

2014 Thomas S. Foley Memorial Forensics Tournament

Titan Debate - University High School – 12420 East 32nd Ave. – Spokane Valley, WA. 99216

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Dear Fellow Educator

We take great pleasure in inviting your school to the annual **Thomas S. Foley Memorial Forensics Tournament**, which we will be hosting during the weekend of **February 6/7-8, 2014**, at University High School and the WSU Spokane Center in Spokane, Washington. As the name suggests, this tournament is being held in recognition and in honor of Tom Foley's many years of service to Washington State and the United States as a representative from the 5th District, as Speaker of The House of Representatives, and as Ambassador to Japan. **The tournament features a student congress with four levels of competition, international diplomacy, four traditional debate activities, seventeen IE/speech events in two patterns and SPAR as an “extra bonus Thursday” event for those who are in town and wish to participate in SPAR (See SPAR rules and schedule).** It is our sincere hope that this tournament will provide you and your students with an enjoyable weekend of competition.

A complimentary **judges' appreciation breakfast** will be hosted **Saturday morning**. Two awards ceremonies will be held, culminating in the Closing Awards Ceremony on Saturday evening. The presentation of the **Thomas S. Foley Speaker's Award** to the best individual speaker in the tournament, and the **Thomas S. Foley Ambassador's Award for Outstanding Forensics Education** to an adult in recognition of outstanding contributions to forensics education will culminate the weekend's activities..

Two Full Day Schedule – Plus an Optional Evening of SPAR!!

A Flat Rate per Student

All programs are experiencing financial hardship. Since Foley is a non-profit tournament, we can afford to provide the **one low price of \$25.00 per student**, each student may enter congressional debate or International Diplomacy; **AND** one of four traditional debate events; **AND** up to four IE/speech events, **AND** SPAR as a bonus event. Furthermore, coaches do not need to pay for or enter multiple squads.

Discount for Early Registration

All students registered on or before **Thursday, January 30th** will receive a discount resulting in a charge of **\$20.00 per student**.

- Two Levels of Sweepstakes We will be providing 1st, 2nd, and 3rd place sweepstakes awards in two divisions (Small School and Large School).
- Full Tournament Website Our website is already accessible to your students. As the coach, you need only to give students the web address and let them peruse the events and rules. This should make things easier both on coaches and competitors. The tournament website address is:
http://www.cvsd.org/university/foley_debate.asp
- Electronic Pre-Registration & Postings Although most tournaments rely on electronic registration. Foley has taken this concept to the “next level.” There will be **NO REGISTRATION TABLE AT THE TOURNAMENT. TEAM CONFIRMATIONS WILL BE E-MAILED TO THE COACHES ALONG WITH COMPETITOR AND JUDGE ASSIGNMENTS FOR FRIDAY’S EVENTS.**
- Elimination of Squad Limits We have eliminated all maximum team and squad limits. Each competitor on a team may enter as many events as s/he wishes to enter, up to the per competitor limits. I.e. a competitor may enter:
- A) Either Congressional Debate or International Diplomacy **AND**
 - B) One Non-Congressional Debate [Policy, LD, Public Forum, or Parli] **AND**
 - C) Two Pattern “A” events and two Pattern “B” events **AND**
 - D) SPAR as an extra bonus event.

Registration

We would **appreciate early registration** to ensure space and coordinate contest officiating. Although our goal is to avoid limiting entries, we reserve the right to do so and/or to collapse divisions if necessary for the efficient management of the tournament.

Early Registration Deadline: Thursday, January 30th (\$20.00 per student)

Regular Registration Deadline: Wednesday, February 5, 2014 at 5:00 p.m. **Changes** in school registrations (Add/Drops) will not be accepted after this date. No additions will be allowed after this time. Drops after this time will not affect fee calculations.

Please **register online** at <http://www.forensicstournament.net/>. Fees will be assessed as of 5:15 p.m. on Wednesday, February 5, 2014. After 5:00 PM on Wednesday, all drops or other concerns must be emailed to the tournament director at dsmithy@cvsd.org.

Please notify us of any last minute “emergency” drops as soon as possible; preferably prior to your arrival at the tournament. Drops are the main reason that tournaments get off to a slow start.

Students wishing to be considered for the Thomas S. Foley Speakers Award must be registered as such on the registration website.

Rules

- 1) NO STUDENT IS TO ENTER A CLASSROOM FOR ANY REASON WITHOUT A JUDGE PRESENT! Judges will be notified that **students who violate this rule will be disqualified.** Please warn your students about this rule.
- 2) In order to stay on schedule, judges will be instructed to call the round in the event that a competitor fails to show up. Competitors more than **15 minutes late to their debate rounds will forfeit to their opponents.** Double entered IE competitors should let the judge in the “other” event know they are double entered.
- 3) Judges are the heart of any successful tournament. We will require a complete judging list from each school by the Regular Registration Deadline, Wednesday, February 5, 2014. Please email any judge substitutions ASAP. It is imperative that every school meets its judging commitment. That means judges must be present and pick up ballots. Any school which fails to meet its judging obligation, may be charged \$25.00 per missed round unless exceptional circumstances warrant excusal. **Note:** Teams which will have to travel long distances or which are experiencing difficulties obtaining the necessary judges should contact the tournament director with respect to the judging requirement. We will have tournament judges available and will work with any team to assure that all students can enjoy the tournament.

Special Awards

Thomas S. Foley Speaker’s Award: Presented to the best individual speaker in the tournament on the basis of the student’s overall performance in all of his/her events. To be eligible for consideration for this award, a competitor’s coach must register the student as competing for the award on the registration website (so that we may “track” the applicable student), and the competitor must meet the following criteria:

1. The competitor must compete at the open/varsity or champ level of all events;
2. The competitor must compete in student congress or International Diplomacy;
3. The competitor must compete in another form of debate in addition to student congress/legislative debate or International Diplomacy (**Note:** SPAR does not fulfill this requirement); and
4. The competitor must compete in at least one individual event in both Pattern A and Pattern B.

Note: Out-rounds do not count toward the Speaker's Award. SPAR does not count toward the speaker's award.

Thomas S. Foley Ambassador's Award for Outstanding Contributions to

Forensics Education: Throughout his many years of service, Tom Foley was a steadfast supporter of education. It is, therefore, only fitting that this award be presented in his name to an adult who has made outstanding contributions to the field of forensics education. Please nominate a person who you believe is deserving of this award. Nominations should be submitted in writing and explain why your nominee should be selected to receive this honor. All submissions will be judged by an independent panel of community leaders. **Note:** *This trophy may only be awarded to a person once in a lifetime. Previous nominees who have not received the award are eligible to be re-nominated. Nominations may be made by any appropriate person including teachers, administrators, coaches, parents, students, former students etc.*

Please submit your nominations to Ms. Sally Jackson, Thomas S. Foley Ambassador's Award Selection Committee Chair. Although any nominations should be addressed to Ms. Jackson, the same should be emailed to the tournament director as an attachment at dsmithy@cvsd.org Nominations must be received by the regular registration deadline.

Events

Student Congress: We will host four levels of congress, novice, junior varsity, open, and champ. **Awards will be presented to the top seven speakers in each level.** To be eligible for the *Foley Speaker's Award*, a student must be entered in either the open or the champ division. The number of chambers will depend on the number of students entered in the tournament.

Students will deliberate the merits of bills and resolutions using Robert's Rules of Order. The State of Washington follows the so called "Kansas rule." As such, bills have been submitted to the appropriate WSFA committee for approval. Only approved bills may be considered in any division. Copies of these bills are on the tournament website. NFL, WSFA and GSL rules will apply. Copies of the Washington State approved legislation, applicable WSFA, NFL, and GSL rules will be forwarded to any school upon request. **Note: *Student congress does not conflict with any other event except International Diplomacy.***

Super Congress Reserved Legislation: Pursuant to WSFA guidelines, only accepted Super Congress legislation may be used at any level of Super Congress. WSFA Reserved Super Congress Legislation is included in the WSFA Spring Legislation packet on the website.

Tournament of Champions (TOC) Tournament: The Foley Committee is pleased to announce that The Thomas S. Foley Memorial Tournament has been selected as a Congressional Debate TOP SIX bid tournament. Students interested in seeking a TOC bid in congress must enter the championship division (see below).

Congress Divisions:
Champ:

Limited to Competitors who meet one of the following:

- (1) Any student desirous of winning one of the six Tournament of Championship **(TOC) bids** available at this tournament **MUST** enter the championship division and is automatically qualified for this division;
- (2) Any student who has qualified for/and or attended the NFL, CNFL, or TOC, National Competition in Student Congress/Legislative Debate should enter this division; **OR**
- (3) Any student who has qualified for/and or attended the competitor's applicable State Student Congress/Legislative Debate Tournament should enter this division;
- (4) Any student who has broken to super congress or placed in the top third of a student congress tournament which does not hold a super congress at least three times in the last two years at the open or varsity level may enter this division (**NOTE:** At least one such super congress/top third standing must have occurred within the current debate season).

Open:

This division is open to all competitors regardless of experience, except for students seeking a TOC bid, who must enter the champ division.

JV:

This division is open to

- (1) Any student who has limited student congress experience (individual coach's preference) may enter this division.
- (2) First year students who have broken to super congress at two or more tournaments or who have placed in the top third at two or more tournaments which have not held a super congress **MUST enter JV or Open Congressional Debate.**

Novice:

This division is limited to first year novice student congress competitors **who have not broken to super congress in two or more tournaments (or twice placed in the top third of tournaments which do not offer super congress).**

Policy Debate: We will provide *junior varsity and open divisions* in policy/CX debate. Three and four person teams are allowed. However, only two students may compete at any one time. We will use the **2013/2014 National Forensics League policy topic**. [Note: Current GSL rules require all novice policy CX debaters to advance to JV after the Gonzaga and UPS Tournaments in January. Competitors outside the GSL who have concerns about this rule with respect to novice level CX debaters should contact the Tournament Director.] WSFA and GSL rules will apply. Copies of these rules will be forwarded to any school upon request.

Lincoln Douglas Debate: We will provide *novice, junior varsity and open* divisions in Lincoln Douglas debate. We will be using the **2014 January/February National Forensics**

League topic. WSFA and GSL rules will apply. Copies of these rules will be forwarded upon request.

Public Forum: We will provide *novice and open divisions* in Public Forum Debate. Three and four person teams are allowed. However, only two students may compete at any one time. NFL rules will apply (which are available online at <http://www.nflonline.org>). The **2014 February National Forensics League topic** will be used, which will be available on the NFL website.

Parliamentary (Parli) Debate: We will provide *junior and open divisions* in Parli Debate. Three and four person teams are allowed. However, only two students may compete at any one time. The Open division is available to all teams. The junior division is open to any team with debaters, neither of whom has competed at ten (10) or more tournaments.

NOTE WELL: In order to help facilitate the growth of parli debate at the high school level in the Northwest, we have adopted the Whitman Debate Tournament Parli Rules. Since the Whitman rules are only slight modifications of college level NPTE rules, students will be well prepared to transition to college level parli debate.

Parli Rules:

TIME LIMITS:

Topic Announcement followed by 15 minutes of Preparation

The PMC speaks 15 minutes after the topic is announced.

Prime Minister Constructive: 4 min.

1 minute preparation

Leader of Opposition Constructive: 5 min.

1 minute preparation

Member of Government Constructive 5 min.

1 minute preparation

Member of Opposition Constructive 5 min.

Leader of Opposition Rebuttal 3 min.

1 minute preparation

Prime Minister Rebuttal 4 min.

Questions may be asked during the first four speeches—except in the first and last 1 minute of the speeches. Light heckling is permitted.

Only materials which have been prepared during prep time may be used during the debate. Other than a print dictionary, competitors may NOT use in a debate anything which was written/printed before prep time. Furthermore, competitors MAY NOT USE anything which was written by someone other than debate partners.

Laptops MAY NOT be used during debates unless a specific competitor has an ADA reason to do so and has so notified the tournament director.

Note: *The Tournament wishes to thank Mr. Jim Hanson for generously sharing these rules and the debate ballots and judging guidelines which he prepared for this event.*

International Diplomacy: This event is designed to foster the study of world languages and international diplomacy. In the preliminary rounds, students are divided up by target language (French, German, or Spanish). The top four students from each target language will advance to the Final/UN Security Council Round. Rules and issues are attached. Further detailed information is available on the tournament website.

http://www.cvsd.org/university/foley_debate.asp

(Open division only.)

Individual Events Pattern A *This pattern contains the standard Pattern A events (Expository, Dramatic Interpretation, Extemp and Dual Interpretation), along with, After Dinner speaking, John Clark Legal Argument, Tall Tales and Radio Speaking/Editorial Commentary. Students may enter up to two events in this pattern.*

Expository Speech: The student shall deliver a speech, the purpose of which is to describe, clarify, explain and/or define an idea, concept or process. Audio or visual aids may be used, but are optional. The tournament will not provide special facilities or aids for the students. Notes are permitted. A maximum of 150 words may be quoted. The time limit for this event is 8 minutes with a 30 second grace period. WSFA and GSL rules will apply. Copies of these rules will be forwarded to any school upon request. **(Novice and open divisions.)**

Dramatic Interpretation: The speaker shall interpret one or more selections, serious in nature, from published prose, poetry, drama, radio, television, or recordings. The presentation must be memorized. Students may not use props, makeup, or costumes. Physical movement is permitted insofar as it suggests characterization and limited singing is permissible. Title and authors must be presented. The time limit for this event is 10 minutes with a 30 second grace period. WSFA and GSL rules will apply. Copies of these rules will be forwarded to any school upon request. **(Novice and open divisions.)**

Extemporaneous Speech: Competitors are given 30 minutes to prepare a 7 minute speech with a 30 second grace period. Topic areas are selected from current events. Students may use published books, magazines, newspapers, journals, and/or copies of articles to help them prepare their speeches. WSFA and GSL rules will apply. Copies of these rules will be forwarded to any school upon request. **(Novice and open divisions.)**

Dual Interpretation: Two students shall interpret one or more selections, serious or comedic in nature, from published prose, poetry, drama, radio, television or recordings. Presentations must be memorized and students must maintain off stage focus. Students may not use props, makeup, or costumes. Physical movement is permitted insofar as it suggests characterization and limited

singing is permissible. Title and authors must be presented. The time limit for this event is 10 minutes with a 30 second grace period. WSFA and GSL rules will apply. Copies of these rules will be forwarded to any school upon request. **(Novice and open divisions.)**

After Dinner Speaking

Time: 4 - 6 minutes Time signals: not provided.

This event should imitate a banquet situation. The group (real or fictional) being addressed should be clear. The intent of ADS is to entertain, but the speaker must also develop an idea. Material presented must be original. Delivery may be through memorization or use of notes on one side of a 4 x 6 card, but a text may not be used. Emphasis should be placed on the concept of "speech." While humorous quips and jokes are appropriate, they must have purpose and fit the occasion. **(Open division only.)**

John Clark Legal Argument: Although the event is called "legal argument," *it encompasses both opening statements*, which are expository in nature, *and closing arguments*, which are akin to persuasive oratories. The purpose of an opening statement is to preview what the evidence will show in a manner supportive of the proponent's position – but in a non-argumentative fashion. This is usually done in a story fashion with introductory phrases such as "the evidence will show." Closing argument "marshals the evidence" and argues it in a manner consistent with the proponent's position. ***Visual aides may be used in both opening statements and closing arguments.*** Competitors may choose to deliver either an opening statement or a closing argument for either the prosecution or the defense. Speeches must be based on the facts stated in the hypothetical fact pattern. Washington State law applies and students are encouraged to research applicable legal issues. The hypothetical fact pattern is attached to this invitation along with copies of the applicable criminal statutes. The time limit for this event is 8 minutes with a 30 second grace period. Judges will be given access to the hypothetical fact pattern. To the extent possible, the event will be judged by attorneys. Further information may be found on the website. **(Open division only.)**

Tall Tales: This event should be fun. The competitors and audience should enjoy themselves. The competitor who can tell the tallest tale utilizing all three given words, should win the round. Each speaker will be given three words to incorporate into his/her speech. The competitor will then have six (6) minutes to prepare and speak. If the speaker goes over a 30 second grace period, that contestant may not be awarded first place in the round. No minimum time limit. If a speaker does not incorporate all three words in his/her speech, the speaker will be ranked fifth. **(Novice and open divisions.)**

Radio Speaking

Time: 5:30-6:00 Time signals: not provided A radio speech is a prepared event that includes news stories, an original commercial of no fewer than 30 seconds, and a commentary about a subject covered in the news stories. The news stories presented must have taken place 30 days or less, prior to the tournament date. The commentary, which shall be an original editorial, reflecting the opinion of the contestant, should consume 1- 2 minutes of the total speech and be presented last. A hard copy of the original news story, including source citations must be

available upon request. Speakers may time themselves, but may not have another person assist with timing. **(Open division only.)**

Editorial Commentary: A scripted speech, which offers an analysis of, and commentary on, a contemporary news event. Speakers must read from manuscript and deliver from a sitting position. The time limit for this event is between 1:45 and 2:00 minutes. Students going under or over the time limit will be ranked one position lower than they would have been ranked had they been on time. **(Open and Novice divisions.)**

Individual Events Pattern B *This pattern contains the standard pattern B events (Oratory, Humorous Interpretation, Impromptu and Interpretive Reading), Prepared Storytelling, Political Impromptu, Oratorical Analysis, Dual Improvisation, and Original Performance. Students may enter up to two events in this pattern.*

Oratory: The speaker shall deliver from memory a persuasive speech, the purpose of most oratories is to convince, stimulate, or move the audience to change beliefs or actions. However, the speaker may simply alert the audience to a danger, strengthen its devotion to an accepted cause or eulogize a person. The speech must not contain more than 150 words of quoted and/or paraphrased material. WSFA and GSL rules will apply. The time limit for this event is 10 minutes with a 30 second grace period. Copies of these rules will be forwarded to any school upon request. **(Novice and open divisions.)**

Humorous Interpretation: This event is the same as Dramatic Interpretation except that comedic materials should be used. WSFA and GSL rules will apply. The time limit for this event is 10 minutes with a 30 second grace period. Copies of these rules will be forwarded to any school upon request. **(Novice and open divisions.)**

Impromptu: The speaker will be given a choice of three topics in each round and will pick one on which to speak. The time limit for this event, including preparation and presentation, shall not exceed 6 minutes with a 30 second grace period. Time signals must be given. WSFA and GSL rules will apply. Copies of these rules will be forwarded to any school upon request. **(Novice and open divisions.)**

Interpretive Reading: The art of interpretation is to be regarded as recreating the characters and/or mood in the material presented and making them seem real to the audience. Presentation shall NOT be from memory, and the reader's script should be presented. Cuttings from prose and poetry must be given and the student should prepare meaningful introductions and transitions. Selections should be judged for their appropriateness as contest material and their suitability to the particular contestants using them. The judge should note favorably the student's use of good literature in a balanced program. The contestant should be judged on poise, quality and use of voice inflections, emphasis, enunciation, pronunciation and, especially, the ability to interpret characters and/or mood correctly and consistently. The use of full bodily movement (bending, kneeling or turning) is not permitted in interpretive reading.

Bodily movement should be limited to a one step radius.

1. The format will be a thematically integrated program of two or more selections in which the contestant will use a balanced program of both published prose (NO DRAMA) and poetry as a presentation requirement; the speaker will use an introduction in which the authors, titles and theme will be stated. This program may not have been used in forensic competition by the student prior to the current competitive season.
2. The authors of the prose and poetry portions must be different. The same author may be used more than once within the prose or poetry portion of the program.
3. A manuscript is required. There will be no penalty for eye contact as long as the illusion of reading is maintained. No costumes, makeup, or props.
4. Students may not present the same selection(s) in Humorous Interpretation and Dramatic Interpretation, Dual Interpretation or Interpretive Reading.
5. The art of interpretation is regarded as recreating the characters and/or mood in the material presented and making them seem real to the audience. No penalty for using humor.
6. Time limit: Maximum of eight (8) minutes. If the speaker goes over a 30-second grace period that contestant may not be awarded first place in the round. No minimum time limit.

WSFA and GSL rules will apply. Copies of these rules will be forwarded to any school upon request. **(Novice and open divisions.)**

Prepared Story Telling: A single story, anecdote, myth, legend, or incident will be retold without script, books, or props. The time limit for this event is 6 minutes. If a speaker goes over a 30 second grace period, he/she may not be awarded 1st place. There is no minimum time limit. The story may be delivered standing up or sitting down. Gestures or pantomime may be used but the focus must be on the narrative. The retelling must be true to the original tale. The contestant may not add original material or change the content of the story. The contestant is allowed one note card. **(Open division only.)**

Political Impromptu: This event is modeled after real political debate/press conferences. In the words of the event's creator, Mr. Sam Normington, *"Candidates in a political election, have a general idea on what they will be speaking about, and have time to prepare evidence and notes for the topics that may come up, but they don't know what will actually be asked."* As in impromptu and extemp, in this event, each speaker will be given three possible topics. The topics will be given to the speaker in the preparation room. Students may prepare on the topics using the same types of materials as are allowed in extemp and may prepare one note card on each topic. Unlike traditional impromptu or extemp, the speaker will not know which topic will be used until s/he is called to speak. At that time, the judge will select one of the three topics and the competitor must speak on that topic. Thus, the competitor must be prepared to speak on any of the three topics. After the judge has selected the topic, the competitor will have one minute to review his/her notes. Topic areas are selected from current events and will involve political issues. The competitor may use his/her note card during the speech. The time limit for the speech is 7 minutes, including the one minute of preparation time. Time signals must be given. **In the finals round, each** competitor will be asked a follow-up question by one of the other finalists. The speaker will then have 90 seconds to respond to that question without preparation.

The last speaker will question the first speaker and then return to the prep room. After that, the 1st speaker will question the second speaker and so on through the panel. **(Open division only.)**

Oratorical Analysis

Time: 10 min. maximum Time signals: not provided. The contestant will present a non-original speech, portions thereof, or cuttings of various speeches by one “real life” speaker. The intent of this event should be the analysis (not interpretation) of the oratory or speech. The speech should not be from fiction, but from an actual address by a person of significance either past or present. The contestant will analyze the oratory selection(s) for approximately 50% of the presentation. The speech may be presented from memory or by use of a text.

(Open division only.)

Dual Improvisation: Two students will be given a choice of three topics and then act out or pantomime an improvisational story which must adhere to the chosen topic. The time limit for this event, including preparation and delivery, shall be limited to 5 minutes. **(Novice and open divisions.)**

Original Performance: This is a new event at Foley. It has been popular at the Bear Brawl for the last couple of years and we have received several requests to include the event. It is being run this year on a trial basis. We hope that you enjoy it!

Rules: Competitors in this event are to present material of their own creation. Poetry, prose, drama, humor, mystery, spoken word, or any other form of literature is acceptable so long as it is original work and is appropriate to present in a school environment. The presentation must be between 5 and 10 minutes in length. There is no grace period. Students who fail to meet the minimum speaking requirement cannot take first place in the round. Students who exceed the maximum time limit should be cut off by the judge, and they additionally cannot take first place in the round. There is a one-step rule in this event, and students may present sitting or standing. The focus in this event is the presentation of original work, not the physical interpretation of literature. No props are allowed, though sitting on a chair or stool is permitted. Time signals will not be provided. **(Open division only.)**

Bonus Event – SPAR

All students may enter SPAR. However, the judging burden for this event is one judge to two competitors. We will be seeking community judges to help out. The extra judges will be used to defray the judging impact on out of area schools first and then local schools.

Spontaneous Argumentation (also known as SPAR): A brief, ten-minute debate performed without advanced preparation on a subject of interest. At this tournament, the format will be as follows: The affirmative and the negative will be given two topics. At the end of a one minute preparation period, the affirmative will begin to debate on one of the two topics. The affirmative is allotted a two minute constructive speech followed by a one minute cross-examination. The negative will then have one minute to prepare a two minute constructive speech which will be followed by a one minute cross examination. Both speakers will then be allowed one minute for rebuttal without preparation time. **(Novice and open divisions.)**

Special SPAR Rules:

- 1) SPAR is being offered as a bonus event on Thursday from 5:00 to 7:00 PM.
- 2) SPAR does not count toward either the Foley Award or sweepstakes.
- 3) There are NO judge strikes in this event.
- 4) There are NO judge conflicts in this event. That means that a judge can judge a person from his/her own school.
- 5) There is NO one year out rule for judges in this event.
- 6) Varsity debaters who are not competing in SPAR may judge Novice SPAR.
- 7) Each SPAR competitor will be issued a ballot with eight debate result lines. The debater will take that ballot with him/her to each round. Each judge will initial either a win or a loss on each ballot and award speaker points to each debater.
- 8) There will be eight preliminary rounds.
- 9) All rounds will be held in one large area. Debaters will start at a numbered judge and move eight times in a positive order (e.g. if a competitor started with judge 5, she would go to judge 6 in her second round and judge 7 in her third round etc. The judge's table will be marked with the judge's number).
- 10) Time limits will be strictly enforced.
- 11) The 8th round judge will collect the ballots from the two competitors that s/he has judged in the 8th round and turn them in to TAB.
- 12) Judges are NOT permitted to give critiques or write comments on the ballots. Sorry, but we have to maintain strict time limits to make this work!
- 13) The top four competitors from Thursday will advance to a semifinals round on Saturday afternoon which will be held against out rounds in debate. If one or more of the top competitors in SPAR also breaks in debate, that person will NOT be eligible for SPAR out rounds. Instead, the next highest competitor(s) who did not advance to the out rounds in regular debate will be "pulled up" to the SPAR semifinals.
- 14) The top two Open division SPAR competitors will appear on stage at the beginning of the Awards Ceremony. The winner will be determined by audience preference.

Supervision: WSFA/WIAA requires that a certified coach/staff member from the school or school district supervise competitors at all times.

Judging Requirements: Each school must either bring a sufficient number of qualified judges to cover its entry or contact the tournament director for special circumstances.

Teams will be charged for any uncovered rounds. One judge covers 2 CX teams, 2 Parli Debate teams, or 2 Public Forum, or 4 LD student entries. One judge is required for every 8 student congress entries. One judge is required for every 6 IE entries (calculated based on the team's total IE entries). All student congress and international diplomacy judges will be supplied by the tournament. Therefore, international diplomacy entries do not count toward a school's judging requirements. Schools which only supply the minimum number of judges should warn their judges that they will be expected to judge every round. Any school which fails to meet its judging obligation, or contact the tournament director to discuss special circumstances, may be

charged \$25.00 per missed round unless exceptional circumstances warrant excusal. [Note special SPAR judging rules above.]

Coaches facing difficulties obtaining judges should contact the tournament director. The Spokane County Democratic Party supplies some volunteer judges to offset the need of increased judging requirements. Also, a limited number of judges will be available for hire through the tournament.

Food: In the past, food has been available for students to purchase at the tournament. However, over the last couple of years, teams have started bringing their own food, such that it is no longer possible to supply food for purchase. However, candy, baked goods, baguette sandwiches etc. will be for sale by the school's Key Club. Coffee, lattes etc will be sold at the tournament and a complimentary lunch will be provided to student congress and International Diplomacy students on Friday afternoon.

Lodging: Special tournament rates are available at the following hotels. *Please indicate that you are with the Foley Debate tournament* when registering.

Mirabeau Park Hotel – 509-928 – 5402 or 1-866-584-4674 - Call Chris Nelson at either of the above phone numbers or email her at cnelson@mirabeauparkhotel.com for further information. \$88.00 per room (up to 4 people per room) – includes breakfast. 24 hour heated outside pool, on site restaurant, plenty of bus parking.

La Quinta Inn & Suites Spokane - (509) 893-0955 - \$75 per room (up to 4 people per room) and includes a full breakfast starting early Friday and Saturday at 5:00AM for participants. Updated in 2013, includes a 24 hour indoor pool & hot tub, fitness center, business center, and high-speed Internet. Microwaves & Fridges in all rooms. Call or e-mail Michelle Lin for group blocks. michellelin@hour88.com / (517) 980-2682 cell.

Quality Inn Valley Suites –509-928-5218- \$85.00 per room (up to 4 people per room) includes full hot breakfast, indoor pool and hot tub, exercise room, cookies and milk at night. Complimentary meeting spaces for teams. Contact Vivi Windsor at the above phone numbers or by e-mail at viviwindsor@impressguest.com (Please see attached Quality Inn Lodging Flyer)

2014 Foley Forensics Tournament Schedule

Thursday, February 6, 2014

5:00 SPAR Preliminary Rounds 1-8

7:00 End of Thursday Activities

Friday, February 7, 2014

AM WSU Spokane Campus

7:00	Congress Session 1 [All Divisions]
7:15	International Diplomacy Session 1
9:00	Break
9:15	Congress & International Diplomacy Session 2 [All Divisions]
11:15	Congressional Luncheon/Reception [Complimentary]
12:00	Champ Division Super Congress Convenes
12:00	Super Congress [Open, JV, and Novice Divisions]
12:15	International Diplomacy Final UN Security Council Session
2:05	All Events other than Champ Level Congress Travel to University HS for the remainder of the Tournament¹
2:45	Champ Level Super Congress Concludes.
2:50	Champ Level Congress Travel to University HS for the remainder of the tournament.²

Friday Late Afternoon and Evening at University HS

2:45	Debate Round 1[All styles of debate other than congress]
4:30	Debate Round 2
6:15	IE Pattern A Round 1
7:30	IE Pattern B Round 1
8:45	Debate Round 3

Saturday, February 8, 2014

Sessions at University HS

¹Transportation to University HS is provided by the tournament.

² Champ level congress students who have broken to Super Congress in Champ and are participating in LD, PF, or Parli will be placed in flight B so as to avoid missing rounds. If any Super Congress level students are registered in CX/Policy, they will have to leave on the 2:05 bus or miss their first round of CX/Policy Debate, unless they are on a three or four person team, in which case they should have a partner cover the first round.

7:00	Judges' Appreciation Breakfast
7:00	Congressional Debate/International Diplomacy Awards in Theater
7:30	Debate Round 4
9:15	IE Pattern A Round 2
10:35	IE Pattern B Round 2
11:55	Debate Quarters [Qtr Finalist Awards presented in Round [SPAR Semifinals Postings will also be posted at this time.]
1:40	IE Pattern A Round 3
3:00	IE Pattern B Round 4
4:20	Debate Semifinals [Semi-finalist Awards presented in Round]
4:20	SPAR Semifinals
4:30	Special Thomas S. Foley Memorial Tribute - Auditorium
6:05	IE Pattern A Finals
7:25	IE Pattern B Finals
8:45	Debate Finals [No Disclosure Allowed]
10:30	Awards

The 2014 Thomas S. Foley Memorial International Diplomacy Competition

Purpose of Competition:

We are proud that this event is continuing to grow. As many of you are aware several top winners in the World Language category at the annual Spokane Scholars Awards over the last few years have also been the winners of this event.

The Thomas S. Foley Memorial International Diplomacy Competition was designed solely for the purpose of fostering the mastery of international languages in Northwest High Schools. Thus, schools without speech and debate programs are encouraged to participate in this competition and may do so without paying the \$25.00 per student fee charged of students entering the full Forensics Competition.

We have made changes to the rules to make International Diplomacy more “user friendly” for all competitors and hopefully to make the event more rewarding for all involved. The event should be enjoyable for any student in his or her third or fourth year in a world language course. Students in their first or second year are encouraged to watch, and may participate if they desire to do so, but are unlikely to do well in the event as it is unlikely that such students will have mastered their target languages to the extent necessary to prevail in the competition.

International diplomacy will coincide with congressional debate. Competitors may enter **either congressional debate OR international diplomacy, but NOT both.**

OBJECTIVES:

The objective in this competition is to mimic diplomatic negotiations within a country. The countries represented are **Spain, Germany, and France.**

Each competitor must participate using the language of his/her chosen country and all procedures, speeches and resolutions must, to the extent possible, be written or spoken in the target language. Sporadic lapses into English will not disqualify a student, but will be counted against him or her in the final judging. Half of each competitor’s score is based on his/her mastery of the target language and half of the score is based on the student’s ability to negotiate solutions to the issues raised. (Spanish, German or French) Dictionaries in written or electronic form **are allowed, but are the responsibility of the individual competitor (dictionaries will not be provided by the tournament).**

Each competitor shall represent a political party of his/her chosen country and speak or vote according to the views of the chosen party. The goal is to settle each issue with a resolution that satisfies all or the majority of the competitors in each applicable chamber for the greater good of the applicable “nation.”

Computers

Students will be allowed to use computers in round for note taking, the reading of speeches and looking up prepared evidence. **Internet use will not be allowed.** Any competitor using the internet on a laptop, smart phone etc will be disqualified. The use of computers is at the risk of the individual competitor. Power strips will not be provided for competitors. Students are not allowed to use computers that are currently in the classroom being used for competition. Competitors who unplug objects in a classroom will be disqualified from the tournament. The tournament will not be liable for any computer crashes or technological issues. Competitors are encouraged to bring paper copies of evidence and speeches so as to be prepared for computer malfunction.

Legislation

Three pieces of legislation and two question for consideration and possible legislation have been provided for each of the three target languages. Each competitor may select one of the pieces of legislation and translate it into the competitor/student's target language prior to the tournament. The translation will be graded equivalent to one "speech" and will be counted in the applicable competitor/student's score. Any translations should be brought to the tournament. A student may if s/he desires, prepare a piece of legislation in his/her target legislation with respect to either of the questions for consideration and possible legislation and count that document as his/her "translation."

RULES OF THE CHAMBERS:

Preliminary Rounds:

1. Each member of the chamber should be prepared to speak on the three preliminary resolutions and two questions for consideration and possible legislation that are posted on the tournament website and attached to these rules. **Note: the speeches and resolutions should reflect the views of the particular competitor's chosen country and party, and be that contestant's original work. The student is speaking as if s/he was an actual member of the chosen political party and a citizen/legislator from the chosen country.**
2. The chamber shall elect a student to act as chair to run the chamber for each hour. Competitors shall be nominated by other students in the chamber. Each chair will preside for approximately one hour. The chamber may have a different election each hour or hold all of the elections at one time. The Chair should control the chamber, order of speakers, debate and voting on resolutions. He or she should also time the speeches made in the chamber.
3. Each competitor will choose to represent a specific political party from the applicable nation (France, Germany, and Spain). The political parties are to be chosen from the list posted on the website and attached to these rules.
4. Speeches may not exceed three minutes in length. A one minute questioning time will be allowed following each speaker. Any member of the chamber may stand to obtain permission of the chair to ask the speaker one question during this time. **The chair will give time signals.**

5. At any time, any competitor may rise (stand) to ask the chair to go into informal conference. If the majority of the chamber wishes to do so, the competitors will informally discuss the legislation amongst themselves. When it appears to the chair that competitors have had sufficient time to discuss the issues in the informal setting, the chair shall call the chamber back into (normal) session.

6. An informal conference will be scored as a “speech” with each student receiving credit, and being scored for, one “speech” during the period of the informal conference.

7. Diplomacy consisting of discussions, arguments, proposals and counter proposals shall continue until a satisfactory compromise has been reached by a majority of competitors present or until time runs out. When the majority of the chamber believes that a satisfactory resolution to the legislation may be reached, the chair will conduct a vote. Each competitor has one vote. Abstaining is permitted. Majority rule prevails. The chair may only vote in a tie.

8. The resolutions and questions for discussion may be discussed in any order preferred by the majority of contestants in the chamber. The contestants are not required to discuss all of the preliminary issues.

9. A chamber may, but need not, prepare a written piece of legislation resolving either or both of the questions for consideration and possible legislation.

JUDGING:

In the preliminary session, there will be one judge (an applicable world language teacher or speaker) who will rank each chamber at the conclusion of each session of the competition from 1-9. No student may be scored/ranked lower than a 9. Each judge’s ranking/scoring of students should be based on the following criteria.

1. Students shall be judged on their ability to speak the language and upon the clarity of their speaking. This includes grammar, pronunciation, vocabulary, etc. Mastery of the target language should constitute fifty percent of each competitor’s score/ranking.

2. Students will also be judged on the content of their speeches. Does the speech pertain to the topic? Is it in accordance with the views of the chosen political party? Competitors’ abilities to speak confidently and ably, including volume, eye contact, fluidity of speech, tempo etc. will be considered by the judge in making his or her ranking.

3. During a competitor’s time as chair, s/he shall be judged upon her/his ability to control the chamber and upon her/his ability to speak in the target language.

4. The judge shall also consider each competitor’s decorum, politeness, persuasiveness, and adherence to these rules.

6. Individual ballots will be completed for the purposes of helping students who may wish to compete in this event again in the future and for the rewarding of National Forensics League points for National Forensics League members. These speeches shall be scored on a 1-6 point basis. Translated resolutions will also be scored on a 1-6 basis and count as one speech.

However, the individual ballots need not be considered by the judge(s) in ranking the chamber.

Ranking of the chamber is at the discretion of the judge(s).

At the end of the preliminary session, the four top competitors from each of the target languages will proceed to the Final or UN Session.

FINAL “UN SECURITY SESSION” ROUND

1. The **top four competitors of each of the target** languages will meet for the final round which will be a mock UN Security Council Meeting.
2. A presiding chair will be provided to the session. This person will speak in English simply for ease of facilitating the debate and negotiations.
3. The presiding chair will read a note to the Security Council. For the purposes of preparation, competitors will only be told the following prior to the final round.
 - a. The note will involve a **request for UN Peacekeepers be sent to an area undergoing a current international crisis**. Competitors should be familiar with arguments both for and against the use of UN peacekeepers. **Note:** In opposing the imposition of UN Peacekeepers, a student competitor may propose any alternative(s) that s/he wishes to impose (e.g. economic sanctions etc.).
4. Each of the three judges from the preliminary session will serve as judges in the final session.
5. Each competitor must speak to the extent possible in his/her target language.
6. Judging of competitors will be on the same criteria as the preliminary sessions.
7. When any competitor speaks, the judge of his/her target language will translate the speech into English for the benefit of the other competitors in the room.
8. The competitor should explain in English to the applicable target language judge what s/he is going to be arguing. This should be done to help the judge in the translation (i.e. to prevent contestant language errors from affecting the debate).
9. ***At the conclusion of the final session, all judges will meet to rank the winners. As opposed to other types of debate, the judges are instructed to talk with and work with each other to come up with a list of the five best competitors. Awards will be given for first place, second place, third place, and two finalists.***
10. Good luck and have fun!

International Diplomacy Attachment A - Choices of Political Parties
German Political Parties

1. Sozialdemokratische Partei Deutschlands, SPD (Social Democratic Party)
2. Christlich Demokratische Union, CDU (Christian Democratic Union)
3. Freie Demokratische Partei, FDP (Free Democratic Party)
4. Die Linke (The Left)
5. Die Gruenen (The Greens)
6. Christlich-Soziale Union, CSU (Christian Social Union)

French Political Parties

1. Parti Socialiste, PS (Socialist Party)
2. Union pour un Mouvement Populaire, UMP (Union for a Popular Movement)
3. Union pour la Démocratie Française, UDF (Union for a French Democracy)
4. Parti Communiste Français, PCF (French Communist Party)
5. Les Verts, VEC (The Greens)
6. Front national, FN (The National Front)
7. Mouvement pour la France, MPF (The Movement for France)
8. Parti Radical de Gauche, PRG (The Left Radical Party)

Spanish Political Parties

1. Partido Socialista Obrero Español, PSOE (Spanish Socialist Workers' Party)
2. Partido Popular, PP (Popular Party)
3. Izquierda Unida, IU (United Left)
4. Convergència i Unió, CiU (Convergence and Unió)
5. Partido Nacionalista Vasco, PNV (Basque Nationalist Party)
6. Coalición Canaria, CC (Canarian Coalition)
7. Esquerra Republicana de Catalunya, ERC (Republican Left of Catalonia)

International Diplomacy Legislation

French Legislation

A Resolution in Support of Anti-Prostitution Legislation

WHEREAS, Women's Minister, Najat Vallaud-Belkacem, has stated that the women (and sometimes men) who are recruited into prostitution in France are “bought and sold, swapped, detained, raped and tortured, deceived, trafficked and despoiled”; and

WHEREAS, In 2010, the number of full-time male and female prostitutes in France was estimated at 20,000 to 30,000; and

WHEREAS, It is estimated that ninety percent of prostitutes working the streets in France are foreigners, up from twenty percent in 1990; and

WHEREAS, Most foreign prostitutes working in France are trafficked from Romania, Bulgaria, Nigeria and China by prostitution rings; and

WHEREAS, Many such foreign trafficked prostitutes and their families are subjected to violence; and

WHEREAS, On December 4, 2013, the National Assembly passed a bill fining clients of prostitutes, which would impose fines of at least €1,500 on clients caught paying for sexual relations; and

WHEREAS, The bill has yet to pass the Senate; now, therefore, be it

RESOLVED, By this body here assembled that the French Senate should pass the anti-prostitution law.

Introduced by TSFFTID Committee

A Resolution Calling for The French Republic to Legalize Euthanasia

WHEREAS, In February, 2013, France's medical ethics council recommended that assisted suicide be allowed in exceptional cases; and

WHEREAS, France already legalizes passive euthanasia, where a person causes death by withholding or withdrawing treatment that is necessary to maintain life; and

WHEREAS, Euthanasia allows doctors themselves to administer the lethal doses of medicine; and

WHEREAS, A panel (the so-called "Conference of Citizens") set up at the request of President Francois Hollande recommended legalizing assisted suicide in France; and

WHEREAS, The Conference of Citizens found that, "The possibility of committing medically assisted suicide... is, in our eyes, a legitimate right of a patient close to death or suffering from a terminal pathology, based first and foremost on their lucid consent and complete awareness"; now, therefore, be it

RESOLVED, By this body here assembled that the French Republic legalize euthanasia.

Introduced by TSFFTID Committee

A Resolution Calling for The French Republic to Repeal the Electronic Surveillance Law

WHEREAS, The French Republic, in December of 2013, passed an electronic surveillance law which markedly expands electronic surveillance of French residents; and

WHEREAS, The law was passed without a parliamentary commission or a real public debate; and

WHEREAS, The law lacks judicial oversight; and

WHEREAS, The law poses a threat to business and is an encroachment on individual privacy rights; now, therefore, be it

RESOLVED, By this body here assembled that The French Republic should repeal the Electronic Surveillance Law passed in December of 2013.

Introduced by TSFFTID Committee

France - Questions for Consideration and Possible Legislation

- 1) What, if any, actions should the French Republic take with respect to anti-Semitic and defamatory material and gestures by French comedian Dieudonné M'Bala M'Bala,?
- 2) Should the French Republic adopt substantial austerity measures?

German Legislation

A Resolution that the Federal Republic of Germany Should Allow Gay and Lesbian Marriage

WHEREAS, Germany recognized civil unions for gay and lesbian couples in 2001, but such couples still lack many of the rights and benefits of straight couples; and

WHEREAS, Tax disparities still exist between heterosexual partners and gay/lesbian civil unions; and

WHEREAS, The majority of German citizens support gay/lesbian marriage; now, therefore, be it

RESOLVED, By this body here assembled that the Federal Republic of Germany should grant marriage equality to gay and lesbian citizens.

Introduced by TSFFTID Committee

**A Resolution that the Federal Republic of Germany Should
take substantial and Immediate Steps to Stop Acid
Rain/Deposition**

WHEREAS, Acid rain/deposition is rain or snow consisting of water droplets that are unusually acidic because of atmospheric pollution - most notably the excessive amounts of sulfur and nitrogen released by cars and industrial processes; and

WHEREAS, The gases responsible for acid rain/deposition are normally byproduct of electric power generation and the burning of coal; and

WHEREAS, Both aquatic bodies and forests can be significantly impacted by acid rain/deposition; and

WHEREAS, It has been estimated that half of the forests in Germany have already been damaged by acid rain/deposition; now, therefore, be it

RESOLVED, By this body here assembled that the Federal Republic of Germany should take immediate and substantial steps to help prevent acid rain/deposition.

Introduced by TSFFTID Committee

A Resolution Rescinding German Statutes of Limitations With Respect to Nazi Art Theft

WHEREAS, A 1997 study estimated that approximately 100,000 pieces of art which were stolen from Jewish owners by members of the Nazi Party during World War II were still missing.; and

WHEREAS, It is believed that many pieces of stolen Jewish art are currently being held by private investors and museums; and

WHEREAS, It is believed that many persons who are aware of the location of stolen Jewish art are simply waiting the for the expiration of the applicable statues of limitations; and

WHEREAS, If the various statues of limitations are allowed to expire, the rightful Jewish owners of such stolen art will be forever deprived of their property; now, therefore, be it

RESOLVED, By this body here assembled that the Federal Republic of Germany should immediately rescind any and all statues of limitations regarding the theft of Jewish art during the period of the Holocaust. .

Introduced by TSFFTID Committee

Germany Questions for Consideration and Possible Legislation

- 1) How should Germany deal with the problem of its aging infrastructure?
- 2) How should Germany respond to revelations of American NSA phone tapping?

Spanish Legislation

A Resolution for the Kingdom of Spain to Officially Call for a Common EU Response to Stop Illegal Immigration

WHEREAS, a rising number of migrants have been risking death by daring to cross the waters of the Mediterranean in unseaworthy water craft; and

WHEREAS, the Kingdom of Spain has taken measures to reduce illegal immigration by way of the Canary Islands, only to face massive increases in illegal immigration across the Strait of Gibraltar; and

WHEREAS, illegal entry into the Kingdom of Spain results in increased illegal immigration throughout the European Union; now, therefore, be it

RESOLVED, By this body here assembled that the Kingdom of Spain should officially call for the European Union to create a common plan of action to stop illegal immigration into EU member nations.

Introduced by TSFFTID Committee

A Resolution that the Kingdom of Spain Should Rescind Legislation Designed to Decrease Government Support of Solar Energy

WHEREAS, Prior Spanish law had offered attractive rates for solar energy and promised that such rates would be in effect for twenty-five years; and

WHEREAS, The current Spanish government seeks to drop the per-kilowatt-hour payment system altogether and effectively impose retroactive cuts in payments; and

WHEREAS, The current Spanish government is seeking to impose the so called “sun tax,” which would require solar power producers to pay a charge on electricity they generate and use themselves; and

WHEREAS, The current Spanish government’s plans will adversely affect the growth of the solar power industry in the Kingdom of Spain; and

WHEREAS, Solar power is safe and renewable; now, therefore, be it

RESOLVED, By this body here assembled that the Kingdom of Spain should rescind all planned policies to decrease government support of solar energy.

Introduced by TSFFTID Committee

A Resolution that the Kingdom of Spain Should Support a Woman's Right to Abortion

WHEREAS, The prior Spanish government made abortion widely legal before the 14th week;
and

WHEREAS, The current Spanish government is seeking to tighten restrictions on abortion so as
to allow the practice only in the case of rape or when there is a serious health risk
to the mother or fetus; and

WHEREAS, The issue of abortion is rightfully an issue between a woman, her doctor, and her
conscience; now, therefore, be it

RESOLVED, By this body here assembled that the Kingdom of Spain should recognize a
woman's right to choose whether or not to have an abortion.

Introduced by TSFFTID Committee

Spain Questions for Consideration and Possible Legislation

- 1) What, if any, actions should the Spanish central government take with respect to recent revelations that the American National Security Agency has collected data on 60 million telephone calls in Spain.
- 2) How should the Spanish central government respond to the ETA?

John Clark Legal Argument Fact Pattern

State vs. Fogarty

Introduction

This is an action for First Degree Murder arising out of a shooting incident involving Someplace Transit driver, Lorna Stephani-Fogarty, who was the estranged wife of the defendant, Soren Fogarty. The incident occurred aboard a Someplace Transit Authority (STA) Number 13 Divide Street bus, which was being operated by the decedent on the evening of Tuesday, the 15th of October, 2013, at or near the intersection of Divide Street and Conquer Avenue in the city of Someplace Washington.

Witness Testimony

J. Lian (Jack) Johnson

Jack Johnson is a fifteen year old freshman at Someplace Alternative School.

Jack Johnson states:

I had been hanging out at the STA Plaza with some of my friends. We'd been skateboarding all afternoon. I caught the 7:15 bus out of downtown. When the bus got into Medwood, this dude gets on the bus and sits in those sideways seats at the front of the bus. I remember him getting on the bus because he got on at the stop right by the Jet Tavern. My Uncle Stan used to work there, but the owner fired him for smoking weed on the job. Stan's better off now anyway. The Jet's a wreck.

Anyway, this dude gets on the bus and he was so drunk, he could hardly walk. He just kind of fell over into the seat and passed out. He didn't pay or nothing. So, the bus lady tries to get him to wake up and the dude starts snoring.

The bus lady acted like she knew the dude. She said something like, "You need to pay. I don't like you on my bus, but if you're here, you have to pay like everyone else." The dude does nothing. Man; he is out cold. She probably tried to wake him and make him pay for about two or three minutes. Then she slapped the side of his head and went back to driving the bus."

I got off at my stop which is by the corner of Lincoln and Queen. As I walked by him to get off the bus, I could smell him. There's nothing like the smell of stale cigarettes and booze. I really felt sorry for that bus lady having to drive the bus next to that stinking dude.

The guy was old; maybe 40 or even older. He must have been about 5'6 and probably weighed about 200 pounds. I remember he was wearing an old black coat.

I got off the bus about three or four miles before the lady got shot.

Mic ("Slick") Sovereign

Mic "Slick" Sovereign is a 35 year old white male with no identifiable legal income. His driver's license lists his height at 6'2 and weight at 270 pounds. He has been arrested three times on

charges relating to running an illegal gambling ring. However, he has never been convicted. Police suspect him of involvement in several "shady" businesses and various nefarious activities, but what few witnesses who have spoken to police have either changed their stories or disappeared without a forwarding address. He is impeccably dressed in a dark black cashmere three piece suit, silk white shirt and red silk tie. He was riding the bus home after meeting with a couple of business associates.

Mic Sovereign states:

I was on the #13 bus. I was sitting across from Lorna, the driver in the first "face forward" seat. I always like that particular chair because I've got long legs and I like to stretch them out on the long side facing couch between me and the driver. People in Someplace have the good sense to let me sleep.

I was listening to music on my iPod and had fallen asleep. I often sleep on the bus. The drivers know me. I just tell 'em where I want off and they wake me at my stop. They know that I'm always appreciative of good service and I always express my appreciation with a little folding green if you know what I mean. I especially liked Lorna. She was a good looking and smart. I could have used a dame like that in my organization.

I woke up once and saw that Loren's ex. had got on my bus and was passed out on the side facing couch seat across from me. I thought about telling him to get the (expletive deleted) off the bus before he pissed himself, but I fell back to sleep. I didn't wake again until I heard the shots. I woke up and saw Lorna lying on the floor in a pool of blood, and Fogarty holding a piece and yelling, "It was an accident, an accident."

I just got up and cold cocked him. The old drunk never got back up until the cops and paramedics arrived.

I don't know nothing else about this, so don't bother me no more.

Billy Thiam

Billy Thiam is a 17 year old senior at Someplace High School. He is a proud Eagle Scout from Troop 329, which meets at Someplace Valley Elementary.

Billy Thiam states:

I remember that the shooting occurred in the middle of October. I was walking home from a scout meeting when I heard two shots. They sounded like two firecrackers. They went bang bang in rapid succession. I looked up and saw a bus careening into the curb. The bus hopped up over the curb and hit a tree and stopped. I called 911, ran to the bus, and shoved open the back door of the bus to get inside.

When I got on the bus, I saw a well dressed man who looked like he had been dozing. He was sitting in the first forward seat on the side of the bus that the bus driver sits. He seemed dazed

and confused, but when I asked him for his name, he said some words that a good scout like me does not repeat. Anyway, since he did not want my help, and the bus lady was bleeding, I went to try and help her.

The lady bus driver was lying on the floor. She was bleeding badly. She had been shot in the stomach and close to her right shoulder. I took off my kerchief and tore up my uniform shirt to make bandages just like they showed us in our first aid merit badge course.

I noticed that there was a proper first aid box at the front of the bus, but by that time, the paramedics had already taken over the victim's care. I found one of the officers and gave her a statement and then went home. It was pretty cold walking home without my shirt, but I was sure proud!

While I was trying to stop her bleeding, my patient kept trying to say something. I couldn't really make out what she was trying to say. It sounded like "rum" or "gun." Thinking back, she might have been talking about a bum, but I can't be positive. I was busy trying to save her life!

The guy who got hit was just lying on the floor of the bus. He didn't regain consciousness until the paramedics were able to help him. I gave my name and contact information to the officers of the law and then went home. I heard that they arrested the bum on the floor. People say that he's the one who shot her, but I don't know. I didn't see him with a gun. He was just lying on the floor.

Big Ike McCrudy

Big Ike McCrudy is a motorcycle patrol officer with the Someplace Police Department. He has been on the force for nineteen years. He has been in motorcycle patrol since his third year on the force. Although he has been offered opportunities to move up to detective, he has always refused the offers. He says he can't understand why anyone would trade a job where a guy gets to spend his entire work shift riding to become a desk monkey.

Big Ike McCrudy states:

I arrived at the scene at 19:50 hours on Tuesday evening, the 15th of October, 2013. The first person I saw was that sleaze ball, Slick Sovereign. For just a moment, I thought this might be my chance to put that piece of trash where he belongs, but it looks like this time, he was the good guy.

When I arrived, the paramedics were working on the two injured persons. I secured the scene, and told everyone on the bus they would have to stay seated until we could get statements and complete the process of gathering evidence.

I located a .22 caliber pistol and found a lady's shoe. When I picked up the shoe, one of the passengers, a Ms. Jessifer Manette volunteered that it was her shoe; thanked me for finding it, and politely asked to have it back. She seemed rather "put out" when I told her we'd have to

keep the shoe as evidence. She asked, "Well then sir, how am I supposed to get home without my shoe?" I told her that that was her problem. We had a crime to solve.

Detective Karlana Lakes arrived in a few minutes, and according to department protocol, she took the witness statements and I protected the scene. I departed just after the detective at 21:50 hours.

Norm Sampson

Norm Sampson is a forty-nine year old Caucasian male. He holds a masters degree in law enforcement management and a BA in law enforcement from Eagles' Bay State College. Norm put in twenty years as a patrol officer and then detective with the Someplace Police Department before retiring early because of disagreements with a supervising lieutenant. Sampson held the rank of sergeant when he retired. Because of his reputation for thoroughness and the fact that he was known as a "straight shooter," Sampson was encouraged to apply for the open position of Loss Control Officer with the STA. He has held this position for three years.

Norm Sampson states:

When I arrived at the scene, Detective Karlana Lakes was already on the scene. She's a nice kid and a good cop. I should know. I trained her. Because we go back a long ways, Lakes will often slip me information to help with my investigation. She told me that the first officer on the scene was a motorcycle cop by the name of Big Ike McCrudy. Big Mike found the gun under the driver's seat. It was a .22 caliber pistol which was registered to the decedent.

Lorna was being placed in the ambulance just as I left. That despicable husband of hers had already been arrested and transported to the hospital to be checked out for supposed injuries he incurred when he got slugged by another passenger by the name of Mic Sovereign.

I looked around the bus and took some pictures. There was blood on the floor directly below the fare box. I also noted what appeared to be a bullet hole in the driver's seatback cushion.

Detective Karlana Lakes

Detective Karlana Lakes has been with the Someplace Police Department (SPD) for fifteen years. She graduated top of her class from the Evergreen Police Academy and trained with the SPD under the direction of legendary Someplace Police Department Sergeant Norm Sampson. She was promoted to detective three years ago when her mentor, Norm Sampson retired for personal reasons.

Detective Lakes states:

I arrived at the scene at 19:57 hours on the 15th of October, 2013. Officer Ike McCrudy was already on scene and had been there for about five minutes. McCrudy had already found the gun, a .22 caliber revolver and a woman's shoe with a stiletto heel, which was discovered under the side facing seat opposite of the bus driver. Further investigation confirmed that the shoe

belonged to one of the passengers, a Ms. Jessifer Manette who had apparently thrown it at the defendant, Fogarty. McCrudy turned the gun and the shoe over to me and I subsequently logged them into the department's evidence and property room. I took blood swabs from a blood spot located directly under the fare box. Statements were obtained from the witnesses, and I departed the scene at 21: 47 hours.

Corrine Heathcliff

Corrine Heathcliff is a sixteen year old sophomore at Captain Sparrow High School where she is a member of the school's cross country and croquet teams.

Corrine Heathcliff states:

My boyfriend, Jimmy Langford, and I were riding home from a date at the movies. We were on the number 13 Divide bus, and were sitting in the back of the bus. We were playing Candy Crush on his phone, so I wasn't paying much attention to what was going on up front until the bus made a sharp swerve to the right. At first, it was kind of romantic. I was sitting on the left of Jimmy, and when the bus swerved, I fell right into his manly arms! He is so gorgeous! But then I saw the commotion and heard the shots! Man, what a mood killer!

This dude had a hold of the lady bus driver's arms and was pulling at them and yelling at her. It looked like he had pulled her out of her seat and was attacking her.

The dude and the lady bus driver were yelling at each other. I heard him call her the "B" word. She was yelling at him to get off of "her bus" and she called him the "A" word. Then I heard two shots. They sounded like they were one right after the other. I heard a bang and then another bang almost immediately. The bus lady just fell forward onto the floor.

There was this other guy there too. A pretty good looking older guy. He was well dressed. He looked rich. Anyway, I don't remember if he jumped up before or after I heard the shots, but I do remember him slugging the dude in the face and seeing the dude fall to the floor almost like he was in slow motion.

I started freaking out and screaming. It was a good thing for me that Jimmy was there. He held me close. He also called 911; although I don't know how they could hear him with me screaming like that. It's kind of embarrassing now; but I was really freaking out.

We stayed until the policewoman showed up. I gave her a statement and waited while Jimmy talked with her and then she said we could leave.

James "Jimmy" Langford

Jimmy Langford is an eighteen year old senior at Pope Francis Prep, a private high school, in Someplace, Washington. He is in the school band, where he plays the saxophone.

James "Jimmy" Langford states:

I was riding the bus with my girlfriend, Corrine Heathcliff. I'm not sure what the bus number is, but it is the bus that goes up and down Divide Street. Corrine and I were on our way back from a date. We went to the movies. We saw some chick flick that Corrine wanted to see. I'm not even sure what the name of the movie was, but it had that English actor in it that played in that movie about the King of England with the stuttering problem. Corrine thinks he's hot and likes to see any movie that he's in. I didn't care. I just wanted to be with her.

Anyway, we were on our way home. We had to take the bus, because my car has a leak in the oil pan and it's in the shop. We were sitting in the long seat in the back of the bus. I had a good view of everything that was going on in the front of the bus. Corrine and I were playing Candy Crush. Actually, she was playing the game and I was just watching and listening to her. She is so beautiful that I could watch her all day.

I had been kind of watching the goings on in the front of the bus. It seemed kind of funny at first and then got pretty serious and scary, and then of course, it ended tragically.

The first thing I remember is that this guy kind of stumbles onto the bus, flops down on the sideways facing seat across from the bus driver. It looked like he just passed out on the seat. The lady bus driver actually stopped the bus, went over to the guy and was yelling at him. She said something about not liking him on "her bus," but if he was on the bus, he had to pay. She tried to rouse him, but he wasn't responding. I remember that she smacked at him with her hand and went back to driving the bus.

He must have laid there on the seat for ten minutes or so. We stopped a couple of times. I remember some kid getting off of the bus and I remember this good looking college aged chick get on the bus. She sat the front regular seats on the same side of the bus as the guy who looked like he was passed out.

I'm pretty sure he had to have been faking the whole "passed out thing," because about the time we got to the big intersection by the shopping center, I saw the guy standing up and yelling at the bus driver. The bus driver kept telling the guy to either sit down or get off her bus. She said something about calling dispatch or the cops or something like that. Whatever she said, must have ticked him off. I remember him looking back in my direction and then he just lunged at the lady bus driver. He grabbed at her purse which she had hanging over the side of her seat. He really had to reach, because the purse was on the other side of her by her driver window. They both started pulling at the purse. As the lady tried to grab the purse back from the guy, she must have let go of the steering wheel, because the bus swerved sharply to the right. Everyone on the bus got thrown to the right. Corrine was thrown into my arms.

When I looked back up, the guy had a gun and the lady was actually trying to pull it out of his hands. Just then a shoe comes flying at the guy from somewhere on the bus. The guy got hit in the head. Then I heard the gun go off. I heard two distinct shots. They were close together, but they were a few seconds apart. It seemed like I heard the first shot, and then there was this moment of calm silence and then I heard the second shot.

About the same time as the second shot, a man who had been sleeping on the bus jumped up and hit the guy who was holding the gun. The guy with the gun just collapsed and fell on the floor. Corrine started screaming. I was trying to comfort her. I did call 911.

The guy was out cold, so I didn't think we were in any danger. In any event, the man that hit the guy with the gun also picked up the shooter's gun and slipped it in his pocket. Some boy scout arrived and was trying to give first aid to the lady bus driver. I don't see how he was going to help her. I'm pretty sure she was dead already.

I don't remember the bus driver saying anything.

The Boy Scout left after the paramedics arrived. Corrine and I both gave statements to Officer Lakes, and then left as soon as she told us we could go.

Jessifer Manette

Jessifer Manette is a twenty-three year old flaxen blond haired female student at Someplace River Community College where she is studying for an AA with hopes to transfer to Eagles' Bay State College, where she plans to study fashion design.

Jessifer works part time as a model for a local clothing designer. She is a first generation American. Her father was British, but lived for many years in France where he met her mother. Her family moved to the United States when she was fifteen, and settled in a small suburb just North of Someplace. Jessifer attended Mt. Someplace High School where she was briefly a member of the Mt. Someplace croquet team. Jessifer ended up quitting the team when her coach informed her she would not be allowed to compete for Mt. Someplace unless she began wearing her skirts at a modest length. Jessifer was horrified that anyone would question the latest Parisian styles and immediately quit.

Jessifer Manette states:

I was on my way home from an evening class. I always take the bus. I will never drive a car. I see no reason for people to own cars when public transportation is available at such a modest rate. I am a regular on this route. I have been taking this same route, the number 13, since the fall quarter began almost two months ago. I like to sit across from Lorna and talk with her on the ride home. She is, I'm sorry, was a very nice and beautiful person. We got to know each other very well. She has two young twin girls who attend Someplace Elementary School. I shudder to think what will happen to her girls now that she is gone.

On several nights we talked about our love lives. I often complained that there are no good men in Someplace. They all act like cowboys on steroids. Not a one seems to want to have a romantic dinner and go to an art museum. There does not seem to be a true gentleman anywhere in this town. Lorna would often speak of her almost ex-husband. Even though they have been separated for more than the ninety days, her ex would constantly put up road blocks to the divorce. She even told me that on several occasions, he said he'd kill her before ever agreeing to a divorce. As a result, she had to get a restraining order. However, the judge refused to restrain him from

taking the bus because he had no other form of transportation. She was always afraid that he'd show up on one of her routes.

I got on the bus at my regular stop at Divide and Riverview; I was upset to see that some man was lying down, apparently sleeping, in my regular seat. I had never seen a picture of him, so I did not know at the time that he was Lorna's husband.

I sat down in the first face forward seat so I could move into my regular seat whenever the man got off of the bus. I was sitting across from a very well dressed gentleman who often rides the bus. His name is Mic. I use the word gentleman loosely, because even though he dresses well and has always spoken nicely to me, I have seen some of the people he meets when he gets off of the bus and I don't want to be any part of him and his "friends."

I have heard that other people said that Lorna's husband smelled. That is ridiculous. I could tell that he had been drinking, but he was not smelly. Since I smoke cigarettes, I don't smell tobacco on other people. I do not think he smelled.

We had gone several blocks down the street, when the guy lying on my regular seat (Lorna's ex) stood up. I remember that I had been looking out the window as we went by the street that Lorna had once told me she and her husband lived when they were first married. As we passed that street, Soren jumps up. I don't think he could have really been sleeping, because he did not seem groggy when he woke up. He just stood up and walked the two steps to Lorna. I distinctly heard him say, "If you think you're going to win, you've got another thing coming." He turned and looked at Mic and looked at me. He kind of growled, "What do you think you're looking at?" and turned back toward Lorna.

Lorna grabbed for her purse. I was frightened because I know that Lorna carried a gun in her purse. She once told me she hated guns, but she bought one after the first time her ex-husband threatened her because she was scared to death he'd hurt her. Soren (that's her ex-husband's name) grabbed for her purse at the same time. They started to almost wrestle over the purse. I took off my shoe (an Italian made dress shoe with a stiletto heel) and threw it at Soren. I hit him in the head. I heard a shot go off. Lorna lost control of the bus, and we turned hard to the right, hit the curb, and stopped when the bus bumped into a tree (we were not going fast at this point). In my mind, I heard the first shot, the bus went out of control, and then I heard the second shot just seconds before we hit the tree. There was definitely a lapse of a few seconds between the two shots.

At some point, Mic stood up and snarled at Soren to get off the bus and get lost if he knew what was good for him. That was right about the time of the first shot. I remember when we bumped into the tree; Mic fell backwards into his seat, but jumped right back up again and hit Soren in the face. Soren just kind of slumped to the ground and was out like a light.

Lorna had fallen over. It looked like she had slumped into the steering wheel and then fallen out of her chair in the commotion. I immediately went to Lorna. She was bleeding in the stomach and above her right breast just close to her right shoulder. She was having a hard time talking, but she said, "He finally got me – with my own gun."

About that time, a Boy Scout came on to the bus and told everyone to stand back because he was an expert in first aid. He tore his neckerchief and his shirt up and used it to bandage her wounds. I don't know why he didn't just use the first aid kit in the front of the bus. I tried to tell him that it was there, but he just shushed me. He said he needed quiet to work on his patient. He told me I should call 911; which I did.

The paramedics arrived almost immediately. They took over Lorna's care and worked on Soren, who was still passed out on the floor of the bus.

Two officers came. A motorcycle policeman came first and was securing the scene since the paramedics were already trying to help Lorna. He found Lorna's gun and my shoe, but he wouldn't let me have the shoe back. He said it was evidence.

A woman detective showed up a few minutes later. I gave her my statement and then departed as soon as she told me I could go home.

Nick Billingsworth

Nick Billingsworth is a forty year old high school teacher and croquet coach. He lives in Someotherplace, Washington on the coast, but was in town for an important croquet coaches meeting. Since he was in town alone, he called up his old friend from college, Soren Fogarty and arranged to meet for dinner and drinks at their old college hangout, the Jet Tavern.

Nick Billingsworth states:

Since I was in town alone on work, I thought I'd call up Soren Fogarty. Soren and I had gone to school together at Whatsitworth College (now University) in what is now the suburb of Medwood, just North of Someplace. We met at the Jet at 5:00 PM. I ordered burgers and a pitcher of cold beer. Soren hardly touched his food, but he drank almost the entire pitcher. I knew that Soren had been really down about his impending divorce, but he was sounding deranged at dinner. It must have been about 7:30 that he looked at his watch and said, "I've got to run. I've got someone to kill." It was such a weird thing to say, but he was drunk, so I shrugged it off.

I offered to give him a ride home. I knew that he had driven to the tavern, and he was in no shape to drive. He declined. He said he was just going to take the bus. He said that he especially liked riding the Divide bus because it took him right by the first home that he and Lorna shared. He sounded pretty morbid to me; but it didn't seem like I could do anything for him, and he said he was taking a bus, so I just said goodbye and hugged my old friend before he left.

I really wish now that I had made him take me up on my offer of a ride home.

I just have to believe that it was an accident. As crazy as he was acting, I just can't believe that he'd kill Lorna on purpose. He loved her too much.

Dr. Anita Grumpsy, age 52 Toxicologist

Dr. Grumpsy is employed at Sacred Family Hospital, Someplace, Washington, in the pathology department.

Soren Fogarty was brought to the hospital by paramedics for treatment following the bus incident. By the time he was at the hospital, he had regained consciousness. He agreed to a sample of his blood. The toxicology report established a blood alcohol level of 1.2. The legal limit in Washington is .08 for adults over the age of 21. Considering the absorption rates of alcohol, Dr. Grumpsy's professional opinion is that Fogarty's blood alcohol level must have been "somewhat lower" at the time of the shooting incident.

Dr. Anita Grumpsy states:

Metabolisation rates vary somewhat from person to person. A person's retrograde extrapolation i.e. a person's blood alcohol concentration at a time previous to the sample collection could be lower or higher than the reading at the time of the sample depending on whether the person's blood alcohol rate was rising or falling based on the subject's rate of alcohol absorption.

Given my education, training and experience, as well as my review of the evidence and facts of this case, it is my opinion that Mr. Fogarty's blood alcohol level was rising at the time the sample was taken. At the time of the shooting incident, his blood alcohol level should have been somewhat lower than the 1.2 which we found in his blood alcohol test. In my professional opinion, his blood alcohol level at the time of the shooting would have been about .05 or .06.

Dr. D.A. Cascade

Dr. D.A. Cascade is a retired toxicologist. He worked for twenty-seven years as a toxicologist at Camaro Hospital, in Trust City, Washington. Following his retirement, Dr. Cascade has worked as an expert witness for both the defense and prosecution in over one hundred cases involving alcohol. In this matter, he has been hired as an expert witness to testify on behalf of the defendant.

Dr. D.A. Cascade states:

Whereas I agree with Dr. Anita Grumpsy's statements regarding the science of alcohol absorption, her findings are impossible to correlate with the facts of this case. After carefully examining the toxicology reports and reviewing the actual witness statements concerning the actions of Mr. Soren Fogarty, it is my professional opinion that Mr. Fogarty's blood alcohol level was falling at the time of the shooting.

Even assuming the common knowledge that alcohol burns off at a rate of approximately one beer/glass of wine/mixed drink per hour, it just seems ludicrous to assume that the alcohol rate was rising. To support her findings, Mr. Fogarty would have had to have

been drinking while he was on the bus. There is just no way that science can support her findings.

Sjol Dansun Age 35 – Pathology

Sjol Dansun is employed as a phlebotomy technician at Pathology, PS in Someplace, Washington. On the night of the shooting incident, he was working at Sacred Family Hospital, in Someplace, Washington.

Sjol Dansun states:

I am a phlebotomy technician. On the night of the shooting incident, I was assigned to draw a blood specimen from the defendant, Soren Fogarty. The patient was fully cognizant of what I was doing, except that he must have thought I was a doctor, because he kept calling me doctor, even though I told him a couple of times that I am not a doctor. Then all of a sudden, he just blurted out:

“It was an accident, doctor. It was an accident. I only wanted to scare her and talk some sense into her, so she’d come home. I saw that ape of a man, Mic Sovereign, and I got really scared. Mic had told me on a couple of times that if I didn’t stop stalking Lorna, he would make me stop. How can I stalk my own wife? I love her!

When I saw Mic, I just freaked. I knew she had a gun because I was following her one day and I saw her go in and buy it. I also knew that she kept it in her purse. I just tried to get the gun so I could protect myself from Mic. Then I got hit in the head with some chick’s shoe and the gun just went off. I was so nervous; I think it might have gone off a second time.”

That was all he said; but I remember thinking that it was odd that he wasn’t crying or anything. He just sat there stone faced and kept saying, “It was an accident.” “It was an accident.”

Elizabeth Brimful

Elizabeth Brimful is a 37 year old female who is employed as a dispatcher by the Someplace Transit Authority.

Elizabeth Brimful states:

Lorna and I have been friends for years. On many times she told me about her husband and how abusive he was to her. She told me she was frightened to death of him. I knew she had a gun, but I kept her secret. I did tell her to get a restraining order, which she did get.

About two weeks after the shooting, I received an anonymous phone call. Even though I saved the number, it didn’t do any good. Apparently, the number was traced back to one

of the last remaining phone booths in town. Right, here, at the STA Piazza. Anyways, there was a man's voice on the other end. The man said,

"What do you think of your restraining order now, witch."

I think it must have been Lorna's ex-husband and murderer, Soren. However, since I've never met the man nor ever spoken with him, I can't really be positive it was him.

Dr. Laura Barrelmaker

Dr. Laura Barrelmaker is an emergency room physician at Sacred Family Hospital in Someplace, Washington.

Dr. Laura Barrelmaker states:

Lorna Stephani-Fogarty was admitted by ambulance to the Sacred Family Hospital Emergency Room at 22:59 hours.

I was on duty when the victim, Lorna Stephani-Fogarty was transported by ambulance to the hospital. Upon examination, I discovered two bullet wounds. One entered through the abdomen and exited on the opposite side of the body. The other wound was just above the right breast. Microscopic green cotton tissues, which were later linked "to a Boy Scout shirt were imbedded in the wound to the abdomen. It is apparent that the young man who attempted first aid stopped the bleeding in the wound to the front of the abdomen and in the shoulder/breast area. However, the bullet exit wound was left untreated until paramedics arrived. All wounds were properly treated by the paramedics.

Upon further examination, it was discovered that Methicilin-resistant Staphylococcus aureus (MRSA bacteria) had entered the wound. MRSA is a sepsis pathogen that cannot be treated with normal antibiotics. The bacteria apparently entered the body through one of the two abdominal wounds. The bacteria could have been on the floor of the bus or on the material used by the first aid provider.

The patient expired at 8:37 AM on the morning of October 16th 2013 as a combined result of traumatic injury/bullet wounds and severe and rapid onset of septic shock resulting from the introduction of bacteria into the body, most likely as a result of the gunshot wounds.

Applicable Washington State Pattern Jury Instructions

Note: Students may use their own research into Washington State Law in addition to these instructions.

WPIC 26.01 Murder—First Degree—Definition

A person commits the crime of murder in the first degree when, with a premeditated intent to cause the death of another person, he or she causes the death of such person or of a third person [unless the killing is *[excusable]*[or]*[justifiable]*].

WPIC 26.01.01 Premeditated—Definition

Premeditated means thought over beforehand. When a person, after any deliberation, forms an intent to take human life, the killing may follow immediately after the formation of the settled purpose and it will still be premeditated. Premeditation must involve more than a moment in point of time. The law requires some time, however long or short, in which a design to kill is deliberately formed.

WPIC 26.02 Murder—First Degree—Premeditated—Elements

To convict the defendant of the crime of murder in the first degree, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about _____, the defendant acted with intent to cause the death of _____;
- (2) That the intent to cause the death was premeditated;
- (3) That _____ died as a result of the defendant's acts; and
- (4) That any of these acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

WPIC 27.01 Murder—Second Degree—Intentional—Definition

A person commits the crime of murder in the second degree when with intent to cause the death of another person but without premeditation, he or she causes the death of such person or of a third person [unless the killing is *[excusable]*[or]*[justifiable]*].

WPIC 27.02 Murder—Second Degree—Intentional—Elements

To convict the defendant of the crime of murder in the second degree, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about _____, the defendant acted with intent to cause the death of _____;
- (2) That _____ died as a result of defendant's acts; and
- (3) That any of these acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

WPIC 28.01 Manslaughter—First Degree—Reckless—Definition

A person commits the crime of manslaughter in the first degree when he or she recklessly causes the death of another person [unless the killing is *[excusable]* *[or]* *[justifiable]*]

WPIC 28.02 Manslaughter—First Degree—Reckless—Elements

To convict the defendant of the crime of manslaughter in the first degree, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about _____, the defendant engaged in reckless conduct;
- (2) That _____ died as a result of defendant's reckless acts; and
- (3) That any of these acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

WPIC 18.10 Voluntary Intoxication

No act committed by a person while in a state of voluntary intoxication is less criminal by reason of that condition. However, evidence of intoxication may be considered in determining whether the defendant *[acted]* *[or]* *[failed to act]* with _____.

NOTE ON USE

Use this instruction for voluntary intoxication cases only. It does not apply to a case in which involuntary intoxication is claimed.

Use bracketed material as applicable.

COMMENT

RCW 9A.16.090.

Approval of instruction. WPIC 18.10 is a correct statement of the law. *State v. Corwin*, 32 Wn.App. 493, 649 P.2d 119 (1982). WPIC 18.10 is also cited with approval in *State v. Coates*, 107 Wn.2d 882, 735 P.2d 64 (1987), and *State v. Hackett*, 64 Wn.App. 780, 827 P.2d 1013 (1992).

Basis for giving instruction. “[A] criminal defendant is entitled to a voluntary intoxication instruction only if: (1) the crime charged has as an element a particular mental state, (2) there is substantial evidence of drinking, and (3) the defendant presents evidence that the drinking affected his or her ability to acquire the required mental state.” *State v. Gallegos*, 65 Wn.App. 230, 238, 828 P.2d 37 (1992) (cited in *State v. Ager*, 128 Wn.2d 85, 904 P.2d 715 (1995)). The evidence “must reasonably and logically connect the defendant's intoxication with the asserted inability to form the required level of culpability to commit the crime charged. ... Evidence of drinking alone is insufficient to warrant the instruction; instead, there must be ‘substantial evidence of the effects of the alcohol on the defendant's mind or body.’” *State v. Gabryschak*, 83 Wn.App. 249, 252–53, 921 P.2d 549 (1996) (citations omitted). See also *State v.*

Everybodytalksabout, 145 Wn.2d 456, 479, 39 P.3d 294 (2002) (defendant not entitled to a voluntary intoxication instruction where he did not present sufficient evidence to show his intoxication affected his ability to acquire the required mental state); *State v. Harris*, 122 Wn.App. 547, 552–53,

Particular mental state at issue. Although the defense of voluntary intoxication is usually associated with crimes requiring proof of a specific intent, the defense is also appropriate when the defendant is charged with a crime for which a particular mental state, such as knowledge, is required. *State v. Lottie*, 31 Wn.App. 651, 644 P.2d 707 (1982) (arson). In a prosecution for first degree murder, premeditation and intent are two distinct elements, and the defendant is entitled to an instruction such as WPIC 18.10 upon a showing that intoxication affected either element. *State v. Brooks*, 97 Wn.2d 873, 651 P.2d 217 (1982).

When the crime charged (first degree assault) involved a particular mental state (intent to inflict great bodily harm), it was error to refuse defendant's request to give this instruction when there was “substantial evidence that the defendant was in fact intoxicated at the time the crime was committed and that the intoxication affected his ability to acquire the requisite mental state.” *State v. Hackett*, 64 Wn.App. 780, 785 n. 2, 827 P.2d 1013 (1992) (defense applies to intoxication by drugs as well as alcohol, and diminished capacity instruction was not broad enough to cover voluntary intoxication falling short of mental illness or disorder). Cf. *State v. Furman*, 122 Wn.2d 440, 858 P.2d 1092 (1993) (a diminished capacity instruction may be adequate when based, in whole or in part, on defendant's voluntary consumption of drugs or alcohol).

In *State v. Swagerty*, 60 Wn.App. 830, 810 P.2d 1 (1991), the trial court did not err by refusing to give a voluntary intoxication instruction in a prosecution for statutory rape. The appellate court found that the defense of voluntary intoxication was not available to the defendant, because the Legislature's definition of statutory rape did not include specific intent or any other mental state.

Nature of defense. In a technical sense intoxication is not a “true defense,” because a criminal act committed by a person who is voluntarily intoxicated is not justified or excused. Rather, intoxication may raise a reasonable doubt as to a mental state required for conviction of a certain crime. Therefore, in an appropriate case, the jury should be instructed that it may consider evidence of the defendant's intoxication in deciding whether the defendant acted with the requisite mental state. *State v. Coates*, supra.

In *State v. Guilliot*, 106 Wn.App. 355, 365–66, 22 P.3d 1266 (2001), the court held that a defense based upon hypoglycemia is similar to an intoxication defense. A jury instruction based upon hypoglycemia is proper only if the defendant produces substantial evidence of a link between an insulin reaction and the defendant's ability to form the culpable mental state at the time of the crime.

Voluntary intoxication is intoxication not caused by force or fraud, *State v. Hutsell*, 120 Wn.2d 913, 845 P.2d 1325 (1993) (Sentencing Reform Act case, reaffirming prior holdings that an alcoholic or addict is not an “involuntary” intoxicate), or by medicinal use of drugs, *State v. Gilcrist*, 15 Wn.App. 892, 552 P.2d 690 (1976).

Burdens of proof and persuasion. It is constitutionally permissible to require the defendant to bear the initial burden of coming forward with evidence of intoxication and its effect upon the

defendant's mental state before giving an instruction on intoxication. However, the jury should not be instructed that the defendant has the burden of proving voluntary intoxication by a preponderance of the evidence. Such an instruction unconstitutionally relieves the prosecution of the burden of proving beyond a reasonable doubt the mental state that is the element of the crime charged. *State v. Carter*, 31 Wn.App. 572, 643 P.2d 916 (1982).

The State has no burden of disproving intoxication, and the jury should not be instructed that it does. *State v. Coates*, 107 Wn.2d 882, 735 P.2d 64 (1987). It is sufficient to instruct the jury that the State must prove the mental state that is an element of the crime charged. *State v. James*, 47 Wn.App. 605, 736 P.2d 700 (1987); *State v. Sam*, 42 Wn.App. 586, 711 P.2d 1114 (1986); *State v. Fuller*, 42 Wn.App. 53, 708 P.2d 413 (1985).

WPIC 15.01 Excusable Homicide—Definition

It is a defense to a charge of *[murder][manslaughter]* that the homicide was excusable as defined in this instruction.

Homicide is excusable when committed by accident or misfortune in doing any lawful act by lawful means, without criminal negligence, or without any unlawful intent.

The State has the burden of proving the absence of excuse beyond a reasonable doubt. If you find that the State has not proved the absence of this defense beyond a reasonable doubt, it will be your duty to return a verdict of not guilty.

WPIC 16.07 Justifiable Homicide—Actual Danger Not Necessary

A person is entitled to act on appearances in defending *[himself][herself][another]*, if that person believes in good faith and on reasonable grounds that *[he][she][another]* is in actual danger of great personal injury, although it afterwards might develop that the person was mistaken as to the extent of the danger.

Actual danger is not necessary for a homicide to be justifiable.

WPIC 4.01 Burden of Proof—Presumption of Innocence—Reasonable Doubt

The defendant has entered a plea of not guilty. That plea puts in issue every element of the crime charged. The *State* is the plaintiff and has the burden of proving each element of *the* crime beyond a reasonable doubt. The defendant has no burden of proving that a reasonable doubt exists *[as to these elements]*.

A defendant is presumed innocent. This presumption continues throughout the entire trial unless during your deliberations you find it has been overcome by the evidence beyond a reasonable doubt.

A reasonable doubt is one for which a reason exists and may arise from the evidence or lack of evidence. It is such a doubt as would exist in the mind of a reasonable person after fully, fairly, and carefully considering all of the evidence or lack of evidence. *[If, from such consideration, you have an abiding belief in the truth of the charge, you are satisfied beyond a reasonable doubt.]*

WPIC 5.01 Direct and Circumstantial Evidence

The evidence that has been presented to you may be either direct or circumstantial. The term “direct evidence” refers to evidence that is given by a witness who has directly perceived something at issue in this case. The term “circumstantial evidence” refers to evidence from which, based on your common sense and experience, you may reasonably infer something that is at issue in this case.

The law does not distinguish between direct and circumstantial evidence in terms of their weight or value in finding the facts in this case. One is not necessarily more or less valuable than the other.

NOTE ON USE

This instruction should be given upon the request of any party when there is circumstantial evidence in the case.

WPIC 25.02 Homicide—Proximate Cause—Definition

To constitute *[murder][manslaughter][homicide by abuse][or][controlled substance homicide]*, there must be a causal connection between the criminal conduct of a defendant and the death of a human being such that the defendant's *[act][or][omission]* was a proximate cause of the resulting death.

The term “proximate cause” means a cause which, in a direct sequence, unbroken by any new independent cause, produces the death, and without which the death would not have happened.

[There may be more than one proximate cause of a death].

NOTE ON USE

Use bracketed material as applicable.

The first two paragraphs should be given in all homicide cases in which there is an issue of causal connection between defendant's act and the death of the decedent. Do not use this instruction for vehicular homicide cases; instead use WPIC 90.07, Vehicular Homicide and Assault—Proximate Cause—Definition.

The bracketed third paragraph should always be used when the evidence supports multiple proximate causes. It should always be included when WPIC 25.03, Conduct of Another, is given.

COMMENT

The definition of proximate cause is adapted from WPI 15.01. See the Comment to that instruction.

Cause of death is a question of fact. *State v. Engstrom*, 79 Wn.2d 469, 476, 487 P. 2d 205 (1971). When an unforeseeable act breaks the causal connection between the original act and the injury, such intervening cause may excuse the defendant from legal accountability. *State v. Little*, 57 Wn.2d 516, 522, 358 P.2d 120 (1961). In *State v. Perez-Cervantes*, 141 Wn.2d 468, 6

P.3d 1160 (2000), the court held that the defendant failed to present sufficient evidence to show that the victim's drug use after the stabbing or failure to promptly seek medical attention following release from the hospital was an intervening cause of death.

In *State v. Dennison*, 115 Wn.2d 609, 801 P.2d 193 (1990), the Supreme Court found that WPIC 25.02 pertains to “cause in fact”, the “but for” consequences of an act, and not “legal causation.” In *Dennison*, the defendant argued that the trial court should have given WPIC 25.02, because the decedent's felonious acts superseded the defendant's acts when the decedent overreacted under circumstances not reasonably foreseeable. The Supreme Court rejected this argument, noting that the defendant confused the two elements of proximate cause, cause in fact and legal causation. For a more detailed discussion of “cause in fact” and “legal causation,” see the Comment to WPI 15.01, 6 Washington Practice: Washington Pattern Jury Instructions—Civil (5th ed.).

In *State v. Leech*, 114 Wn.2d 700, 790 P.2d 160 (1990), a prosecution for first degree felony murder, the court rejected the argument that an instruction based on WPIC 25.02 unconstitutionally relieved the State of proving an element of proximate cause because the instruction did not state that proximate cause is limited by foreseeability. The court held that foreseeability is not an element of proximate cause and that the instruction given “properly stated the law and was not unconstitutional.”

See the Comment to WPIC 90.02, Vehicular Homicide—Elements, for a discussion of the proximate cause requirements under the vehicular homicide statute.
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11 WAPRAC WPIC 25.02

WPIC 4.11 Lesser Included Crime or Lesser Degree

The defendant is charged [*in count*] with _____. If, after full and careful deliberation on this charge, you are not satisfied beyond a reasonable doubt that the defendant is guilty, then you will consider whether the defendant is guilty of the lesser crime[s] of _____.

When a crime has been proved against a person, and there exists a reasonable doubt as to which of two or more [*degrees*] [*crimes*] that person is guilty, he or she shall be convicted only of the lowest [*degree*] [*crime*].

Note on Use

Use this instruction when the evidence would allow conviction of a lesser included crime, whether that be a lesser degree of the same crime or a lesser included crime with a different name. See discussion in the Comment.

Along with this instruction, use WPIC 155.00, Concluding Instruction—Lesser Degree/Lesser Included Crime/Attempted Crime, and the applicable special verdict forms from WPIC180.01, WPIC180.05, and WPIC180.06 180.06.

In order to have a complete set of instructions, there must be a separate elements instruction setting out what must be proved to convict a defendant of the lesser included crime or lesser degree.

Comment

RCW 9A.04.100(2); RCW 10.61.003; RCW 10.61.006; RCW 10.58.020.

Lesser included crimes and lesser degree crimes. This instruction explains the proper sequence of the jury's decisions when considering a lesser offense. The instruction applies regardless of whether the crime is a lesser degree crime or a lesser included crime. In either instance, the framework for juror decision-making is the same. It is only in other regards that the law distinguishes between lesser degree crimes and lesser included crimes. See *State v. Tamalini*, 134 Wn.2d 725, 730–35, 953 P.2d 450 (1998) (distinguishing between lesser included crimes and lesser degree crimes with respect to the judge's threshold test for deciding whether to instruct the jury about a lesser crime); see also *State v. Fernandez-Medina*, 141 Wn.2d 448, 454, 6 P.3d 1150 (2000).

Lesser included offenses—Analysis. The test for analyzing lesser included offenses is traditionally stated as follows: “First, each of the elements of the lesser offense must be a necessary element of the offense charged. Second, the evidence in the case must support an inference that the lesser crime was committed.” *State v. Workman*, 90 Wn.2d 443, 447–48, 584 P.2d 382 (1978) (citations omitted). Additionally, “the lesser offense must arise from the same act or transaction supporting the greater charged offense” *State v. Porter*, 150 Wn.2d 732, 738, 82 P.3d 234 (2004).

The *Workman* test requires a factual showing that is “more particularized” than the sufficient evidence standard that otherwise applies to jury instructions. *State v. Porter*, 150 Wn.2d at 737, 82 P.3d 234.

“[T]he evidence must raise an inference that *only* the lesser included . . . offense was committed to the exclusion of the charged offense.” In other words, “the evidence must affirmatively establish the defendant's theory of the case—it is not enough that the jury might disbelieve the evidence pointing to guilt.” *State v. Porter*, 150 Wn.2d at 737, 82 P.3d 234 (quoting *State v. Fernandez-Medina*, 141 Wn.2d at 456; other citations omitted).

Lesser degree offenses—Analysis. The test for lesser degree offenses is whether: “(1) the statutes for both the charged offense and the proposed inferior degree offense ‘proscribe but one offense’; (2) the information charges an offense that is divided into degrees, and the proposed offense is an inferior degree of the charged offense; and (3) there is evidence that the defendant committed only the inferior offense.” *State v. Peterson*, 133 Wn.2d 885, 891, 948 P.2d 381 (1997) (quoting *State v. Foster*, 91 Wn.2d 466, 472, 589 P.2d 789 (1979)). The factual (third) component of this test is the same as the factual component of the *Workman* test for lesser included instructions. *State v. Fernandez-Medina*, 141 Wn.2d at 455, 6 P.3d 1150.

Unlike a lesser *included* offense, a lesser *degree* offense may have an element that is not an element of the greater offense. For example, second degree assault (by torture) is an inferior *degree* offense for first degree assault (by inflicting great bodily injury), even though the lesser degree offense has an element that is not a part of the greater degree offense and thus does not qualify as a lesser *included* offense. *State v. Peterson*, 133 Wn.2d at 891–92, 948 P.2d 381.

Request for instruction. Either party may request an instruction on a lesser crime, *State v. Lyon*, 96 Wn.App. 447, 450, 979 P.2d 926 (1999), and the court may give such an instruction on its own motion. *State v. Rhinehart*, 92 Wn.2d 923, 927, 602 P.2d 1188 (1979). If the instruction

is requested by the defendant in an appropriate case, it is reversible error to refuse to give the instruction. *State v. Parker*, 102 Wn.2d 161, 683 P.2d 189 (1984).

If not requested by either party, however, the failure to give a lesser offense instruction is not reversible error. *State v. Hoffman*, 116 Wn.2d 51, 111–12, 804 P.2d 577 (1991); *State v. Mak*, 105 Wn.2d 692, 747, 718 P.2d 407 (1986), overruled in part on other grounds in *State v. Hill*, 123 Wn.2d 641, 870 P.2d 313 (1994). The judge is not required to instruct the jury *sua sponte* on all lesser offenses over a defendant's express objections. *State v. Hoffman*, 116 Wn.2d at 111–12, 804 P.2d 577.

Cross-references. For a more detailed analysis of the law relating to lesser included and lesser degree offenses, see Fine and Ende, 13A Washington Practice: Criminal Law With Sentencing Forms §§ 106 et seq. (2d ed.). Additionally, lesser offense issues for specific crimes are discussed in Comments throughout Volumes 11 and 11A.
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11 WAPRAC WPIC 4.11