

Clarifying Questions and Answers

Only **REASONABLE** inferences can be made. **If you are not sure** whether something would be reasonable then **it is probably not**. If you go too far outside the fact pattern, you will be docked points.

For example: Maryann Samson cannot state what the offender was wearing. Her answer would have to be, "I don't know" or "I don't remember."

If someone does make up a fact that you think is unreasonable you cannot make an objection that it is "outside the record" or "outside the witness's knowledge." You must impeach by omission. (Ask your coaches how).

THERE IS A DIFFERENCE BETWEEN MAKING UP FACTS AND ARGUING THEORIES. A witness cannot simply make something up on direct examination, yet if you have a theory about what "actually" happened I encourage you to argue it (i.e. what may have happened) during the appropriate time. If you are confused about when that time would be, ask your coaches (they should all know, but if for some reason they do not, please come talk to me). As mentioned above, if you are not sure whether you may be going too far outside the facts, then you probably are and I suggest you do not go in that direction.

- 1) Can we at all read into what Victor was wearing on the night in question-he is a custodian-do we assume it is a uniform or regular every day street clothing?
 - a. ***You can make a reasonable inference***
- 2) For aggravated kidnapping I am assuming each number is an OR not a requirement of the statute.
 - a. ***Yes***
- 3) For # 5 of aggravated kidnapping statute, what is a "dangerous weapon"
 - a. ***This does not apply to the problem***
- 4) Can we use the common facts initial page for all people's direct/crosses?
 - a. ***No you cannot, you must stick with the witness's statements and Preliminary Hearing Testimony***
- 5) Was Maryann's schedule the day of the kidnapping 3-11pm or 5-11pm?
 - a. ***5-11pm, see the updated problem***
- 6) Do we know if Maryann was hand cuffed behind her back to the pipe?
 - a. ***Maryann Samson was handcuffed from behind***
- 7) Do the individual lockers have locks on them?
 - a. ***There are no locks on the employee lockers***

- 8) Are guests allowed, (like if a family member wanted to watch)?
a. ***Yes, guests are allowed to attend the competition***
- 9) In Victor McLove's statement, he begins by say he is unemployed. However, according to the letter from the hotel and the main fact pattern, he was not due to be finished with his employment until February 27, and the statement is dated February 26. Should we take this as a typo, or is it as it appears?
a. ***Take the facts as they are***
- 10) In the same statement, Victor says I never kidnapped Maryann. Should we assume that he was told he was being arrested for her kidnapping, when given his Miranda rights, or would it be reasonable to utilize that statement/knowledge against him?
a. ***Victor McLove knew that we being arrested for his kidnapping***
- 11) As a competition question, may we see a judge's scoring sheet, or have a more complete explanation at this time of exactly what we will be scored on during the competition?
a. ***No, you will receive the score sheets with comments sometime after the Competition. Look out for an email.***
- 12) Exactly where is the owner's, Tony Sampson, office?
a. ***Tony Sampson's office is located on the 10th floor of Hotel Jewels next to the Conference Room***
- 13) Is Tony Sampson's office located in a restricted area where only employees work?
a. ***No***
- 14) In Victor's statement he says he worked for Hotel Jewels from January 2006 until Feb. 2009. Then in Tony Sampson's letter he states that he they were happy with his work performance over the past 18 months. Please let me know if this is a typo.
a. ***Take the facts as they are***
- 15) Did Patricia Chiggins see Victor McLove leave out of the back door?
a. ***Yes***
- 16) Where is the back door?
a. ***In the basement of the hotel***
- 17) If the Detective is asked a question on cross examination that is not in his Preliminary Hearing Testimony, how should the Detective respond?
a. ***The Detective cannot answer with "I was never asked that question"***
- 18) Are all statements made under oath?
a. ***Yes, all statements were made under oath***

- 19) Is it a reasonable inference that Detective Dewberry arrested Victor McLove?
- a. **Yes**
- 20) Can you impeach using the witness's statements/preliminary hearing testimony?
- a. ***Yes you can impeach a witness with their own statement or preliminary hearing testimony. You can also impeach by omission. ASK your coaches how to impeach.***
- 21) All of the case facts listed in e-mails, case synopsis, and answers to these questions; are they going to be incorporated into the affidavits and new affidavits released? If not, how do we impeach if teams don't comply with the answers? (i.e. witness says, "I don't know what time he left" when they should clearly say 10:20)
- a. ***The evaluators will be made aware of these changes and will know to dock points for people that choose to ignore the changes and make things up. I will be attaching an addendum to the copies they receive. Furthermore, assume that everything in these clarifying questions has been constructively added to the appropriate witness statements. Should you need to impeach, you can assume that the changes have been added.***
- 22) Can there be re-directs, re-crosses, and objections during opening and closing statements?
- a. ***A re-direct will be permitted, but must stay within the bounds of the Federal Rules of Evidence. No re-crosses will be permitted. Objections should be made pursuant to the Federal Rules of Evidence.***
- 23) How much time is permitted for each round?
- a. ***You get 30 minutes each round to present your case-and-chief, so use your time wisely. Bailiffs will be instructed that each round must not go over 1 hour in length and will stop you if you have went over your 30 minutes.***
- 24) Will there be timekeepers in the rooms?
- a. ***Yes, there will be Bailiffs in each room keeping time.***
- 25) Will it be a jury trial or a bench trial?
- a. ***Treat the case as if it were a jury trial, there will be 2-4 evaluators in each room.***