

Dear Mock Trial Teacher and Attorney Coaches:

The Arizona Foundation for Legal Services & Education and the Young Lawyers of Arizona welcome you and your team to the 2002-2003 Arizona High School Mock Trial Program.

Please review all of the material carefully. If you have any questions about registration or administration of the program, please contact Susan Nusall with the Arizona Foundation for Legal Services & Education at 602-340-7361. If you have any questions about the case, the Rules of the Program or the legal aspects of the program, please contact your local Regional Coordinator or the State Legal Counsel Coordinator, Danelle Liwski with the U.S. Attorney's Office in Tucson at 520-620-7357 or post your question(s) on the Mock Trial website, www.azflse.org/mocktrial.

The Regional Tournaments will be held on March 1, 2003 and the State Tournament will be held on March 22, 2003.

Case Materials

The issue before the court is to determine what sentence shall be given to Chris Smith. The hearing is an aggravation/mitigation hearing. Guilt is not an issue. This is strictly a fictional argument. Any similarity or resemblance of any character to an actual person or entity is strictly unintentional and coincidental. The Arizona Foundation for Legal Services & Education and The Young Lawyers of Arizona would like to thank the following for help in developing this year's problem: Dewain Fox (Fennemore Craig); Jack Steele; Julie Duvall (Law Office of Julie Duvall); Deborah Pela (Pima County Probation Department); Theresa Godoy (Pima County Attorney's Office); Cynthia Sweet (Pima County Attorney's Office); Dr. James Sullivan; Dr. David Tovey; Timothy Hyland (Bess Kunz) and Danelle Liwski (U.S. Attorney's Office-Tucson). Also, for their assistance with editorial work, we would like to thank Tim Hyland (Bess Kunz); Susan Nusall (Arizona Foundation for Legal Services & Education); and Dewain Fox (Fennemore Craig). The problem could not have been completed without their assistance.

Included with the case materials are the necessary legal authorities and citations needed to assist your students in preparing their argument. **PLEASE NOTE: Due to the case being provided on-line, no signatures could be input. However, it is assumed for the purpose of this mock trial, that all documents have been properly signed.**

Program and Evidence Rules

All team members are expected to know both of these sets of rules. Please make sure that students are thoroughly familiar with these rules.

Forms

Please become familiar with how and when the necessary forms are needed and comply with the requirements shown below.

Score Sheet and Ratings

A score sheet and the criteria for scoring to be used by the judges at the Regional and State Tournament is included in the case materials. Your students should be aware of the scoring system that is used to rate their performance. We recommend using the scoring sheet when students engage in trial practice runs. **Remember that each side has only 35 minutes to present their case this year.** Please note in Rule III.1 that there are mandatory penalty points for exceeding time limits during closing arguments.

Mock Trial Participants List

The State Coordinator must receive a completed typewritten Participant List for your team. This form must be submitted by January 24, 2003. If you do not return the form by the deadline, your team may be prohibited from competing. Any requests to make changes to this form after January 24th are subject to approval by your Regional Coordinator. If your Regional Coordinator approves such changes, you **MUST SUBMIT A NEW PARTICIPANT LIST IMMEDIATELY** to the Arizona Foundation for Legal Services & Education.

Student Roster

The Student Roster form is the official form you are to use on Tournament Day. Please make certain that you have at least **FIVE COPIES** on hand the day of the tournament. The team is responsible for completing this form and presenting it to the judge/bailiff at the beginning of each round including the Finals Round.

Preparing Students to Participate

The Steps in a Mock Trial and Pre- and Post- Activities handout can help students develop a basic understanding of the mechanics of a trial and presents students with ten situations in which they must apply the rules of evidence. An answer key is provided for coaches. You are also provided with a suggestions sheet and helpful hints designed to guide attorney-coaches in working with students. Please take a few moments to review these materials to better prepare you for using these techniques with your students.

State Tournament

The State Tournament is scheduled for Saturday, March 22, 2003 at the Federal Courthouse located in downtown Phoenix. Teams that did not compete in the Maricopa County Regional Tournament will be eligible for overnight lodging the evening before the State Finals. More details about the State Tournament will be forthcoming.

National Mock Trial Tournament

The National Mock Trial Tournament will be held May 8-11, 2003 in New Orleans, LA. The Arizona Foundation for Legal Services & Education has applied for funding from the Academic Contest Fund Committee for funding to help offset travel-related costs for the state winner. However, the exact amount will not be determined until January when the matter is heard before the State Board of Education. Once those funds are approved, the Arizona Foundation for Legal Services & Education will work directly with the state winner on the expenses to be reimbursed. It is strongly recommended that schools have a fundraising plan in place in the event that they are the State winners and are eligible to travel to the National Tournament.

Good luck with your tournaments!

Mock Trial State Coordinator

Legal Counsel Coordinator

WITNESSES

WITNESSES FOR THE PROSECUTION:

1. Tanner Gallagher, Victim
2. Dr. Tracy Gonzalez, Emergency room doctor
3. Ronnie Roads, Friend

WITNESSES FOR THE DEFENSE:

1. Chris Smith, Defendant
2. Peyton Lightner, Friends
3. Dr. Dana Hughes, Psychologist

INTRODUCTION

The issue before the court is to determine what sentence shall be given to Chris Smith. The hearing is an aggravation/mitigation hearing. Guilt is not an issue.

A criminal case begins with an indictment of an individual. In this case Chris Smith was indicted for aggravated assault with a dangerous weapon. As charged, under Arizona law, Chris Smith faced a mandatory prison sentence of 5 to 15 years.

Chris Smith faced this mandatory sentence even though he/she was under the age of 18 at the time of the crime. Arizona law requires that Chris Smith be treated as an adult because of the seriousness of the crime committed and his/her age at the time.

Because Chris Smith was facing the mandatory prison sentence and the evidence of his/her guilt was substantial, Chris, on the advice of his/her attorney, entered into the guilty plea before you. The court has accepted the plea of guilty and the next step for the court is to pronounce a sentence.

Often the sentencing hearing will be a relatively short hearing. The Judge hears from the prosecutor, defense council, defendant and the probation department and based on that information imposes a sentence. In cases such as this one, either the prosecution or the defense feels the court needs additional information in order to make the appropriate sentence. For that reason this aggravation/mitigation hearing has been requested.

The Court may impose a sentence of probation, jail time with probation to follow or a prison sentence.

During the aggravation/mitigation hearing the same rules of evidence apply, but the court often will allow more latitude during this hearing than would be allowed in trial.

STATEMENT OF FACTS

Tanner Gallagher and Chris Smith both attended Eldorado High School in the State of Arizona. They were both seniors and were 17 at the time of the incident. Chris' birthday is July 4, 1984, and Tanner's birthday is May 8, 1984.

Tanner and Chris have known each other since 1st grade. Tanner has been very involved in school activities. Chris recently had not been active in school activities. Chris lost his/her father in the 7th grade and things have not been the same since. While dealing with the loss of his/her father Chris became interested in a street gang. The gang provided Chris with friends and a sense of belonging.

Chris had committed a few minor crimes before he/she became a victim of a shooting. On October 17, 1999, Chris was standing on a street corner with a few members of the street gang when a rival gang member shot him/her. Chris received serious injuries, but eventually fully recovered.

Since the shooting Chris has had severe reactions to loud noises and gang signs. Chris has thrown him/herself on the ground when a loud noise, ex. thunder, is heard. Chris' extreme reactions to loud noises and hand gestures were becoming more and more common.

On October 17, 2001, Tanner Gallagher and Ronnie Roads were leaving school as the final bell rang. They saw and heard a car full of students. They recognized one of the students as Chris Smith. The car went through the parking lot once and then came back around. Tanner and Ronnie saw Chris lean out the window. Before Tanner had time to realize that Chris was holding a handgun, the gun went off. Tanner was struck in the leg. Chris and Peyton Lightner were in the car. Tanner was taken to the hospital.

Chris entered into a plea agreement. In the plea agreement, Chris acknowledged his/her guilt.

Statement of Tanner Gallagher

1. My name is Tanner Gallagher. I was born on May 8, 1984.
2. On October 17, 2001, Chris Smith shot me in the leg for no reason at all. Chris entered into a plea agreement, so s/he can avoid a long prison sentence. I never agreed to the plea I thought Chris should get the max. The prosecutors asked me to testify at Chris' aggravation/mitigation hearing. Of course, I agreed because Chris isn't going to get off scott free if there's anything I can do about it. I want justice to be done.
3. I've known Chris since we were both in the first grade. As we were growing up, Chris and I had the same group of friends and participated in a lot of the same clubs and activities together. A couple that come to mind were the science club, the computer club and of course basketball. Most people who knew us would say Chris and I were pretty good friends.
4. Chris' dad died when we were in the seventh grade. At that point, Chris really changed. For example, Chris stopped participating in class and doing his/her homework. You can imagine how Chris' grades nose-dived. Chris also stopped coming to club meetings and practice and started to avoid our group of friends and me in particular. I tried to reach out to Chris, but Chris instead started spending most of his/her time with a group of street thugs. From that point on, everyone noticed that Chris was mean to other students and often picked fights at school. Chris became a real bully and was nothing but trouble, so I avoided Chris whenever possible.
5. I heard about Chris getting shot by some goon from another gang a few years back. I wasn't there, but it was the talk of the school for a couple of months. I'm sure from the way that Chris had been acting that s/he must've provoked it. Anyway, once Chris came back to school after the shooting, my friends and I noticed that s/he was extremely uneasy about the littlest things. Ronnie Roads and I once saw Chris jump under a car when another car in the school parking lot backfired. It was one of the funniest things I had ever seen, and neither one of us could stop laughing. Personally, I just think Chris was trying to be a showoff and get some attention. Another time, I saw someone across the parking lot make a hand gesture at Chris. I've never really seen a gang sign and don't know what they look like, but I thought it might be one. Chris hid behind a trashcan for what seemed like 15 minutes. Chris looked as ridiculous as s/he did jumping under the car. It was really something to see Chris go from being such a tough to being so afraid almost overnight.
6. I know that Chris claims that s/he quit the gang after s/he was shot, but I don't buy it. In fact, I've overheard Chris talking about still being friends with the members of the gang. Lee Cooper from my English class also told me that he saw Chris with one of his/her hoodlum friends just a week before Chris shot me.
7. On October 17, 2001, Ronnie Roads and I walked out to the school parking lot after the last bell. I heard and saw a car full of students passing by. Chris Smith was one of the people in the car, but I couldn't tell who else was with him/her. The car drove past me and out of the parking lot. About that time, I saw a couple of my friends across the parking lot. I raised my hand to wave at them and I yelled for them to have a good weekend. Just then, I saw the car with Chris pull back into the parking lot and come straight toward me. I focused on Chris, because I saw him/her leaning out the window holding something. Before I could tell it was a gun, I heard a loud popping noise and immediately felt a severe burning sensation in my leg. It felt like my leg

suddenly was kicked out from under me, and I collapsed to the ground screaming. When I saw all the blood coming out of my leg, I thought I was going to die. The last thing I remember is being loaded into an ambulance and taken to the hospital. My memory of what happened after that is foggy.

8. I can't even begin to tell you how much the shooting changed my life. Everyone at school used to know me. I mean that I used to be very active in school government, basketball and other extracurricular activities, and I got along with everyone. Now, I live in constant fear of being shot or attacked again and I don't trust anyone. You never know who's going to be packing heat at school these days, so I'm afraid to be around anyone but my closest friends. I panic anytime I see another school shooting on the news. I can't believe how commonplace these shootings have become. It seems like anytime someone has a beef with someone else at school anymore, they just pull out a gun and start shooting. The level of violence on campus has scared me so much that I quit all of my school activities, and I pretty much just keep to myself. I guess you could say that I'm pretty much a loner these days.
9. Going back to the school parking lot particularly scares me. Whenever I even think about it, I get a queasy feeling in my stomach, my legs start to shake and I can't get the images of the shooting out of my head. I now have my parents pick me up in front of the school right after the last bell, so I don't have to go to the parking lot or be around large groups of people, and I make it a point to be home before it gets dark. I also have to admit that I'm a bit jumpy and get startled when I hear sudden loud noises.
10. I know that it's going to be extremely hard for me to testify at the aggravation/mitigation hearing. I've tried to avoid talking about the shooting, and I've done my best to block it out of my mind. I hate just thinking about it.
11. I have reviewed this statement and I have nothing of significance to add. The material facts are true and correct.

Tanner Gallagher

Signed and Sworn this ____ day of _____, 2002.

Notary Public

My commission expires:

Statement of Tracy Gonzalez, M.D.

1. My name is Tracy Gonzalez and I am a physician at Arizona Medical Center. I am a resident at the hospital. My duties include in and outpatient care and rotation duties in the hospital in multiple specialties. These specialties include: emergency medicine, internal medicine, pediatrics, surgery and obstetrics. Please see my Curriculum Vitae for my complete list of credentials.
2. In October 2001, I was in my 3rd month of my residency and I was on rotation in the emergency medicine specialty at Arizona Medical Center. Typically, residents at Arizona Medical Center work approximately 90 hours per week.
3. Because of Arizona Medical Center protocol for residents, I had been on call for the previous 24 hours and then worked a 12-hour shift on 10-17-2001. During my shift, I personally treated approximately 60 patients. Dr. Daniel Spathe was the attending physician in the ER that afternoon and was in charge of all residents on duty that shift.
4. At about 4:00 p.m., Tanner Gallagher was brought to the ER via ambulance. Tanner was screaming in pain and said several times, "All I did was one sign, why did Chris shoot me?"
5. Tanner was in critical condition. S/He had multiple gunshot wounds resulting in severe blood loss and shock. I did not know at that point whether s/he would survive his/her injuries.
6. Tanner was awake but in a great deal of pain. Tanner was also extremely anxious and seemed to be paranoid that someone would come into the ER and shoot him/her again.
7. During my approximately 30 minutes with Tanner, I noted a crude tattoo on Tanner's right arm that said "My Bad". There were three red-ink teardrops underneath the words. In my seminar on Cultural Issues in Inner City Medicine, I learned to recognize such markings as consistent with gang-related activities. I also noted Tanner had a scar, possibly from a knife wound, on the same shoulder.
8. At approximately 4:30 p.m., Tanner was taken to the Operating Room for emergency surgery. I had no further contact with Tanner Gallagher. I then prepared the Emergency Department Report.

Tracy Gonzalez

Signed and Sworn this ____ day of _____, 2002.

Notary Public

My commission expires:

STATEMENT OF RONNIE ROADS

1. My name is Ronnie Roads. I am currently 18 years old.
2. I met Tanner Gallagher during my first year at Eldorado High School. We seemed to hit it off okay and we became friends. We are both on the basketball team and a few clubs, have several of the same classes, share the same friends and attend the same parties. We are truly best friends.
3. I never became friends with Chris Smith but I knew him/her because we attended a few of the same classes at school. I have never gotten along with Chris. You know how it is-- there are some people out there you know are weird just by looking at them. That is how Chris is. He/she is a strange person.
4. I also knew about Chris because Tanner had told me that he/she and Chris were once friends. Tanner said they grew up together and use to play all the time in elementary school. I guess Chris wasn't weird then. That was before Chris became involved with gangs. Tanner said Chris just got into them for no reason and Tanner thought it was cool at first, but then it got scary. After that Tanner and Chris hardly spoke.
5. Chris was shot a couple of years back. It was the biggest news at school. That has never happened here before. Some people were surprised it happened. Tanner told me he/she was not surprised; after all, Chris was getting into the gang life.
6. After Chris was shot I noticed he/she started acting even weirder than before, like he/she was afraid of every little thing. If there was a crowd around and somebody made a gesture of any kind Chris would get all jumpy and even run away. One time a car backfired and I saw Chris throw himself to the ground and crawl behind a tree like a bomb went off.
7. Tanner and I thought Chris' strange reactions were kinda funny. I mean you should have seen him run when the car backfired. We've never seen anyone move so fast. Tanner and I must have laughed for 20 minutes - we almost fell down laughing. We did not mean anything by it - it was funny.
8. The same thing happened when Lee (another classmate and basketball teammate) waved at us from across the courtyard. Chris was standing near us when Lee waved. You wouldn't believe the way he/she got out of sight. Chris leaped and ran to get behind the trash can, he/she fell over the sidewalk, and his/her soda sprayed all over him/herself. It was the funniest thing I had ever seen. And what a mess. All that over a surfer wave. Chris is weird.
9. I would never be involved with a gang - it's just not my life style. I understand some guys think it's cool, and Tanner and I often talked about the gang culture and thought it was interesting. We studied all the different gang signs from different movies and tried to imitate them. We weren't very good, but we would laugh about it. I don't think Tanner would ever get involved with a gang, but he/she did like to practice the signs.
10. On the day Tanner was shot, he/she and I were headed to basketball practice and had to cross the parking lot right after the final bell. I heard a car, looked up and saw a car full of students leaving the parking lot. I recognized Chris Smith as one of the passengers in the car. Tanner and I were joking around and I thought Chris and his/her friends were headed out of school.

11. Then the car came back around and Chris was leaning all the way out the window. Tanner raised his/her arm and Chris started shooting. It was crazy; I don't know why Chris did that. Tanner was just raising his/her arm.

12. Since that day nothing has been the same. Tanner doesn't do anything or go anywhere. He/she is afraid of everything. I am still friends with Tanner, but it's not the same. We no longer play basketball together, and he/she does not attend the club meetings or go to parties. I miss my friend. Chris changed my whole life that day and he/she needs to pay for that.

Ronnie Roads

Signed and Sworn this ____ day of _____, 2002.

Notary Public

My commission expires:

STATEMENT OF CHRIS SMITH

1. My name is Chris Smith. I was 17 years old and a senior at Eldorado High School when I made a terrible mistake. I live with my mother in Arizona.
2. October 17 is the worst day of my life. In 1999, on October 17, I was shot and it changed me forever. Then on October 17, 2001, I made the worst mistake of my life -- I shot Tanner Gallagher. I am so sorry for what I have done. If there was any way to take it back, I would do it.
3. I have known Tanner Gallagher since we were in the 1st grade. When we were younger, we were best friends and played together all the time. We were even in the same clubs at school and played basketball together.
4. Then, when I was in the 7th grade, my father died. I had a rough time dealing with the loss and my life seemed to change. I stayed away from old friends, lost interest in school activities, and Tanner and I drifted apart. About two years ago we stopped speaking to each other. Like I said we had drifted apart anyway, but Tanner changed. Tanner was just too good for the rest of us. You know the type - Mr./Miss Popular.
5. I made new friends with members of a local street gang. I hung out with them because they didn't ask a bunch of questions, they just accepted me, and they made me feel like I belonged. They liked me for me; I didn't have to put on some fake attitude when I wanted to hang out with them.
6. I know street gang sounds bad and they did get into some bad stuff, but mostly they were just a bunch of teenagers who stood up for each other. I did a few bad things -- stole some stuff from the store and broke a few windows, but never committed any serious crimes.
7. On October 17, 1999, I was standing on a street corner with a few of my friends when members of another gang came by and one of them shot me. I wasn't doing anything. I was only standing on the corner, and we didn't throw any signs or anything.
8. I guess I was hurt pretty bad because I was taken to the hospital and had to stay for about a week. I remember it was very painful. While I was in the hospital I realized the street gang life was not for me and decided to stay away from gangs and their activities. I didn't want to die because I was hanging out with my friends.
9. Later I had to testify at the trial of the gang member who shot me. Testifying was pretty scary. The courtroom was full of the rival gang, and they were all staring me down. Plus my own friends were mad at me - - you don't testify if you are in a gang --ever. They swore they would never speak to me again. I had to relive the shooting again and the terror never left my mind.
10. After the shooting I started having nightmares and would dream about shooting people and being shot again. Many times I woke up wet and sweaty and would have to get up and dry off with a towel. A couple of times I even had to change the sheets. I felt like somehow death was right around the corner and I had to constantly watch my back. You just don't know when the guy you testified against, his gang or your own gang will come at you for testifying.
11. I was all messed up any time I heard a loud noise, like thunder or a car backfire -- I'd think I was being shot at. A few times I even threw myself to the ground. Sometimes I'd see someone throw a gang sign and that

scared me. Once I hid behind a trash can. Tanner must've thought my reactions were real funny. Whenever I walked into the classroom, he/she would make jokes and point at me.

12. I was so afraid that someone was going to shoot me, I felt like I needed to protect myself and started carrying a small handgun. At first I never loaded it, but as I became more frightened I'd put one bullet in the gun. Eventually I carried the gun fully loaded.

13. On October 17, 2001, I was in a car with some friends driving around. I saw Tanner laughing at someone and thought somebody should show him/her a thing or two. We drove out of the school parking lot, but came back around. I leaned out the window and saw Tanner throw a gang sign. When I saw the gang sign, it scared me and I guess I freaked out and fired the gun. I never meant to shoot Tanner. All I wanted to do was scare him/her. I don't even remember aiming the gun, I just freaked and pulled the trigger.

14. The next thing I knew I was being arrested. I was in a trance until then. At first I denied even shooting Tanner. I just did not remember it. I realize now that I shot Tanner. I did not do it on purpose though. I mean my head was not right at the time. I was messed up from being shot at -- it really isn't my fault.

15. I did plead guilty to shooting Tanner. I want to take responsibility for hurting him/her. I realize what I did was wrong, and now I have gotten the help I need to make sure this never happens again. I have seen the head doctor several times and I am learning to control my fear. I think with the additional resources of probation I will be a productive member of society.

Chris Smith

Signed and Sworn this ____ day of _____, 2002.

Notary Public

My commission expires:

Statement of Dana Hughes, Ph.D.

1. My name is Dana Hughes and I am an experienced clinical psychologist at the Circle of Hope Children's Group Home. I am also in private practice. Please see my Curriculum Vitae for a complete list of my credentials.
2. In December, 2001, I was contacted by Chris Smith's family to evaluate Chris. They hired me to conduct a psychological evaluation in January, 2002. Part of the reason the family hired me was my extensive experience and publications in the topic of Posttraumatic Stress Disorder.
3. I have reviewed Chris Smith's school records, the medical records from Chris Smith's gunshot wounds, and the Pre-sentence Report prepared when Chris Smith was shot, and I have reviewed the facts provided to me by Chris Smith's attorneys.
4. After reviewing the above - mentioned materials, I interviewed Chris Smith for 2 hours at my office in February 2002. In March 2002, I interviewed Chris Smith for an additional hour.
5. In May of 2002, I wrote a report detailing my involvement in this case and provided that report to attorneys for Chris Smith.
6. After reviewing all the materials, I concluded that in my opinion, to a reasonable degree of psychological certainty, Chris Smith suffered from Posttraumatic Stress Disorder on the date of this offense. Please see attached report for additional information.
7. After I wrote the report, I took no further actions in this case.
8. I have reviewed this statement and my report and I have nothing of significance to add. The material facts are true and correct.

Dana Hughes

Signed and Sworn this ____ day of _____, 2002.

Notary Public

My commission expires:

STATEMENT OF PEYTON LIGHTNER

1. My name is Peyton Lightner. I am 18 years old. I attended Eldorado High School.
2. I have lived in the same town my entire life. As long as I can remember I have known Chris Smith and Tanner Gallagher. When we were all little, our Moms were friends, so we use to play together a lot. I always enjoyed playing with Chris. He/She was a real person, not fake like Tanner. Tanner has always been the type to play with you when he/she had to, but the minute he/she thinks there is a better opportunity he/she is gone.
3. As soon as we all went to middle school, I rarely saw Tanner anymore. Tanner was too good to hang out with a geek like me. I didn't care; I had my own friends.
4. Chris and I have always remained friends. We might not always hang together, but even when Chris was with the popular kids he/she was still nice to me. Chris is just that kind of person - loyal and kind.
5. Chris hung out with the popular kids at the start of middle school, but when his/her Dad died, things changed. Chris went through a rough time. We would talk about it a lot. Chris was really hurting. He/she did not know where to go. Chris' popular friends couldn't handle Chris' grief, so they quit hanging out with him/her. They just ignored him/her. That made things worse and Chris felt more and more on the outside of things.
6. That was when Chris started to get interested in the gang life. The gang members Chris hung out with made him/her feel important and acted like they cared that his/her Dad was gone. I never got into the gang stuff and tried to get Chris to stay away, but he/she liked the loyalty the gang gave him/her. I guess I can't blame him/her.
7. The gang life turned out like I warned Chris. He/She was shot. I remember seeing him/her in the hospital. It was scary. I did not think he/she was going to live. He/She got really lucky. Chris and I talked a lot while he/she was in the hospital. Chris realized the gang life was not for him/her and got away from those people.
8. Chris proved he/she was out of the gang life when he/she testified at the trial of the guy that shot him/her. That was the hardest thing Chris ever did. I went with Chris to the trial and I have never seen him/her so scared. Chris had to relive the entire shooting. Just when things were getting better and Chris was getting stronger, the trial brought it all back and Chris started to lose it again.
9. After the trial Chris became more and more afraid. I remember seeing Chris jump at noises and hand gestures. Once a car backfired in the school parking lot and I thought Chris was going to have a heart attack. He/she jumped so high and went to hide behind a tree. It was scary. You could just see the fear in Chris' face. A lot of people came up to Chris to see if he/she was ok. They were afraid for Chris. That is except for Tanner. Tanner laughed out loud, pointed fingers and mimicked Chris. Tanner and Ronnie Roads would make pretend noises and then laugh as they pretended to be afraid. It was awful.
10. I remember Tanner coming up behind Chris in the hall. You know when you walk quietly behind someone so they don't know you're there. That is what Tanner did, but just as he/she reached Chris he/she slammed his/her book into the wall making the loudest noise. As Chris was having a panic attack Tanner and his/her buddies would laugh some more. I knew Tanner was bad at the age of 5, and nothing has changed.
11. A couple of weeks before Tanner was shot, Chris was getting more and more depressed. Chris was starting to be afraid to leave the house. Chris told me people were making gang signs at him/her all the time and he/she was afraid someone would finish the job this time. Chris wanted to stay at home from school, but his/her Mom would not allow that.
12. Since Chris was required to go to school, he/she started to carry a gun. Chris told me it was unloaded and even showed me it had no bullets in it. Chris was just afraid someone would jump him/her and there would be

nothing to scare them away. Chris said, "I may not be able to fire this thing, but at least I can scare them." I never thought the gun was loaded.

13. On the day Tanner was shot, I was in the car with Chris and a couple of other friends. We were leaving school for the day and were almost out of the parking lot when I remembered I needed a book that was in my locker. We were coming back around so I could get it, and there was Tanner walking with Ronnie and the rest of their basketball groupies. Tanner looked right at Chris and flashed a gang sign. I don't know what the sign meant or why Tanner did it, but I knew right away it was a gang sign.

14. The look on Chris' face was pure terror. I tried to calm him/her down, but it was like I was not even in the same car. Chris could not hear me. Chris reached in his/her shirt and pulled out the gun. At first I was not scared because I thought the gun was not loaded. I was sure Chris was only going to scare Tanner. I was wrong - Chris fired the gun. It was so loud I could not believe it. I saw Tanner fall to the ground. I was scared.

15. Chris sat back in the car and said; "Now maybe Tanner will leave me alone." It was still like Chris was not in the car. It was not until I saw Chris the next day at juvenile detention that the real Chris was there. Chris kept saying "I can't believe I did that. I did not mean to hurt Tanner. I just wanted him/her to leave me alone."

16. Since the shooting, Chris has put more work into school. Chris is getting all A's at his/her new school now. Chris is also going to see the psychologist every week and really seems to be helping. Chris will still jump with a loud noise, but he/she does not run and hide and his/her actions seem more normal. I think Chris is going to be ok as long as he/she can stay in school and keep seeing the psychologist. I don't know what will happen if Chris ends up in prison.

Peyton Lightner

Signed and Sworn this ____ day of _____, 2002.

Notary Public

My commission expires:

13-1203. Assault; classification

A. A person commits assault by:

1. Intentionally, knowingly or recklessly causing any physical injury to another person; or
2. Intentionally placing another person in reasonable apprehension of imminent physical injury; or
3. Knowingly touching another person with the intent to injure, insult or provoke such person.

B. Assault committed intentionally or knowingly pursuant to subsection A, paragraph 1 is a class 1 misdemeanor. Assault committed recklessly pursuant to subsection A, paragraph 1 or assault pursuant to subsection A, paragraph 2 is a class 2 misdemeanor. Assault committed pursuant to subsection A, paragraph 3 is a class 3 misdemeanor.

13-1204. Aggravated assault; classification; definition

A. A person commits aggravated assault if the person commits assault as defined in section 13-1203 under any of the following circumstances:

1. If the person causes serious physical injury to another.
2. If the person uses a deadly weapon or dangerous instrument.
3. If the person commits the assault after entering the private home of another with the intent to commit the assault.
4. If the person is eighteen years of age or older and commits the assault upon a child the age of fifteen years or under.
5. If the person commits the assault knowing or having reason to know that the victim is a peace officer, or a person summoned and directed by the officer while engaged in the execution of any official duties.
6. If the person commits the assault knowing or having reason to know the victim is a teacher or other person employed by any school and the teacher or other employee is upon the grounds of a school or

grounds adjacent to the school or is in any part of a building or vehicle used for school purposes, or any teacher or school nurse visiting a private home in the course of the teacher's or nurse's professional duties, or any teacher engaged in any authorized and organized classroom activity held on other than school grounds.

7. If the person meets both of the following conditions:

(a) Is imprisoned or otherwise subject to the custody of any of the following:

(i) The state department of corrections.

(ii) The department of juvenile corrections.

(iii) A law enforcement agency.

(iv) A county or city jail or an adult or juvenile detention facility of a city or county.

(v) Any other entity that is contracting with the state department of corrections, the department of juvenile corrections, a law enforcement agency, another state, any private correctional facility, a county, a city or the federal bureau of prisons or other federal agency that has responsibility for sentenced or unsentenced prisoners.

(b) Commits an assault knowing or having reason to know that the victim is acting in an official capacity as an employee of any of the entities prescribed by subdivision (a) of this paragraph.

8. If the person commits the assault while the victim is bound or otherwise physically restrained or while the victim's capacity to resist is substantially impaired.

9. If the person commits the assault knowing or having reason to know that the victim is a fire fighter, fire investigator, fire inspector, emergency medical technician or paramedic engaged in the execution of any official duties, or a person summoned and directed by such individual while engaged in the execution of any official duties.

10. If the person commits the assault knowing or having reason to know that the victim is a licensed health care practitioner who is certified or licensed pursuant to title 32, chapter 13, 15, 17 or 25, or a person summoned and directed by the licensed health care practitioner while engaged in the person's professional duties. The provisions of this paragraph do not apply if the person who commits the assault

is seriously mentally ill, as defined in section 36-550, or is afflicted with Alzheimer's disease or related dementia.

11. If the person commits assault by any means of force which causes temporary but substantial disfigurement, temporary but substantial loss or impairment of any body organ or part, or a fracture of any body part.

12. If the person commits assault as prescribed by section 13-1203, subsection A, paragraph 1 or 3 and the person is in violation of an order of protection issued against the person pursuant to section 13-3602 or 13-3624.

13. If the person commits the assault knowing or having reason to know that the victim is a prosecutor.

B. Except pursuant to subsections C and D of this section, aggravated assault pursuant to subsection A, paragraph 1 or 2 of this section is a class 3 felony except if the victim is under fifteen years of age in which case it is a class 2 felony punishable pursuant to section 13-604.01. Aggravated assault pursuant to subsection A, paragraph 11 of this section is a class 4 felony. Aggravated assault pursuant to subsection A, paragraph 7 of this section is a class 5 felony. Aggravated assault pursuant to subsection A, paragraph 3, 4, 5, 6, 8, 9, 10, 12 or 13 of this section is a class 6 felony.

C. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of this section committed on a peace officer while the officer is engaged in the execution of any official duties is a class 2 felony. Aggravated assault pursuant to subsection A, paragraph 11 of this section committed on a peace officer while the officer is engaged in the execution of any official duties is a class 3 felony. Aggravated assault pursuant to subsection A, paragraph 5 of this section resulting in any physical injury to a peace officer while the officer is engaged in the execution of any official duties is a class 5 felony.

D. Aggravated assault pursuant to:

1. Subsection A, paragraph 1 or 2 of this section is a class 2 felony if committed on a prosecutor.

2. Subsection A, paragraph 11 of this section is a class 3 felony if committed on a prosecutor.

3. Subsection A, paragraph 13 of this section is a class 5 felony if the assault results in a physical injury to a prosecutor.

E. For the purposes of this section, "prosecutor" means county attorney, municipal prosecutor or attorney general and an assistant or deputy county attorney, municipal prosecutor or attorney general.

13-702. Sentencing

C. For the purpose of determining the sentence pursuant to section 13-710 and subsection A of this section, the court shall consider the following aggravating circumstances:

1. Infliction or threatened infliction of serious physical injury, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-604.
2. Use, threatened use or possession of a deadly weapon or dangerous instrument during the commission of the crime, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-604.
3. If the offense involves the taking of or damage to property, the value of the property so taken or damaged.
4. Presence of an accomplice.
5. Especially heinous, cruel or depraved manner in which the offense was committed.
6. The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.
7. The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.
8. At the time of the commission of the offense, the defendant was a public servant and the offense involved conduct directly related to the defendant's office or employment.
9. The physical, emotional and financial harm caused to the victim or, if the victim has died as a result of the conduct of the defendant, the emotional and financial harm caused to the victim's immediate family.

10. During the course of the commission of the offense, the death of an unborn child at any stage of its development occurred.

11. The defendant was previously convicted of a felony within the ten years immediately preceding the date of the offense. A conviction outside the jurisdiction of this state for an offense that if committed in this state would be punishable as a felony is a felony conviction for the purposes of this paragraph.

12. The defendant was wearing body armor as defined in section 13-3116.

13. The victim of the offense is sixty-five or more years of age or is a disabled person as defined by section 38-492.

14. The defendant was appointed pursuant to title 14 as a fiduciary and the offense involved conduct directly related to the defendant's duties to the victim as fiduciary.

15. Evidence that the defendant committed the crime out of malice toward a victim because of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3 or because of the defendant's perception of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3.

16. The defendant was convicted of a violation of section 13-1102, section 13-1103, section 13-1104, subsection A, paragraph 3 or section 13-1204, subsection A, paragraph 1 or 2 arising from an act that was committed while driving a motor vehicle and the defendant's alcohol concentration at the time of committing the offense was 0.15 or more. For the purposes of this paragraph, "alcohol concentration" has the same meaning prescribed in section 28-101.

17. Lying in wait for the victim or ambushing the victim during the commission of any felony.

18. The offense was committed in the presence of a child and any of the circumstances exist that are set forth in section 13-3601, subsection A.

19. Any other factor that the court deems appropriate to the ends of justice.

D. For the purpose of determining the sentence pursuant to section 13-710 and subsection A of this section, the court shall consider the following mitigating circumstances:

1. The age of the defendant.

2. The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution.
3. The defendant was under unusual or substantial duress, although not such as to constitute a defense to prosecution.
4. The degree of the defendant's participation in the crime was minor, although not so minor as to constitute a defense to prosecution.
5. Any other factor that the court deems appropriate to the ends of justice.

In determining what sentence to impose, the court shall take into account the amount of aggravating circumstances and whether the amount of mitigating circumstances is sufficiently substantial to call for the lesser term. If the court finds aggravating circumstances and does not find any mitigating circumstances, the court shall impose an aggravated sentence.

E. The court in imposing a sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.

13-501. Persons under eighteen years of age; felony charging; definitions

A. The county attorney shall bring a criminal prosecution against a juvenile in the same manner as an adult if the juvenile is fifteen, sixteen or seventeen years of age and is accused of any of the following offenses:

1. First degree murder in violation of section 13-1105.
2. Second degree murder in violation of section 13-1104.
3. Forcible sexual assault in violation of section 13-1406.
4. Armed robbery in violation of section 13-1904.
5. Any other violent felony offense.

6. Any felony offense committed by a chronic felony offender.

7. Any offense that is properly joined to an offense listed in this subsection.

B. Except as provided in subsection A of this section, the county attorney may bring a criminal prosecution against a juvenile in the same manner as an adult if the juvenile is at least fourteen years of age and is accused of any of the following offenses:

1. A class 1 felony.

2. A class 2 felony.

3. A class 3 felony in violation of any offense in chapters 10 through 17 or chapter 19 or 23 of this title.

4. A class 3, 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.

5. Any felony offense committed by a chronic felony offender.

6. Any offense that is properly joined to an offense listed in this subsection.

C. A criminal prosecution shall be brought against a juvenile in the same manner as an adult if the juvenile has been accused of a criminal offense and has a historical prior felony conviction.

D. At the time the county attorney files a complaint or indictment the county attorney shall file a notice stating that the juvenile is a chronic felony offender. Subject to subsection E of this section, the notice shall establish and confer jurisdiction over the juvenile as a chronic felony offender.

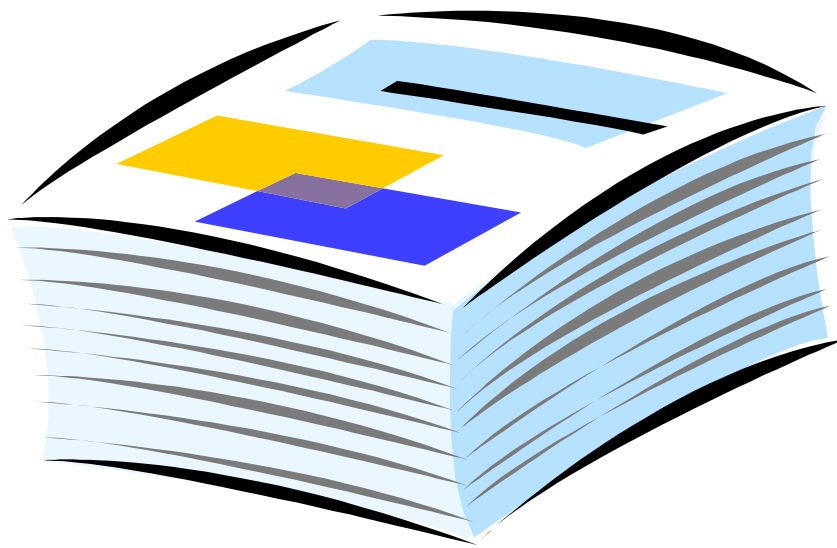
E. Upon motion of the juvenile the court shall hold a hearing after arraignment and before trial to determine if a juvenile is a chronic felony offender. At the hearing the state shall prove by a preponderance of the evidence that the juvenile is a chronic felony offender. If the court does not find that the juvenile is a chronic felony offender, the court shall transfer the juvenile to the juvenile court pursuant to section 8-302. If the court finds that the juvenile is a chronic felony offender or if the juvenile does not file a motion to determine if the juvenile is a chronic felony offender, the criminal prosecution shall continue.

F. Except as provided in section 13-921, a person who is charged pursuant to this section shall be sentenced in the criminal court in the same manner as an adult for any offense for which the person is convicted.

G. For the purposes of this section:

1. "Accused" means a juvenile against whom a complaint, information or indictment is filed.
2. "Chronic felony offender" means a juvenile who has had two prior and separate adjudications and dispositions for conduct that would constitute a historical prior felony conviction if the juvenile had been tried as an adult.
3. "Forcible sexual assault" means sexual assault pursuant to section 13-1406 that is committed without consent as defined in section 13-1401, paragraph 5, subdivision (a).
4. "Historical prior felony conviction" has the same meaning prescribed in section 13-604.
5. "Other violent felony offenses" means:
 - (a) Aggravated assault pursuant to section 13-1204, subsection A, paragraph 1.
 - (b) Aggravated assault pursuant to section 13-1204, subsection A, paragraph 2 involving the use of a deadly weapon.
 - (c) Drive by shooting pursuant to section 13-1209.
 - (d) Discharging a firearm at a structure pursuant to section 13-1211.

POSSIBLE EXHIBITS
AND ADDITIONAL
INFORMATION



CURRICULUM VITAE

NAME: Dr. Dana Hughes, Ph.D.

EDUCATION: B.A. University of Arizona, 1995
M.A. Arizona State University, 1997
Ph.D. University of Arizona, 2001
Major: Clinical Psychology

LICENSURE: Licensed as a Psychologist (License # 4430)
By the State of Arizona, Board of Psychologist Examiners
National Register of Health Service Providers in Psychology Registrant
(Registrant # 48599)

PROFESSIONAL ORGANIZATION MEMBERSHIP:

American Psychological Association
Arizona Psychological Association
American Psychology-Law Society

CLINICAL AND FORENSIC EXPERIENCE:

2001 - present Clinical Psychologist,
Circle of Hope Children's Group
Home, Tucson, AZ
2001 - present Private Consultant and Therapist
1998 Clinical Psychology Associate
(Major: Clinical Psychology)
Northeast Hospital, Tucson, AZ
(Non-APA Approved Internship)
1997 Research Intern
Blackwood Forensic Institute
Casa Grande, AZ

ACADEMIC APPOINTMENTS:

2001 Instructor in Psychology and Human Behavior
Psychology Department
University of Arizona (Spring Semester)
2000 Co-taught Introduction to Psychology
Psychology Department
University of Arizona (Fall Semester)

2000

Co-taught Use of Statistics in Psychology
Psychology Department
University of Arizona (Spring Semester)

PUBLICATIONS:

- Hughes, D. (2002). Post-traumatic Stress Disorder: Assessment, Differential Diagnosis and Evaluation, *Journal of Forensic Psychology Practice*, 124, 23-25.
- Hughes, D. and Blanchend, S.M. (2002). Preventing Child Abuse and Child Aggression. *Archives of Psychological Behavior*, 11, 267-278.
- Bristow, A., Jenkins, D., and Hughes, D. (2001). Evaluating Social Skills of Children. *Child Behavior Journal*, 2, 315-322.
- Jordan, A.D., Alpert, J., Bricklin, P., and Hughes, D. (2000). Empirical Research on Child Abuse Treatment: A Report. *Irish Journal of Psychology*, 19, 68-81.
- Hughes, D., Goodwin, S. and Alpert, J. (2000). A Comparison of Mothers of Adolescent Victims, *Journal of Family Psychology*, 6(1), 3-11.

Dr. Dana Hughes

150 W. River Road
Tucson, AZ 85705

June 2, 2002

Attorneys for Chris Smith
100 N. Main Street
Tucson, AZ 85701

Re: State v. Smith

Dear Attorneys for Chris Smith:

This is the report that you requested regarding Chris Smith. Specifically, I was asked to evaluate Chris to shed light on whether Chris had any psychiatric problems and his/her mental state at the time of committing the aggravated assault charge to which s/he pleaded guilty. I met with Chris for a total of 3 hours, 2 hours in February 2002, and 1 hour in March 2002. In addition to the interviews with Chris I also reviewed the following items:

1. Chris Smith's school records;
2. Medical reports from when Chris Smith was shot on October 17, 1999.
3. The Pre-Sentence Report from when Chris Smith was shot and victimized.

Clinical Presentation

Chris's clinical presentation was within normal limits. S/He did not show any signs of an acute, disabling emotional disorder. In the interview, Chris did not seem either depressed or extremely happy. Chris behaved normally and was pleasant and cooperative. Chris communicated in a clear, coherent manner. Chris certainly did not try to exaggerate his/her emotional problem, instead s/he tended to down-play the emotions, which resulted from being shot.

Personal History

Chris Smith is 17 years old. S/He was born on 7-4-84 in Tucson, AZ. Chris lives with his/her mother in Tucson. Chris attended Eldorado High School and is currently finishing his high school studies at CAPE. Chris' father died when Chris was in the 7th grade.

Chris stated that when s/he was young, Tanner Gallagher was his/her best friend. Chris said they played together all the time when young. Chris said that when his/her father died that everything changed. Chris' interest in school activities dropped and so did his/her grades. Chris also began seeing less and less of Tanner although they remained friends until about 2 years ago when they stopped talking. Chris said that he/she began to get involved in gang activity at that time because they accepted him/her "with no questions asked."

Chris' description of being shot and Associated Medical Problems

On October 17, 1999, Chris was a victim of a shooting when a rival gang member shot him/her. The injuries Chris received were serious but physically s/he recovered.

Available medical records indicate that Chris was taken to Kino Hospital for treatment and remained in the hospital for about 1 week. Chris reported that the injury was very painful. Chris denied ever being referred for any type of counseling or mental health evaluation while hospitalized to see whether s/he was recovering from his/her injuries.

Psychological Symptoms of Being Shot

The 1999 shooting clearly is an “extreme traumatic stressor” as required by the diagnosis of Posttraumatic Stress Disorder contained in the Diagnostic and Statistical Manual, 4th Edition. (DSM IV) Chris reported that immediately after the shooting s/he began having nightmares about being shot and shooting people. Chris said after the shooting that it felt like s/he constantly “had to watch his/her back.” Chris began pacing and would wake up in a sweat at night so much s/he actually had to get up and towel off and change the sheets. S/He also recalled that s/he had to testify at the trial of the shooter and that brought up all those feelings of terror again. Chris remembers most of the details of the shooting, but states some of the details remain “fuzzy”. These symptoms can’t be accounted for by any type of head injury.

Chris reported that since the shooting that s/he has had severe reactions to loud noises. In fact, one time Chris reported that upon hearing a loud noise s/he threw him/her self to the ground, fearing that he/she had been shot. Chris had these extreme reactions to the throwing of gang signs also. Chris further reported that in December, 2000 death was just around the corner.

Chris’ Description of Shooting Tanner

Chris stated that he/she had always liked and admired Tanner, even though they had grown apart. Chris felt that Tanner had it all in school - Tanner was the Mr/Ms Popular. Chris felt that would be great and admired Tanner.

Professional Fees

My hourly rate for professional services rendered in this case is \$200.00 per hour for all time spent examining the subject, evaluating the subject’s psychiatric state and preparing this report. Please remit \$1000.00 for services performed to date. If you need me to testify in this case, my hourly rate is \$300.00 per hour for in-court testimony and all time spent preparing to testify, with a minimum of eight hours.

Opinion

Although Chris may have well have suffered from emotional disturbance before being shot, my professional opinion is that Chris suffers from Posttraumatic Stress Disorder as defined in the DSM-IV. After being shot, Chris began to develop a number of emotional difficulties frequently associated with traumatic experiences. I believe Chris developed PTSD including having frequent nightmares, a severe startle reflex in acute situations of surprise or stress. S/he developed extreme anxiety over time, which eventually lead to a feeling that death was just around the corner. S/he became paranoid and over-reacted to any loud noise or gang sign. I believe that Chris’ PTSD symptoms made him/her act without thinking to a throwing of a gang sign.

Thank you for this opportunity to consult with you on this fascinating case.

Respectfully Submitted,

Dr. Dana Hughes, PhD.

309.81 Posttraumatic Stress Disorder

Diagnostic criteria for 309.81 Posttraumatic Stress Disorder

1. The person has been exposed to a traumatic event in which both of the following were present:
 - (1) the person experienced an event or events that involved actual or threatened death or serious injury.
 - (2) the person's response involved intense fear, helplessness, or horror.
2. The traumatic event is persistently re-experienced in one (or more) of the following ways:
 - (1) recurrent and intrusive distressing recollections of the event, including images, thoughts, or perceptions.
 - (2) recurrent distressing dreams of the event.
 - (3) acting or feeling as if the traumatic event were recurring (includes a sense of reliving the experience, illusions, hallucinations, and dissociative flashback episodes, including those that occur on awakening or when intoxicated).
 - (4) intense psychological distress at exposure to internal or external cues that symbolize or resemble an aspect of the traumatic event
 - (5) physiological reactivity on exposure to internal or external cues that symbolize or resemble an aspect of the traumatic event
3. Persistent avoidance of stimuli associated with the trauma and numbing of general responsiveness (not present before the trauma), as indicated by three (or more) of the following:
 - (1) efforts to avoid thoughts, feelings, or conversations associated with the trauma
 - (2) efforts to avoid activities, places, or people that arouse recollections of the trauma
 - (3) inability to recall an important aspect of the trauma
 - (4) markedly diminished interest or participation in significant activities
 - (5) feeling of detachment or estrangement from others
 - (6) restricted range of affect (e.g., does not expect to have a career, marriage, children or a normal life span)
4. Persistent symptoms of increased arousal (not present before the trauma), as indicated by two (or more) of the following:
 - (1) difficulty falling or staying asleep
 - (2) irritability or outbursts of anger
 - (3) difficulty concentrating
 - (4) hyper-vigilance
 - (5) exaggerated startle response
5. Duration of the disturbance (symptoms in Criteria B, C, and D) is more than 1 month.
6. The disturbance causes clinically significant distress or impairment in social, occupational, or other important areas of functioning.

Diagnostic Features

The essential feature of Posttraumatic Stress Disorder is the development of characteristic symptoms following exposure to an extreme traumatic stressor involving direct personal experience of an event that involves actual or threatened death or serious injury. (Criterion A1). The person's response to the event must involve intense fear, helplessness, or horror (Criterion A2). The characteristic symptoms resulting from the exposure to the extreme trauma include persistent re-experiencing of the traumatic event (Criterion B), persistent avoidance of stimuli associated with the trauma and numbing of general responsiveness (Criterion C), and persistent symptoms of increased arousal (Criterion D). The full symptom picture must be present for more than 1 month (Criterion E), and the disturbance must cause clinically significant distress or impairment in social, occupational, or other important areas of functioning (Criterion F).

Traumatic events that are experienced directly include, but are not limited to, military combat, violent personal assault (sexual assault, physical attack, robbery, mugging), being kidnapped, being taken hostage, terrorist attack, torture, incarceration as a prisoner of war or in a concentration camp, natural or manmade disasters, severe automobile accidents, or being diagnosed with a life-threatening illness.

The traumatic event can be re-experienced in various ways. Commonly the person has recurrent and intrusive recollections of the event (Criterion B1) or recurrent distressing dreams during which the event can be replayed or otherwise represented (Criterion B2). In rare instances, the person experiences dissociative states that last from a few seconds to several hours, or even days, during which components of the event are relived and the person behaves as though experiencing the event at that moment (Criterion B3). These episodes, often referred to as "flashbacks," are typically brief but can be associated with prolonged distress and heightened arousal. Intense psychological distress (Criterion B4) or physiological reactivity (Criterion B5) often occurs when the person is exposed to triggering events that resemble or symbolize an aspect of the traumatic event (e.g., anniversaries of the traumatic event; cold, snowy weather or uniformed guards for survivors of death camps in cold climates; hot, humid weather for combat veterans of the South Pacific; entering any elevator for a woman who was raped in an elevator).

Stimuli associated with the trauma are persistently avoided. The person commonly makes deliberate efforts to avoid thoughts, feelings, or conversations about the traumatic event (Criterion C1) and to avoid activities, situations, or people who arouse recollections of it (Criterion C2). This avoidance of reminders may include amnesia for an important aspect of the traumatic event (Criterion C3). Diminished responsiveness to the external world, referred to as "psychic numbing" or "emotional anesthesia," usually begins soon after the traumatic event. The individual may complain of having markedly diminished interest or participation in previously enjoyed activities (Criterion C4), of feeling detached or estranged from other people (Criterion C5), or of having markedly reduced ability to feel emotions (especially those associated with intimacy and tenderness)(Criterion C6). The individual may have a sense of a foreshortened future (e.g., not expecting to have a career, marriage, children, or a normal life span) (Criterion C7).

The individual has persistent symptoms of anxiety or increased arousal that were not present before the trauma. These symptoms may include difficulty falling or staying asleep that may be due to recurrent nightmares during which the traumatic event is relived (Criterion D1), hyper-vigilance (Criterion D4), and exaggerated startle response (Criterion D5). Some individuals report irritability or outbursts of anger (Criterion D2) or difficulty concentrating or completing tasks (Criterion D3).

Specifiers

The following specifiers may be used to specify onset and duration of the symptoms of Posttraumatic Stress Disorder:

Acute. This specifier should be used when the duration of symptoms is less than 3 months.

Chronic. This specifier should be used when the symptoms last 3 months or longer.

With Delayed Onset. This specifier indicates that at least 6 months have passed between the traumatic event and the onset of the symptoms.

Course

Posttraumatic Stress Disorder can occur at any age, including childhood. Symptoms usually begin within the first 3 months after the trauma, although there may be a delay of months, or even years, before symptoms appear. The symptoms of the disorder and the relative predominance of re-experiencing, avoidance, and hyper-arousal symptoms may vary over time. Duration of the symptoms varies, with complete recovery occurring within 3 months in approximately half of cases, with many others having persisting symptoms for longer than 12 months after the trauma. In some cases, the course is characterized by a waxing and waning of symptoms. Symptom reactivation may occur in response to reminders of the original trauma, life stressors, or new traumatic events.

The severity, duration, and proximity of an individual's exposure to the traumatic event are the most important factors affecting the likelihood of developing this disorder. There is some evidence that social supports, family history, childhood experiences, personality variables, and preexisting mental disorders may influence the development of Posttraumatic Stress Disorder. This disorder can develop in individuals without any predisposing conditions, particularly if the stressor is especially extreme.

Familial Pattern

There is evidence of a heritable component to the transmission of Posttraumatic Stress Disorder. Furthermore, a history of depression in first-degree relatives has been related to an increased vulnerability to developing Posttraumatic Stress Disorder.

Differential Diagnosis

In Posttraumatic Stress Disorder, the stressor must be of an extreme (i.e., life-threatening) nature. In contrast, in **Adjustment Disorder**, the stressor can be of any severity. The diagnosis of Adjustment Disorder is appropriate both for situations in which the response to an extreme stressor does not meet the criteria for Posttraumatic Stress Disorder (or another specific mental disorder) and for situations in which the symptom pattern of Posttraumatic Stress Disorder occurs in response to a stressor that is not extreme (e.g., Spouse leaving, being fired).

Not all psychopathology that occurs in individuals exposed to an extreme stressor should necessarily be attributed to Posttraumatic Stress Disorder. **Symptoms of avoidance, numbing, and increased arousal that are present before exposure to the stressor** do not meet criteria for the diagnosis of Posttraumatic Stress Disorder and require consideration of other diagnoses (e.g., a Mood Disorder or another Anxiety Disorder). Moreover, if the symptom response pattern to the extreme stressor meets criteria for **another mental disorder** (e.g., Brief Psychotic Disorder, Conversion Disorder, Major Depressive Disorder), these diagnoses should be given instead of, or in addition to, Posttraumatic Stress Disorder.

Malingering should be ruled out in those situations in which financial remuneration and determinations of criminal culpability play a role.

SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF ANYWHERE

THE STATE OF ARIZONA,)
Plaintiff,) CR-20020000

vs.) PLEA AGREEMENT

CHRIS SMITH,) **PROBATION AVAILABLE PLEA**
Defendant(s.))

The State of Arizona and the Defendant hereby agree to the following disposition of this case:

Plea: The Defendant, CHRIS SMITH, agrees to plead guilty to the charge of:

COUNT ONE: AGGRAVATED ASSAULT, DEADLY WEAPON / DANGEROUS INSTRUMENT, A NON-DANGEROUS, NON-REPETITIVE CLASS THREE FELONY

On or about the 17th day of October, 2001, CHRIS SMITH assaulted TANNER GALLAGHER with a deadly weapon or dangerous instrument, to wit: a gun, in violation of A.R.S. §§ 13-1204 (A)(2) and (B), 13-603, 13-604 (I), (P), 13-701, 13-702, 13-801, 13-804 and 13-811.

Terms: On the following understanding, terms and conditions:

1. If the Defendant is sentenced to prison by the Court, the following statutory sentencing ranges apply:

- 1. Substantial Mitigated Sentence: 2.00 years
- 2. Minimum Sentence: 2.25 years
- 3. Presumptive Sentence: 3.50 years
- 4. Maximum Sentence: 7.00 years
- 5. Substantial Aggravated Sentence: 8.75 years

EARLY RELEASE ELIGIBILITY: If sentenced to prison, the Defendant must serve approximately 85 percent of his/her sentence before he/she is eligible for release on any basis. Upon completion of the prison sentence, the Defendant shall be placed on community supervision. The amount of community supervision shall be one day for every 7 days of the prison sentence imposed. Violation of community supervision could result in serving that time in prison.

PROBATION: Whether or not probation shall be granted is within the sole discretion of the sentencing judge. This agreement shall not be construed as a recommendation for probation. As

a condition of probation the defendant may be incarcerated 12 months in the County Jail. If granted probation, the Defendant may be assessed a monthly probation fee as a condition of probation.

A class 3 felony: the term of probation is 5 years;

FINES/ASSESSMENTS: The Court may require the defendant to pay a fine of \$150,000 which includes a 80% surcharge for a total amount of \$270,000. If the defendant is unable to pay any fine or assessment in full on the day of sentencing, he/she shall pay a one time \$25.00 time payment charge.

RESTITUTION: The Defendant agrees to make restitution to TANNER GALLAGHER in the amount not to exceed \$100,000.

2. That the following charges or allegations are dismissed, or if not yet filed, shall not be brought against the Defendant:

All other charges/allegations in this cause number. This does not include cases pending, including forfeiture actions, in any City Court or Justice Court arising from this arrest or incident and does not prevent the State from proceeding on those matters on the basis of double jeopardy / collateral estoppel.

3. Other terms and conditions:

Any interlineation or alteration of this printed plea agreement which is not initialed by the undersigned Deputy County Attorney renders this plea agreement null and void.

FORFEITURE: This plea agreement does not contemplate or include a forfeiture or the forbearance of a forfeiture as a part of this criminal proceeding.

OTHER FORFEITURES: Nothing in this plea agreement shall be construed or applied to affect the outcome of any forfeiture proceeding instituted by any local, State, or Federal jurisdiction or agency arising out of or connected with the facts giving rise to this criminal proceeding, unless a statute expressly provides to the contrary. There has been no agreement or understanding, express or implied, concerning any such forfeiture proceeding that is either already completed, now pending, or which could be instituted in the future.

4. That this agreement, unless rejected or withdrawn, serves to amend the complaint, indictment, or information to charge the offense to which the Defendant pleads, without the filing of any additional pleading.

5. The parties agree that the Court shall accept this plea agreement at the time of the Defendant's plea. The State's participation in this plea agreement is conditional upon the Court's acceptance of the plea at the change of plea hearing and the Defendant's appearance at sentencing. ***If, after accepting the plea, the Court concludes that any of the terms or provisions of this agreement are unacceptable, both parties shall be given the opportunity to withdraw from this agreement, or the Court can reject the agreement.*** The Defendant avows that this document bears his/her true name and that he/she has no prior felony convictions other than those set forth in any Allegation of Prior Conviction filed in this case. This agreement is conditional upon these representations. Should either of these representations be inaccurate, the Court may reject the agreement, or the State may withdraw from this agreement should the Defendant be charged with or commit a crime between the time of this agreement and the time for sentencing in this cause. Should

the Court reject this agreement, or the State withdraw from the agreement, the Defendant hereby waives all claims of double jeopardy.

6. If the Defendant is charged with a felony, that he/she hereby gives up his/her right to a preliminary hearing or other probable cause determination on the charges to which he/she pleads. In the event the Court rejects the plea, or the State withdraws the plea, the Defendant hereby gives up his/her right to a preliminary hearing or other probable cause determination on the original charges.

7. That unless the plea is rejected or withdrawn, the Defendant hereby gives up any and all motions, defense, objections, appeals, or requests he/she has made or raised, or could assert hereafter, to or against any matters preceding the Court's entry of judgment and imposition of sentence. The Defendant acknowledges and agrees that he/she may not appeal from the judgement entered or sentence imposed as a result of this plea agreement. See A.R.S. § 13-4033. In the event the Defendant obtains a new trial or a resentencing in this matter, the parties agree the State is relieved of its obligations previously enumerated under subdivision two of this agreement dealing with the dismissal of pending charges and other charges not yet filed. Suspended charges dismissed as a result of this agreement shall be reinstated at the request of the State, and the State shall be free to file any charges not yet filed as of the date of this agreement.

8. **WAIVER OF RIGHTS:** The Defendant understands the following rights and that he/she gives up such rights by pleading guilty:

- a. his/her right to a jury trial;
- b. his/her right to confront the witnesses against him/her and cross-examine them;
- c. his/her right to present evidence and call witnesses in his/her defense, knowing that the State will compel witnesses to appear and testify;
- d. his/her right at trial to be represented by counsel appointed free of charge, if he/she cannot afford to hire his/her own;
- e. his/her right to remain silent, to refuse to be a witness against him/herself, and to be presumed innocent until proven guilty beyond a reasonable doubt; and
- f. his/her right to a direct appeal.

9. In the event the Defendant appeals as to any matter preceding the judgment and/or sentence in this matter, the State is relieved of the obligations previously enumerated under subdivision 2 of this agreement dealing with the dismissal of pending charges and other charges not yet filed. Such pending charges dismissed as a result of this agreement shall be reinstated at the request of the State and the State shall be free to file any charges not yet filed as of the date of this agreement.

10. Nothing in this plea agreement shall be construed to affect the outcome of any forfeiture action: (1) instituted by any State or political subdivision thereof or the United States government or any department or agency thereof; (2) arising out of or connected with the facts of this action, unless (3) a statute expressly provides to the contrary. There has been no agreement or understanding, express or implied, concerning such a proceeding, pending, or which could be filed, unless expressly stated to the contrary herein.

11. That this written plea agreement contains all the terms and conditions of this plea agreement; and the defendant understands that any promises made by anyone, including his/her lawyer, that are not contained within this written plea agreement, are without force and effect, and are null and void. Any prediction or promise as to what the possible sentence will be is understood to be voided by this agreement.

12. That I, CHRIS SMITH, am not on or under the influence of any drug, medication, liquor, or other intoxicant, and that I, CHRIS SMITH, am at this time fully capable of understanding the terms and conditions of this plea agreement, and that my agreement and plea are not the result of force, threats, assurances, or promises other than those which are contained in writing in this agreement.

I, CHRIS SMITH, have read this agreement with the assistance of counsel, understand its terms, understand the rights I give up by pleading guilty in this matter, and agree to be bound according to the provisions herein. I fully understand that if, as part of this plea bargain, I am granted probation by the Court, the terms and conditions thereof are subject to modification at any time during the period of probation in the event that I violate any written condition of my probation.

DATE

CHRIS SMITH
DEFENDANT

I have discussed this case with my client in detail and advised him/her of his/her constitutional rights and all possible defenses. I believe my client understands this plea agreement, including the range of sentence he/she faces and the constitutional rights he/she gives up by entering into this agreement. I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

DATE

DEFENDANT'S COUNSEL

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice. I affirm that reasonable efforts have been made to confer with the victim(s), where required, and reasonable efforts have been made to give the victim(s) notice of this plea, the right to be present, and an opportunity to be heard.

DATE

DEPUTY COUNTY ATTORNEY

**PRESENTENCE REPORT
THE ADULT PROBATION DEPARTMENT OF
THE SUPERIOR COURT IN ANY COUNTY**

Probation Officer: Any Probation Officer
Case No: CR-20020000

Sentencing Judge: Any Judge
Sentencing Date: TBD

PERSONAL DATA

<u>Name</u>	Smith, Chris	<u>Ethnic</u>	W	<u>Ht</u>	5'11"
<u>Address</u>	County Jail Tucson, AZ	<u>Gender</u>	M/F	<u>Wt</u>	155
<u>Phone</u>	None	<u>Msg</u>	None	<u>Hair</u>	Brown
<u>AKA</u>	None	<u>DOB</u>	7/4/84	<u>Age</u>	18
<u>ID Marks</u>	None	<u>Citizen of</u>	USA	<u>Birthplace</u>	Tucson, AZ
<u>Employer</u>	None	<u>Military History</u>	None		
<u>Occupation</u>	Student	<u>Branch</u>			
<u>Marital</u>	Single	<u>Entry Date</u>			
<u>Children</u>	None	<u>Discharge Date/Type</u>			
<u>Education</u>	11				

ARREST DATA

<u>Arrest Date</u>	10/17/01	<u>Indictment Date</u>	10/26/01
<u>Incar. Date</u>	10/17/01	<u>Information Date</u>	None
<u>Juv Transfer</u>	None-Mandatory adult filing	<u>Rel. Date/Status</u>	In custody \$25,000 bond
<u>Arrest Agency</u>	TPD	<u>Days Jail This Arrest</u>	To be determined
<u>Agency #</u>	0110170000	<u>Guilty By/Date</u>	Plea 10/28/02
<u>Codefendants/Dispositions</u>		<u>Defense Atty</u>	Any Attorney, Apptd., \$800 fee
		<u>Prosecutor</u>	Any Deputy County Attorney

FAMILY DATA

<u>Spouse/Relatives/Children</u>				
<u>Name</u>	<u>Relation</u>	<u>Age</u>	<u>Address</u>	<u>Phone</u>
Raymond Smith	Father	--	Deceased (1997)	--
Mary Smith	Mother	40	Tucson, AZ	Unknown

CR-20010224 10/17/01

Amended Count One, Aggravated Assault with a Deadly
Weapon/Dangerous Instrument, to wit: a handgun.
Nondangerous; Nonrepetitive.
ARS § 13-1204.

F3

1305

PENALTY:

- Up to 5 years probation available,
or
· PRISON RANGE

2
substant mit 2.5
mitigated 3.5
presumptive 7
aggravated 8.75
substant agg

and

The term of community supervision shall be for a period
equal to one day for every seven days of the sentence
imposed

- Up to \$150,000 fine (plus 80% surcharge) available
- \$25 fee for time payments

PLEA AGREEMENT:

All other charges and allegations in this case are
dismissed.

The defendant shall have no contact with the victim.

Restitution of economic loss to the victim in the amount not
to exceed \$ 100,000 will be required.

Pursuant to ARS §31-254(D), if the defendant's
compensation while incarcerated exceeds fifty cents per
hour and the defendant has been ordered to pay
restitution, thirty percent of the defendant's compensation
shall be expended for the Court ordered restitution.

PRESENTENCE REPORT - PART ONE

STATEMENT OF OFFENSE:

Offense: On October 17, 2001 at 3:00 p.m., several Tucson Police Department (TPD) officers were dispatched to Eldorado High School after the principal reported a student involved shooting. Upon arrival, they learned school resource officers had stopped a vehicle whose passengers were apparently involved. They also found Tucson Fire Department (TFD) paramedics treating victim Tanner Gallagher for a gun shot wound to the leg. Tanner was transported to University Medical Center (UMC) where emergency room physicians were able to stop the bleeding and removed the bullet from his leg. Tanner was hospitalized for several days, but has recovered from his/her injuries. There appears to be no permanent damage, although Tanner's treating physician would like to monitor his/her progress over the next few years.

Detectives from the TPD Assault Unit were summoned to the scene to interview the witnesses. Ronnie Roads told them he/she and the victim were leaving school when they saw car full of students drive past them. The vehicle made a U-turn and they saw the defendant leaning out of the passenger side window with a weapon in his hands. Ronnie did not believe the victim did anything to provoke the attack. Ronnie also told detectives he/she and the victim sometimes made fun of the defendant's odd behavior.

Peyton Lightner was with the defendant when the assault occurred. Peyton indicated the victim did throw a gang sign. Peyton also indicated the victim frequently ridiculed the defendant and others he/she didn't like or respect.

In a statement to police, the defendant said, "I freaked out when he/she did that. Tanner was always laughing at me. When he/she looked right at me and threw the sign, I got scared and started shooting." The defendant was arrested. Pursuant to A.R.S. 13-501, the case was filed in adult court.

Defendant's Statement: The defendant and the victim met in first grade and were best friends for many years. Their families were close and often socialized. However, Chris' father's death led to a gradual cooling of his/her relationship with the victim. The defendant said, "Tanner just didn't understand and I thought I could count on him/her. Tanner never had time for me and didn't want me around. So I just started hanging with my homies."

On the day Chris was arrested, the defendant was leaving school with some friends. Chris said, "I saw Tanner laughing at someone again and my first thought was that someone ought to teach him/her a lesson. Tanner was always mean to people he/she didn't like. Tanner thought he/she was Mr./Ms. Everything on campus. Then when I saw the sign, I freaked and shot. I just couldn't control myself."

Expressing his/her deep remorse, the defendant wished to apologize to the victim and his/her family. Chris said, "I can't believe I did this to Tanner and his/her family. I've known them since I was small. I know I can't take it back, but I hope they will find it in their hearts to forgive me."

The defendant hopes the Court will place him/her on probation. Chris would like to finish high school and attend college. Chris has always dreamed of owning his/her own business. Chris is willing to abide by any conditions of probation the Court may require.

Victim's Statement: The victim's family is requesting restitution in the amount of \$2,045.12 for expenses not covered by their insurance. A restitution affidavit was forwarded to the prosecutor. CIGNA, their insurance company, paid most of the medical expenses and is requesting \$40,000.00 in restitution.

The victim's legal representative, his/her father expressed the family's anger and rage at the defendant's conduct. He/She does not believe the defendant feels any remorse for the offense and is afraid "Chris will try it again. It was devastating to realize someone we have known since she/he was six could do this to my son/daughter. We feel so betrayed. We want Chris to serve the maximum prison time available."

In a statement to the undersigned officer, the minor victim indicated his/her life has been forever altered. Tanner is afraid to take the bus to school and wouldn't go out at night. Tanner said, "I don't believe he/she ever really got away from the gangs because he/she was always picking fights." The family plans to be present for sentencing and wishes to address the Court.

SOCIAL HISTORY:

The defendant is the only child born during his/her parents' 20 year marriage. Chris' father worked as the manager of a nationally franchised department store for many years and was able to provide his family with a stable income. Chris mother volunteered at his/her school and was active in the Parent-Teacher Organization. A medical technologist, she returned to work on a part-time basis when the defendant entered middle school. Noting his/her parents were always loving and supportive, Chris said no physical, sexual, or emotional abuse ever occurred in his/her home. Chris was particularly close to his/her father who shared his/her interest in sports and fishing.

The defendant attended local public schools and played basketball and soccer. No disciplinary problems were reported and he/she received good grades. However, Chris did admit having "two sets of friends. Most of my friends were jocks and people who don't get into trouble. But, I have known a few kids who are always getting into trouble. My parents would never let me hang with them. My father told me to drop them because they were losers and bad news. But I'd known some of them since I was eight and they were my friends."

The defendant's father was diagnosed with lung cancer in 1996 and died a year later. His/her father's prolonged suffering deeply affected Chris, but he/she refused to discuss his/her feelings with his/her mother who was deeply concerned. After Chris' father's death, the defendant's grades plummeted. She/He lost interest in sports and distanced him/herself from friends. When asked how he/she coped with his/her father's death, she/he said, "I was so depressed, but none of my old friends understood. I think they thought I was crazy. I was angry, but I was also sad. It was the bad kids I've known since I was little who accepted me with no questions asked."

Over the next few years, the defendant gradually became more interested in the gang culture. By early 2000, Chris had only associated with members of the A Street gang. Chris was sometimes truant and began to exhibit defiant behavior at school.

The defendant was seriously wounded in a gang-related shooting in October 1999. Although Chris recovered from his/her injuries and returned to school, Chris began to exhibit bizarre behavior. Records obtained from the Eldorado School District indicate his/her teachers reported severe reactions to loud noises and gang activity. Several students told a school monitor they found Chris hiding behind a trash can after witnessing another student throw a gang sign. Although they never found a weapon in his/her possession, several students reported he/she frequently had one.

When questioned about the weapon, the defendant said, "I was sure someone was going to shoot me, so I got a gun. It was so easy to find one. At first, I didn't load it. But then I got really scared and used to bring it to school fully loaded. I had to protect myself."

The defendant admits experimenting with alcoholic beverages, but said he/she did not use them regularly. The last time he/she drank alcohol was about four months ago. Chris' period of heaviest use was about two years ago when he/she drank eight beers in one evening. She/He has almost experimented with marijuana at least once, but has never become a regular user. She/He denied use of any other illegal drugs and reported no physical or mental disabilities.

COLLATERAL INFORMATION:

A teacher at the CAPE School confirmed the defendant's attendance at school. Chris entered the school on October 21, 2001 and is carrying a full senior course load. He/She has excellent work habits and actively participates in class discussions.

A review of the County Adult Detention Center discipline records reveals no major disciplinary problems.

INFORMATION NOT FOR DISCLOSURE:

Additional identifying information and/or criminal history may be contained in PART TWO of this report and is for disclosure only to the Court, the prosecutor, the defense attorney, and other authorized criminal justice agencies.

EVALUATION:

Evaluative Summary: The 18-year-old defendant is before the Court for his/her first felony offense. Chris has an extremely minimal criminal history which contains no evidence of any prior violent behavior. However, he/she still appears fascinated with the gang lifestyle and the culture of violence it glorifies. His/Her participation in this offense appears directly related to failure to remove him/herself from their influence and has caused the victim and his/her family great pain.

Should the Court place Chris on probation, the structure and discipline of the Intensive Probation Supervision (IPS) caseload would appear the only appropriate placement. The Court may wish to impose gang conditions and order him/her to participate in any substance abuse or mental health counseling which may be appropriate.

ASSESSMENTS

ARS 12-116 \$25 for time payment	\$ <u>25</u>
PROBATION FEE \$ <u>50</u> per month	\$ <u>50</u>
INITIAL ATTORNEY FEE	\$ <u>800</u>
\$60 DNA FEE	\$ <u>60</u>

RESTITUTION

VICTIMS <u>1</u> through <u>2</u>	LOSS CLAIMED	TOTAL ORDERED
<u>Legal Representative of Tanner Gallagher</u>	\$ <u>2,045.12</u>	\$ <u> </u>
<u>CIGNA of Arizona</u>	\$ <u>40,000.00</u>	\$ <u> </u>
TOTAL	\$ <u>62,045.12</u>	\$ <u> </u>

Respectfully submitted,

APPROVED BY:

Any Probation Officer, Senior Deputy
Assessment Center Services

Any Supervisor, Unit Supervisor
Assessment Center Services

November 1, 2002

dap
Sentencing Date: TBD

PART TWO

CONFIDENTIAL

**FOR DISCLOSURE ONLY TO THE COURT, PROSECUTOR,
DEFENSE ATTORNEY, AND OTHER AUTHORIZED
CRIMINAL JUSTICE AGENCIES**

ADDITIONAL IDENTIFYING INFORMATION

SSN	xxxxxxx	ADC NO	xxxxxxx
FBI NO	xxxxxxx	INS NO	xxxxxxx
<u>Driver's Lic #</u>	xxxxxxx	AZ SID	xxxxxxx

CRIMINAL HISTORY

CRIMINAL HISTORY SUMMARY

<u>CONVICTIONS</u>	FELONY 0	MISD	0	JUV	0
<u>INCARCERATIONS</u>	PRISON 0	JAIL	0		
	ESCAPE 0	OTHER	0		
<u>SUPERVISIONS</u>	PROB 0	PAROLE	0	OTHER	0

CRIMINAL HISTORY:

The defendant and local, state, and national law enforcement agencies document the following police contacts:

<u>DATE/PLACE</u>	<u>OFFENSE</u>	<u>DISPOSITION</u>
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JUVENILE:

3/5/98 Tucson, AZ	Shoplifting. The defendant and two other friends took a compact disc from a store without paying for it.	The defendant successfully completed a 6-month Diversion Program and the case was dismissed with prejudice.
10/30/98 Tucson, AZ	Minor in Possession of Alcohol. The defendant was arrested at a house party where alcohol was being served to minors.	Dismissed as De-Minimis.
9/15/99 Tucson, AZ	Criminal Damage. The defendant and several friends were caught writing gang graffiti on a school building.	The case was adjusted after the defendant completed consequences.

ADULT: None.

Other Legal Status or Detainers: None known.

Respectfully submitted,

APPROVED BY:

Any Probation Officer, Senior Deputy
Assessment Center Services

Any Supervisor, Unit Supervisor
Assessment Center Services

November 1, 2002

**PRESENTENCE REPORT
THE ADULT PROBATION DEPARTMENT OF
THE SUPERIOR COURT IN ANY COUNTY**

Probation Officer: Any Probation Officer
Case No: CR-00000000

Sentencing Judge: Any Judge
Sentencing Date: 4/11/01

PERSONAL DATA

<u>Name</u>	DOE, Peter David	<u>Education</u>	8		
<u>Address</u>	Pima County Jail Tucson, AZ 85713	<u>Ethnic</u>	H	<u>Ht</u>	5'4"
<u>Phone</u>	None	<u>Gender</u>	M	<u>Wt</u>	180
<u>AKA</u>	"Cartoon"	<u>Eyes</u>	Brown	<u>Hair</u>	Black
<u>ID Marks</u>	Tattoo: "Cartoon" across back; three dots on left hand	<u>DOB</u>	10/22/85	<u>Age</u>	16
		<u>Citizen of</u>	USA		
<u>Employer</u>	Unemployed	<u>Birthplace</u>	Tucson, AZ		
<u>Occupation</u>	Student	<u>Military History</u>	None		
		<u>Branch</u>			
<u>Marital</u>	Single	<u>Entry Date</u>			
<u>Children</u>	None	<u>Discharge Date/Type</u>			

ARREST DATA

<u>Arrest Date</u>	10/17/00	<u>Indictment Date</u>	10/31/99
<u>Incar. Date</u>	10/17/00	<u>Information Date</u>	None
<u>Juv Transfer</u>	None- Mandatory adult filing	<u>Rel. Date/Status</u>	In custody \$100,000 bond
<u>Arrest Agency</u>	TPD	<u>Days Jail This Arrest</u>	176
<u>Agency #</u>	0110170000	<u>Guilty By/Date</u>	Jury 3/1/01
		<u>Defense Atty</u>	Any Public Defender, \$400 fee
<u>Codefendants/Dispositions</u>	- None	<u>Prosecutor</u>	Any Deputy County Attorney

FAMILY DATA

Spouse/Relatives/Children

<u>Name</u>	<u>Relation</u>	<u>Age</u>	<u>Address</u>	<u>Phone</u>
John Doe	Father	Unk	Unknown	Unknown
Alma Doe	Mother	42	Tucson, AZ	"
James Doe	Brother	20	Tucson, AZ	"
Albert Doe, Jr.	Brother	19	Arizona Department of Corrections-Yuma	None

Eve Smith	G/Mother	Unk	Tucson, AZ	Unknown
Valarie Davis	G/Friend	16	Tucson, AZ	"

Defendant: DOE, Peter David
Case No: CR-00000000

☐
Sentencing Judge: Any Judge
Sentencing Date: 4/11/01

1

CASE NO.	DATE	OFFENSE/ARS CODE	CLASS	NCIC
CR-00000000	10/17/99	Count One, Aggravated Assault, Deadly Weapon/Dangerous Instrument: to wit: a handgun . Dangerous; Nonrepetitive. ARS §13-1204 (A) (2) and (B) ,13-604 (I) and (P), 13- 604.04.	F2	1314

PENALTY:

- No probation available

• PRISON RANGE

5 mitigated	7.5 presumptive	15 aggravated
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and

- The term of community supervision shall be for a period equal to one day for every seven days of the sentence imposed
- Up to \$150,000 fine (plus 77% surcharge) available
- \$20 fee for time payments

PLEA AGREEMENT:

None. The defendant was found guilty by a jury..

PRESENTENCE REPORT - PART ONE

STATEMENT OF OFFENSE:

Offense:

CR-20012171: On October 17, 1999 at 9:54 p.m., several Tucson Police Department (TPD) officers responded to the parking lot of a fast food restaurant located in the 5600 block of N. Any Road after witnesses reported a shooting. Upon arrival, TPD officers found Tucson Fire Department (TFD) paramedics treating victim Chris Smith for life threatening gun shot wounds to his/her chest and abdomen. Chris was transported to Kino Community Hospital where he/she underwent seven hours of surgery. Chris remained the hospital for one week, but has recovered from his/her injuries.

There was a high level of gang activity in the area and TPD officers saw graffiti spray painted on nearby property. The victim and his/her friends were wearing clothing favored by members of the A Street Gang. A witness reported he was standing on the corner with the victim and several other friends when a young man approached them, pulled a handgun and shot Chris Smith several times. All the witnesses indicated the shooter was wearing the colors of the B Street Gang. Although witnesses gave chase, the shooter escaped in a late model Chevrolet Monte Carlo which was parked in a nearby convenience store. They provided the police with a description of the suspect and the vehicle.

The Monte Carlo was located several hours later. A neighbor told TPD officers the owner's son had returned home at 10:15 p.m. and led them to his residence. When defendant Peter D. Doe left the house, he was detained. Witnesses positively identified him as the assailant. A .380 caliber semiautomatic pistol was found under the glove box. Doe's fingerprints were found on the weapon and forensic experts were able to confirm it was the weapon used in the assault. Doe denied any involvement in the shooting, but made no other statement. He was arrested and pursuant to A.R.S. 13-501, the case was transferred to adult court.

Defendant's Statement:

CR-000000: The defendant continues to deny he shot the victim. Although he admitted membership in the B Street Gang, he said, " I was with my girlfriend when this happened. I let my friend borrow that car, but I won't tell you his name because I'm not a snitch. I'm innocent. All the witnesses lied and I plan to appeal."

Victim's Statement:

CR-20012171: The 16 year-old victim's family incurred loses of \$3,036.52 as a result of the offense. These expenses include medical costs not covered by their insurance and time lost of work. Chris Smith's medical bills totaled \$63,036.52, but

most were paid by Healthnet of Arizona which is requesting restitution in the amount of \$60,000.00.

According to Chris' legal representative, his/her mother, the victim has been severely traumatized. She said, "Chris has recovered physically, but he/ she is not the son/daughter I knew before this happened. Chris is afraid of everything and reacts to any loud noise. I've seen Chris throw him/herself on the ground when he/she hears thunder. It hasn't gotten any better as time passes. I think it's getting worse. It really got bad in late February when Chris had to prepare to testify. Chris is not dealing with this well, but denies he/she is suffering. Chris won't go to counseling or therapy." The minor victim declined to make a statement to the undersigned officer.

The entire family fears for their safety. She said, "I know my son/daughter was not perfect. Chris was a gang member, but this had made him/her see it's not the life. Chris doesn't want to become the kind of people who could do this. That is the only good thing that came out of this." The victim's family will address the Court at sentencing.

SOCIAL HISTORY:

Portions of the defendant's history were taken from Juvenile and Superior Court records.

The defendant's parents were married for seven years and their union produced three sons, the defendant and his two older brothers. The relationship deteriorated because of his father's involvement in an extramarital affair. They separated when the defendant was two years of age and divorced two years later. His mother retained custody of the children. His father, a carpenter by trade, was frequently unemployed, but visited his sons several times a month. The defendant said, "My father was always drinking when he came over. He was abusive and tried to hit me and my brothers. My mother would get in fights with him because of it." He never enjoyed his father's company and has not seen him for about fourteen months.

The defendant's father was frequently delinquent with his child support payments. His mother supported her sons by working as a hotel maid. She was able to provide the necessities for them, but sometimes needed some assistance from her parents and the social welfare system. The defendant lived in the same home until his arrest for these offenses. He reported no physical, sexual, or emotional abuse by his mother or grandparents. He said, "My mother did everything for us."

The defendant's brothers both had contact with the criminal justice system as juveniles. Superior Court records reveal both brothers were indicted on Aggravated Assault with a Deadly Weapon charges in September 1999. His 20-year-old brother failed to appear for a hearing in February 2000 and his whereabouts are unknown. His 19-year-old brother was sentenced to a five-year prison sentence for that offense. He is also serving a three-year prison term for a narcotic trafficking offense.

The defendant reported a close relationship with his brothers, but admitted he was unduly influenced by them. Both were members of the B Street Gang and frequently abused alcohol, marijuana and rochas. No other family members have had contact with the criminal justice system or have mental health or substance abuse problems.

The defendant attended public schools. He received excellent grades in elementary school. His academic performance began to suffer in seventh grade when he began associating with older gang members. He failed the seventh grade, but attended summer school and was promoted. Academic and disciplinary problems continued in eighth grade and he was placed in a contained classroom. Juvenile Court records reveal his teachers continually complained about his negative behaviors at school.

In September 1997, the defendant was placed on probation for the first time. No positive drug tests were submitted and he complied with all of his probation officer's directives. He attended drug education classes and his school attendance record was good. He was terminated from supervision in March 1998 and he graduated from eighth grade. In a termination summary prepared on March 2, 1998, a juvenile probation officer indicated the defendant was found wearing gang related clothing. He willingly replaced the clothing at her request. However, her notes reveal serious concerns about the defendant's continued association with known gang members as she felt these contacts increased the probability of continued criminal conduct.

The defendant enrolled in ninth grade at an alternative school in August 1998, but left after only two days. He reported, "They told me I had to take a drug test and I knew I'd fail. I registered at a couple other schools, but never showed up. I didn't go to school or work for over a year. I cruised around with my friends, shot pool, used drugs and drank." His eldest brother was shot in the face in early March 1999 and was totally incapacitated for an extended period of time. His mother took a leave of absence from work to care for him.

Later that month, the defendant was again referred to Juvenile Court. While he was pending adjudication for the first, he became involved in two other incidents. He was detained on April 27, 1999. On June 5, he was placed on Juvenile Intensive Probation, but absconded three weeks later. The warrant was served when he was arrested for the instant offense.

The defendant was able to refrain from marijuana use while he was on probation, but began daily use of the drug two months later. He reported, "I used a lot of marijuana every day. I would drink on the weekends and use one or two rochas." No other illegal drug use was reported. His health insurance benefits are provided by the Kid-Care program, sponsored by the Arizona Health Care Cost Containment System (AHCCCS). No physical or psychological disabilities were noted.

COLLATERAL INFORMATION:

A teacher at the CAPE School confirmed the defendant's attendance at school. He entered the school in October 1999 and is carrying a full freshman course load. He has excellent work habits and actively participates in class discussions.

A review of Pima County Adult Detention Center discipline records reveals no major disciplinary problems and confirm the defendant was advanced to Level Five on April 2, 2001. Seven minor disciplinary violations were reported over the past seven months, the last having occurred in early February 2001. These included talking to other inmates through a vent, not performing assigned cleaning tasks, passing food to another, refusal to lock down, horseplay in the day room and sharing answers in class. Sanctions included a one day loss of day room and/or lockdown from eight to sixteen hours.

INFORMATION NOT FOR DISCLOSURE:

Additional identifying information and/or criminal history may be contained in PART TWO of this report and is for disclosure only to the Court, the prosecutor, the defense attorney, and other authorized criminal justice agencies.

EVALUATION:

Evaluative Summary: This 16-year-old defendant is before the Court to be sentenced for first felony conviction. He has three prior felony adjudications as a juvenile, is a prohibited possessor, and had absconded from probation supervision. His participation in this offenses appear directly related to fascination with, and acceptance of the culture of violence, criminal activity, and substance abuse which permeates the gang lifestyle.

The defendant appears to be a member of a highly chaotic and dysfunctional family where substance abuse, criminal activity and violence are commonplace. There seemed to be no responsible adult to provide security and stability, or model appropriate behavior and provide consistent discipline. It also appears his criminal behavior was actively encouraged by his older siblings. As a result, the defendant does not appear to have learned to live beyond the moment or take responsibility for his behavior.

However, the Juvenile Court provided the defendant with numerous services from which he failed to benefit. He would appear to present a significant threat to the safety of the community and a prison sentence appears appropriate.

ASSESSMENTS

ARS 12-116 \$20 for time payment	\$ <u>20</u>
INITIAL ATTORNEY FEE	\$ <u>400</u>
INDIGENT DEFENSE FEE	\$ <u>25</u>

* * * * *

CR-0000000:
RESTITUTION

VICTIMS <u>1</u> through <u>2</u>	LOSS CLAIMED	TOTAL ORDERED
<u>Legal Representative of Chris Smith</u>	\$ <u>3,036.52</u>	\$
<u>Healthnet of Arizona</u>	\$ <u>60,000.00</u>	\$
TOTAL	\$ <u>63,036.52</u>	\$

Respectfully submitted,

APPROVED BY:

Any Probation Officer, Senior Deputy
Assessment Center Services

Any Supervisor, Unit Supervisor
Assessment Center Services

April 5, 2001

dap

Sentencing Date: April 11, 2001

Defendant: DOE, Peter David

Case No: CR-00000000

□

Sentencing Judge: Any Judge

Sentencing Date: 4/11/01

PART TWO

CONFIDENTIAL

**FOR DISCLOSURE ONLY TO THE COURT, PROSECUTOR,
DEFENSE ATTORNEY, AND OTHER AUTHORIZED
CRIMINAL JUSTICE AGENCIES**

ADDITIONAL IDENTIFYING INFORMATION

SSN	xxxxxxxx	ADC NO	None
JOLTS NO	xxxxxxx03	ADJC NO	None
FBI NO	xxxxxxxx	INS NO	None
<u>Driver's Lic #</u>	xxxxxxxx	AZ SID	xxxxxxxx

CRIMINAL HISTORY

CRIMINAL HISTORY SUMMARY

<u>CONVICTIONS</u>	FELONY 0	MISD	0	JUV	4
<u>INCARCERATIONS</u>	PRISON 0	JAIL	0		
	ESCAPE 0	OTHER	0		
<u>SUPERVISIONS</u>	PROB 4	PAROLE	0	OTHER	0

CRIMINAL HISTORY:

The defendant and local, state, and national law enforcement agencies document the following police contacts:

<u>DATE/PLACE</u>	<u>OFFENSE</u>	<u>DISPOSITION</u>
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JUVENILE:

Defendant: DOE, Peter David

Case No: CR-00000000

□

Sentencing Judge: Any Judge

Sentencing Date: 4/11/01

8/24/98
Tucson, AZ

Unlawful Possession of Marijuana Under
Two Pounds.
Police found a small amount of marijuana
on the defendant's person.

The defendant
completed a
DIVERSION
program and on
March 2, 1999, the
case was adjusted.
The defendant pled
to a class one
misdemeanor. He
was placed on
standard probation
which he
successfully
completed on
March 2, 1999.

9/3/98
Tucson, AZ

Disorderly Conduct.
The defendant came to school while under
the influence of marijuana.

The defendant
completed a
DIVERSION
program and on
March 2, 1999, the
case was adjusted.
The defendant pled
to a class one
misdemeanor. He
was placed on
standard probation
which he
successfully
completed on
March 2, 1999.

2/23/00
Tucson, AZ

1) Unlawful Possession of Marijuana.
2) Unlawful Possession of Drug
Paraphernalia.
3) Minor in Possession of Alcohol.
The defendant was a passenger in a
vehicle. He admitted smoking marijuana
and drinking beer.

On June 5, 2000,
the defendant pled
to a class six felony.
He was placed on
Juvenile Intensive
Probation. (JIPS)
He absconded from
supervision on
October 1, 2000 and
a warrant issued for
his arrest. It was
served when he was
arrested for the
instant offense. His
probation was
unsuccessfully
terminated on
November 22, 2000.

3/15/00
Tucson, AZ

1) Misconduct with Weapons.
2) Unlawful Possession of Drug Paraphernalia.
The defendant was found in possession of weapons and drug paraphernalia.

On June 5, 2000, the defendant pled to a class five felony. He was placed on Juvenile Intensive Probation. (JIPS) He absconded from supervision on October 1, 2000 and a warrant issued for his arrest. It was served when he was arrested for the instant offense. His probation was unsuccessfully terminated on November 22, 2000.

4/27/00
Tucson, AZ

1) Theft of a Motor Vehicle.
2) Fleeing a Law Enforcement Vehicle.
3) Criminal Damage.
TPD officers attempted to stop a vehicle being driven by the defendant for traffic violations. After learning it had been reported stolen, they attempted to make a felony stop. The defendant refused to stop and crashed into a parked vehicle. He fled on foot, but was captured.

The defendant pled to a class five felony. On June 5, 2000, he was placed on Juvenile Intensive Probation. (JIPS) He absconded from supervision on October 1, 2000 and a warrant issued for his arrest. It was served when he was arrested for the instant offense. His probation was unsuccessfully terminated on November 22, 2000.

Other Legal Status or Detainers: None.

Respectfully submitted,

APPROVED BY:

Any Probation Officer, Senior Deputy
Assessment Center Services

Any Supervision, Unit Supervisor
Assessment Center Services

April 5, 2001

dap

EMERGENCY DEPARTMENT REPORT
10-17-01

GALLAGHER, TANNER
MRN: 87 65 68 7

CLINICAL HISTORY: The patient is a 17-year-old who was shot twice in the legs. He/she was initially evaluated at Kino Community Hospital where they attempted to stabilize him/her. Three lines were placed. A Foley catheter was placed and a nasogastric tube was placed. It was noted that the pressure there was 60/palpable, and that s/he was in extremis. The patient was transferred to Arizona Medical Center for emergency surgery.

PAST MEDICAL/SURGICAL HISTORY: Denied.

ALLERGIES: NO KNOWN MEDICAL ALLERGIES.

CURRENT MEDICATIONS: None.

PHYSICAL EXAMINATION ON ADMISSION: On arrival, the patient was awake, in obvious distress, and asking for a drink of water. The patient was extremely thirsty. The airway was intact on arrival with lungs clear to auscultation bilaterally with tachypneic respirations without particular labor. The patient had a regular rate and rhythm on examination of the heart, without murmur, rub, or gallop noted. Capillary refill was 2 seconds in the fingertips. Pupils equal, round, and reactive to light at 3mm, with conjugate gaze. The patient moved all extremities to command. The Glasgow Coma Scale was 15. The patient was noted on quick survey to have two apparent external gunshot wounds. One was to the left leg. The second was to the right lower leg. There was a palpable missile on the anterolateral proximal thigh and the patient was noted to have gross hematuria from the foley catheter. The patient had palpable dorsalis pedis pulses in both lower extremities, although the pulse at the right foot was thready, and skin tone had a notable purplish, mottled discoloration. The right foot was also cool as compared to the left foot. The abdomen was soft, apparently nontender, without guarding, rebound, or distention.

The patient clearly needed to go to the operating room quickly for laparotomy and exploration of the gunshot wound injuries. The patient underwent rapid sequence intubation in the emergency department with Succinylcholine and Etomidate with uncomplicated endotracheal intubation with a 7.5 endotracheal tube on first pass with cricoid pressure applied. Breath sounds were confirmed misting to the tube, good oscillating color change on the qualitative capnometer and saturations were maintained at 100% with no apparent complications on this intubation. The endotracheal tube was later visualized to be about ½ cm above the carina and no pneumothorax was noted, nor any missile. The patient was thereupon rolled, and no further gunshot wounds were noted to the back or to the buttocks. Upon secondary survey a well healed, 2.5 x 0.5 cm linear scar was noted at the posterior right shoulder. At the right arm/deltoid area was a crude tattoo, with the words "MY BAD," in black ink, with three small red "teardrop" shaped red markings below this. No other distinguishing features or markings were noted.

DISPOSITION: The patient was thereupon whisked off to the operating room for exploration. At this time I understand that the patient had a bladder perforation, a left iliac vein perforation, and further exploration is being undertaken at this point.

DIAGNOSES: Multiple gunshot wounds; gross hematuria; hypotensive shock. The patient was given a gram of Ancef intravenously.

EMERGENCY DEPARTMENT PROCEDURES:

1. Oro-endotracheal tube intubation.
2. Doppler examination of lower extremities.

Supervisor:
Daniel T. Spathe, M.D.
Professor, Emergency Medicine

Dictated by:
Tracy Gonzalez, M.D.
Resident, Surgery

CURRICULUM VITAE

NAME: Dr. Tracy Gonzalez, M.D.

EDUCATION: B.A. Chico State University, 1995

M.D. Belize Medical College, 1999

LICENSURE: Licensed as a Family Practitioner Physician (License # 30795-02)
By the State of Arizona, Board of Medical Examiners

PROFESSIONAL ORGANIZATION MEMBERSHIP:

American Medical Association
National Young Doctors Association
National Emergency Medicine Association
Latin Students in Science

CLINICAL EXPERIENCE:

2000 - present	Resident Physician, Arizona Medical Center Tucson, AZ
1999	Internship Northwestern University Hospital Chicago, Illinois
1995 - 1999	Research Assistant to Department of Medical Physiology Belize Medical College Belize City, Belize

OTHER RELEVANT TRAINING:

1997	Advanced Cardiac Life Support Instructor Training
1998	Advanced Trauma Life Support Instructor Training
1999	Advanced Techniques in Airway Management
1999	Pain Management in Emergency Medicine
2000	Cultural Issues in Inner City Medicine
2000	Latin Students in Science and Medicine - Annual Conference

FORMS



MOCK TRIAL PARTICIPANTS LIST

SCHOOL NAME: _____

TEAM: _____ DATE: _____

PLEASE **TYPE** THE NAME OF EACH STUDENT, TEACHER-COACH AND ATTORNEY-COACH.
THE NAMES WILL BE USED ON PROGRAMS AND CERTIFICATES.

STUDENTS

PLEASE CIRCLE ONE:

- | | | |
|----------|---|---|
| 1. _____ | M | F |
| 2. _____ | M | F |
| 3. _____ | M | F |
| 4. _____ | M | F |
| 5. _____ | M | F |
| 6. _____ | M | F |

ALTERNATES (IF APPLICABLE)

- | | | |
|----------|---|---|
| 7. _____ | M | F |
| 8. _____ | M | F |

TEACHER-COACH(ES)

- | | | |
|----------|---|---|
| 1. _____ | M | F |
| 2. _____ | M | F |

ATTORNEY-COACH(ES)

- | | | |
|----------|---|---|
| 1. _____ | M | F |
| 2. _____ | M | F |

DEADLINE: January 24, 2003

Send to:

**Arizona Foundation for Legal Services & Education
Attn: Susan Nusall, State LRE Program Coordinator
111 West Monroe, Suite 1800
Phoenix, AZ 85003-1742**

STUDENT ROSTER

This form is to be completed prior to the beginning of each Round and handed to the judge when the delegated student introduces the team members.

**SCHOOL AND/OR
TEAM NAME** _____

ROUND I II III IV SEMI FINALS FINALS

(circle one)

PLAINTIFF/PROSECUTION DEFENDANT

(circle one)

Please print student names and indicate alternates where applicable.

ATTORNEY _____

ATTORNEY _____

ATTORNEY _____

WITNESS _____

WITNESS _____

WITNESS _____

ARIZONA MOCK TRIAL PROGRAM
Judging Guidelines

I. OUTLINE OF TRIAL PROCEDURE

- A. Judges should announce when they are ready, and introduce themselves and the case caption.
- B. Have a representative from each team approach the bench and provide the Student Participation Forms to the Judge. Have the teams introduce themselves and the roles that each student is playing.
- C. Judges should be extremely cognizant of time. Attempt to keep teams on time throughout the tournament. Judges can deduct points for baseless and excessive objection or arguments and other actions which take too much time. In no instance should a Judge cut-off a closing argument or prevent a team from presenting its closing argument.
- D. At the end of the trial, the Judges should remain at the bench and immediately complete their scoring sheets, including adding their points, prior to giving any critiques to the students. Indicate at the bottom of the score sheet the name of the individual who was the outstanding performer from that round. Scoring sheets and the Student Participation Forms for each team should be given to the runner immediately after the tournament and prior to giving any critique to the students.
- E. ANNOUNCE THE DECISION WITH REGARD TO THE MERITS OF THE CASE ONLY (i.e. DID PLAINTIFFS/STATE CARRY ITS BURDEN OR NOT). NEVER ANNOUNCE THE DECISION WITH REGARD TO PERFORMANCE AND SCORE.
- F. In closing, give brief comments and critiques as to perceptions to student knowledge and skill gained from preparing the case. Please limit your comments to five minutes or less. Do not embarrass any team members when critiquing. The goal of critiquing is to assist teams in presenting the case in future rounds.

II. IMPORTANT RULES OF THE TOURNAMENT

- A. Review the Guidelines for Standardized Scoring. It is important for Judges to be familiar with the Criteria for Evaluating Student Performance in order to ensure uniformity in scoring and judging.
- B. Every witness must be called as part of the tournament. If a team decides, for strategy reasons, not to call a witness, they may so inform the Judge. However, the team still must put the witness on the stand in order for the witness' performance, along with the performances of the attorneys questioning the witness, to be scored. Witnesses may not use notes while on the witness stand.
- C. Only the attorney questioning or cross examining a witness may make objections for that witness. Any team member may make an objection for improper communications. Only attorneys may confer with one another. Conferring between attorney and witness, or conferring among witnesses is expressly prohibited and may result in a deduction of points. Be watchful of improper coaching "on the sidelines" or improper communications. If you note such improper communications, solve the problem. For example, Judges may wish to first give admonition; if the coaching continues, Judges may deduct points.
- D. It is in the Judge's sole discretion whether to allow re-direct and re-cross examination of witnesses. We strongly urge Judges to, generally, not allow re-direct and re-cross examination because time is often too short.

- E. Judges should be thoroughly familiar with the problem and have it available during the tournament. The rules of the tournament allow teams to object based upon the fact that certain facts are not a part of the problem. If the Judge is not specifically familiar with the fact being objected to, the Judge should rely on counsel to cite the page of the problem where the alleged fact exists in order to allow the Judge to make the proper ruling.
- F. The Mock Trial Rules of Evidence apply to the tournament, and are different than the Arizona Rules of Evidence. Judges should familiarize themselves with the Mock Trial Rules of Evidence, and be familiar with the differences for the rules they are normally used to enforcing. For instance, under the Mock Trial Rules of Evidence, admissions against interest are only exceptions to the hearsay rule if made a party in the case.
- G. All documents have been stipulated to for authentication purposes.
- H. Teams may videotape the round unless the other team objects.
- I. TECHNICAL OBJECTION. Rule 501 of the Mock Trial Rules of Evidence allows an objection that the opposing attorneys have violated the Rules of Evidence of the Rules of the Tournament. Although Judges should be familiar with all the Rules, if the Judge is not familiar with the Rule at the time of the objection, the Judge should seek assistance from counsel from each party, to direct the Judge to the specific Rule that the attorney is claiming has been violated. The Judge should also give the opposing side an opportunity to explain why they think that the Rule has not been violated. In no instance should a Judge merely overrule the objection because the Judge is not familiar with the Rule claimed to have been violated.
- J. DISPUTE RESOLUTION. Judges should be aware that the Rules of the Tournament allow teams to communicate to the Tournament Coordinator if they believe that there has been a significant Rules violation. The dispute resolution process allows the Tournament Coordinator to hear from both teams with regard to the alleged Rules violation. If the Tournament Coordinator determines that no Rules violation has been committed, that is the final disposition. If the Tournament Coordinator determines that a possible Rules violation does exist, the Trial Judge will be informed of the dispute, and given a summary of each team's argument by the Coordinators.

When Rules violations are brought to the attention of the Tournament Coordinators, they will attempt to have the dispute resolved immediately, while the circumstances surrounding the alleged violation are still present in the minds of the teams and the Judge.

ALL JUDGES SHOULD READ THE DISPUTE RESOLUTION GUIDELINES OF THE RULES OF THE PROGRAM.

III. NO APPEARANCE OF IMPROPRIETY

- A. Judges should not participate in judging a round if they have a relative who is a student at the school; JUDGES SHOULD NOT EXCHANGE GREETINGS WITH ATTORNEYS OR COACHES THAT THEY KNOW DURING THE TOURNAMENT; GENERALLY, STUDENTS THAT THEY KNOW DURING THE TOURNAMENT; GENERALLY, STUDENTS TAKE EVERY GESTURE OR COMMENT VERY SERIOUSLY. BE CAREFUL.

IV. MISCELLANEOUS

- A. All witnesses should stand and be sworn at the outset of the trial, or an admonition given to all witnesses that they been sworn to tell the truth.

- B. Each year's problem has appended to it various documents relative to an underlying social issue addressed in the problem. Additionally, the problem will have Statements of Fact and Statements of Stipulated Facts. This information is not documentary evidence, and may not be used as exhibits, not may it be used to impeach witnesses. If a witness testifies contrary to the Statement of Facts of the Statement of Stipulated Facts, the other side's only remedy is to make a Technical Objection.

- C. Judges are reminded that uniformity and professionalism are essential during the Tournament. Students involved in the Tournament take the Tournament very seriously, as they should, and everyone involved should respect the importance of the Tournament to the participants.

GUIDELINES FOR STANDARDIZED SCORING

The judge/scorer is scoring student performance in each category and not scoring legal merits of the case. It is recommended that scorers use the "5-6" range as an indication of an average performance, and adjust higher or lower for stronger or weaker performances. Scoring must be on a whole number basis (partial points not allowed). Points will be awarded based upon the criteria set forth below.

<u>Points</u>	<u>Performance</u>	<u>Criteria for Evaluating Students' Performance</u>
1-2	Not effective (Poor)	Disorganized, unsure of self, illogical, uninformed, demonstrates lack of preparation, and understanding of task, simply ineffective in communications.
3-4	Fair	Minimal performance and preparation; performance is passable but lacks depth in terms of knowledge of task and materials; communication lack clarity and conviction.
5-6	Good (Average)	Good, but less than spectacular performance; fundamental understanding of task and can perform outside the script but with less confidence than when using the script; grasps major aspects of the case but does not convey a mastery of the case; communications are clear and understandable but could be more persuasive; acceptable but uninspired performance.
7-8	Excellent	Presentation is fluent, persuasive, clear and understandable; organizes materials and thoughts well and exhibits a mastery of the case and of the materials provided; presentation was both believable and skillful.
9-10	Outstanding	Thinks well on feet, is logical, keeps poise under duress; performance was resourceful, original, and innovative; can sort out the essential from the non-essential and uses time effectively, to accomplish major objectives; knows how to emphasize vital points of trial and emphasizes them.

Judge _____

Round (circle one) 1 2 3 4

Courtroom _____

Competition: Regional State

Arizona High School Mock Trial Competition Region _____

Score Sheet

P=Prosecution/Plaintiff _____

D=Defendant/Defense _____

Using a scale of 1 to 10, rate the P and D in the categories below.

DO NOT USE FRACTIONAL POINTS.

Not Effective	Fair	Good	Excellent	Outstanding
1	2	3	4	5
6	7	8	9	10

Score Sheet		P	D
Opening Statement		(_____)	(_____)
Prosecution/Plaintiff First Witness	Direct Examination	(_____)	Cross-Examination (_____)
	Witness Presentation	(_____)	
Prosecution/Plaintiff Second Witness	Direct Examination	(_____)	Cross-Examination (_____)
	Witness Presentation	(_____)	
Prosecution/Plaintiff Third Witness	Direct Examination	(_____)	Cross-Examination (_____)
	Witness Presentation	(_____)	
Defendant/Defense First Witness	Cross Examination	(_____)	Direct Examination (_____)
		(_____)	Witness Presentation (_____)
Defendant/Defense Second Witness	Cross Examination	(_____)	Direct Examination (_____)
		(_____)	Witness Presentation (_____)
Defendant/Defense Third Witness	Cross Examination	(_____)	Direct Examination (_____)
		(_____)	Witness Presentation (_____)
Closing Argument		(_____)	(_____)
Subtotal		(_____)	(_____)
Penalty Points		(_____)	(_____)
Total Points (Absolutely no ties)		(_____)	(_____)

Please deliver ballot and student roster to timekeeper before debriefing the team.

Overall Best Performance:

(School Name)

Outstanding Individual Performer:

(Student's Name)