



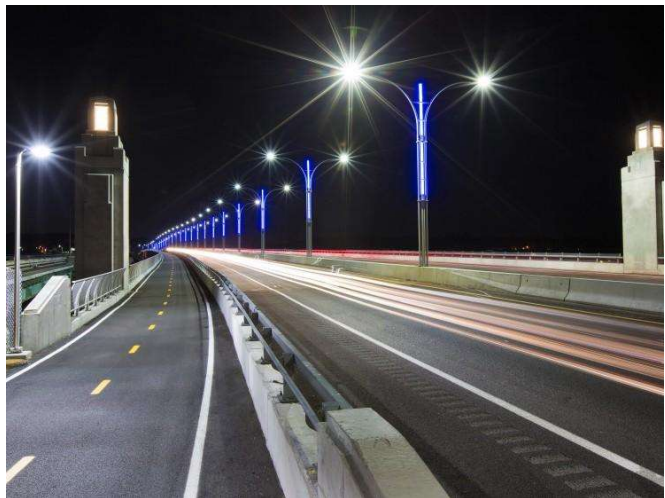
Cross-Examination Workshop Problems and Drills

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Problem 1: State v. Bryan Taylor (Robbery by Snatching)

On direct examination, the victim Matthew Baker testified that on April 6, (YR-1), he was walking home to Tiverton using the pedestrian lanes on the Sakonnet River Bridge after working late at night in the kitchen of the North End Pizzeria in Portsmouth. Baker works there as a dishwasher and was exhausted after working a 10-hour shift. He had his backpack on his shoulder and his new iPhone 14 in his hand, texting his girlfriend that he was just about home.

A man approached Baker from behind that he did not see or hear coming. The man reached around Baker's left shoulder, pushed his right hand into Baker's face, and grabbed the backpack and the iPhone. The robber then turned and ran super-fast back the way he had come (towards Portsmouth).



In less than 15 minutes, Matthew Baker was home. He called 911 and reported that a black male, medium-complected, in his late teens/early twenties, with medium length afro-style hair robbed him. Baker described the robber as 6'0" in height and weighing about 145-155 lbs. Though Baker acknowledged that he did not get a great look at the robber's face, he said that he did see the robber for a brief moment. Baker also said that the robber was wearing an RWU (Roger Williams University) Hawks Basketball T-shirt. Baker reported that the robber took his backpack with his wallet with his driver's license and \$350 in cash in it.

Police Response

Police Officers Malone and Smith responded and canvassed the area, including the bridge, all along Boyd's Lane and Anthony Road, and then cruised through the RWU campus. They saw no one matching the description and were unable to recover video from any working video cameras. There were no additional witnesses. Baker's wallet and driver's license were eventually found in a dumpster outside of the Baypoint Dormitory on Anthony Road. Nothing else was ever found.

Arrest of Bryan Taylor

Officers considered the case to have gone cold until they received a call from Matthew Baker two weeks later. Baker was at work at North End Pizzeria when a group of male students from RWU came in together. Baker popped his head out of the kitchen, annoyed because the men were loud. He saw the men sitting together at a corner table.



Baker noticed that they were all wearing RWU Hawks Basketball T-shirts and one of the men African-American (Bryan Taylor). The black man appeared to Baker to have the same build as the man who robbed him on the bridge.

Baker immediately reached into his pocket to fish out Officer Malone's card to call him. Baker told Officer Malone that he believed that the guy who had robbed him was there in the Pizzeria. Officer Malone arrived in minutes with his partner Officer Smith. They entered

the Pizzeria and spoke with Baker who seemed riled up as he was talking and pointing towards Taylor. Immediately after Baker pointed in his direction, Taylor took off running out of the Pizzeria. He was apprehended following a brief foot chase. After the arrest, police learned that Mr. Taylor was a Junior at RWU and a member of the RWU Basketball Team (starting point guard). He was attending RWU on a scholarship. RWU Hawks Basketball T-shirts are sold in the University bookstore. Nothing on Taylor linked him to the robbery.

Taylor's booking sheet described him as 6' 3" and 160 lbs. His hair was described as a closely cropped twists. His criminal history revealed an arrest for possession of stolen property when he was 17 years old in New Jersey, where he grew up and where his family is from. The case was dismissed six months after the arrest.

Mr. Taylor has shared with you that the team often goes to the North End Pizzeria after practice. Taylor says that he ran because he was scared. Of the 2,000 residents of Tiverton, RI, 97% of them are white (including Matthew Baker); 1% are black or African-American; 2% are listed in other ethnic and racial groups. You plan to call an expert in the field of cross-racial eyewitness identification and unconscious memory transference, Dr. Elliot Einstein.

Matthew Baker has just testified that he is certain that William Taylor was the man who robbed him. The prosecutor has just taken her seat.

Cross-examine Mr. Baker. (You may consider including chapters that setup your later arguments and evidence about problems with cross-racial identification¹ as well

¹ On Cross-Racial Identification: "In 66 of the 216 wrongful convictions overturned by DNA testing, cross-racial eyewitness identification was used as evidence to convict an innocent defendant. Cross-racial identification is when the witness and the defendant being identified are of different racial backgrounds. Three decades of social science research has shown that cross-racial bias exists in identification." See the

as other potential arguments about unconscious memory transference².)

Innocence Project website - <https://innocenceproject.org/cross-racial-identification-and-jury-instruction/#:~:text=Cross-racial%20identification%20is%20when%20the%20witness%20and%20the,has%20shown%20that%20cross-racial%20bias%20exists%20in%20identification.>

² For more on Unconscious Transference, see <https://psychology.iresearchnet.com/forensic-psychology/eyewitness-memory/unconscious-transference/>

Impeachment Drills

Impeachment Drill 1 (Back to Matthew Baker)

Building on the facts from Problem 1. For purposes of this drill, assume that Matthew Baker submitted a signed written description of the robber on the night of the incident which stated that the robber was a "medium-complected" black male. Now assume that your client Bryan Taylor is an extremely light-complected black man and that Matthew Baker testifies on direct at the trial that the man who robbed him was a "light to medium complected black man."

Impeach Matthew Baker.

Impeachment Drill 2 (Officer Richards)

Police Officer Richards is testifying at a suppression hearing. Bo McCale, your client, is charged with unlawful possession of a firearm.

Officer Richards testified on direct examination to the following:

Q: Officer Richards, when you first observed Mr. McCale, what did you observe about him?

A: The defendant was walking towards the entrance to 234 W. Pine Street. I observed him adjusting his waistband in a very obvious way. He grabbed the handle of the weapon and pushed it downward. That's when I approached him.

Officer Richards completed an arrest report the night Mr. McCale was arrested (six months earlier). In the narrative section of the report, Officer Richards wrote the following:

I observed a male that I later learned was the defendant, Bo McCale, I observed him place his hand near his waist. A subsequent search resulted in the recovery of a loaded .380 caliber firearm.

Impeach Officer Richards.

Impeachment Drill 3 (Officer Delacroix)

Part A

Your client, Alec Phylos, is charged with a robbery. Officer Delacroix testified on direct examination at a suppression hearing to the following:

Q: What did you do after placing Mr. Phylos under arrest?

A: After arresting him, I brought him to the precinct for a lineup. I walked him into the precinct through the back entrance because the eyewitness was sitting in the lobby of the precinct.

Officer Delacroix testified in the grand jury two months earlier to the following:

Q: How did Mr. Phylos get to the precinct for the lineup?

A: Actually, I'm not completely sure. I think Officer Jones and his partner brought him there - I was setting up the lineup on the second floor when they arrived.

Impeach Officer Delacroix.

Part B

In the same hearing, Police Officer Delacroix testified to the following:

Q: What sorts of warnings did you give the victim prior to him viewing the lineup?

A: I specifically explained to him that the perpetrator may not be present in the lineup.

Police Officer Delacroix completed a several page document about the lineup that contained the following warnings with his notations.

Perpetrator may or may not be present Yes

No X

Investigation will continue whether or not you make an identification.

The officer showing you the lineup does not know which person is the possible suspect.

Take your time answering the questions - if you say yes you will still see the rest of the photos.

Impeach Officer Delacroix.

Impeachment Drill 4 (Ms. Jones)

Ms. Jones, the complainant in an attempted murder (shooting) has been called as a witness at trial against your client, Leon Bouchard. After making an identification of your client in the courtroom, Ms. Jones says the following:

Q: Ms. Jones, how certain are you that the man over there is the man who shot at you?

A: I'm 100% certain.

Six months earlier, Ms. Jones testified in the grand jury under oath to the following:

Q: You said Mr. Bouchard is the man who shot at you, is that right?

A: Yes.

Q: How sure of that are you ma'am?

A: I'm pretty sure.

One day prior to the arrest, while viewing the photo array, Ms. Jones told Detective Rembrandt that she thinks #4 (Leon Bouchard) is the guy who shot her. This was noted in the Detective's paperwork in connection with the photo array identification.

Part A

Assume that the incident report for the case was completed by first responder Officer Brown. Officer Brown's incident report notes that Ms. Jones stated that it was really dark on the street and it was hard to see.

Impeach Ms. Jones.

Part B

Assume that instead of the prior statement being in the incident report, your investigator, Michelle Roberts, met with Ms. Jones a few weeks before the trial. She told her it was really dark on the street and it was hard to see. Ms. Jones refused to sign a written statement to that effect.

Impeach Ms. Jones.

Problem 2: *State v. Bryan Taylor* (continued)

**** Building on the facts from Problem 1**

Details of the Police Chase and Arrest

During a client meeting before trial, Mr. Taylor describes the moments before he ran out the front of the North End Pizzeria. He saw Matthew Baker pointing to him, and telling the cops "that's the guy." He was terrified and that is why he ran.

Taylor ran down Main Street and then rounded the corner down Boyd's Lane in the general direction of the RWU campus. Though he is fast, the officers caught up with him as he was about to turn down Anthony Road.

Taylor says the officers threw him to the ground roughly and then younger officer (Smith) held him down while Malone beat him with his flashlight. He was bleeding from around his eyebrows. Paramedics were called out to the scene to treat Taylor's bruises before he was transported to the Tiverton Police headquarters.

He also says that as the officer's were beating him, he kept saying "Please stop, I'm sorry for running."

Malone and Smith both claim that they forgot to activate their cameras during the call. However, the prosecutor responds to *Brady/Giglio* request by sending you two sustained internal affairs complaints relating to Officer Smith. She notes that there were other complaints that were not substantiated or found inconclusive and that she is not providing them to you as you are not entitled to this information.

A. Sustained Internal Affairs Complaint 1: Jane Doe sued Officer Smith for false arrest and excessive force on May 13, YR-6. Ms. Doe stated in a sworn complaint that Smith twisted her arm during an arrest for shoplifting and broke her wrist. After Internal Affairs reviewed the body-worn footage of the arrest, the citizen complaint was sustained and the City settled Ms. Doe's related civil suit for \$98,000. Smith was required to attend a video-recorded training lecture regarding the appropriate use of force when arresting suspects.

B. Sustained Internal Affairs Complaint 2: John Doe sued Officer Smith for false arrest and excessive force on July 3, YR-3. Mr. Doe stated in a sworn complaint that Smith kicked and stomped on him after arresting him for possession of marijuana and resisting arrest. Then Smith stood over him and said, "Fxxx-ing Nxxxxx." Smith denied the allegations. There was no video footage of the arrest. Officer Smith claimed he forgot to activate the body-worn camera. The complaint was sustained and the City settled Mr. Doe's related civil suit

for \$800,000. Smith received a formal reprimand, was required to attend DEI training, and served a one-week suspension of duties.

Officer Smith has just testified that he observed how fast William Taylor was running during the foot chase. He then states that Taylor sustained his injuries when he tripped and fell on some rocks at the corner of Boyd's Lane and Anthony Road. Finally, he says that as they were apprehending him, Taylor said, "I'm sorry, I shouldn't have robbed that man."

In Smith's City of Tiverton Incident Report, under the section "Statements by Suspect at Time of Apprehension", the box is blank. The police report is signed by Officer Smith and by his Supervisor. It was submitted on the same night that Bryan Taylor was arrested.

Impeach Officer Smith.

(NOTE: You may use any blank piece of paper as the Incident Report. Also, assume you have won a motion-in-limine allowing you to cross-examine Officer Smith about the internal affairs complaints during your trial.)

Problem 3: *State v. Sanders* (Armed Robbery)

Your client, Larry Sanders, is charged with robbing the Majestic Diner (photos on pages 10-11) on 1/2/Y-2. The State's case is based exclusively upon eyewitness identification. The first case ended in a mistrial and is now being retried. The State already called a witness who positively identified Larry as the robber. His credibility was effectively challenged as a result of your *amazing* cross examination. So, the State is now calling another witness who did not testify at the first trial, but who, in fact, testified in the grand jury, Sidney Shapiro. Mr. Shapiro is 66 years old and testifies as follows, on direct:

*I went into The Majestic Diner to get lunch. I go there a lot because they fix macaroni and cheese just like my Mama used to and that was what I ordered that day. While I was eating my macaroni, that fella over there [indicating Larry Sanders] was dressed all up like a Ninja or something - came busting in the door and fired off a **shotgun** blast. Well, I hit the floor 'cause I seen shooting before and I know better than to stick my head up when there's shooting going on. I got a real good look at him when he first came in though and I'm sure that's him (indicating Larry Sanders).*

Using the police report, Shapiro's grand jury testimony, and the information about the photo array on the following page, cross-examine Sidney Shapiro.

POLICE REPORT (Narrative portion as it pertained to Sidney Shapiro)

One of the three customers in the Majestic Diner was Sidney Shapiro who is homeless but says he can usually be contacted through the Baptist Outreach Mission on Fifth St. Shapiro says he was in the doorway of the kitchen asking if they had any leftovers for him when the robber entered the restaurant. There is an area on the police report for a description of the perpetrator and that area is empty. Also, there is a box that says "can identify" and a "yes" and a "no" box. Neither box is checked off.

GRAND JURY TESTIMONY OF SIDNEY SHAPIRO

Q: Mr. Shapiro, where were you living on January 10?

A: At The Empire Hotel on Third St.

Q: Were you in The Majestic Diner when it was robbed that day?

A: Sure was.

Q: What, if anything, unusual happened?

A: I was in the kitchen asking for a cup of coffee to go when I heard a loud commotion behind me. I started to look around the door post and that's when he must have shot off the gun because it was a real loud bang. I ain't never seen or heard anything like that before. I was real scared. I got a glimpse of the guy with the gun. He had on black clothes.

USE OF PHOTO ARRAY

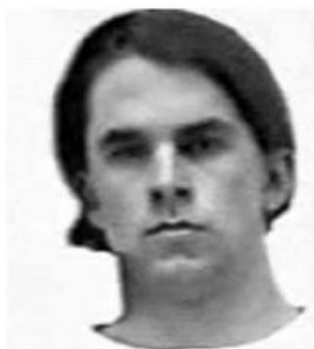
Detective O'Neil, the detective assigned to this case, has known Sidney for years because he volunteers at the Mission in the soup kitchen on the weekends. When

O'Neil came to see him **last week**, after the eyewitness testified at the second trial, he brought with him a photo array. The photo array is black and white and the State claims they cannot locate the original color array. In the array, Mr. Sanders appears to be the only person wearing a dark solid colored shirt. (See Government's Exhibit 2.)

Problem 3 Exhibits



Problem 3 Exhibits (continued)



**Problem 4: *State v. Murphy* (Possession with Intent,
Cocaine)**

Your client, George Murphy, is charged with possession of cocaine. The drugs were found as a result of a vehicle search under circumstances making it impossible to determine which of three occupants actually had possession.

A police report signed by Officer Johnson details the search and seizure. At trial, Johnson testifies on direct that, as the officer opened the zipper bag in which the drugs were found, defendant Murphy said, *"Hey! Leave that alone. That's mine."* There is no mention in his report of any statement by any of the three subjects. No crime scene officers were called to the scene. No forensic evidence was collected.

Cross-examine Officer Johnson.

(NOTE: You may use any piece of paper to represent his police report. Be sure to include a chapter or chapters on "things not done.")

Problem 5: *State v. Lambone* (Burglary and Assault)³

Your client, Frank Lambone, is charged with Burglary and Assault. For the seven months leading up to his arrest, Frank's brother, Vinnie Lambone, was dating Shavon Mitchell, the complainant. During their relationship, sometimes Vinnie would call Frank and ask him to stop by Shavon's apartment and bring weed to them. Frank and Shavon met a few times during these visits outside the back entrance to the building.

Vinnie and Shavon broke up a few weeks before Frank's arrest when Shavon learned that Vinnie was married. Shavon and Vinnie's last interaction was when Vinnie came by about two days after the breakup. Shavon threw a bag at Vinnie containing a few of his personal items. Vinnie shouted back, "Hey, where's my gold chain?" Shavon's next move was to go to court and obtained a stay away order against Vinnie.

According to Frank, on July 28, (YR-1) , he stopped by Shavon's apartment and buzzed for her to let him in. When Shavon let him into the building, he went up to her apartment on the fourth floor and knocked on the door. According to Frank, Shavon let him in but then kind of lost it after he asked for the remainder of Vinnie's stuff and specifically the gold chain. Shavon insisted that Frank leave and started yelling, and then she

³ This problem is optional and for those groups that have time.

grabbed a kitchen knife. Frank ran down the hall toward the bedroom to look for the chain. Shavon gave chase and this led to a struggle over the knife. Frank managed to force Shavon's hand open and the knife dropped to the floor. Then Frank felt himself getting stabbed in the back. Turns out Shavon's young son had grabbed the knife. Frank never saw the son coming and didn't even know she had a kid. After Frank got stabbed, he spotted the son still holding the knife as Frank made a mad dash for the door.

Shavon called 911. She reported that a stranger entered her apartment, demanded money and assaulted her and her son. She told the officer that there was a struggle and that the perpetrator ran off. Shavon gave a perfect description of Frank, 6'2", MW, 280 lbs., dark brown hair, beard, goatee. After Shavon made her report, the responding officer insisted she get medical treatment. (She had bruises on her arms and wrist.). Rather than wait around for an EMT unit, Shavon promised to go straight to the ER.

When Shavon was being treated at the ER, she saw Vinnie and Frank in the triage area. She only identified Frank to the police as the man who came into her apartment after Vinnie started to approach her. In fact, the first thing she shouted was *"I have a stay away order against*

him!" She didn't report the fact that her son stabbed Frank until she was asked about Frank's injury. She told the police that she hadn't see the stabbing because she was tussling with the man who broke into her apartment. When Shavon returned to her apartment, crime scene technicians were still processing her apartment for evidence. There are no photos of the door slam, the entrance to the apartment, etc. The crime scene report states "no forced entry noted". There are photos of the hallway and the bedroom, with blood stains on the floor. Nothing in the bedroom is out of place and there is no blood in the bedroom. Shavon provided a bloody knife once she was asked about weapon. She said her son didn't tell her about the knife until later.

Shavon testifies at trial to the following:

"I was home with my son and I was in the kitchen. A stranger broke into our apartment - the door flew open and he came in. He demanded money and other things. I grabbed a knife from the kitchen and we tussled over the knife. I ran down the hall and tried to get to the bedroom. He was strangling me on the bed and I couldn't breathe. I didn't see my son come into the bedroom but he must have. I didn't see my son stab the man. Suddenly the man got up and ran out of the apartment."

Your investigator went to Shavon's apartment. She would not let him in. Your investigator went to the next-door neighbor and took the attached photo of the locks on her door. You learned from management that

all of the locks on all of the doors are the same in the whole building.

Cross-examine Shavon about the implausibility of her story.



Problem 6: *State v. Hines* (Possession with Intent - Heroin)⁴

Your client, Gregory Hines, is charged with possession of heroin with the intent to distribute. He was arrested on July 5, (YR-1), on the street with 4 glassines of heroin in his sock. He had \$20.00 in cash in his pocket which the government claims is marked money (pre-recorded buy money). However, you know from the discovery that several other arrests were made that same day and marked money (20 dollar bills) were vouchered in each of the arrests. Gregory says he didn't have cash on him at the time of the arrest.

An undercover officer testifies at trial that your client engaged in a hand-to-hand transaction with her. She says she approached him on the corner and asked if had any. The exchange followed and then she radioed her backup as she returned to her vehicle. During the transaction, she was wearing a secured device that was capable of recording. No video or audio was provided to you. The prosecutor informs you that no recording was in fact made - the UC believes she failed to turn the device on before the transaction.

After the government called the UC, they then called the arresting officer and the lab technician. You were expecting them to rest their case. Without warning, they

⁴ This problem is optional and for those groups that have time.

then call a "ghost⁵ officer," another member of the team. While the discovery indicated that a ghost was working with the team that day, no other witness testified about her at all. She completed no paperwork and has never testified under oath in connection with this case.

You learn during direct that she was in plain clothes and wore a headset to communicate with the entire team. She has worked with this team of officers for about 4 years, day in and day out. She and the undercover have worked together for 8 years, nearly exclusively together and always as undercovers, swapping roles as the undercover and the ghost. She explained on direct that her role as a ghost is to be the "eyes and ears of the undercover" and is there for her safety. She testified that she radioed a description of Mr. Hines after the UC left the set and observed the arrest. In connection with the transaction itself, her testimony mirrors the testimony of the undercover.

Cross examine the ghost.

⁵ A ghost officer is a term for a police officer who works alongside an undercover team keeping an eye on activity for safety purposes.

Problem 7: *United States v. Quinton Rivers*
(Robbery/Hobbs Act)

Your client, Quinton Rivers, has been charged in federal court with seven Hobbs Act⁶ robberies of Waffle House restaurants and associated gun counts for brandishing a firearm during a robbery in violation of 18 U.S.C. § 924(c). The mandatory minimum sentence under 18 U.S.C. § 924(c) is 7 years consecutive to the sentence imposed for the underlying crime of violence (in this case the robbery).



Each of the seven robberies (which took place between February and March of (YR-1) was committed by two armed men wearing hoodies who used stolen cars to get away. The last robbery took place on March 22, (YR-1).

At the March 22, (YR-1) robbery, the two robbers were seen running from the Waffle House and jumping into a getaway car by a local police officer who happened to be patrolling in his cruiser across the street. There was a short car chase that ended in a crash. Both men fled on foot. Jeremy Patrick was captured a short distance from the car wearing a white T shirt. The other man who fled got away. Patrick was transported to the county jail to await charges. He made no statements at the time of his arrest.

⁶ The Hobbs Act is a federal statute used to charge armed robberies where it can be shown that the robbery had an impact on interstate commerce (which is essentially any robbery).

A firearm and all of the money taken during the robbery (\$1,045.00) was recovered from inside of the car. Blurry video surveillance images show the robbers wearing dark colored hoodies. A dark colored hoodie found near the car crash was submitted for DNA analysis and compared with a swab taken from Mr. Patrick. Lab technicians concluded that DNA from the hoodie originated from Mr. Patrick to a reasonable degree of scientific certainty. In fact, the DNA alleles found on the hoodie and matching Mr. Patrick are shared with only approximately 1 in five quadrillion in the African-American population and 1 in one hundred quintillion in the Caucasian population. (There are only 7.2 billion people on the planet at present.⁷)

Federal Indictment and Prosecution

Two months after his arrest by local authorities, Patrick was indicted by a federal grand jury for three of the seven Waffle House robberies and three 924(c) counts after a distinctive tattoo on Patrick's right wrist was matched up to surveillance video from two of the other robberies. The state dismissed its charges once the federal indictment was returned and Patrick was picked up on the federal arrest warrant on June 6, (YR-1). During the ride over to federal court, the transporting FBI agents questioned Patrick about the other Waffle House robberies. Patrick confessed to the March 22, (YR-1) Waffle House robbery, but maintained that he had no knowledge of the other robberies, even after the agents confronted him with surveillance photos showing the tattoo, stating: "Hey, I don't

⁷ Incidentally, in case you are interested, the number of people who have ever lived and died on earth is approximately 108 billion according to a famous "guestimate" by Carl Haub of the Population Reference Bureau.

know anything about any other robberies. You are not going to put all those charges on me. I don't know what you are talking about. I swear I didn't do those other robberies." Patrick also refused to give the name of the other robber from the March 22, (YR-1) robbery saying he needed to talk to his attorney first.

CJA Panel Attorney Karen Sullivan was appointed to represent Mr. Patrick after his initial appearance in federal court. On August 7, (YR-1), an evidentiary hearing was held on Mr. Patrick's motion to suppress the evidence found in the car after the crash. The Magistrate Judge ruled from the bench that Patrick's motion was meritless and then certified the case ready for trial. Trial was scheduled for September 18, (YR-1).

On Friday, September 15, (YR-1), Patrick's attorney filed an unopposed motion for continuance citing the potential for the case to be resolved without a trial. The motion was granted. That weekend, Mr. Patrick's jail phone call recording log includes a recording of a phone call with his pregnant girlfriend Keisha Anderson in which he tells her that the trial is off and it "looks like he will be coming home soon." On Tuesday, September 19, (YR-1), Jeremy Patrick and his attorney sat down with the FBI and the Assistant United States Attorney and told them that he and Quinton Rivers committed all seven of the Waffle House robberies. Quinton Rivers matches the general description of the height and build of the second man seen running away from the car crash and shown on the video surveillance.

Other Information

Your client and Jeremy Patrick grew up together. They were once arrested together in a stolen car that Patrick was driving. Patrick was convicted of stealing the car and given three years probation on February 8, (YR-3). Quinton Rivers was not

prosecuted. Also, when you show your client the video surveillance, he comments, based on the size and shape of the second robber, that it could be Jeremy's brother Pete. Pete, who is about the same size and shape as your client, has a prior conviction for shoplifting. No evidence other than Patrick's testimony connects Quinton Rivers to the robberies. Rivers has no criminal record. Jeremy Patrick's Court Docket shows transport to the courthouse on the following dates: June 6, (YR-1) (initial appearance) August 7, (YR-1) (evidentiary hearing), September 19, (YR-1) (sealed entry), October 4, (YR-1) (re-arraignment), October 6, (YR-1) (plea), December 5, (YR-1) (sealed entry), December 12, (YR-1) (sealed entry), January 9, (YR) (sealed entry).

The Trial

A superseding federal indictment was returned charging Rivers and Patrick with all seven robberies and seven 924(c)s on October 3, (YR-1). Jeremy Patrick entered a plea of guilty to all seven robberies, but only one 924(c) charge for brandishing a firearm in one of the robberies, pursuant to the attached plea agreement. When arrested, Rivers, after being fully warned of his rights, gave a statement denying participation but claiming an alibi that proved to be false.

Pursuant to his plea agreement, Jeremy Patrick is testifying for the Government at Rivers' trial. On direct examination, he testified that he and Quinton Rivers committed all seven robberies. He added that Quinton Rivers recruited him to commit the robberies, telling him that he would need some extra money with the baby coming and that Rivers had provided the firearms used during the robberies. The part about Quinton Rivers recruiting Patrick and providing the firearms was not included

in the first report of debriefing, but it was included in a report of a follow-up debriefing on December 5, (YR-1).

Cross-Examine Mr. Patrick using the information above and the visitor's log and plea agreement that follow.

Jeremy Patrick Detention Center Visitation Log

June 6, (YR-1)	Intake	
June 7, (YR-1)	Karen Sullivan	1 hour, 30 minutes
June 10, (YR-1)	Keisha Anderson	45 minutes
June 15, (YR-1)	Karen Sullivan	1 hour
June 17, (YR-1)	Keisha Anderson	45 minutes
June 22, (YR-1)	Karen Sullivan	1 hour
June 24, (YR-1)	Keisha Anderson	45 minutes
June 30, (YR-1)	Karen Sullivan	1 hour, 15 minutes
July 1, (YR-1)	Keisha Anderson	45 minutes
July 8, (YR-1)	Keisha Anderson	45 minutes
July 20, (YR-1)	Karen Sullivan	20 minutes
July 22, (YR-1)	Keisha Anderson	15 minutes
August 4, (YR-1)	Karen Sullivan	2 hours
August 5, (YR-1)	Keisha Anderson	20 minutes
August 8, (YR-1)	Karen Sullivan	1 hour
August 18, (YR-1)	Karen Sullivan	1 hour
August 31, (YR-1)	Karen Sullivan	30 minutes
September 2, (YR-1)	Keisha Anderson	35 minutes
September 13, (YR-1)	Karen Sullivan	1 hour
September 15, (YR-1)	Karen Sullivan Stephanie Jones	1 hour, 30 minutes
September 18, (YR-1)	Karen Sullivan	1 hour
September 23, (YR-1)	Keisha Anderson	45 minutes
October 4, (YR-1)	Karen Sullivan	1 hour
October 25, (YR-1)	Karen Sullivan	30 minutes
December 2, (YR-1)	Karen Sullivan	30 minutes
December 23, (YR-1)	Keisha Anderson	20 minutes
January 4, (YR)	Karen Sullivan	25 minutes
January 11, (YR)	Karen Sullivan	25 minutes

GUILTY PLEA AND PLEA AGREEMENT

UNITED STATES DISTRICT COURT
CRIMINAL NO.: 1:XX-CR-250-CC-AJB

The United States Attorney (the "Government") and the Defendant Jeremy Patrick and his counsel enter into this Plea Agreement pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure.

I. Admission of Guilt

Jeremy Patrick, Defendant, having received a copy of the above-numbered Indictment and having been arraigned, hereby pleads GUILTY to Counts One, Three, Five, Seven, Nine, Eleven, and Thirteen of the Indictment, all Hobbs Act Robberies, in violation of 18 U.S.C. § 2119, and to Count Twelve of the Indictment, brandishing a firearm during and in relation to a crime of violence, to wit, Count Twelve, a Hobbs Act Robbery, in violation of 18 U.S.C. § 924(c), because he is in fact guilty of the crimes as charged.

II. ACKNOWLEDGMENT & WAIVER OF RIGHTS

The Defendant understands that by pleading guilty, he is giving up any and all rights associated with trial. By entering into this Plea Agreement, the Defendant is waiving any and all rights he may have had to appeal his conviction and sentence in this case, including any post-conviction challenges, unless the Court imposes a sentence above the sentencing guideline range.

III. ACKNOWLEDGEMENT OF PENALTIES

The Defendant understands that, based on his plea of guilty to Counts One, Three, Five, Seven, Nine, Eleven, Twelve, and Thirteen, he will be subject to the following penalties:

As to Counts One, Three, Five, Seven, Nine, Eleven, and Thirteen,

Maximum term of imprisonment: 20 years per count

Mandatory minimum term of imprisonment: None

Supervised Release: Three to five years per count to run concurrently

Maximum Fine: up to \$250,000 per count

Full Restitution to all Victims

Mandatory Special Assessment: \$100 per count

As to Count Twelve,

Maximum term of imprisonment: LIFE

Mandatory minimum term of imprisonment: 7 years consecutive

Supervised Release: Five years to run concurrently

Maximum Fine: up to \$250,000

Mandatory Special Assessment: \$100

The Defendant understands that before imposing sentence in this case, the Court will be required to consider, among other factors, the provisions of the United States Sentencing Guidelines and that, under certain circumstances, the Court has discretion to depart or vary upward or downward from those Guidelines. However, the Court cannot impose a sentence below any mandatory minimum term of imprisonment unless there is a motion for downward departure made by the Government pursuant to USSG § 5K1.1 and 18 U.S.C. § 3553(e) in recognition of substantial assistance to and cooperation with the Government.

Sentencing Guideline Calculations

Based on the evidence currently known to the parties, the Government and Defendant agree and stipulate that the appropriate sentencing guidelines range in this case is 205 to 235 months of imprisonment (taking into account the three points off for acceptance of responsibility and including the mandatory minimum 84 months for the firearm brandishing count that must be consecutive to the robbery counts). The Defendant understands that the Court may impose a sentence up

to and including the statutory maximum of life imprisonment and that no one can predict his exact sentence at this time. The Defendant further understands that parole has been abolished in the federal system and that he will serve at least 85% of the sentence imposed against him in this case.

IV. PLEA AGREEMENT

Cooperation

The Defendant agrees to cooperate truthfully and completely with the Government, including being debriefed and providing truthful testimony at the trial of Quinton Rivers.

Dismissal of Charges

Providing that the Defendant lives up to the obligations of this plea agreement, the Government will dismiss the remaining charges in the indictment at the time of his sentencing or after the trial of Quinton Rivers, whichever comes later.

No Additional Charges

As part of this plea agreement, the Government agrees not to bring additional charges against the Defendant unless the Government determines that the Defendant has not been completely truthful and candid in his cooperation with the Government in which case there will be no dismissal of charges, he will be subject to all of the charges in the indictment, and he will also be subject to a prosecution for perjury and false statements pursuant to 18 U.S.C. §§ 1001 and 1621 respectively.

Conditional Cooperation/Substantial Assistance Motion

The Government agrees to make the extent of the Defendant's cooperation known to the sentencing court. If the Government determines Defendant's cooperation qualifies as "substantial assistance in the investigation and prosecution of another person," the Government will file a motion recommending a downward departure from the applicable guideline range in an amount determined by the Government

pursuant to USSG 5K1.1 and 18 U.S.C. § 3553(e). The Defendant understands that the determination as to whether the Defendant has provided "substantial assistance" rests solely with the Government. The final decision as to how much credit the defendant will actually receive off the sentence will rest with the Court.

If the Defendant fails to cooperate truthfully and completely, or if the Defendant engages in additional criminal conduct or other conduct inconsistent with this agreement, Defendant will not be entitled to any consideration whatsoever in connection with his cooperation.

There are no other agreements between the parties.

Signed in open Court this 6th day of October, (YR-1).

s/ Karen Sullivan

Karen Sullivan, Attorney for Defendant

s/ Jeremy Patrick

Jeremy Patrick, Defendant

s/ Stephanie Jones

Stephanie Jones, AUSA

s/ John Thompson

John Thompson, Approving Official

Defendant's Certification

I have read the Indictment against me and have discussed it with my attorney. I understand the charges and the elements of each charge that the Government would have to prove to convict me at trial. I have read the foregoing Plea Agreement and have carefully reviewed every part of it with my attorney. I understand the terms and conditions contained herein and I voluntarily agree to them. I also have discussed with my attorney the rights I am waiving. No one has threatened or forced me to enter into this Plea Agreement in any way.

s/ Jeremy Patrick

Jeremy Patrick, Defendant

October 6, (YR-1)

Date

Problem 8: *State v. McDonald* (Rape)

SUMMARY OF POLICE INCIDENT REPORT:

Victim: Stephanie Rogers, age 21, single lives with parents, Olive and Walter Rogers on the second floor of an apartment building. The building was a single-family home at one time and has been converted to a few apartments. There are two apartments on the first floor, two on the second floor and one on the third floor. On the first floor, there is a small area under the staircase that has storage for the tenants.

Suspect: George McDonald, age 24, married - separated, lives alone.

Narrative: Victim reports that she met George McDonald at a neighborhood bar called "dbar" a few blocks from Rogers' home one week prior to the incident. They were introduced by a casual acquaintance whose name the victim does not recall. She goes to the bar sometimes to grab a drink and met the acquaintance there. McDonald offered to walk victim home, but she refused. On the evening of July 12, (YR-1), the victim had returned to the bar, she saw the suspect, but did not speak to him. She left alone around 11:45 pm and walked straight home. As the victim reached the door to the stairway leading up to her second-floor apartment, McDonald appeared "out of nowhere" and made a suggestive remark. The victim attempted to go upstairs, but the suspect grabbed her and pulled her around to the storage area under the staircase. He threw her on an old couch stored there and raped her. Walter Rogers, who was waiting for his daughter to return home, heard a scuffling noise downstairs, opened the apartment door and called out, "Steph", is that you?" He then saw a male figure run out of the front door and heard his daughter "whimpering." She then appeared at the bottom of the stairs. Her shirt was torn and hair was a mess. She told her father she was

raped and police were called. There is a box in the police report that asks whether weapons were used. It lists: knife, firearm, other, none. "None" is checked.

The victim was taken to St. Paul's Hospital and was treated by a Sexual Assault Nurse Examiner. The victim declined a forensic examination so no swabs were obtained. She requested prophylaxis, however, for all sexually transmitted diseases and pregnancy. She was alone during the examination and kept asking whether her parents had arrived at the hospital.

The call to the police was received at 12:34 a.m. on July 13, (YR-1).

On July 14, 2016, George McDonald was arrested at his home and charged with rape. McDonald denied knowing Rogers or ever having been near the apartment. McDonald has one prior arrest for sexual assault but the complainant decided to drop the charges after preliminary hearing.

GRAND JURY TRANSCRIPT

Stephanie McDonald, having been duly sworn, testified as follows:

Q: *Stephanie, tell the court what happened to you on July 12, (YR-1).*

A: *I was coming home from the bar around the corner and just as I got to my door, that man (indicating George McDonald) grabbed me and raped me.*

Q: *Did he say anything before he grabbed you?*

A: *Yes. He said "You think you're too good for me, bitch? I'll show you."*

Q: *Had you ever seen him before?*

A: *Yes. I had seen him at the bar earlier that night and one other time. Somebody introduced us at the bar. That's how I knew his name. He made a pass at me then but I wouldn't have anything to do with him.*

Q: *Why was that?*

A: *The person who introduced us told me he was married.*

Q: *How were you dressed the night of the rape?*

A: *I had on a short jean skirt with a black shirt tucked into the skirt, and low black boots.*

Q: *Was your clothing damaged?*

A: *The shirt was ripped at the neckline. My panties were torn, also.*

Q: *Did the defendant have a weapon?*

A: *He had a knife.*

Q: *Did you scream?*

A: *No. He said he would kill me if I made any noise.*

ATTORNEY NOTES FROM MEETING WITH GEORGE MCDONALD

I was with her but I sure didn't rape her. She had been coming on to me at the bar for several weeks. We chatted a few times at the little tables by the window. She would rub her knee up against me under the table. That night, she asked if I'd walk her home. She claimed somebody had been following her and she was scared. When we got to her building, she took my hand and led me into the area under the stairs where there was an old couch. She sat down and pulled my hand - you know, telling me to sit with her. I wasn't going to turn down an invitation like that. We were getting on pretty good, if you know what I mean, until a man's voice hollered out "Steph, is that you?" She jumped up and pushed me toward the front door. She said her old man would kill us both, so I ran. Her underwear might have gotten torn when I pulled them down - she had on a tight little skirt. I'm not exactly sure how her top would have been torn. I told the cops I didn't know her because I've been arrested for something like this before and I was scared.

INVESTIGATOR'S NOTES

The dbar neighborhood bar seems like a hangout for locals. The neighborhood itself is largely residential - lots of families and older folks. I went to the bar and the clientele was in their late 30's and 40's mostly - not a young scene. The bartender knows Stephanie and remembers seeing her with some white guy recently but wasn't paying much attention. He couldn't give me any details at all. There are little tables by the windows - I can take photos if you need me to. Stephanie's Facebook page suggests that most of her friends from home are away at college and that something might have happened in the last year or so to cause her family to have financial issues - it's not entirely

clear. She has been attending community college since she graduated and works as a ticket seller at the movie theater one block from home. I don't see much of a social life beyond that. It also seems like Stephanie Rogers is an only child.

Cross-examine Ms. Rogers.

(NOTE: You may also incorporate the exhibits found on the following pages.)



