Case Questions – RENUMBER PAGES at 10

1. Currently there are no designated experts. Can the defense endorse 2 witnesses as experts under Rule 702?

We are designating 3 experts - Chase Melvin, London Holt, and Nevada Morales.

1. The defense does not have a defendant. Is it normal in the real world for a case to go to trial with no defendant? How are we to seek charges when the person is not present? Or, is this a case where the defendant has chosen not to take the stand?

Is the defendant present for trial or being tried in absentia?

What do we do with the defendant not testifying – can the teams have a person who is not scored in the defendant’s seat at the table or no? Would that be team member #7 or if you count the timekeeper?

Also, in a criminal trial, the prosecution would not be allowed to comment on the fact the defendant is not testifying. It does not appear there is such a restriction in the problem, only the instruction the jury may not consider it for any reason. Is it possible to add a stipulation the prosecution may not comment on the fact the defendant is not testifying?

Added stipulation: For the purposes of this trial, the defendant has already been properly identified, and no further identification is required. Teams may elect to have an additional student serve as the defendant's representative. However, the gender of the representative student shall not be disclosed, as the defendant’s gender will remain fixed as female (she/her) throughout the trial, regardless of who is acting as the representative.

1. I'm wondering whether it's possible to add a jury instruction for an alternative suspect theory. We want to be able to allude to alternate suspect(s) as part of the defense’s case, but we see there is not a specific alternate suspect jury instruction. We would like to be able to refer to this defense, but don’t want to get an objection since the jury instruction is absent.

Correct as is.

1. Jury Instruction No. 1 states that “The Defendant, Karen Snow, is charged with committing the crimes of Murder in the First Degree (After Deliberation), Murder in the Second Degree, and Vehicular Homicide (Under the Influence of Alcohol and/or Drugs).” However, neither the Jury Verdict form nor any other jury instruction references a charge of vehicular homicide. Is Vehicular Homicide (Under the Influence of Alcohol and/or Drugs) a charge or a lesser included offense that the prosecution is trying to prove in this case? If so, will there be additional jury instructions added to the case materials regarding this charge?

The Complaint has one charge – Murder in the First Degree. The Jury Verdict Form has Murder in the First Degree and Murder in the Second Degree. Jury Instruction No. 1 states that Karen Snow was also charged with Vehicular Homicide (Under the Influence of Alcohol and/or Drugs). However, there is no instruction for the elements of Vehicular Homicide. Is the Defendant charged with both murder in the first degree and second degree, but not vehicular homicide?

The charges on page 5 and in jury instruction 9 & 10 do not include vehicular manslaughter. Neither does the Jury Verdict form. Jury instruction 1 does. Can we tell the kids to ignore that part of Jury Instruction 1 as a mistake?

Jury instruction #1 includes vehicular homicide but Complaint and Information don’t and neither does the Verdict form. Is there a vehicular homicide charge?

Is vehicular homicide intended to be one of the crimes charged in our case? The Jury Instructions describe vehicular homicide as one of the crimes, but vehicular homicide is not included on the Jury Verdict form or the Complaint, nor is there a Jury Instruction that describes the elements of vehicular homicide, as there is for the first degree and second degree Murder charges.

To the extent that vehicular homicide is intended to be one of the charges in our case, is the prosecution permitted to choose which charge they pursue?

Jury instructions 1 and the verdict form have been updated to only include murder in the first degree. Jury instruction 10 has been removed.

1. The question is "boyfriend or husband" factually. Line 30 of Kai Morrison's witness statement refers to John Murphy as Karen Snow's husband. Line 26 of Jordan Mankiewicz's witness statement refers to John Murphy as the defendant's boyfriend. The case summary says Karen Snow is accused of hitting and killing her boyfriend.

Was the victim the Defendant’s husband or boyfriend? The case summary says Karen Snow is accused of hitting and killing her boyfriend. Kai Morrison says “I knew John Murphy’s wife, Karen Snow.” Detective Mankiewicz calls Murphy both the defendant’s husband (line 13), and her boyfriend (line 26). Exhibit 8 is described as “Karen’s call log.” It shows calls with a “John Snow” not John Murphy.

Sometimes John is called “boyfriend” while others “husband” - which is correct?

John is Karen’s boyfriend. The case file has been updated to reflect this.

1. The car is referred to as John’s car in some places and Karen’s in others. If they are husband and wife, that’s understood. But if not, is that intended?

Line 46 of Chase Melvin’s statement says the vehicle was registered to victim and then refers to it as “victim’s car” again in line 84. Elsewhere in the statement, it is defendant’s car. Which is it?

The car belongs to the defendant. The case document has been updated to reflect this.

1. Chase Melvin says the first search of “how long to die in the cold” was shown as deleted, but the exhibit does not support this.

Correct as is.

1. What is the victim’s time of death? Is it 9:07am or is that the time that the coroner filled out the report?

Correct as is.

1. London Holt’s witness statement at line 40 says that the medical examiner’s report indicates that the victim’s injuries could have been from being struck by a vehicle, but Exhibit 2 contains no such statement. Was Exhibit 2 intended to contain a statement that a collision with a vehicle could have caused his injuries?

Correct as is.

1. Exhibit 3 what is the time stamp or was this left out on purpose?

The text messages in Exhibit 3 lack time stamps but Melvin claims to have exact times that the texts were sent. Were time stamps meant to have been included in Exhibit 3

I also wanted to ask whether we might be getting timestamps for the texts that are in the exhibits, as well as the time of death?

Correct as is.

1. Exhibit 7 states 36 miles. Is this round trip or one-way?

Correct as is.

1. Whose phone is Exhibit 8? In the list of exhibits, Exhibit 8 is described as “Karen’s call log.” Chase Melvin says “based on my metadata of the victim’s phone, I can confirm the time and date of the call log attached as Exhibit 8.”

Exhibit 8, call log 12:14-Is this saying John called Karen?

Exhibit 8: The screenshot is 6:47 showing no calls to Kai at 5:00. Is the call log complete or are there conversations that need to be added?

Exhibit 8 says John Snow; however, he is referred to as John Murphy throughout the rest of the case.

Is Exhibit 8 a full record of the defendant’s call log or just calls to the victim?

Is the name "John Snow" in Exhibit 8 a typo or is it supposed to be some type of John Murphy + Karen Snow/Game of Thrones pet name in the defendant’s phone?

Exhibit 8 also looks like there was only one outgoing call to the victim, at 12:24. The rest of the calls appear to be incoming calls. Is that accurate?

Exhibit 8 and Chase Melvin’s statement have been updated.

1. Did Adrian Canning see a car parked at Stones’ house at 1:45 or 3:30am? The statement contradicts itself - intentional or typo?

Correct as is.

1. In Nevada's statement, lines 157-161 it discusses butt dials between the Stone's and Kai but is not mentioned anywhere else and is not in any call log. Is this accurate?

Correct as is.

1. Kai Morrison’s statement says Philip and Jeanette have been married for 4 years - other statements refer to Stone’s son being in law enforcement and another statement refers to the eldest child of the Stone family, “Streeter” - probably irrelevant, but seems inconsistent.

Correct as is.

1. Demonstrative exhibits - Mock Trial College session told us that we could create summary documents as demonstrative exhibits. Is that accurate? Rule 4.7.1 says no illustrative aids. Need clarification.

Please refer to rule 4.7.1

*4.7.1.Materials: Teams may use and refer only to material provided in the case. No illustrative aids––or any material not provided in the case––or props of any kind may be used. Exhibit notebooks are not permitted. Except as provided in this rule. Teams may present to the presiding judge and scoring panelists only the exhibits and the witness statements exactly as provided in the case material, and the trial rosters.*

*Enlargements of exhibits are permitted, but must be shown to the opposing team in advance of the trial. Teams may mark up their own team's exhibits, not the opposing team's exhibits, but such markings must be made during a witness' testimony and not before. Such marked exhibits shall be considered as demonstrative exhibits and may be admitted as evidence upon proper submission and at the discretion of the trial judge.*

1. Mankiewicz says they wrote a police report regarding the investigation (Mankiewicz, line 19) and describes the time 17:30 written on the report as a typo. Holt says they read the Mankiewicz police report (Holt line 24). This report does not exist in the Exhibit list. Was the Mankiewicz report intended to be a part of our case?

In Jordan Mankewicz's witness statement, he discusses a report he wrote (lines 66 to 67) "I know my report says 1730, but that is just a typo". This report is not present in any documents throughout the case exhibits. Is this intentional, or is it referring to a different exhibit with the wrong number, being a typo.

Correct as is.

1. Other Edits

A reference to Exhibit 4 has been added to Nevada Morales' statement.

A few typos were fixed

Exhibit 3 has been updated

1. On line 32, page 42, Adrian reports seeing nothing at 1:45 a.m.; however, he observes a car during his second pass at 3:30 a.m. Later, on line 54, page 43, he states that there was a car at 1:45 a.m. Could you please confirm if the time mentioned on line 54 is accurate?

Adrian’s statement has been updated on line 54.

1. We cannot find in any affidavits a statement where a witness places either Madden’s Pub or Sgt. Stone’s house in Pueblo. This makes it difficult for the students to establish location.

We can infer that, by virtue of the involvement of the Pueblo County Sheriff Dept. that the crime and all associated events took place in Pueblo, but there is no explicit statement to this effect by any witness.

The case has been updated to establish the location in Pueblo on page 16.

1. Both London and Chase mention health app data being reviewed, and London even refers to it as being an exhibit in their witness statement, "there is additional support that shows that Mr. Murphy’s phone was inside the house that you can see in Exhibit 10. Mr. Murphy’s health app data..." (133-134). But there is no health app data? Is this intentional?

Correct as is.

1. I have a couple of additional questions about laying the foundation for most of the exhibits. For example, the black box data report in exhibit 7 lacks any foundation for this data. All we have is that "detective Manceiwicz gave it to me." Is there any way to verify where this data came from? Is there a VIN number that matches the car? How did it get printed? The same questions arise with respect to Exhibit 1—how does anyone know that this is  actually Morrison's search history—all Morrison has to say when asked is "I have no idea what that is."

Correct as is.