

**QUESTIONS AND ANSWERS TO CACJ/HASTINGS NATIONAL CRIMINAL  
TRIAL ADVOCACY COMPETITION PROBLEM FOR 2016**

1. It is clear to us that the hand-written Skor exhibit was not changed to reflect the record provided. It provides names of persons and places that are not consistent with the transcript provided. Will a substitute exhibit be provided with the correct information?

**A. See Amended Exhibit**

2. It appears that the hand-written Skor exhibit was not changed to reflect the record provided for the trial competition. For example, it includes names of persons and places that are inconsistent with the transcripts provided. Will a substitute exhibit be provided with the correct information?

**A. See Question 1.**

3. Page 7 vs. Preliminary Hearing Transcript: The Prosecution and Defense Witnesses indicated on page 7 are different from the Preliminary Hearing Transcript. The transcripts place Taylor Anderson as a Prosecution witness and Kirsten Skor as a Defense Witness. Which is correct—page 7 or the Preliminary Hearing proceedings?

**A. At the preliminary hearing, Kirsten Skor was called as a defense witness. At trial, the prosecution is calling Kirsten Skor.**

4. Taylor Anderson's drawn exhibit from the Preliminary Hearing: direction key is incorrect. East and west should be reversed.

**A. The hand drawn direction key correctly orients the items drawn on the page.**

5. Was it a mistake to have Taylor Anderson's Preliminary Hearing Testimony indicate he was drawing arrows on his exhibit but the exhibit itself has no arrows?

**A. See Amended Exhibit (No. 6 in Exhibits provided with this Problem)  
(Referenced in the Preliminary Hearing as "People's 6, Diagram, Accident Scene")**

6. In the police report, Officer Mojo interviews several witnesses and then later wrote that those same witnesses refused to speak with him. Was this an error or intentional? Or was that an inference that Officer Mojo attempted to speak with those witnesses a second time and they refused?

**A. This is intentional.**

7. Page 17: Victim is called “Laurie Hernandez” and then subsequently called “Laurie Martinez” on page 105 of the Preliminary Hearing Transcript. Mistake?

**A. Yes, it is a mistake. The people killed were Mark Spangler, his girlfriend, Laurie Hernandez, and their two children, Cord and Kylie Spangler.**

8. Page 21 Jury instruction 7.00 indicated Kirsten Skor is a Prosecution witness despite Preliminary Hearing indicating the opposite. Mistake?

**A. No, this is not a mistake.**

9. Page 7 of Preliminary Hearing Transcript: Line 1: Did Lisa Masonry mean that WITH the county program the towing would only be \$35? Or is the towing free with the county program in place?

**A. The county program was free, but not in operation at the time. Rather, it provided lower cost tows to low-income people for \$35.00.**

10. Page 34 Preliminary Hearing Transcript: Line 8/9: Meant to say “brother” or “sons”? Which son? Both?

**A. This is an error and it should say "sons".**

11. Page 12 of the Police Report: Are the lanes 12 feet together? Or each 12 feet wide?

**A. Each lane is 12 feet wide.**

12. Are we to assume that legal limit BAC is .08? What is the legal limit?

**A. .08**

13. Page 9: Per Stipulation 2: At what point does the jury read Lisa Masonry’s Preliminary Hearing Transcript? Did they read it before opening statements? The Stipulation is read in the past tense—so, are we assuming at opening that jury could have read it already?

**A. Evidence is not presented prior to opening statements.**

14. Page 21 Jury Instructions: The definition of “drive” is provided in Jury Instruction 5.00 but “operate” is not. Are we to assume drive and operate are the same definition?

**A. Refer to the jury instructions as a whole. This is not a question for the committee to answer.**

15. The Preliminary Hearing Transcript indicated both the State of California and State of Sunshine? Are we in the County of Sunshine in the State of Sunshine or the County of Sunshine in the State of California? (See face of Prelim Trans)

**A. The State and County of Sunshine**

16. What is the rule on asking questions where the answers are not contained in that witness' statement/transcript, etc?

**A. Refer to Rule 23 as well as Stipulations 6, 7 and 8 on page 8 of the Problem.**

17. Are the names Jimmy and Jerry on the chronological timeline exhibit supposed to say Bill and Bob, or is that an intentional inconsistency?

**A. Bill and Bob or Billie and Bobbie are the correct names and the Exhibit has been amended; see Questions 1 and 2.**

18. Is the defendant constructively present in the courtroom during trial? Sitting at defense table? May he be identified as such?

**A. Yes.**

19. Throughout the case packet, there are date inconsistencies. Did the collision occur on January 3rd or January 4th? Around what time?

**A. The collision occurred on January 4<sup>th</sup>, just prior to midnight.**

20. Are competitors permitted to recross for the sole purpose of impeachment? If not, how can we prevent a team from simply inventing or "slightly bending" facts on redirect giving us no chance to confront that?

**A. Recross is not allowed. Also see answer to number 16.**

21. Is marijuana legal or illegal in this jurisdiction?

**A. It is illegal.**

22. Were Kirsten Skor's previous convictions (a) felonies and (b) within ten years of this trial?

**A. Refer to the preliminary hearing transcript.**

23. Is the compass supposed to be upside down in Taylor Anderson's drawn diagram?

**A. Yes, it is**

24. What is the underlying charge that caused Skor's current probation?

**A. All that is known about the charge is set out on page 122 of the preliminary hearing transcript.**

25. Are motions in limine scored?

**A. See scoring criteria in the materials**

26. How far was the Potter house from the collision site?

**A. No exact distance has been provided.**

27. Can witnesses use their testimony from their preliminary hearing AND Officer Mojo's police report? In other words, is it a reasonable inference for a person who was interviewed by officer Mojo to testify to that in addition to their preliminary hearing testimony?

**A. A prior statement is a prior statement.**

28. Is there a parties instruction which could define criminal culpability for the conduct of another?

**A. The problem contains all relevant jury instructions**

29. What were the specific terms of the plea bargain agreement that the State made with their witness, Skor. For example, what was Skor originally charged with, what did he plead to, what were the terms, etc.

**A. Refer to page 122 of the preliminary hearing transcript. No further details are known.**

30. What is the legal definition of intoxication in this jurisdiction? .08?

**A. The legal limit to drive a motor vehicle in this jurisdiction is .08.**

31. Is this jurisdiction the State of California or the State of Sunshine?

**A. See Question 15.**

32. Is there a legal definition of "operate?"

**A. See Question 14.**

33. Is the GMC pickup truck referenced in the police report a typo (or remnant from the original case), since Taylor references a Dodge Ram that was hit?

**A. The GMC is a typo in the Police report. As referenced in the preliminary hearing, it is in fact a Dodge Ram.**

34. Is it a fair inference that Officer Mojo took the photos of the Silverado and of Garrison Road?

**A. Yes**

35. Are the photos taken at different times of daylight intentionally?

**A. No, this is not a significant fact**

36. Is it a fair inference that the vehicles stopped on Garrison Road were still there when Officer Mojo arrived?

**A. Yes.**

37. Is the discrepancy in the timing of Officer Mojo's arrival to the scene of the crime in his police report intentional?

**A. The police report chronicles the police officer's arrival on scene.**

38. On page 16 of the police report, it says that Bob declined an interview. However, Bob already interviewed with Officer Mojo earlier in the police report. Can we assume this to mean that Bob declined a second interview? The same issue comes up with Judy Burnett.

**A. You can assume that the officer attempted to interview them more than one time. See Question 6.**

39. Were there any results from Officer Mojo's fingerprints?

**A. There are no results.**

40. Are we permitted to make up background for Jesse Potter?

**A. Not beyond what is provided. Refer to stipulations 6, 7 and 8 on page 8, and Rule 23 on page 28 of the Problem materials.**

41. Are we permitted to assume that Officer Mojo received training to become a police officer? Are we permitted to make up the number of years Officer Mojo has been a police officer?

**A. Officer Mojo has been a police officer for seven years, and you can assume this fact for purposes of the Competition.**

42. Can we assume that the statement by Jesse Potter that she was surprised Mark Spangler was below legal limit provides a fair inference that .08 was legal limit? Can we assume the Officer Mojo knows that .08 is the legal limit?

**A. See Questions 12 and 30.**

43. Is it fair to assume that Officer Mojo talked to Taylor Anderson at the scene of the accident?

**A. Yes.**

44. Stipulation 5 says that the grand jury proceedings and testimony are referenced throughout the problem and that the transcript from that grand jury proceedings are not available. Does the stipulation also mean that parties cannot object based on the Jancks Act and FRCP 26.2

**A. The Jancks Act does not apply. Only the preliminary hearing transcript has been provided. The parties cannot object to the lack of a Grand Jury transcript. A stipulation is a stipulation; no objections.**

45. Are we permitted to object based on the confrontation clause.

**A. You may make any legally relevant objections.**

46. If a later witness testifies inconsistently with their statements to the officer may we admit some of the statements in the officer report for impeachment purposes.

**A. This is not a question for the committee**

47. What is the date of Skor's indictment?

**A. This information is not provided; sometime between the date of the incident and the preliminary hearing.**

48. The only witness that identifies Peoples Exhibit 5 (the picture of the Silverado at night) in their preliminary transcript is Anderson. Is there any other witness permitted to lay the foundation for the exhibit?

**A. Any witness who is able to lay the foundation, may lay a foundation.**

49. Can we blow-up and crop individual jury instructions, or are we required to leave all the jury instructions on 1 page?

**A. You may blow up portions, but you are not allowed to alter the jury instructions.**

50. Pg.89/15: second sentence starting with “But...” should be a Q.. Line 16 should be A. and Line 17 should be Q?

**A. The transcript should read:**

**A: Once I labeled him as unable to help.**

**Q: But you did touch this person's arm?**

**A: The only thing I touched was his shoulder and his neck**

**Q: Did you need to move him at all in order to have access to- -**

**A: No. I just reached underneath his head.**

51. In Anderson’s transcript and use of the diagram exhibit, there was mention of a 3rd location by Anderson but it is not reflected on exhibit 12. Is this a drafting mistake, or something teams may have the discretion of marking?

**A. This is a drafting error and the correction will be reflected in the Amended Chronological Timeline Exhibit. (See Questions 1 and 2 above.)**

52. Are the dates on the Skor timeline and the date mentioned on pg.80/line 15 supposed to be January 4, 2016?

**A. It should read Monday, January 4, 2016**

53. Pg. 106/line 14-15 does not make sense. Again, is this a drafting mistake?

**A. The question should read “And that Mark Spangler had also told you . . . “**

54. Pg. 56/ lines 4- 12 say arrows were marked in each vehicle to show direction, but there are no arrows on the exhibit other than for hummer.

**A. See Question 5.**

55. In his statement to officer Mojo, Kirsten Skor says that Bob and Bill helped him tow the Silverado onto the road. In his preliminary hearing transcript Kirsten Skor does not mention this fact. Will witnesses portraying Kirsten Skor be permitted to testify to this fact or must they confine their testimony only to the information in the preliminary transcript?

**A. A prior statement is a prior statement, and the Federal Rules of Evidence apply.**

56. Is it correct that Kirsten Skor pled to a lesser charge, but has not received a sentence yet?

**A. Correct.**

57. What are the dates of Skor's prior convictions?

**A. Refer to page 122; nothing more is provided than what is provided in the problem materials and transcript.**

58. Who was at the family meeting when making up the Carlos story?

**A. No additional information is provided other than what is in the problem.**

59. When did Mark Spangler drink the Jager - at night or in the early afternoon?

**A. This is not a question for the committee.**

60. Is there a casual connection for vehicular manslaughter?

**A. The jury instructions are provided in the problem.**

61. Is the compass in the Anderson exhibit of the road correct?

**A. Yes, see Questions 4 and 23.**

62. Timeline-- Did accident happen January 4 or 3rd?

**A. January 4**

63. Police Report - p. 12 "On January 4, 2016 at approximately midnight... I arrived on scene at 1am..."

**A. The accident occurred just prior to midnight on January 4<sup>th</sup>. The police arrived at 1:00 a.m. on January 5<sup>th</sup>.**

64. Midnight at beginning of Jan. 4? Or midnight at end of Jan. 4?

**A. Questions 62 and 63.**

65. Did the accident happen the night of January 3? Or the 4th?

**A. See Questions 62 and 63.**

66. Judy said accident happened around 7:30 and 8pm?

**A. This is not a question for the committee; Judy said what she said.**

67. Judy said county lady came around 12 and 2pm... she came twice?

**A. This is not a question for the committee; Judy said what she said.**

68. What's the difference between emergency lights and flashers? (flashers and emergency flashers? P. 64)

**A. This is not a question for the committee**

69. Laurie Hernandez? Or Laurie Spangler? Or Laurie Martinez (p. 105)?

**A. See Question 7.**

70. What's the date of prelim? March 1st, 2016? Grand jury? March 4, 2016? (p. 113)

**A. The date of the Preliminary hearing is March 1, 2016; the date of the Grand Jury hearing should be changed to January 12, 2016.**

71. Page 134 - and even though you were advised by the court in march of 2016 that if you violated your supervised OR you weren't going to be let out again? Correct? TODAY IS March 1, 2016?

**A. See Question 70. Line 20 on page 134 should say "January."**

72. Chronological timeline p. 2 "side note"--> what does #3 say? Different from prelim on p. 128.

**A. See Amended Chorological Time Line Exhibit (Questions 1, 2 and 51.)**

73. How many tires are flat? Which tires are flat?

**A. This is not a question for the committee**

74. Linda says we have the abandoned vehicle program where we will come out and we will tow your vehicles away for \$35... But isn't the program supposed to tow it for free?

**A. The Amnesty program is different than the \$35 tow fee. The Amnesty program was not in effect at the time. The cost to tow would have been \$35.00. See also, Question 9.**

75. Is Kirsten Skor's cocaine conviction a juvenile conviction? (overruled in prelim).

**A. See Questions 22.**

76. Are the lanes on Garrison road, 6 feet each? Or 12 feet each?

**A. See Question 11.**

77. Did all the interviews of Officer Mojo happen the day after the accident? January 5th?

**A. This is not a question for the committee**

78. The police report states that he spoke with Judy Burnett, but later states Judy refused to speak with him. Was this for a 2nd interview on January 5th? Or was this a different date?

**A. The officer attempted a second interview. See Questions 6 and 38.**

79. "Approximately, 4 days later, I received a telephone call from Jane Burnett." - 4 days after the accident? Or 4 days after January 5th? Would this be January 9th? (p. 16)

**A. January 9th.**

80. But later says, Officer Mojo invited Kirsten Skor in for a 2nd interview on January 8th?  
(p. 17)

**A. This is not an error.**

81. Were the photographs of the Silverado on Garrison Road, and the photo of Garrison Road taken by Officer Mojo?

**A. See Question 34.**

82. Can the PAS tests that Mojo did on various witnesses be motions in limine? Or can they only not be objected to?

**A. See Trial Stipulation 4 on page 9 of the Problem materials.**

83. Bob Burnett's license—valid?

**A. Bob did not have a valid license.**

84. What time did Mojo get the call? What time did he arrive on the scene?

**A. See police report and answers above.**

85. Page 129--were you surprised when you thought the Cherokee hit the Silverado?

**A. This question is unclear.**

86. Does James Albee own the Suburban?

**A. See police report.**

87. Were the photographs of the Silverado on Garrison Road, and the photo of Garrison Road taken by Officer Mojo?

**A. Yes. See Questions 34 and 81.**

88. Is there a reason why Mark smoking weed is left out in the Preliminary hearing testimony of Potter?

**A. This is not a question for the committee.**

89. One more question to add to our list—Can we assume the legal limit re DUI is .08?

**A. Yes. See Questions 12 and 30.**

90. The Police Report on pages 10 and 11 say Defendant was charged with 192A which is not what he is charged with in the problem, should that be corrected?

**A. Police reports often reflect different charges than the actual charging documents.**

91. While the trial competition stipulations provide that Exhibits 1-3 are admissible, the transcripts only admitted the exhibits as to that hearing, does the stipulation supercede the transcript admission?

**A. Because Masonry's testimony has been admitted, these three exhibits are deemed admitted at trial.**

92. 106:15 - "he was getting rather aggressive and not liking how he was acting?" We think there may be typo here.

**A. No typo.**

93. 133:14 - We think you might need to clarify grammar of sentence in order to use for impeachment purposes.

**A. No error; the transcript contains a short-hand way of referring to "own-recognition release"**

94. Is Stipulate 8 about the \$35 for a tow truck, under the county program or a private company or both?

**A. See Question 74 and testimony of Masonry.**

95. When, if at all, did Officer Mojo speak to Judy Burnett (the date/time is missing from the report)? It appears from the report that the two initially spoke, and Judy later refused to speak again to the officer.

**A. This is not a question for the committee.**

96. When, if at all, did Officer Mojo make a second contact with Bob Burnett? It appears from the report that the two made a second contact, but in the previous paragraph on page 16, it appears that the officer was on the phone with someone. It is unclear if he was at the residence of the Burnetts or not.

**A. This is not a question for the committee.**

97. Grand jury was on March 4, 2016, but the date of the Prelim Hearing is March 1, 2016, should that be corrected?

**A. Yes, see Questions 70 and 71.**

98. Could you clarify if it was a GMC or RAM that got hit? There is inconsistent testimony on this issue (not sure if that was meant to be part of the problem or not).

**A. See Question 33.**

99. Is Taylor Anderson now in the Marines?

**A. Yes, that is a reasonable inference from the questions and answers provided on page 38 of the preliminary hearing transcript.**

100. 80:15 - As of January 24, 2005?

**A. January 4, 2016.**

101. We would like a clarification on Rule 22 - can we create a diagram that is not an exhibit while the witness is testifying that is within the bounds of the problem and their own testimony?

**A. Yes**

102. Should there be a stipulation that the defendant is who he is and that he is present at trial and in the courtroom because there will not be a witness to stand in the place of defendant (i.e., not enough team members to have him and two witnesses)

**A. See Question 18.**

103. In the "State of Sunshine" is smoking marijuana legal or not?

**A. Illegal**

104. In the "State of Sunshine" what is the legal drinking limit (i.e., what are the BAC for DUI and DWAI)

**A. .08 See Questions 12, 30 and 89.**

105. Are all of the witnesses (not testifying in the problem) from the police report unavailable? Can there be a stipulation that those individuals are unavailable?

**A. There is no such stipulation, but the parties may only call the witnesses provided in the problem.**

106. When was the Defendant actually arrested and charged?

**A. This is not a question for the committee**

107. Can we get more information on the stealing by Skor? \*\*As it stands there is not enough information to determine if he committed a felony or a misdemeanor.

**A. No more information will be provided.**

108. If there are more questions about the chronological exhibit that is being fixed, can we ask more clarification questions? If so, by when?

**A. No.**

109. Who took the pictures featured as Exhibits 4 and 5? Also when in relation to the collision were they taken (i.e., was the truck moved)?

**A. See answers 34 and 36 above.**

110. Who is CHP? What does it stand for?

**A. This is an error. The police department is the Sunshine Police Department.**

111. Where is the Burnett's driveway in relation to the truck on the side of the road?

**A. This is not a question for the committee**

112. Would you please clarify stipulation number 6, does the shoulder (5.5') start at the fog line or the end of the bike lane?

**A. The "bike lane", is also the "shoulder", and its width is 5.5 feet on each side of the fog line. The fog line is the white line which is visible in Exhibit 4 and 10 of the group of Exhibits provided in the Problem materials.**

113. When did Mark Spangler drink the Jagermeister (and can we know how much)?

**A. See Question 59.**

114. Where were the Spangler-Hernandez children on the night of the accident? Were they at the Potter's house with their parents?

**A. This is not a question for the committee.**

115. Is the GMC pickup truck referenced in the police report a typo (or remnant from the original case), since Taylor references a Dodge Ram that was hit?

**A. See Questions 33 and 98.**

116. How long after death was the BAC test conducted on the bodies of victims by the coroner?

**A. This is not a question for the committee. You are reminded that no team may do outside forensic research; see Stipulation 6, page 6 of Problem.**

117. Is there a typo on pg 84, line 14- "can" instead of "can't"?

**A. There is no error.**

118. Can we have a member of the team sit in as the defendant?

**A. Yes, see Questions 18 and 102.**

119. Were Skor's prior felony convictions within the last ten years?

**A. See Question 22.**