the jury please stand and raise your right hand? [*Wait for everyone to stand.*] Do each of you swear that you will fairly try the case before this court, and that you will return a true verdict according to the evidence and the instructions of the court, so help you, God? Please say "I do". [*Wait for jurors to say "I do."*] You may be seated.

[Guide: The first thing that happens in a trial is called **opening statements**. This is when each attorney can tell the jury what evidence they will present during the trial. The deputy DA goes first and the Public Defender goes next.]

Deputy DA: [*Stand up and talk to the jury.*] Your Honor and ladies and gentlemen of the jury: the defendant has been charged with the crime of driving or taking a car belonging to someone else, without the permission of the owner. The evidence will show that a 2004 Corvette was stolen on the night of February 8th. The next day the defendant was arrested driving the stolen car. The defendant's fingerprints were on the keys used to steal the car. The evidence I present will prove to you that the defendant is guilty as charged.

Public Defender: [*Stand up and talk to the jury.*] Your Honor and ladies and gentlemen of the jury: under the law my client is presumed innocent until proven guilty. During this trial, you will hear no real evidence against my client. You will come to know the truth: that (*defendant's first name*) was just riding in a car stolen by someone else. After finding out that the car was stolen, (*defendant's first name*) was just trying to do the right thing by returning the car to its owner. Therefore my client is not guilty.

[Guide: After the opening statements, witnesses are called to testify about what they know about the case. Sometimes the attorneys want to show physical things—like a weapon or a photograph—to the jury. These things are called **exhibits**. The jury may only consider an exhibit if the judge **admits the exhibit into evidence** when they meet to decide if the defendant is guilty or not guilty.]

Judge: The prosecution may call its first witness.

Deputy DA: The People call the owner of the car.

[Bailiff takes the witness to the witness stand.]

Clerk: Please stand. Raise your right hand. Do you promise that the testimony you shall give in the case before this court shall be the truth, the whole truth, and nothing but the truth, so help you God?

Car Owner: I do.

Clerk: Please state your first and last name.

Car Owner: [*Give your first and last name.*]

Clerk: You may be seated.

Reporter: Please spell your last name for the record.

Deputy DA: [*Stand up.*] (*first name of car owner*), where do you work?

Car Owner: I own Martinez Car Sales.

Deputy DA: What is the address of your business?

Car Owner: 102 Main Street, Martinez.

Deputy DA: Were you working there on February 8th?

Car Owner: Yes, I was.

Deputy DA: Was one of the cars you had for sale a 2004 red Corvette license number 5CBX239?

Car Owner: Yes.

Deputy DA: Did you see the car on the lot on February 8th?

Car Owner: Yes. The car was there when we closed that night.

Deputy DA: Did you see the car again on February 9th?

Car Owner: No. It was missing when I got to work that morning.

Deputy DA: Where were the keys to the Corvette when you left on February 8th?

Car Owner: They were locked in the sales office.

Deputy DA: Where were the keys when you came back the next morning?

Car Owner: They were still locked in the sales office.

Deputy DA: Did you file a stolen car report with the police?

Car Owner: Yes, I did.

Deputy DA: Had you given anyone, including the defendant, permission to take or drive the Corvette?

Car Owner: No, I did not.

Deputy DA: Thank you, I have no further questions.

Judge: Does the defense have any questions?

Public Defender: Not at this time, Your Honor.

Judge: The witness is excused. [*Wait for the witness to leave the stand.*] The prosecution may call the next witness.

Deputy DA: The People call the arresting officer.

[**Bailiff** takes the witness to the witness stand.]

Clerk: Please stand. Raise your right hand. Do you promise that the testimony you shall give in the case before this court shall be the truth, the whole truth, and nothing but the truth, so help you God?

Officer: I do.

Clerk: Please state your first and last name.

Officer: [*Give your first and last name.*]

Clerk: You may be seated.

Reporter: Please spell your last name for the record.

Deputy DA: [*Stand up.*] Officer, where do you work?

Officer: I have worked for the California Highway Patrol for the past ten years.

Deputy DA: Were you on duty on the afternoon of February 9th?

Officer: Yes. I was patrolling the freeway between San Ramon and Martinez.

Deputy DA: Did you observe a red 2004 Corvette that afternoon?

Officer: Yes, I did.

Deputy DA: What was the license number?

Officer: 5CBX239.

Deputy DA: Where did you first see the car?

Officer: Going north, near the exit to Highway 4.

Deputy DA: Why did you notice the car?

Officer: It fit the description of a car which was on our list of stolen vehicles.

Deputy DA: Did you stop the Corvette?

Officer: Yes. I turned on my lights and siren and pulled the car over.

Deputy DA: Where did you stop the car?

Officer: About half a mile before the downtown Martinez exit.

Deputy DA: What did you do after the car stopped?

Officer: I ordered the driver to step out and I arrested [him/her.]

Deputy DA: Do you see the driver here in court?

Officer: Yes, the record will show that the witness has identified the defendant sitting at the defense table [*Point to defendant.*]

Deputy DA: After you arrested the defendant, did you search the car?

Officer: Yes.

Deputy DA: What did you find?

Officer: I found a set of keys in the ignition.

Deputy DA: [*Bring the script and keys with you. Show the keys to the witness.*] Are these the keys you found?

Officer: [*Look at keys.*] Yes.

Deputy DA: Your Honor, I would like to have these keys marked as people's exhibit number one and ask that they be admitted into evidence. [*Give keys to clerk who will pretend to put a sticker on them and hand them back.*]

Judge: Does the defense have any objection?

Public Defender: No, Your Honor.

Judge: The keys will be admitted as People's exhibit number one.

Deputy DA: Officer, was there anything unusual about these keys?

Officer: Yes. Based on my experience as a highway patrol officer, they looked like shaved master keys.

Deputy DA: Can you please tell the jury what shaved master keys are?

Officer: Yes. They are keys that have been filed down so that they will start all models of a type of car. They are used as tools to steal cars

Deputy DA: I have no further questions.

Judge: Does the defense wish to ask any questions?

Public Defender: [*Stand up.*] Yes, Your Honor.

Public Defender: Officer, when you pulled the car over, you ordered my client to turn off the ignition, didn't you?

Officer: Yes, I did.

Public Defender: So you saw the defendant touch the keys?

Officer: Yes.

Public Defender: Do you know how far Martinez Car Sales is from the downtown Martinez freeway exit?

Officer: Yes, it's about half a mile from there.

Public Defender: Thank you. I have no further questions.

Judge: The witness is excused. [*Wait for the witness to leave the stand.*] Does the prosecution have any other witnesses?

Deputy DA: Yes, Your Honor. The People call the fingerprint examiner.

[**Bailiff** takes the witness to the witness stand.]

Clerk: Please stand. Raise your right hand. Do you promise that the testimony you shall give in the case now before this court shall be the truth, the whole truth, and nothing but the truth, so help you God?

Expert: I do.

Clerk: Please state your first and last name.

Expert: [*Give your first and last name.*]

Clerk: You may be seated.

Reporter: Please spell your last name for the record.

Deputy DA: [*Stand up.*] (*first name*), where do you work?

Expert: I am employed by the Contra Costa County Sheriff's Department. I have been a qualified fingerprint examiner for 10 years.

Deputy DA: [*Take script and keys to the witness stand and show witness the keys.*] Have you ever seen these keys before?

Expert: [*Look at keys.*] Yes. I was asked to check them for fingerprints at my lab.

Deputy DA: Did you find any fingerprints on the keys as a result of your testing?

Expert: Yes. There were several clear print impressions.

Deputy DA: Were you able to identify the defendant's prints on the keys?

Expert: Yes. The prints I found on two of the keys were identical to the fingerprints taken from the defendant.

Deputy DA: Thank you. I have no further questions and no other witnesses, Your Honor.

Judge: Does the defense have any questions?

Public Defender: [*Stand up.*] Yes, Your Honor. (*first name of expert*), as a matter of fact, you also found fingerprints on the keys which did not belong to the defendant, didn't you?

Expert: That is correct.

Public Defender: To whom do they belong?

Expert: I don't know.

Public Defender: Thank you. I have no further questions.

Judge: The witness is excused. [*Wait for the witness to leave the stand.*]

Deputy DA: Your Honor, the People rest their case.

Judge: Is the defense ready with its case?

Public Defender: Yes, Your Honor. I call the defendant.

[Bailiff takes the defendant to the witness stand.]

[Guide: Under the Bill of Rights, a person who is accused of a crime cannot be forced to testify at their own criminal trial.

ONLY FOR EIGHTH GRADERS: The judge would have told the jury that the defendant has the right not to testify, that the prosecution cannot make any comment about it if the defendant doesn't testify and the jury cannot hold it against the defendant.

FOR EVERYONE: In our trial today, the defendant has decided to testify. The prosecution cannot force the defendant to testify. If the defendant chooses to testify, the prosecution is allowed to question the defendant.]

Clerk: Please stand. Raise your right hand. Do you promise that the testimony you shall give in the case now before this court shall be the truth, the whole truth, and nothing but the truth, so help you God?

Defendant: I do.

Clerk: Please state your name.

Defendant: [*Give your first and last name.*]

Clerk: You may be seated.

Reporter: Please spell your last name for the record.

Public Defender: (*first name of defendant*), where were you on the afternoon of February 9?

Defendant: I was at the 7-11 Store on South Main Street in Walnut Creek.

Public Defender: Did you see a 2004 red Corvette at that location?

Defendant: Yes. A guy pulled into the parking lot driving it.

Public Defender: Did you talk to the driver?

Defendant: Yes, I asked him how fast it was.

Public Defender: What did he say?

Defendant: He said to get in the car and he would show me.

Public Defender: What did you do then?

Defendant: I got in the car and he drove onto the freeway going south toward Danville. He was driving really fast.

Public Defender: Do you know what the driver's name was?

Defendant: Yes. He told me his name was Rick.

Public Defender: What was his last name?

Defendant: I don't know. He never told me.

Public Defender: Had you ever met him before?

Defendant: No.

Public Defender: Did he tell you where he got the car?

Defendant: He said he had stolen the car.

Public Defender: When did he tell you that?

Defendant: When we were on the freeway.

Public Defender: How far did you ride with him?

Defendant: To San Ramon. He didn't stop before then.

Public Defender: What happened when you reached San Ramon?

Defendant: He said he was getting out and I could have the car.

Public Defender: Did you take the car at that time?

Defendant: Yes.

Public Defender: Where did you go?

Defendant: I started to drive to Martinez so I could return the car.

Public Defender: How did you know where to return it?

Defendant: Rick told me he took it from a car lot in Martinez.

Public Defender: Where were you when the officer arrested you?

Defendant: On the freeway, just before the exit to downtown Martinez.

Public Defender: [*Take keys up to the stand and show them to the defendant.*] Do these keys belong to you?

Defendant: [*Look at keys.*] No.

Public Defender: Have you ever seen them before?

Defendant: Yes. They were in the Corvette.

Public Defender: Did you touch them?

Defendant: Yes, when I turned the car off after the officer stopped me.

Public Defender: Thank you, (*name of defendant*). I have no further questions and no other witnesses, Your Honor.

Judge: Does the prosecution have any questions?

Deputy DA: [Stand up.] Yes, Your Honor. (*name of defendant*), what did this "Rick" look like?

Defendant: I don't remember exactly. He had dark hair.

Deputy DA: What kind of clothes was he wearing?

Defendant: I'm not sure. Jeans, I think, and a t-shirt.

Deputy DA: So you just got into this car with someone that you didn't know and had never even seen before?

Defendant: Yes. I had never been in a Corvette before.

Deputy DA: Did it occur to you at any time to call the police?

Defendant: Sure. But there wasn't a phone where we stopped, and I don't have a cell phone. Once I started back, I just kept driving.

Deputy DA: You wanted to drive the Corvette because it was a fast car, didn't you?

Defendant: I guess so.

Deputy DA: You knew the car was stolen at the time you were driving it, didn't you?

Defendant: Yes.

Deputy DA: Thank you. I have no further questions.

Judge: The witness is excused. [*Wait for defendant to leave the stand.*] Does the defense rest?

Public Defender: [*Stand up.*] Yes, Your Honor.

[Guide: [To the jury] All of the evidence has now been presented. At this time, the judge will tell you the law you must apply in what are called **jury instructions**. Listen very carefully to the three things the judge will tell you that the prosecution must prove.]

Judge: Ladies and gentlemen of the jury, I am now going to read to you the law that you must follow in deciding this case.

To prove the crime charged against the defendant, the prosecution must prove three things to you:

First, that the defendant drove or took a car belonging to someone else;

Second, that the owner did not give the defendant permission to drive or take the car; and

Third, that the defendant intended to take away the owner's right to have the car, either permanently or temporarily

If each of you believes that the prosecution proved all three of these things beyond a reasonable doubt, then you should find the defendant guilty. But if you believe the prosecution did not prove any one of these things beyond a reasonable doubt, then you must find the defendant not guilty.

Proof beyond a reasonable doubt does not mean beyond all possible doubt. It means that you must consider all of the evidence and that you are very sure that the charge is true.

Judge: Are you ready with final arguments?

Deputy DA: Yes, Your Honor.

Public Defender: Yes, Your Honor.

[Guide: [To the jury] The **final arguments** are the attorneys' last chance to talk to the jury about the evidence and to try to convince you to see the case the way they do.

Deputy DA: [*Stand up and face the jury.*] Your Honor, and ladies and gentlemen of the jury: The judge has told you that we must prove three things. There is absolutely no question about the first two things we must prove. First, the defendant was arrested driving a car belonging to the owner of Martinez Car Sales. Second, the owner testified that no one, including the defendant, had permission to drive or take the Corvette. Therefore, all we have to prove is that the defendant drove the car and intended to keep it away from the owner for at least a little

while. The defendant admitted wanting to drive the Corvette because it was fast. The defendant knew the car was stolen, and says that [he/she] even thought about calling the police before driving it. But the defendant didn't even try to walk to a telephone instead of driving the car and didn't even try to stop anywhere between San Ramon and Martinez to call the police. That shows that the defendant intended to keep the car for at least a little while. According to what the judge just told you, that is all we have to prove. Based on the evidence, you must find the defendant **guilty**.

Public Defender: [*Stand up and face the jury.*] Your Honor, ladies and gentlemen of the jury: (*name of defendant*) was unlucky to get into a car with a man who had stolen that car. [He/she] got into the car because [he/she] had never been in a Corvette before. My client's fingerprints were found on the keys because [he/she] had to touch them when the officer pulled the car over. But the prosecution's own expert told you that other fingerprints were found on those keys that could not be identified. I suggest to you that they belong to the real thief: Rick. (*name of defendant*) is an honest person and was only trying to return the car to its owner. If [he/she] had meant to keep the car, why would [he/she] drive it back to Martinez? Remember that under the law my client is presumed to be innocent. The prosecution must prove every part

of its case beyond a reasonable doubt – that means that you must be very sure. One of the things they must prove is that my client intended to keep the car from the owner. My client is the only person who knows what [he/she] intended, and testified under oath that [he/she] wasn't trying to keep the car from the owner, but was trying to return it. The prosecution has presented no real evidence to you to show that this is not true. That means that there is a reasonable doubt and, therefore, you must find [him/her] **not guilty**.

[Guide: [To the jury] The next step in the trial is when the jury decides whether the defendant is guilty or not guilty. Remember, “not guilty” is not the same thing as “innocent.” If all 12 jurors are unanimous in their decision, this is the jury’s verdict.

You have heard several witnesses testify, including the defendant. It is up to each of you to decide if you believe a witness was telling the truth or not. You should consider how the witness behaved on the stand and use your own common sense in deciding whether or not a witness was telling the truth.

Remember that it is up to the prosecution to prove the defendant is guilty. The defense does not have to prove the defendant is innocent; if the prosecution has not proven its case, then the defendant is not guilty. Also, remember that you can only say the defendant is guilty if the

prosecution has proven all three of the things the judge told you **beyond a reasonable doubt**. As the judge told you, beyond a reasonable doubt means that you must be very sure. That means that you will still be sure tomorrow or next week or next year. It does not mean any doubt you can think up in your imagination.

We won't have you leave the room right now but we will quickly pick a jury foreperson and give the jury a few minutes to see if they can reach a verdict. [*Give pencil and copy of the instructions to foreperson to record verdict. OPTION: Lead the jury through the first two elements of the jury instructions. Let them work on the third element on their own to see if they can come to a verdict.*]

Judge: Will the jury foreperson please stand? Has the jury reached a unanimous verdict?

Foreperson: (*Answer yes or no*)

[Guide: [*If the answer is yes*] If the jury has reached a verdict, the clerk will get the verdict form from the foreperson and hand it to the judge. The judge will read it silently before handing it back to the clerk for the reading of the verdict. [*After verdict is read, explain hung jury-see below*]

Clerk: The jury finds the defendant [guilty/not guilty.]

[Guide: *[If the answer is no]* If the jury cannot reach a verdict, this is a **hung jury**. The judge might send the jury back to talk more and see if they can reach a **unanimous** decision. If they cannot, the judge would declare a mistrial and the District Attorney's office would decide if they want to have another trial in the case.

If the verdict is guilty, the defendant would come back to court on another day to find out what the punishment would be. If the verdict is not guilty, the defendant would be free to go home and would not have to come back to court any more for this case.

Judge: The jury is thanked and excused. Court is adjourned.

[Guide: This concludes our mock trial in Superior Court. We thank all of you for coming today and for taking part in our program. [*Give the teacher the verdict form.*]