**WHS 2014/15 Mock Trial Audition Assignment**

**Purpose:** To demonstrate what skills, talents, abilities, and work ethic our team members have and help the coach to determine appropriate team and role assignments.

**Timeline:** Introduce Tuesday 12/2, Work on Thursday 12/4, Present Tuesday 12/9

**Assignment:** Prepare a 2 MINUTE or less opening statement on behalf of EITHER the prosecution or defendant in the case description below. Use your knowledge of Mock Trial presentation skills, interpretation of the case description, and research into precedent and Constitutional Law. You will stand up and present your opening statement to the coaches and team at the 12/9 meeting. Please ASK if you need any help at all in your preparations!!

**Materials:**
- Iowa Mock Trial Explanatory Guide: (Opening statement information on p. 3 and 4)
- Constitutional Law: The 1st, 4th, and 5th Amendments in the Bill of Rights apply to this case
- Past Case Law: Tinker v. Des Moines School District, New Jersey v. T.L.O. any other student rights cases you wish to research
- Iowa Code: Sections 708.6, 708.7, 712.8

**Case Description:** (As with all Mock Trial cases, elements may be based on real life events, but the specific characters and events described here are strictly fictional.)

State of Iowa v. Oswald Finkerman

**Charges:** Oswald Finkerman, age 18 is charged with one count of intimidation with a dangerous weapon, one count of threats with an explosive device, and one counts of first-degree harassment. Finkerman pleads not guilty to all charges.

**Countersuit:** Finkerman alleges that the Waukee Community School District has violated his 1st and 4th amendment rights during their investigation of this crime.

**Description of Events:**

On April 1st, 2014 Waukee High School Student Oswald Finkerman allegedly posted a threat to the social media site “Yakety Yak”. As a result of this threat, The Waukee Police Department advised the School District that they should cancel classes for the rest of the day while they completed a safety inspection of the High School. The school was cleared to return to classes the next day, but according to the principal over 50% of the students did not return for several days, fearing for their safety. During its investigation, the school
administrators and police department found a note in Finkerman’s locker with additional threats towards the principal, Mr. Juneston.

With cooperation of Yakety Yak corporate officials, the Waukee Police Department conducted an investigation as to the source of the post and as a result of that investigation arrested Oswald Finkerman and charged him as the perpetrator of the threat and harassment. Finkerman denies all charges and has filed a countersuit, alleging that the Waukee School District is violating his 1st and 4th amendment rights.

Brief Witness Statements:

Waukee Police Chief Wally Dunkin for the Prosecution: Early on April 1st I got a phone call from Mr. Juneston, the principal at WHS. He told me several students had come to him and let him know that a student had posted a threat on the social media site Yakety Yak towards WHS. I had him email me the threat. We took this very seriously and wanted to ensure all that all of the students and staff at WHS were safe so I recommended he send students home and cancel school for the day, which he immediately did. I, along with several members of the Waukee Police Department and the Dallas County Bomb Squad quickly deployed to the High School and completed a thorough search. Fortunately we did not find any explosives anywhere in the school and I cleared the school for a return to regular classes the next day. After returning to the police department I called the Yakety Yak corporate offices and had them trace the posts to the originating I.P. address and found it to be from a wireless router located at the home of WHS student Oswald Finkerman. We went to the Finkerman home and arrested him without incident. Next we searched Finkerman’s locker at WHS and found lying in plain view a handwritten note threatening Mr. Juneston. The next day we charged him with several crimes in this case.

Waukee High School Principal Kurt Juneston for the Prosecution: On April 1st during first block I had several students come to me and show me a post on their phones. I wasn’t even aware of what Yakety Yak was, but they explained it was a social media site where people could post things anonymously with no username or profile needed. I was glad they trusted me enough to show me the post and wasn’t sure if it was legitimate or not, but to be on the safe side I contacted Chief Dunkin and he recommended we evacuate the school and send everyone home. I waited outside while his team cleared the building and thankfully did not find any explosives. A few hours later he called me and said that their investigation had traced the post to an I.P. address and could I look in our student database to see if any students lived at the home that the internet provider said the I.P. address was from. I did so and found that WHS student Oswald Finkerman lived there. After the police arrested Finkerman Chief Dunkin came back to the school and requested to search his locker. I thought that we had enough probable cause so we went down to his locker and found a note that threatened me with violence. I had not worked much with Finkerman previously, but the week before this incident he was referred to my office for misbehaving in his Social Studies class, and I talked to him about that and told him he needed to keep his thoughts to himself so
he didn’t disrupt class. I am glad that this incident ended peacefully, but am upset that there was such a disruption to the learning at WHS. We basically lost two full days of instruction.

Oswald Finkerman for the Defense: I never thought a stupid joke would turn out like this. I totally shouldn’t be in trouble for any of this. I have first block open since I am a senior. On April 1st, my friend Pat Green and I were hanging out, drinking some Dew, and playing Assassin’s Creed before going to school. We were joking around about school stuff and I told Pat about how I got in trouble with Mr. Juneston the week before for what I had said in Social Studies. What a tool- rather than encourage me to speak my mind Juneston just told me to shut up and not cause trouble. After that I posted a bunch of stuff on Yakety Yak about how I don’t like authority and adults should listen to kids more often, but nothing threatening! As we were talking Pat asked me for my parent’s wireless password so he could look something up on his phone. Just as we were getting ready to leave for school there was a knock at the door and it was the police! They told me that I was under arrest for threatening to blow up the school! My parents always said that if I got arrested I should stay quiet until I could lawyer up so I just went with them to the police station and didn’t say anything until I talked to my attorney, Saul Goodman. When they showed me the threat posted on Yakety Yak I agreed that it came from the I.P. address of my parent’s wireless router- and I had made several posts that morning- but not that one! Later they searched my locker at school and found a note in a journal I had written the day I had gotten in trouble with Mr. Juneston that they said was “harassment”. What a joke- it wasn’t the nicest thing in the world but I wouldn’t say it was harassment. I wasn’t ever going to actually hurt him. Not only do I deny that I made the post that threatened to blow up the school, but I think they are violating my first amendment rights to free speech- shouldn’t I be able to post and write what I think in private? Also, they totally searched my locker and journal without a warrant- that is a violation of my fourth amendment right to privacy. I hope we get this all sorted out soon!

Valerie Finkerman for the Defense: My poor, poor, little boy Oswald. He is nothing but an angel and I am so upset that he is in trouble over all of this misunderstanding! I have always taught him to speak his mind, and if he is upset about something just to write it in his journal. I was at school the morning of the incident, but apparently someone posted something online that got everyone at the school riled up. Come on, people, can’t you tell what is a joke and what is real? I guess the post came from the I.P. address of our wireless router at home, but that could be anybody- my husband is always forgetting to put a password on it so basically anyone can use our internet. That nasty old man Mr. Burns across the street seems like he could have done something like this- ever since Oswald accidentally hit a baseball through their front window he hasn’t liked us much. I also doubt that these posts caused much of a disruption at the school. My friend said that her daughter said that none of the kids were really worried about it and that actually almost everyone was back at school the next day, there wasn’t any disruption to classes and things went on as usual. I am so worried that Oswald’s future will be put in jeopardy over this- even if Mr. Goodman can get the charges dropped no one will want to give him a job, or scholarship, or he might even not be able to get into college. The Finkerman name in Waukee will never be the same.
Text of the Yakety Yak post on 4/1/14 at 8:35 AM from I.P. address 123.456.789:

“They r goin to b sorry they told me to keep my mouth shut! WHS get ready- stink bomb in da boys room outside da new gym today @ noon! Who’s da boss now?”

Text of the Journal Entry found in Oswald Finkerman’s Locker on 4/1/14:

“Who is he- thinking he is the boss of me?? One little thing said in class shouldn’t mean a trip to the office. And anyways couldn’t Juneston just give me a cute little speech about politely agreeing to disagree and send me on my way?? I am so sick of adults not wanting to listen to what us kids have to say- don’t they realize we r goin to be running this show some day? Oh man, if I ever met Finkerman in a dark Waukee alley at night- pow! He’d listen to me then I bet!”

Iowa Code 708.6  INTIMIDATION WITH A DANGEROUS WEAPON:

A person commits a class "D" felony when the person shoots, throws, launches, or discharges a dangerous weapon at, into, or in a building, vehicle, airplane, railroad engine, railroad car, or boat, occupied by another person, or within an assembly of people, and thereby places the occupants or people in reasonable apprehension of serious injury or threatens to commit such an act under circumstances raising a reasonable expectation that the threat will be carried out.

Iowa Code 712.8  THREATS WITH AN EXPLOSIVE DEVICE:

Any person who threatens to place or attempts to place an incendiary or explosive device or material, or any destructive substance or device in any place where it will endanger persons or property, commits a class "D" felony.

Iowa Code 708.7  HARASSMENT:

1. a. A person commits harassment when, with intent to intimidate, annoy, or alarm another person, the person does any of the following: Communicates with another by telephone, telegraph, writing, or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

b. A person commits harassment when the person, purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate, or alarm that other person. As used in this section, unless the context otherwise requires, "personal contact" means an encounter in which two or more people are in visual or physical proximity to each other. "Personal contact" does not require a physical touching or oral communication, although it may include these types of contacts.

2. a. A person commits harassment in the first degree when the person commits harassment involving a threat to commit a forcible felony, or commits harassment and has previously been convicted of harassment three or more times under this section or any similar statute during the preceding ten years.