

## 2016 NATIONAL CRIMINAL TRIAL COMPETITION RULES

### CALIFORNIA ATTORNEYS FOR CRIMINAL JUSTICE (CACJ) & HASTINGS COLLEGE OF THE LAW

1. CACJ created the NCTAC to stimulate student interest in developing trial and advocacy skills in criminal law and to encourage law schools to teach trial advocacy skills, particularly in criminal/constitutional law. Students should consider becoming CACJ members by the start of the competition. Membership information can be requested from CACJ by visiting their website at: <http://www.cacj.org>.
2. These competition rules apply to the annual competition held by CACJ and Hastings College of the Law. Requests for interpretation of these rules should be sent in writing to the NCTAC committee at [mocktrial@cacj.org](mailto:mocktrial@cacj.org). The committee, as described further *below*, will issue written responses in accordance with these rules and in their sole discretion, will interpret these competition rules; all decisions are final. The NCTAC committee, in their sole discretion, may create additional rules to address situations not presently covered by these competition rules.
3. The conduct of all participants in the competition, including team members and coaches, will be governed by these Rules and by the standards set out in the ABA-Model Code of Professional Responsibility and the ABA-Model Rules of Professional Conduct. As set out in further detail below, violation of any of these Rules, depending on seriousness of the violation, may result in disqualification of the team or other sanctions, including but not limited to exclusion from future participation in this competition. Note further that scoring jurors are permitted to reduce points of any team violating these Rules.
4. The two finalists are guaranteed to be invited back for the next competition, unless the NCTAC committee determines that a rules violation occurred, and thus is authorized to rescind the invitation.
5. To maintain the objective scoring process, each team will be randomly assigned a team letter for competition purposes. No law school will be identified by school name.
6. Each team must be accompanied by a Faculty Advisor or an attorney designated by their law school to act as the Faculty Advisor. Only the Faculty Advisor is to attend the Faculty Advisors' pre-competition meeting. Without a Faculty Advisor present, a school will not be permitted to compete. A student may not serve as the Faculty Advisor without express approval, after a special request for accommodation has been made. If the NCTAC committee permits, a student may serve as Faculty Advisor.
7. Each school is responsible for funding its team's travel, hotel and meals. Upon request, CACJ can provide information about hotels in the area.
8. Each student participating on a team must be currently enrolled in a J.D. program. It is up to the individual schools how they pick their teams.

9. Geoffrey Hansen, Cris Lamb, Bobbie Stein, Julie Traun and Orchid Vaghti will act as the CACJ Competition Committee. All controversies will be referred to this Committee and those designated by the Committee for final resolution. Questions concerning the merits of the case will not be answered. Any questions that arise during trials should be relayed to a Committee member by the Faculty Advisor.
10. The problem and rules will be provided to all teams simultaneously via e-mail no later than SEPTEMBER 6, 2016. The problem may include pleadings, witness statements, police reports, discovery, photographs, diagrams, jury instructions, research relevant to expert witnesses, if any, and other materials. All questions about the rules as well as the problem or the case-file must be submitted by e-mail from Faculty Advisors no later than SEPTEMBER 23, 2016 by 5PM PST to [mocktrial@cacj.org](mailto:mocktrial@cacj.org). Responses to all questions submitted in a timely fashion will be sent by simultaneous e-mail to advisors/coaches by OCTOBER 3, 2016. All questions and responses will be contained in this single email.
11. Each team will have a minimum of two trials. The two preliminary rounds, one on Thursday and one on Friday, as well as the quarter-final and semi-final rounds on Saturday will be held at the Phillip Burton Federal Courthouse located at 450 Golden Gate Avenue, San Francisco. The final round on Sunday morning will be held at Hastings College of the Law, located at 100 McAllister Street, San Francisco. Quarter finalists will be announced at the Friday night reception held at Soluna Café/Bar, located at 272 McAllister Street, San Francisco, approximately one – two blocks from the Federal Courthouse.
12. The standings after two rounds will be based on number of wins first, number of judges ballots second, followed by head-to-head result (if any) and, finally total points. For example, a team will be evaluated as such... Joe Smith Law School, 2 wins and zero losses, 6 ballots, no head-to-head, and 189 points.
13. Pairings in the two preliminary rounds will be at random, and will be announced at the coaches' meeting on Thursday afternoon. Each team must represent the prosecution and the defense at least once. No two teams will compete against each other more than once during the preliminary rounds.
14. In the quarter-final rounds, the first ranked team will compete against the eighth ranked team, the second against the seventh, and so on. If the paired teams in the playoff rounds have already competed against each other, they will switch sides from their previous meeting. If they have not competed against each other before, they will flip a coin for the choice of sides.
15. The teams in the semi-final round will represent different sides than they did in the quarter-final round. If they both had the same side in the quarter-final round, they will flip a coin for sides. The teams in the final round will represent different sides than they did in the semi-final round. If they both had the same side in the semi-final round, they will flip a coin for sides.

16. Each team will have ONLY four members. There will be no stand-by substitutes. Two students are to represent the prosecution and the other two the defense; each pair of students will act as the other pair's witnesses. This means that each of the four team members must participate as an advocate – either as a prosecuting attorney or as a defense attorney - in the competition. There are to be no independent witnesses.
17. All witnesses in the case-file are gender neutral. A separate sheet will be sent asking for the team to designate which witnesses each team member will be and whether they will testify as a male or female.
18. During a round, each team member who is an advocate must participate in three of the six aspects of the trial. The opening and closing must be done by different students. Each student must conduct one direct examination and one cross examination. There will be NO recalling of witnesses, but the prosecution may ask the court to reserve time for rebuttal argument. Pre-trial motions will be oral and will be heard before the opening statements. Each issue brought up in pre-trial motions will be argued and responded to by one member of each team only. If there is more than one issue, the other team member may raise that issue and the other member of the opposing team may respond. Please remember that this is a TRIAL competition, not a moot court competition, and to conduct yourselves in that spirit. Presentation and argument of pre-trial motions will be limited to eight (8) minutes total and divided equally between the parties as follows:
  - a) The prosecution shall have two (2) minutes to present any pretrial motions;
  - b) The defense shall have two (2) minutes to respond to the prosecution's motions;
  - c) The defense shall have two (2) minutes to present any pretrial motions;
  - d) The prosecution shall have two (2) minutes to respond to the defense motions.
19. Objections will be made during direct examination by the opposing team member who is to cross-examine that witness and vice-versa. There is to be no double-teaming.
20. Objections during Opening and Closing, if necessary, will be made only by the team member handling that portion of the trial for the objecting team. The person raising the objection will be expected to argue it (again, no double teaming). The person giving the Opening or Closing will be the team member who will respond to the objection.
21. Objections must be brief, limited to the legal basis and applied to the specific facts at issue. Length of objections and argument is in the discretion of the judge and the clock will not be stopped, so it is imperative that objections be well thought out and as brief and to the point as possible. Please remember that coaches should be teaching non-speaking objections. Rarely, and only for unanticipated circumstances, should the objections and subsequent argument become too lengthy, we will instruct

the clock keeper to stop the clock. This is NOT an invitation to argue at length and do remember that speaking objections are not permitted. Yet we understand that on occasion, exceptions should apply. Remember, the time-keeping is decided exclusively by the CACJ designated time-keeper. The presiding judge, in the judge's discretion, may order time charged against any team that makes excessive objections or uses excessive time to argue or respond to objections.

22. Use of demonstrative evidence is limited to that which is provided in the problem materials. Teams may enlarge any portion of the record that they wish to use. Teams may diagram or make charts in open court to highlight an aspect of the case when appropriate, such as bullet points or review of the facts. No other demonstrative evidence is to be created that is outside the problem. All demonstrative evidence enlarged, etc. must be shown to all Faculty Advisors at the Advisors' meeting on Thursday afternoon. Teams must bring their own easel, markers, display boards and other equipment as these will not be provided by CACJ or the courthouse(s).
23. In all trial competitions there is, unfortunately, the inevitable problem of teams seeming to go outside the record. There is no need to go outside the record; this should never be done and doing so violates these Rules. If this inadvertently happens, the judge will not accept an "outside the record objection," as straying from the record can be cured by the opposing team during cross-examination and closing argument. Advisors, please encourage students to act in the highest spirit of professionalism, and strongly discourage the win-at-all-costs mentality that sometimes creeps into our profession. Any school whose teams has made up facts or has gone outside or contrary to the record is in violation of the Rules.
24. Due to time constraints of completing the entire competition in a four-day period, the demands already placed upon the volunteers who judge each round, and many other considerations, there will be no lengthy appeals process. If your team encounters a team who has violated the letter or spirit of the Competition, the NCTAC Committee should be made aware of such alleged violations by the Faculty Advisors. The NCTAC committee will make the final determination of whether a breach of the Rules should result in disqualification from the competition or other appropriate sanctions. It is up to the students, however, to be prepared through effective trial advocacy techniques, to make such deviations from the record apparent during the trial. The judges will be instructed to consider the ethics of the teams participating in the evaluation process. Should it become clear during a round that a team has breached the ethics of the competition, that fact shall be considered in evaluating the overall performance of the team in question. At the conclusion of each trial, however, the results will be final!
25. During the trials, Faculty Advisors may sit in with their teams, but may not have ANY contact with their teams until the trial is over, including during any breaks in the trial. Faculty Advisors may sit in on the critiques at the conclusion of each round. No team may receive advice or assistance from a Faculty Advisor, supervisor, school personnel, non-team member students, or observer(s) between the time a round commences and concludes. Faculty Advisors, supervisors, school personnel, non-team member

students, and observers may not talk to, signal, communicate with, or otherwise coach their teams during the trials.

26. Teams will be identified by a team letter (A, B, C, etc) assigned by the Committee, and may not tell or indicate in any manner to the judges what school they represent, except as specifically provided below. Team members may not say, wear, bring, or do anything that identifies their school until the judges' decision is announced. Family members and friends, if attending as part of the audience should be advised that they too should not wear or do anything that identifies the school. This includes bringing any materials to the courtroom bearing the identity of your school in a way that could be seen by any judge (for example: notebooks, pads of paper, library books, pens, etc. bearing your school name or logo). Identify yourself by team number only. At the conclusion of a round, (i.e. AFTER the completed ballots of the judges have been collected), students may reveal the identity of their school only if asked by a judge or judges. Judges will be instructed not to request such information if there is the potential that any one of those judges might serve as a judge in a future round. The trial is limited to 80 minutes per side (pretrial motions [for which a total of 8 minutes are permitted] are not included in the 80 minutes). You may determine how best to apportion your time. This will be a factor in judging. The judges will be keeping time, and if any round goes over the time limit it will be preemptorily stopped by the Committee so the next round or event can begin on time.
27. Teams must call each witness for their side of the case as assigned in the problem. Teams may choose in which order to call their witnesses but must adhere to the time constraint. The problem is to be tried in accordance with the Federal Rules of Evidence and Procedure and the jury instructions provided. The defense may not reserve their opening statement.
28. Each round of the competition will be judged by a panel of three experienced lawyers/judges. All judges and jurors will attend a judges' meeting. One judge/lawyer will be designated as the presiding judge and will make all rulings. The other two judges/lawyers will make up the jury and one will double as clerk/bailiff. All judges and jurors will receive a bench brief and copy of these Rules prior to the competition. They will be well aware that the actual merits of the case should play no role in their deliberations. Overall performance and competency of advocacy are the only standards. Each lawyer/judge will deliberate and file an individual ballot. The three judges may not confer on their ballots. Overall Records and Total Ballots Received will be posted after the conclusion of the preliminary round of trials. Please be patient and give us time and space to do the calculations. It is a tedious endeavor which requires significant concentration. Results will NOT be provided on a trial by trial basis. At NO time during or after the Competition will individual judges' ballots be made available to any team or advisor until the competition has concluded or the departing team has been eliminated from participating in a subsequent round. Judges will be encouraged to do brief oral critiques of the participants at the conclusion of each trial, with the emphasis on brief, in order to keep things moving along.

29. The presiding judge will make a note of any conduct worthy of being held in contempt should he/she feel the advocate's behavior falls into this category. A student receiving a contempt notation will be ineligible to be chosen as best advocate for that round. Additionally, any student who is rude/unprofessional to the Committee or our staff or judge/jurors will be ineligible to be chosen for any advocate award. Having practiced law and having coached competition teams ourselves, we realize students are under pressure, but all should learn early on that there is no excuse for unprofessional behavior. This will be strictly enforced.
30. Team awards will be given to First, Second, Third and Fourth Place teams. Honorable mention will be given to teams in 4th-8th place. The Best Overall Advocate award will be given to the student in the final round who has the overall best point record. The trophy for this award will be given to the student and a main trophy board will be kept in the CACJ office in Sacramento. Each year the winning name and school will be added to the trophy board.
31. There will be an awards ceremony on Sunday at the conclusion of the Final round. All competitors and advisors still in town are encouraged to attend. There will be a reception/social gathering on Friday night at 9:00 p.m. where the eight quarter-finalists will be announced. As space is very limited, this gathering is limited to students and coaches.

## 2016 NATIONAL CRIMINAL TRIAL COMPETITION SCORING CRITERIA

### CALIFORNIA ATTORNEYS FOR CRIMINAL JUSTICE (CACJ) & HASTINGS COLLEGE OF THE LAW

#### **Opening Statement**

(One advocate will present opening for each team)

1. Generally confined to outline of evidence to be presented?
2. Clearly and persuasively presented theory of case?
3. Personalized himself/herself and client?
4. Made appropriate objections/responses?

#### **Direct examination**

(Each advocate will conduct the direct examination of one witness)

1. Questions generated minimum number of valid objections?
2. Made or failed to make objections with tactical or substantive merit?
3. Appropriately responded to objections made?
4. Appropriate general attitude and rapport with jury?
5. Testimony developed in interesting and coherent fashion?
6. Listened to and followed up on witness answers?
7. Showed strength and weakness of witness in most favorable light?

#### **Cross-examination**

(Each advocate will cross-examine one witness)

1. Questions generated minimum number of valid objections?
2. Made or failed to make objections with tactical or substantive merit?
3. Appropriately responded to objections made?
4. Used leading questions appropriately and advantageously?
5. Listened to and followed up on witness answers to elicit helpful testimony?
6. Used impeachment opportunities and demonstrated same effectively?

#### **Closing Argument**

(One advocate will present closing for each team)

1. Presented cohesive theory of the case and dealt effectively with the weaknesses in counsel's own case?
2. Effectively called attention to opponent's flaws?
3. Presented persuasive argument?
4. Utilized effective style and law?
5. Inappropriately interrupted argument of opposing counsel?
6. Properly confined rebuttal to rebuttal materials?
7. Effectively countered opponent's argument in rebuttal?