

ONTARIO BAR ASSOCIATION
LAW DAY 2008
ELEMENTARY MOCK TRIAL PROGRAM

R. v. CHAD

(This background information is to be shared by the teacher with the entire class. A version should also be distributed to the class.)

In the small Ontario town of Melonville, one fine spring morning, a new resident from the country of Buckstahoey named Vlad faced a problem. Vlad had moved into a house with a pool, but he did not have a hose to fill the pool with water. Not being comfortable with English, Vlad asked his 13 year old son, Chad, to go to a neighbour's house to get a hose. Chad did not speak much English either, but at least he spoke more English than his father.

Back in the old country, Vlad or his son would simply go to a neighbour's house and take whatever he needed without asking. Everyone in Buckstahoey knew that if a neighbour came to take something from your yard, the owner might mildly protest but would let the person take the object. This was something to which both Vlad and Chad were accustomed in Buckstahoey.

Chad went over to their neighbour's house and spotted a hose on the lawn. The owner of the house, Jerry Redcap, saw Chad come into his yard, point at the hose and then move to pick it up. Jerry came towards Chad and told him to drop the hose. Expecting his neighbour to protest like they would in Buckstahoey, Chad picked the hose up and gently pushed Jerry out of the way of the garden gate to the sidewalk. Chad left Jerry's premises and returned to his house to give the hose to Vlad.

Several hours later, Vlad heard a knock on the door. It was the police. They were canvassing the neighbourhood for a local charity. When Chad walked through the foyer, the police looked at him and decided that a young teenager with a purple Mohawk haircut, he had probably done something wrong. The police entered Vlad's house and handcuffed Chad. They told him that he was being detained on suspicion of having committed a crime. They took Chad to a police station, put him in a cell, and tried to figure out what to charge him with. The police then canvassed Vlad's neighbours to find out if Chad had done anything wrong, and sure enough, Jerry Redcap told the police that Chad had come into his yard, taken his hose without permission and pushed him to the ground when leaving. Another neighbour, Edna Mudpie, said she saw Chad go into Jerry's yard, take the hose and push Jerry. As a result of the investigation, the police seized the garden house from Chad's pool.

Armed with this information, the police charged Chad with theft under \$5,000 and assault. Chad was told about the charge, but he looked at the police and shrugged his shoulders. Chad was kept in jail, without the opportunity to call his family or a lawyer,

until he was brought to trial three days later in Youth Court. The Crown attorney told Chad that he would have to testify on his own behalf at the trial.

Important points to remember:

1. It is common to take personal items without asking in Buckstahoey.
2. Vlad and Chad were new to the town and Chad did not know that he was supposed to ask Jerry's permission to borrow the garden hose.
3. Chad believes he squeezed by Jerry Redcap before leaving Jerry's yard. He did not see Jerry fall to the ground as a result of the push.
4. The problem contains numerous examples of potential violations of the *Charter of Rights and Freedoms*. In particular, the class should be made aware of the following Charter legal rights:
 - Section 8 – the right to be secure against unreasonable search and seizure;
 - Section 9 – the right not to be arbitrarily arrested;
 - Section 10 – the right to know why you're arrested and to be told of the right to a lawyer and be given a reasonable opportunity to contact one in private;
 - Section 13 – the right not to testify against yourself.
 - Section 14 – your right to an interpreter.
5. The instructor should also point out to the students that section 19 of the *Criminal Code* stipulates that "Ignorance of the law by a person who commits an offence is not an excuse for committing that offence". In other words, the issue becomes whether Chad should have known that what he did with the hose and pushing Jerry Redcap was an offence.

In this trial, you are dealing with one count of theft under \$5,000 and one count of assault under the Criminal Code.

ROLES FOR THE MOCK TRIAL

(for the teacher/program leader, information to be shared with students)

1. Chad – the accused teenager;
2. Vlad – the accused’s father;
3. Jerry Redcap – the neighbour with the hose;
4. Edna Mudpie – the witness to the taking of the hose;
5. Constable Jenkins – the arresting officer;
6. Mr. or Mrs. Hightower – an expert on Buckstahooey culture
7. Two or three Crown attorneys
8. Two or three Defence counsel
9. Court Clerk – reads the charges and says “All rise”, has the witness say an oath to tell the truth;
10. Twelve members of the jury;
11. Two members of the press;
12. Two or three bailiffs;
13. One or two artists – to do sketches of the court proceedings

PROGRAM

1. Volunteer lawyer(s) to contact teacher in advance of first session and forward materials.
2. Volunteer lawyer(s) to attend first session and provide class with overview of criminal justice system and, in particular, the legal rights under the *Charter of Rights & Freedoms*. This is an introductory session occurring approximately one week in advance of the trial. Volunteer lawyer(s) provide background on Canadian legal system and basic equality under the law issues. Lawyer(s) discuss facts of case and basic procedure and then provide opportunity to ask general questions about Canada’s legal system. It is sufficient to give an overview introduction to the *Youth Criminal Justice Act*, which provides for a specific code of procedure and ranges of sentencings for youth between 12 and 18 years of age. Ensure that students are made aware that under 12, a

child cannot be charged with a crime, while over 18 is dealt with under the *Criminal Code* with adult sentencing.

3. The teacher will select the role players and will provide them with outlines/statements in advance. Each statement will provide the student with the basics of their testimony/questions/procedure.
4. Volunteer lawyer(s) will attend the trial and act as judge(s). They will run the trial and secure the jury verdict. After the verdict is announced, the lawyer(s) will interrupt the process and discuss next step – punishment. The lawyer(s) will present a range of available punishments – no punishment, fine, community service only, or jail time. The lawyer(s) will decide and write the punishment down without showing the class. The class will have a discussion on the available punishments and eventually vote on the punishment. The lawyer(s) may then wish to compare the class' majority decision on punishment with the judge's decision. If the class was more lenient than the judge, you can discuss the effects of sensitization which flow from the discussion. If the class was more severe, discuss the reasons why.

STATEMENTS

(for the teacher/program leader, information to be shared with students. To be used by Crown counsel and Defence lawyers to prepare their questions prior to trial and to be used by witnesses to prepare themselves for trial.)

1. **Vlad** is 42 years old. He came to the small Ontario town one month ago from county of Buckstahoey with his son Chad. Although he speaks a little English, he only ventures out to stores where he can speak his native language, Buckstop. Since Vlad has been so busy trying to figure out how things are different in Melonville, he has not had time to teach Chad about the different rules in their new town. Vlad will testify that he wanted to make sure that his pool was filled up as soon as possible, as the neighbours' pools were open and he wanted Chad to feel in Melonville just like he did in Buckstahoey. Vlad did not know that it was a crime to simply take an object from another citizen of Melonville without asking. He just assumed that it would be acceptable and he thought no harm would come by asking Chad to get Redcap's hose.
2. **Chad** is 15 years old. He admits that he had no knowledge of social customs and rules in Melonville before moving there. One day, his father Vlad asked him to go find a neighbour's hose to fill Vlad's pool. Vlad did not provide Chad with any specific guidance on how to ask for the hose, apart from telling Chad that he should smile a lot at the neighbour. Vlad had told Chad about the "gentle protest" that residents of Buckstahoey would make when a neighbour took something belonging to another resident. Chad was surprised that Redcap seemed to be angry at him when Chad picked up the hose, but Chad just thought it was still a gentle protest. He was also surprised when Redcap tried to stand between Chad and the gate, so Chad gave Redcap a friendly, gentle push to move by, thinking this is part of the "gentle protesting" that happened in Buckstahoey. When the police came to his house, Chad was scared. He did not know why they were taking him away from Vlad.
3. **Jerry Redcap** has lived in the house beside the one Vlad and Chad moved into for some 23 years. Being an older resident, he worries about property crime, particularly since his house is close to the local high school. Redcap had never met anyone from Buckstahoey before Chad came into his yard. Redcap did not like people that he had never met before, but this was the first time that someone had ever come into his yard and simply stolen Redcap's property. When this happened with Chad, Redcap tried to stop Chad from taking the hose, but Chad simply pushed Redcap out of the way and walked out of the yard. As Redcap had never seen Chad before, he did not know if he would ever get his hose back. Redcap was now fearful of ever leaving his house in case more kids came into his yard to steal his property.
4. **Edna Magpie** lives on the other side of Redcap's house. On the morning in question, she was out in her back garden tending to her giant sunflowers. All

of a sudden, she heard Redcap yell out, “Hey, what are you doing back here”. She saw a young teenager next to Redcap but did not hear him say anything. She thinks that she saw the teenage holding something, but she could not make out what was in his hands. She did, however, see Redcap fall to the ground, but her view was blocked in part by Redcap’s greenhouse. She did not see what caused Redcap to fall on his behind.

5. **Constable Jenkins** was the officer coordinating the charity canvassing of the neighbourhood. He had worked as a community patrol officer for 15 years and in that time, he had gained experience in identifying teenagers who “looked like trouble”. Jenkins admits that when he arrested Chad, the youngster did not seem to know what was happening to him. When Jenkins began to ask Chad about the hose and the pushing incident at Redcap’s house, Chad seemed both confused and afraid. While Jenkins felt sorry for Chad, he felt duty bound to arrest him for what Jenkins thought was a flagrant theft of Redcap’s garden hose.
6. **Mr. or Mrs. Hightower** holds an advanced university degree in sociology. S/he is an expert in the Buckstahoey culture. As a former Buckstahoey resident, Hightower often acts as a cultural ambassador between Buckstahoeyians and Ontario residents. Hightower will say that neighbours in Buckstahoey expect to share their property with their neighbours and that the “gentle protesting” that is done is considered polite manners in Buckstahoey. No one in Buckstahoey is expected to ask for permission to take his or her neighbour’s property. It is Hightower’s opinion that it takes people from Buckstahoey several months before they learn about private property and really understand that taking without asking is against the law in Melonville. Hightower will say that people from Buckstahoey are not taught about private property and personal space before they come to Ontario. As a result, many Buckstahoeyians who come to Ontario have been charged with theft and common assault. Hightower will confirm that this is the first time that a theft and assault charge has been brought to trial against a native Buckstahoeyian.

TASKS

(for the teacher/program leader, information to be shared with students)

1. **Administering the oath.** The clerk will say “all rise” at the beginning and the end of the trial when the judge enters and exits the classroom. The Clerk will administer an oath “Do you promise to tell the truth?” to every witness.
2. **Prosecution witnesses.** The Crown counsel will ask questions of Redcap first, Magpie second and Jenkins third. All three of these witnesses will be cross-examined by Defence counsel.
3. **Defence witnesses.** The Defence lawyers will ask questions of Vlad, Chad and Hightower. All three will be cross-examined by Crown counsel.
4. **Closing arguments.** Both the Crown and the Defence will present their closing arguments once all of the witnesses have been questioned and cross-examined.
5. **Deliberations of the jury.** The jury will have to decide if (i) Chad took Redcap’s garden hose without permission, (b) did Chad intend to ask permission for the garden hose and (c) did Chad push Redcap to the ground and if so, did he intend to push Redcap out of his way. The jury will discuss the trial with adult supervision and decide upon a verdict for the one count of theft under \$5,000 and the one count of common assault.
6. **Sentencing.** If Chad is found guilty on either of the charges, the judge will present four possible sentences to the class for discussion: (i) no punishment; (ii) community service for 30 days; (iii) a fine of \$500; and/or (iv) jail time of three months. The class will vote on the sentence it feels most appropriate for the offence(s) upon which Chad is convicted.
7. **Reporting of the trial.** The members of the press will have an opportunity to write a short article for the newspaper on the trial. (Optional)
8. **Sketches from the trial.** The courtroom artists will sketch the witnesses, Crown counsel and Defence counsel since no cameras are allowed in Canadian courts. (Optional).