

Players in Mock Trial – Car Theft Case

MOST READING

Defendant - Jane Doe/John Doe

Defense Attorney - [Use student's last name.]

Deputy District Attorney - [Use student's last name.]

Witness Chris Truly

Officer Daniel Garcia

Judge – [use student's name]

LITTLE READING REQUIRED

Court Reporter

Clerk

Bailiff

Foreperson

NO READING

Jury

Mock Trial – Car Theft Case

OCSC Guide	Due to the time allowed for our mock trial, jury selection, which is called Voir Dire, has been completed. The Judge, Defense Attorney, and Deputy District Attorney have questioned the panel of prospective jurors sent to this courtroom in a process called voir dire. These ladies and gentlemen were selected to be the jury for this trial.
Bailiff	Everyone please rise. (Wait for everyone in the courtroom to stand.) In the presence of the flag of our country, emblem of the Constitution, and remembering the principles for which it stands, the Superior Court of the State of California, in and for the County of Orange is now in session. The Honorable Judge [<u>STUDENT'S NAME</u>] Presiding. Please be seated and remain quiet.
Judge	People of the State of California versus [<u>JANE DOE/JOHN DOE</u>], case number 20CF0122
Judge	Are the members seated now acceptable to the attorneys?
District Attorney	Yes, your Honor.
Defense Attorney	Yes, your Honor.
Judge	Let the record reflect that twelve jurors are seated and are acceptable to all attorneys and the court. The clerk may now swear in the jury.
Clerk	(Stand and raise your right hand.) Ladies and gentlemen of the jury; please stand and raise your right hand. (Wait until all jurors are standing.) Do you and each of you understand and agree that you will well and truly try the case now pending before this court, and render a true verdict according only to the evidence presented to you and to the instructions of the court.
Jurors	I do.
Clerk	Please be seated.
Judge	Ladies and gentlemen of the jury, you have been selected to serve as jurors in a criminal case. The Defendant, [Jane Doe/John Doe],

has been charged with violation of Vehicle Code section 10851, Unlawful Taking of a Vehicle. The Defendant has pleaded “not guilty” to the charges. The prosecutor, who represents the People of the State of California, now has the burden of proving the Defendant guilty beyond a reasonable doubt. If you do not find that the People have met this burden at the end of the trial, you must vote not guilty and the Defendant is entitled to an acquittal.

- Judge Please be seated.
Deputy District Attorney [LAST NAME OF STUDENT], are the People ready for opening statements?
- DA Your Honor, ladies and gentlemen of the jury; the evidence is going to show that sometime during the night of December 8 [insert year] or in the morning of December 9, a red corvette was stolen from Truly Car Sales in Tustin. It will further show that the Defendant was caught driving the car, using what is known as a “shaved key” in the vicinity of Truly Car Sales during the evening of December 9. Through this evidence, and the other testimony of two witnesses, I will prove to you that she did in fact steal the car.
- Judge Defense Attorney [LAST NAME OF STUDENT], would you like to make your opening statement at this time?
- Defense Attorney Your Honor, ladies and gentlemen of the jury. Here is what you will not hear: you will hear no evidence that my client was seen at or near Truly Car Sales at anytime, let alone between 9 p.m. December 8 and 9 a.m. December 9. You will not hear exactly when the car was stolen, nor will you hear that my client was seen in or near the car on the day it was stolen. At the end of this trial, the evidence will not prove my client guilty beyond a reasonable doubt.
- Judge The People may call their first witness.
- DA The People call Ms./Mr. Chris Truly.
- Bailiff **(Bailiff escorts witness to the witness stand then returns to seat.)**
- Clerk **(Clerk stands.)**
Please raise your right hand.
Do you solemnly state that the evidence you are about to give in the case now pending before this Court shall be the truth, the whole truth, and nothing but the truth?

Chris Truly I do.

Clerk Please be seated in the witness stand and state your full name.

Chris Truly CHRIS TRULY

Court Reporter Please spell your first and last name.

Chris Truly T-R-U-L-Y

Deputy District Attorney Ms./Mr. Truly, where do you work?

Chris Truly I own "Truly Used Cars."

District Attorney Where is "Truly Used Cars" located?

Chris Truly 13920 Red Hill Avenue, Tustin, right near the 5 freeway.

District Attorney What is your normal work schedule?

Chris Truly I work Wednesday through Sunday, 1 p.m. until 9 p.m. when we close.

District Attorney Did you work your normal schedule on Thursday December 8??

Chris Truly Yes.

District Attorney Did you have a 2006 red Corvette with California license plates R-D V-E-T-T-E for sale in December?

Chris Truly Yes.

District Attorney What was that car worth?

Chris Truly We had purchased it in a car auction for \$9,000 and had it listed for \$13,000.

District Attorney Was the red corvette on the lot December 8th?

Chris Truly Yes.

District Attorney Was the red corvette on the lot December 9th?

Chris Truly No. My car lot manager called me that morning about 8 o'clock because the car was missing when he got to work.

District Attorney Did you give anyone permission to use the car?

Chris Truly No.

District Attorney Did you file a stolen car report with the police?

Chris Truly Yes, right after the phone call from my manager.

District Attorney When did you see the car again?

Chris Truly On December 10th, an Officer Smith called and said the car had been found and I could pick it up.

District Attorney Thank you Ms./Mr. Truly.
No further questions your Honor.

Judge Counsel for Jane Doe/John Doe do you wish to cross examine the witness?

Defense Attorney Yes, thank you, your honor.

Defense Attorney Ms./Mr. Truly, how long have you owned your own business?

Chris Truly About 5 years.

Defense Attorney Approximately how many cars did you have for sale on the lot on December 8 [insert year]?

Chris Truly We had a pretty full lot because we were getting ready for holiday sales. So, I would say about 150 cars.

Defense Attorney Do you recall specifically seeing the car in question on the lot on December 8?

Chris Truly No, but I'm sure I would have noticed it was missing since we don't get many used Corvettes for sale.

Defense Attorney Do you recall specifically seeing the car in question on the lot on December 7?

Chris Truly No, but again I'm sure I would have noticed it missing.

Defense Attorney How about December 6, same answer?

Chris Truly Yes.

Defense Attorney Do you remember what the weather was from December 6-9?

Chris Truly No.

Defense Attorney Do you remember that huge rainstorm that lasted for four days between Thanksgiving and Christmas?

Chris Truly Oh yeah, right. Now that you mention it, it was around then.

Defense Attorney No further questions, your Honor.

Judge **(Turn to witness.)**
You may step down. **(Pause to let witness leave.)**

Chris Truly **(After the judge excuses you, go back to your seat.)**

Judge Do the People have any other witnesses?

District Attorney Yes, your Honor.
The People call Highway Patrolman Garciato the stand.

Bailiff **(Bailiff escorts witness to the witness stand, and then returns to seat.)**

Clerk **(Stand.)**
Please raise your right hand.
Do you solemnly state the testimony you are about to give in the case now pending before this court shall be the truth, the whole truth, and nothing but the truth?

Officer I do.

Clerk Please be seated in the witness stand and state your full name.

Officer Garcia Officer Daniel Garcia
Court Clerk Please spell your first and last name.

Officer Garcia D-A-N-I-E-L, G-A-R-C-I-A

District Attorney What is your occupation?

Officer Garcia I am a California Highway Patrolman.

Deputy Attorney How long have you been a patrolman?

Officer Garcia Ten years.

District Attorney I direct your attention to last December 9th. Were you on duty that night?

Officer Garcia Yes, I was working the late shift from 11 p.m. to 7 a.m.

District Attorney At approximately 11:45 p.m. on December 9, did you observe a vehicle being driven by any person you see here in the courtroom?

Officer Garcia Yes, I did.

District Attorney Can you please point to where the driver you observed that night is seated and describe an article of the driver's clothing?

Officer Garcia **[Point to the defendant and state:]** The person I saw driving is seated next to defense counsel wearing a [Describe the top, including color. Describe bottom, including color.]

District Attorney May the record reflect that the witness has identified the Defendant?

Judge The record will so reflect.

District Attorney Please describe the vehicle that the Defendant was driving.

Officer Garcia It was a 2006 red Corvette, California license number R-D-V-E-T-T-E.

District Attorney Where did you see the car?

Officer Garcia It was travelling southbound in the number 1 lane of the I-5 freeway in Santa Ana, just past the 1st Street offramp. My radar clocked it at a speed of 95 miles per hour.

Defense Counsel ***Objection, nonresponsive, move to strike*** the answer after offramp.

Judge ***Sustained***, motion to strike the nonresponsive portion of the testimony is granted.

District Attorney What lane is the #1 lane?

Officer Garcia It is the lane farthest to the left before the carpool lane.
[remove extra hard return]

District Attorney How far is it from where you first saw the Defendant that night to the offramp for Red Hill?

Officer Garcia Approximately 2 miles.

District Attorney What happened next?

Officer Garcia I positioned my patrol car behind the vehicle in the number 1 lane and activated my lights and siren and gestured for the driver to pull off the freeway.

District Attorney While you were following behind the red Corvette, did you conduct any investigation?

Officer Garcia Yes. I ran the license plate on my patrol computer.

District Attorney What was the result of that check?

Officer Garcia The car was listed as “reported stolen.”

District Attorney Did you manage to get the person driving the Corvette to pull over?

Officer Garcia Yes, I did.

District Attorney Then what did you do?

Officer Garcia I asked the driver to step out of the car and I searched the driver for officer safety. I then handcuffed the driver, read the driver the *Miranda rights*, and placed the driver in the rear seat of my patrol vehicle.

District Attorney After you placed the driver under arrest, did you find anything suspicious?

Defense Attorney Objection, your Honor. Counsel is *leading* the witness to answer.

Judge **Overruled;** Officer Smith you may continue.

Officer Garcia When I reached in to turn off the headlights of the Corvette, I noticed the key in the ignition. The key appeared to be what is known as a “shaved” key.

District Attorney Can you please explain to the jury what a shaved key is?

Officer Garcia Yes, a shaved key is a key that has been altered by sanding or filing the notches of a car key so that it can be used in other cars – usually of the same make.

District Attorney **(Hold up key chain.)** Is this the key you saw?

[remove hard return]
Officer Garcia Yes, it is.

District Attorney Your Honor, I would like to have the key marked as People's *Exhibit* Number 1.

(Pause to show key to the Defense Attorney.)

OCSC Guide At this time the Clerk would mark the item with an exhibit number and file it. Because it will be referred to later, we will leave this exhibit on the defense table.

District Attorney Thank you, Officer Garcia. No further questions, your Honor.

Defense Attorney The defense has no questions of this witness, your Honor.

Judge **(Turn to witness.)** You may step down.

(Pause to let Officer Garcia leave.)

(Officer Garcia, leave the witness stand and return to your seat.)

Judge Do the People have any additional witnesses or evidence?

District Attorney No, the People rest.

Judge Is the defense ready with its case?

Defense Attorney Yes, your Honor. I call the defendant (Jane Doe/John Doe) to the stand.

Bailiff **(Bailiff escorts defendant to the witness stand and then returns to seat.)**

Clerk **(Stand.)**

Please raise your right hand.

Do you solemnly state the testimony you are about to give in the case now pending before this court shall be the truth, the whole truth, and nothing but the truth?

Defendant I do.

Clerk Please be seated in the witness stand and state your full name.

Defendant **(Give Jane Doe/John Doe)**

Court Reporter Please spell your first and last name.

Defendant **J-A-N-E/J-O-H-N, D-O-E.**

Defense Attorney Ms./Mr. Doe, where were you last December 9th around 11 o'clock at night?

Defendant I was at Knott's Berry Farm, trying to find a ride home to Irvine because my friend who drove had left without me.

Defense Attorney Did you find someone to give you a ride?

Defendant Yes, earlier that night, my friend had run into a guy he knew at Knott's and I saw him leaving the park and asked for a ride. He said sure.

Defense Attorney Do you know his name?

Defendant Yes, my friend introduced him as Jason.

Defense Attorney What was his last name?

Defendant I don't know. He didn't tell me.

Defense Attorney Have you met him before?

Defendant No.

Defense Attorney What kind of car was he driving?

Defendant It was a red Corvette.

Defense Attorney Did you talk to him about the car?

Defendant Yes.

Defense Attorney Can you tell us what he said to you in that conversation?

District Attorney Objection, *hearsay*.

Judge Is this offered to prove the truth of the out of court statement?

Defense Attorney No, it is offered to show my client's knowledge and state of mind.

Judge Overruled, you may answer the question; can the Court Reporter please read back the question.

Court Reporter Can you tell us what he said to you in that conversation?

Defendant He said he stole the car.

Defense Attorney How far did you ride with him?

Defendant We got on the 5 freeway in Buena Park and drove to Main Place Mall.

Defense Attorney What happened when you reached Main Place?

Defendant He drove to the BowlMor at Main Place and said he was going to get out there and I could have the car.

Defense Attorney And did you take the car?

Defendant Yes, I did.

Defense Attorney What were you going to do with the car?

Defendant I got back onto the freeway and started to drive back to Tustin so I could return the car.

Defense Attorney How did you know where to return it?

Defendant When I got out of the car to get in the driver seat, I saw there were dealer plates on the back that said Truly Used Cars and listed the address on Red Hill in Tustin.

Defense Attorney Where were you when Officer Garcia pulled you over?

Defendant I was heading south on the I-5 Freeway, just past First Street in Santa Ana.

Defense Attorney Thank you Ms./Mr. Doe.
No further questions, your Honor.

District Attorney No questions, your Honor.

Judge **(Turn to defendant.)** You may step down.
(Pause to let defendant leave.)

Bailiff **(Bailiff escorts defendant from the stand to his/her/they seat, and then returns to the Bailiff's seat.)**

Judge Ms./Mr. [name of Defense Attorney], do you have any other witnesses or evidence to present?

Defense Attorney No, your Honor. The defense rests.

Judge Are you ready with closing arguments?

District Attorney Yes, your Honor.

Defense Attorney Yes, your Honor.

District Attorney Your Honor, ladies and gentlemen of the jury, the judge told you at the beginning that I have the burden of ***proving my case beyond a reasonable doubt***. I submit to you that I have done just that –there is no reasonable doubt as to who stole the red corvette from Truly Used Cars. Is it reasonable to believe that the defendant and his friend happened to run into someone the friend knew, and that this person happened to be leaving Knotts Berry Farm at the same instant the defendant was looking for a ride? Is it reasonable to believe that someone who stole a car would drive it to Knotts Berry Farm the next day, and then pick up a stranger, confess the crime to the stranger, and then decide to go bowling and give the Corvette to the stranger, who happened to be the defendant? And is it reasonable to believe that the defendant intended to return the car to the dealership on Red Hill when he was speeding 95 miles an hour in the far-left lane just two miles before the offramp?

Defense Attorney Objection, facts not in evidence.

Judge Sustained, jurors please do not consider for any reason the argument made by counsel regarding the defendant speeding 95 miles an hour when driving the Corvette. Those fact were not admitted into evidence. Counsel please continue.

Ladies and gentlemen, the only reasonable interpretation of the evidence is that the Defendant stole the car and was caught driving it on his way home to Irvine from Knotts Berry Farm.

Defense Attorney Your Honor, ladies and gentlemen of the jury, when the Judge told you about the burden of proof, which is part of the presumption of innocence, the Judge also told you that if the People do not prove their case beyond a reasonable doubt, you must vote not guilty. There is plenty of reasonable doubt here. Let’s start with the actual stealing of the vehicle. The People’s witnesses cannot even state with certainty when it was stolen, let alone by whom. The owner did not specifically remember seeing the car on 8th, or 7th, or 6th. If you add in that it was raining that week, how likely is it that the owner would have inspected all 150 cars on each of those days to know whether the corvette was missing on the 9th or several days earlier. Further, no evidence puts my client any where near the dealership on any of the possible days the car was allegedly stolen.

There is plenty of reasonable doubt and because the people have not met their burden, you must vote not guilty. Thank you.

Judge Do the People wish to present a *rebuttal*?

District Attorney No, your Honor.

OCSC Guide **(Very briefly explain that the judge gives “jury instructions” to the jury to inform them of the law that applies; it is up to the jury to determine whether the facts proven beyond a reasonable doubt establish a violation of the law.)**

Judge **(Speaking to the jury)**
The Defendant is accused of having committed the crime of grand theft of an automobile.

In order to prove the crime of grand theft of an automobile, it must be proved that:

1. A person took or drove away an automobile belonging to another person without the owner’s consent; and
2. When the person took or drove away the automobile, that person had the intent to deprive the owner permanently of his property; and
3. The value of the car was at least \$950.

OCSC Guide **Now the bailiff must take an oath.**

Clerk **(Speaking to the bailiff.)**
Do you solemnly state that you will take charge of the jury and keep them together, that you will not speak to them yourself nor allow anyone else to speak to them upon any subject connected with this case, except by order of the Court and when they have agreed upon a verdict you will return them into this Court?

Bailiff I do. **(Then escort the jury to the deliberation room.)**

-----**If time permits**-----

Bailiff **(Escort jury to jury room to choose a foreperson and to reach a verdict.)**

OCSC Guide **(One guide accompanies the jury to the jury room and allows a maximum of 5 minutes for the jury to decide.)**

Other OCSC Guides: Answer questions or encourage small groups to reach separate decisions.

AFTER JURY RETURNS

Judge Have you reached a verdict?

Foreperson **(Answers “yes” and hands verdict to Bailiff.)**

Bailiff **(Takes verdict from foreperson, shows it to the judge and after the judge has seen the verdict, the Bailiff hands it to the Clerk who reads it aloud.)**

Clerk **(Stand and read the verdict from the verdict slip handed to you.)**

Judge Thank you ladies and gentlemen of the jury. You are now discharged from your duties as jurors.
(Then select one of these statements depending on the verdict.)

[IF GUILTY VERDICT:] The Court will sentence the defendant two weeks from today; all counsel and the Defendant are ordered to appear in this department at 8:30 a.m. on that day. Present bail to remain. This court is now adjourned. **OR**

[IF NOT GUILTY:] The Defendant is discharged, and his bail bond is exonerated. This court is now adjourned. **OR**

[IF THE JURY COULD NOT REACH A UNANIMOUS VERDICT:] After an honest and diligent effort, the jury has been unable to arrive at a unanimous verdict. Therefore, because the jury is deadlocked, I declare a mistrial and this court is adjourned.

VOCABULARY:

Miranda Rights:
Objection:
Objection nonresponsive:
Sustained:
Objection leading:
Overruled:
Exhibit:
Hearsay:
Proof beyond a reasonable doubt:
Objection, facts not in evidence:
Rebuttal: