

CRIMINAL LAW MOCK TRIAL: *R v JONES*



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For each OJEN criminal law mock trial, there are three packages:

- » OJEN Criminal Law Mock Trial **Scenario**
- » OJEN Criminal Law Mock Trial **Role Preparation Package**
- » OJEN Criminal Law Mock Trial **Justice Sector Volunteer Package**

Students/youth need the **Scenario** and **Role Preparation** packages.

Justice sector volunteers/teachers/organizers need all three packages.

CRIMINAL LAW MOCK TRIAL: SCENARIO: *R v JONES*



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R v JONES

» Theft of goods of a value not exceeding \$5000

For this OJEN Criminal Law Mock Trial, there are three packages:

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Students/youth need the **Scenario** and **Role Preparation** packages.

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PARTICIPANTS

LIST OF PARTICIPANTS

Role	Participant Name
1. Keri Jones (accused)	
2. Phil Jackson (Keri's friend and defence witness)	
3. Fiona Lester (store security guard and Crown witness)	
4. Constable Justin Tran (arresting officer and Crown witness)	
5. Crown Lawyers (4)	
6. Defence Lawyers (4)	
7. Judge	
8. Jury Members (12) (optional)	
9. Court Services Officer (keeps order in the court) (optional)	
10. Court Clerk (assists the judge) (optional)	
11. Press (reports on the trial) (optional)	
12. Court Artists (sketches what happens at trial) (optional)	

WHAT HAPPENED?

On January 5, 20***, at around 7PM, two friends, Keri Jones and Phil Jackson, went shopping at New World Mall. They were shopping to buy a birthday gift for their friend, Andrea, who was having a tough year since her parents split up. They decided to pool their money together and buy a gift that was under \$50.

FACT SCENARIO

They went into Musik Box because it was having a New Year's blowout sale. It was difficult for them to decide what to buy, so Keri went to look at the music players and Phil went to look at the cell phone cases. Keri went over to the "MyPod" display counter where there were about 10 other people testing the music players. She picked up a pink MyPod Shuffler, which was priced at \$50. She clipped it to her belt to test the 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 pink one, in case they decided to use their entire \$50 budget to buy the player.

After twenty minutes of looking around the store, they agreed to buy a cell phone case for Andrea since it was a bit cheaper. They waited in line for more than fifteen minutes because the place was packed and the lineup was huge. They finally paid for the cell phone case and turned to leave the store. As they were leaving, a security guard who identified herself as Fiona Lester stopped them. Keri panicked, struggled and then 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 Lester asked Keri to empty her pockets and remove her belt. She placed her wallet, the belt and the MyPod Shuffler onto the desk. Keri tried to explain how she had not meant to take the MyPod but had just forgotten it was attached to her belt. Fiona said she didn't believe Keri and called the police and the storeowner, Brian Perez.

When Constable Tran (the police officer) arrived at the security office, Fiona Lester explained what she had observed. Keri explained that she had simply forgotten to remove the MyPod Shuffler from her belt. Keri started to cry and apologized to Brian Perez. Phil tried to help Keri by saying that he didn't think she meant to take the player, but was told he should leave.

Constable Tran asked Keri a couple of questions and put the music player into a plastic bag and attached a tag to it. He charged her with theft of goods of a value



not exceeding five thousand dollars, contrary to section 322(1) of the *Criminal Code of Canada*. He told Keri her rights and notified her that she would have to come to the police station for fingerprinting the next day. Keri was allowed to go home at about 9PM.

FACT
SCENARIO

THE INFORMATION

CANADA
PROVINCE OF ONTARIO

Date _____

IN THE PROVINCIAL COURT OF ONTARIO

Judicial District of ***

HER MAJESTY THE QUEEN

AGAINST
KERI JONES

THE INFORMATION
(CHARGE)

KERI JONES who is a young person within the meaning of the *Youth Criminal Justice Act* stands charged:

- I. That she in the City of ***, in the Judicial District of ***, Ontario, on or about the 5th day of January, 20** did unlawfully remove goods of a value not exceeding \$5000.00 from the property of Musik Box Store thereby committing theft contrary to section 322(1) of the *Criminal Code of Canada*.

DATED this _____ day of _____, at _____

Signed _____

JUSTICE OF THE PEACE

RELEVANT LAW & LEGAL PRINCIPLES

Youth Criminal Justice Act

The *Youth Criminal Justice Act (YCJA)* is the legislation that governs how young people (aged 12-17 inclusive) are processed and sentenced in the criminal justice system. The *YCJA* came into effect in 2002 and contains both a Preamble and a Declaration of Principles to guide the objectives of the youth criminal justice system.

The Declaration provides that:¹

- The objectives of the youth justice system are to prevent crime; rehabilitate and reintegrate young persons into society; and ensure meaningful consequences for offences. In these ways, the system can contribute to the long-term protection of society.
- The youth justice system must reflect the fact that young persons lack the maturity of adults. The youth system is different from the adult system in many respects, including: measures of accountability are consistent with young persons' reduced level of maturity; procedural protections are enhanced; rehabilitation and reintegration are given special emphasis; and the importance of timely intervention is recognized.
- Young persons are to be held accountable through interventions that are fair and in proportion to the seriousness of the offence.
- Within the limits of fair and proportionate accountability, interventions should reinforce respect for societal values, encourage the repair of harm done, be meaningful to the young person, respect gender, ethnic, cultural and linguistic differences and respond to the needs of Aboriginal young persons and of young persons with special requirements.
- Youth justice proceedings require special guarantees to protect the rights of young people; courtesy, compassion and respect for victims; the opportunity for victims to be informed and to participate; and that parents be informed and encouraged to participate in addressing the young person's offending behaviour.

¹<http://www.justice.gc.ca/eng/pi/yj-jj/ycja-lsjpa/back-hist.html>

The *YCJA* also has specific mechanisms which assist decision-makers at key points in the criminal justice process. Many of these mechanisms allow young people charged with a criminal offence to resolve their case outside of the formal court process. In fact, only 9% of cases in the criminal justice system are resolved by way of a trial.²

Under the *YCJA*, it is very unlikely that Keri Jones' case would go to trial. In reality, Keri would resolve her case by means of an extra judicial measure. An extra judicial measure is a mechanism that allows young people to resolve their cases outside of the formal court process. It often entails a requirement that the young person repair the harm done to the victim and addresses community-based responses to the offence. In Keri's case, this might entail a letter of apology to Musik Box and a requirement that Keri attend a shoplifting prevention course. Keri would then have meaningful consequences to her actions and upon completion of her extra judicial measure requirements, would have her criminal charges withdrawn.

Even if Keri did go to trial, the sentencing principles under the *YCJA* focus on rehabilitation and the reintegration of youth into society, and it is highly unlikely that Keri would ever go to jail. Under the *YCJA*, custody is reserved primarily for violent offenders and serious repeat offenders.

RELEVANT LAW &
LEGAL PRINCIPLES

Opportunity to Experience a Criminal Trial

Despite the reality that Keri's case would not likely go to trial, OJEN mock hearings are designed to allow students to experience many exciting elements of the criminal trial process, such as the opportunity to advocate in an adversarial system of law. Students also develop their written and oral advocacy skills and enhance their understanding of the justice system. To learn more about OJEN's experiential justice education programs, please visit: <http://ojen.ca/programs/youth>.

Criminal Trial Process

1. The Presumption of Innocence & the Burden of Proof

Everyone who is accused of a crime is considered innocent until proven guilty. This means it is the Crown's responsibility to prove the accused is guilty; it is *not* the accused person's responsibility to prove their innocence. In a criminal trial, the Crown attorney must convince the judge or jury that the accused person

²<http://www.justice.gc.ca/eng/esc-cde/ecc-epd/p1.htm>

committed the crime “beyond a reasonable doubt”. This means that the case doesn’t need to be proven beyond *any* doubt, but it sets a high standard for the Crown prosecutor to meet. If the charges against a person are not proven beyond a reasonable doubt, that person is found not guilty.

2. The Adversarial System of Law

The ‘debate’ that takes place during a criminal trial is called the “adversarial” approach. In Canada, we use the adversarial system of law, which involves two opposing sides arguing against one another. Each side is responsible for presenting evidence and issues (favourable to their position) to an impartial decision-maker, who is tasked with determining the truth of the case. The decision-maker (whether this is a judge or jury) is a neutral party who relies on the evidence and arguments presented in court.

The adversarial approach means that both sides in a criminal case (i.e. the Crown and the defence) are represented and the advocates (i.e. lawyers for each side) are responsible for putting the best evidence forward and making the strongest arguments. Given our adversarial system, it is important that each party has access to adequate and roughly equal legal representation in order to level the playing field and ensure that the decision-maker is presented with evidence from both sides. The judge can then trust that the decision is based on the most comprehensive information. The judge can not investigate or argue either side, do any research or call additional witnesses. Instead, the judge relies on the lawyers to present the case.

RELEVANT LAW &
LEGAL PRINCIPLES

3. Criminal Liability³

Generally speaking, for a person to be found guilty of a criminal offence they must have committed an illegal act (*actus reus*) and had the required “state of mind” (*mens rea*) for the criminal offence. The Crown must prove both elements of the offence beyond a reasonable doubt in order for the accused to be found guilty of the offence. The defence will try to prove that the accused did not have either the *actus reus* or the *mens rea* for the offence, or that they did but should not be punished because their behaviour in the circumstances was somehow justified or excusable (e.g. self defence).

³For a full description and activities on *mens rea* and *actus reus*, see OJEN’s handout, *Mens Rea/Actus Reus* available in English and French at: <http://www.ojen.ca/resource/935>

Actus Reus

Actus reus is Latin for “guilty act.” A person must be found to have done the illegal act before they can be convicted of the crime. The guilty act can be something a person does or something a person omits to do (i.e. something a person is required to do, but fails to do). Both the Crown and the defence will use witness testimony, agreed statements of fact, physical evidence such as video footage or fingerprints, and any other relevant evidence to show if the accused did in fact commit the crime.

Mens Rea

Mens rea is Latin for “guilty mind.” In Canada, most criminal offences require that a person be found to have had the necessary “state of mind” or *mens rea* for the offence before they can be found guilty. Each offence has a specific *mens rea* that must be related to the *actus reus* of that offence. In other words, there are different types of mental states for different criminal offences. The different forms of *mens rea*

Forms of Mens Reas

Subjective forms of *mens rea* – the accused subjectively had a guilty mind in relation to the consequences of his actions.

1. Intent

Direct Intent – the accused desires or seeks the prescribed harm.

Indirect Intent – the accused desires or seeks some other end, but it is certain or virtually certain that the prescribed harm would result.

Words to look for in the CCC: “with intent”, “wilful”, “for the purpose of”, “means”

2. Knowledge

The accused has subjective knowledge of some fact or state of affairs related to the act.

Words to look for in the CCC: “knowing”

3. Recklessness

The accused has knowledge of a danger of risk, but persists in a course of conduct that leads to the prohibited conduct.

4. Wilful Blindness

The accused has become aware of the need to make further inquiries, but declines to do so because he does not want to know the truth.

Objective forms of *mens rea* – A reasonable person in the accused’s position would have had the required guilty mind, or would have acted differently.

1. Criminal Negligence

The accused shows a marked and substantial departure from the conduct of a reasonable person which shows wanton and reckless disregard for the lives and safety of others.

2. Penal Negligence

The accused shows a marked departure from the conduct of a reasonable person.

Words to look for in the CCC: “carelessness”, “dangerous”

include intent, knowledge, recklessness, wilful blindness, criminal negligence and penal negligence. There is often express language of *mens rea* used in the CCC, which will help to determine what the *mens rea* is for the particular offence.

Theft Under \$5000

Here, the *actus reus* is the unauthorized taking of property valued at under \$5000.

Criminal Code of Canada

322. (1) Theft – 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;

(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.

The Crown will need to prove beyond a reasonable doubt that the accused was guilty of this act.

In addition, the Crown will need to prove the accused had the requisite *mens rea* for the offence. Section 322 of the CCC includes express language of *mens rea* by the words “with intent”, indicating that the standard for *mens rea* for this offence is intent. This means that in order to convict someone of theft under \$5,000, the Crown must prove that the accused person intended to take the item they are accused of stealing. If the Crown prosecutor cannot prove beyond a reasonable doubt that the accused *intended* to take the item, then the court has to find the person not guilty.

When a person is charged with certain crimes, including theft under \$5000, the Crown can choose to pursue it as a summary offence or an indictable offence. Summary offences are more minor offences and come with a maximum sentence of six months in jail, a \$5,000 fine, or both; indictable offences carry higher penalties which can usually be found in the CCC.



In the case of theft under \$5000, if the Crown proceeds as an indictable offence, a conviction would come with a maximum sentence of two years in prison (found in s. 334(b)(i) of the CCC).

However, as mentioned above, it is highly unlikely that a young person would ever receive any of these maximum sentences. It is also very unlikely that a Crown would choose to pursue a case of theft as an indictable offence, particularly in the case of a young person.

RELEVANT LAW &
LEGAL PRINCIPLES



AGREED STATEMENT OF FACT

- Both parties agree that there are no *Charter* arguments to raise.

AGREED STATEMENTS OF FACT

EXHIBITS

EXHIBIT A - MYPOD SHUFFLER FOUND ON KERI JONES

(Note: This exhibit was marked and transferred by Constable Tran and should be entered as a trial exhibit during Constable Tran's testimony)



KERI JONES, ACCUSED

Your background:

- Your name is Keri Jones.
- You are 16 years old.
- You are 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, Phil Jackson, at New World Mall. The plan was to combine your money and buy a birthday gift for your mutual friend, Andrea. You had each brought about \$25.
- You arrived at the mall around 7PM and you entered Musik Box, which was having a New Years blowout sale.
- You looked at the music players while Phil looked at the cell phone cases, trying to decide what to buy.
- You picked up a pink MyPod Shuffler 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 pink one.
- You and Phil eventually decided on one of the cell phone cases because it was cheaper than the MyPod Shuffler.
- The store was packed and the line up for the cash that was huge. You waited in line for about 15 minutes before you and Phil were able to pay for the cell phone case.
- You were feeling tired and hungry and you had completely forgotten about the MyPod Shuffler clipped on your belt until a security guard grabbed you when you were exiting the store.

How can I prepare to be a good witness during trial?

- » Learn your facts by heart.
- » You will be sworn in during the trial and need to spell your character's full name.
- » Stick to the script. Don't make up facts because this is unfair to the student lawyers.
- » Listen to the questions carefully. If you do not understand the question, then ask to have it repeated.
- » If a lawyer asks a question about something that isn't in your package you can say you don't know the answer.
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- You were so scared when it happened that you could hardly talk. Your first reaction was to try to 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 security office and gave her the music player. You tried to explain that didn't mean to take the MyPod Shuffler and that you had just forgotten to take it off your belt.
- She said she didn't believe you and called the police and storeowner, Brian Perez.
- Constable Tran arrived and you tried to explain that you had just forgotten to take the MyPod Shuffler off of your belt. You started to cry because you were so upset and didn't want to get into trouble. You even tried to apologize to the storeowner, Brian Perez. Phil tried to tell Constable Tran that he didn't think you meant to steal the music player, but was told to leave.
- Constable Tran explained that the police were charging you and told you your rights. Constable Tran asked a few questions and then charged you with theft under \$5000. He also told you to go to the police station the next day for fingerprinting. They let you leave the mall around 9PM.

Questions you should think about when preparing:

What kind of student are you? Have you ever broken the rules before?

Do you have friends who shoplift?

What is your family like and how will they feel about you being charged?

How do you feel about being charged?

How were you acting in the store before this happened?

Why did you try to escape?

Did you have enough money to pay for the MyPod Shuffler?

Was there anything going on in the store that day that may have made you forget you were carrying the MyPod Shuffler?

How did you act when you met the storeowner and the police officer?

Did you apologize to the storeowner?

PHIL JACKSON, KERI'S FRIEND (DEFENCE WITNESS)

Your background:

- Your name is Phil Jackson.
- You are 16 years old.
- You are in grade 11.
- You have no previous criminal record and you have known Keri Jones since grade 1.

Your version of what happened:

- On January 5, 20**, you decided to go shopping with your friend, Keri Jones, 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 7PM and you entered Musik Box because they were having a big sale.
- You looked at cell phone cases while Keri looked at the music players, trying to decide what to buy. Keri picked up a pink MyPod Shuffler 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 pink one. She was not thinking of stealing it.
- Eventually, you and Keri agreed on the cell phone case because it was cheaper than the MyPod Shuffler.
- The store was really packed and the line up for paying was huge. You waited in line for about 15 minutes before you and Keri were able to pay for the cell phone case.
- Keri was feeling really tired and hungry at this point. After paying, you left the store to go get something to eat.
- The security guard stopped Keri as you guys were exiting the store. You were as surprised as Keri was. You had no idea what was going on. Keri looked

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- » Listen to the questions carefully. If you do not understand the question, then ask to have it repeated.
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panicked and surprised. She tried to get away, but the security guard stopped her.

- You went with Keri and the security guard to the security office. Keri was asked to hand over the music player. She looked shocked and confused and tried to explain how she had forgotten to take the player off of her belt.

- The security guard said she didn't believe Keri and called the police and storeowner, Brian Perez.
- Constable Tran arrived and Keri tried to explain that she had forgotten the MyPod Shuffler on her belt when she left the store. She was crying and upset and was even apologizing to the storeowner.

- You tried to help Keri by telling Constable Tran that you didn't think Keri had meant to take the MyPod Shuffler.
- Constable Tran explained that the police were charging Keri, and then they told you to 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?

PARTICIPANT
INFORMATION

How do you feel about shoplifting?

How were you acting in the store before this happened?

Did you and Keri talk about buying or stealing the music player?

Was there anything going on in the store that day that might have made Keri forget that she was carrying the music player?

How did you act when you met the security guard and Constable Tran?

FIONA LESTER, STORE SECURITY GUARD (CROWN WITNESS)

Your background:

- You are 35 years old.
- You have worked as a security guard at the Musik Box at New World Mall for 5 years.
- 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 Musik Box at New World Mall. You noticed Keri and Phil because they were laughing and fooling around as they shopped.
- You saw the accused, Keri Jones, go over to the music player display counter, which was very crowded at the time. She picked up a few different players and then clipped a pink MyPod Shuffler 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 MyPod Shuffler 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 a cell phone case and left the store.
- As soon as they stepped out of the store, you stopped the accused for shoplifting. She struggled with you and tried to get away. She seemed to be reaching for something in her pocket, but you held onto her two arms so she couldn't escape.

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- » Listen to the questions carefully. If you do not understand the question, then ask to have it repeated.
- » If a lawyer asks a question about something that isn't in your package you can say you don't know the answer.
- » Speak with the lawyers representing your side ahead of time, and get into character when you take the stand.



- You took them both down to the security office.
- When you asked for the music player, she handed it to you and started explaining how she didn't mean to take the player and how she had just forgotten to take it off of her belt.

- You said you didn't believe her and then called the police and the owner of the store, Brian Perez.

- At around 8:45PM, Constable Tran and the storeowner, Brian Perez, arrived at the security office. You handed the police officer the music player and told him what you had seen. The accused tried to tell the officer that she had forgotten to take the MyPod Shuffler off of her belt and started apologizing to Brian Perez. Her friend started chiming in to help her, but Constable Tran told the friend that he was not being charged and that he should leave.

- Constable Tran told the accused that she was being charged for theft under \$5000. The accused was then released after she was read her rights and 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?

PARTICIPANT
INFORMATION

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? Why did you call the police this time?

CONSTABLE JUSTIN TRAN, ARRESTING OFFICER (CROWN WITNESS)

Your background:

- Your name is Constable Justin Tran.
- You are 28 years old.
- You have been a police constable for 3 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, 20** 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 8:45PM.
- In the mall security office, you met the store security guard, Fiona Lester, as well as the accused, Keri Jones, her friend, Phil Jackson, and the storeowner, Brian Perez.
- You questioned Fiona Lester and were told that she stopped the two young people when they left the store because she believed that they had stolen a music player. She gave you the stolen MyPod Shuffler. Its value was \$50.
- Keri Jones started explaining that she had forgotten to take the MyPod Shuffler off of her belt when she left the store. Her friend, Phil Jackson, was trying to say the same thing. You told Phil that you were not charging him and that he should go.
- You questioned Keri Jones, who was very upset and crying. She answered all the questions quickly and was co-operative.
- You charged her with theft under \$5000, read her her rights and told her to report to the police office for fingerprinting the next day.

How can I prepare to be a good witness during trial?

- » Learn your facts by heart.
- » You will be sworn in during the trial and need to spell your character's full name.
- » Stick to the script. Don't make up facts because this is unfair to the student lawyers.
- » Listen to the questions carefully. If you do not understand the question, then ask to have it repeated.
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- You let her go at about 9PM after you put the music player in a bag and marked it. You took it with you back to the police station.
- *Note: Exhibit A (the MyPod Shuffler) should be entered as an exhibit during your testimony.*

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 music 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?

PARTICIPANT
INFORMATION



JUDGE

If the role of the judge is not being played by a justice sector volunteer, the following chart will help you to understand the case and take notes during the trial.

In a jury trial, the judge is not responsible for determining whether the accused is innocent or guilty. The jury makes that ultimate decision by studying the facts and determining which evidence is trustworthy. The judge is responsible for maintaining order in the courtroom, and making rulings of law (e.g. whether to admit hearsay, and other questions of law that may arise during the hearing).

Judges still take detailed notes as they are responsible for determining the accused's sentence in the event that the accused is found guilty. While there will be no sentencing in this mock trial, please use this framework to take notes during the trial.

See the following section on Charge to the Jury for the instructions that the judge gives to the jury members. Additional information on preparing for the role of the judge is available in the Role Preparation Package.

ISSUE	NOTES
Did Keri exit Musik Box with the MyPod Shuffler?	
Did Keri have a legal right to take the MyPod Shuffler?	
Did Keri mean to take the MyPod Shuffler, even temporarily, from Musik Box?	
Whose evidence do you prefer? Keri and Phil's or the Fiona's and Constable Tran's? Why?	<i>I prefer the evidence of...</i>

JURY MEMBERS

WHEN DO CASES GO BEFORE A JURY?

As mentioned in the Relevant Law & Legal Principles section, most criminal cases do not go to trial and are resolved outside of the formal court process. Of the cases that do proceed to trial, even fewer cases are decided by a jury.

In order for a case to be decided by a jury, the Crown must choose to prosecute a criminal offence by indictment (which often has more severe sentencing options) as opposed to proceeding summarily. Most criminal offences can proceed by indictment but the Crown often only chooses to prosecute an offence by indictment when it is a very serious case. For young people, jury trials are reserved for the most serious and violent cases.

In Keri's case, it is highly unlikely that the Crown would proceed by indictment. However, the inclusion of a jury in an experiential mock trial can be an opportunity for students to explore the role of consensus decision-making and encourages a critical analysis of the case. In larger groups of youth, the role of the jury can also be an inclusive means of ensuring that every young person has an important role during the mock hearing.

Charge to the Jury

Ladies and Gentlemen,

It is now the time for you to begin your deliberations.

I must remind you that you must decide the case based only upon the evidence presented in this courtroom and ignore everything you heard or read about this case outside the courtroom.

You must decide which evidence to believe and decide how much weight or importance you should give to that evidence. You may accept all, part, or none of what a witness said. You should use common sense and experience in assessing the credibility of each witness.

You are to presume the innocence of Keri Jones during your deliberations. The burden is on the Crown to prove the guilt of the accused on each element of the case to the standard of proof beyond a reasonable doubt. You may wonder

“what does reasonable doubt mean?” A reasonable doubt is not an imaginary doubt. It must not be based on sympathy or prejudice. Rather, it is based on common sense. It must logically come from the evidence or absence of evidence.

Even if you think the accused is probably guilty, that is not sufficient. In those circumstances, you must give the benefit of the doubt to the accused and find her not guilty. This is because the Crown has failed to satisfy you of the accused’s guilt beyond a reasonable doubt. The standard of proof beyond a reasonable doubt is much closer to absolute certainty than to a proof on a balance of probabilities.

On the other hand, you must remember that it is virtually impossible to prove anything to an absolute certainty and the Crown is not required to do so. Such a standard of proof is impossible. The Crown only has the burden of proving the guilt of the accused beyond a reasonable doubt.

If you find, after you consider all the evidence, that the Crown has proven Keri Jones guilty beyond a reasonable doubt, you should find her guilty.

If you find the Crown has not proven Keri Jones guilty beyond a reasonable doubt you should find her not guilty.

Questions for the Jury

You must be satisfied, beyond a reasonable doubt, of the following three questions.

1. Did Keri take the MyPod Shuffler from Musik Box?

Yes []

No []

If no, deliberations are over and Keri is not guilty.

2. Did Keri have a legal right to the MyPod Shuffler? (i.e. Did she pay for it? Did she have permission to take it?)

Yes []

No []

If yes, deliberations are over and Keri is not guilty.

3. Did Keri know that she had no legal right to the MyPod Shuffler? (For example, if someone accidentally took a coat from a party thinking it was theirs, they would be found not guilty of theft.)

Yes []

No []

If no, deliberations are over and Keri is not guilty.

4. Did Keri intend to take the MyPod Shuffler, even temporarily, from Musik Box?

Yes []

No []

If no, deliberations are over and Keri is not guilty.

5. What is your final ruling?

Guilty []

Not Guilty []



COURT CLERK

Please refer to the Criminal Law Mock Trial Role Preparation Package when preparing this role, where you will find a script and other instructions. In order to read the charge(s) to the accused, you will need to insert the particulars of the accused and the charge(s) as set out in The Information section into your script.