Arnup Cup: Background Information

The Arnup Cup is an annual trial advocacy competition for law schools across Ontario put on by the Advocates’ Society and sponsored by WeirFoulds LLP. This competition is unique from the other moots in that it involves a judge and jury mock trial.

At the Arnup, teams of two from each competing school will examine and cross-examine witnesses, make objections and submissions, and conduct opening and closing addresses. Each team participating is assigned the role of either the prosecution or the defence, and will argue their respective case to the jury against a competing school playing the opposite role. The “jury” is typically composed of members of the Advocates’ Society, who double as student assessors. The competition is usually, although not necessarily, a criminal mock trial.

The Arnup Cup takes place in Toronto in February and is one of four regional competitions held across Canada. Winners from the Arnup Cup will go on to compete against winners selected from the other three regions in the bilingual National Finals, dubbed the Sopinka Cup, which is held in Ottawa in March. The Sopinka is sponsored by the American College of Trial Lawyers – an association composed of preeminent members of the Trial Bar from the United States and Canada.

Selection Process and Try Out Information:

Students competing for a placement on the U of O Faculty of Law Arnup Team have a unique moot problem, and must attend a separate moot tryout on a different date. These students will not be grappling with the General Moot Problem. Instead, their source material is an abridged version of the actual Arnup / Sopinka Problem from 2013-2014.¹

Students wishing to try out for the Arnup are to review the Included Materials. These students will then use these Included Materials (TAB A) to craft and present a Closing Argument to the assessors / jury. Students have the option of choosing whether they want to assume the role of the Crown or the Defence. Closing arguments, whether made as Crown or Defence counsel, must be between 3-4 minutes in length. Students may be asked questions following their presentation, although these questions will not be on substantive areas of criminal law.

At least TWO students from the U of O Faculty of Law will be chosen for the Arnup Team. At least ONE other student will also be chosen as a Student Coach. While the Student Coach will receive credits and a grade for her or his work with the team, being a Student Coach will not fulfill the Faculty of Law, Common Law Oral Advocacy Requirement.²

¹ Many of the pages from the 2013-2014 problem have been omitted to shorten the amount of material students need to work through. There is only one witness for the Crown and one witness for the Defence (the accused). Omitted materials include Police Reports, Forensic Reports, Neuropathology Reports, a floor plan of the Chris Rock Tavern, and most of the Photos taken by the Pointe Claire Police Department.

² When students are trying out for the Arnup, they will be asked if they are willing to act as the Student Coach if they are not selected as one of the two Arnup representatives. If they are unwilling to do so, it will not impact their chances of being selected as an Arnup participant.
THE DEADLINE TO REGISTER FOR THE ARNUP CUP TRY OUT IS 4:00 P.M., WEDNESDAY, SEPTEMBER 26th. Students interested in trying out for the Arnup Team must sign up in an available timeslot on the sign-up sheet posted on Professor Daimsis’ door (Brooks Room 431) by 4:00 p.m., September 26th.

TRY-OUTS WILL BE HELD FROM 9:00 A.M TO 3:00 P.M. ON SATURDAY, SEPTEMBER 29th IN THE IAN SCOTT MOOT COURTROOM. In the event there is sufficient interest, there will be additional time slots on SUNDAY, SEPTEMBER 30th as well. Students must be present at least FIVE minutes before their scheduled ten-minute slot begins and must wait outside the Ian Scott Moot Courtroom until their name is called.

STUDENTS ARE TO BRING WITH THEM TO THE TRY OUT THE FOLLOWING MATERIAL:

1. CV (resume)
2. Most recent law school transcript (student copy acceptable)
3. Current class schedule (course name and code), indicating all class times (start and finish)

Students trying out for the Arnup do NOT need to bring a cover letter or writing sample.

**Included Materials:**

- TAB A: Arnup / Sopinka Problem (Abridged), 2013-2014 (11 pages)
- TAB B: Sample Closing Jury Address from Arnup Competition, Crown (10 pages)
  Queen’s University Law Team (Participants: Bryan Guertin & Ben Snow)
- TAB C: Sample Closing Jury Address from Sopinka Competition, Defence (12 pages)
  Queen’s University Law Team (Participants: Bryan Guertin & Ben Snow)

In order to give students an idea of what closing addresses might look like for both the Crown and the Defence, drafts of sample addresses have been provided (TAB B & C). Remember that there is no right way to do a jury address, and there is more than one possible ‘theory of the case’. Students are encouraged to be creative; and, while they may look to the included Samples for inspiration, students are expected to develop their own structure and content for their Address.

(Note also that the content in TAB B & C contain reference to materials, “reports” and witnesses not included in TAB A. This is because the sample jury addresses provided in the Included Materials were responsive to the much larger, complete Arnup problem, not the abridged one being used for the purposes of this try out).

**Assumptions**

1. Subject to certain exceptions, in a real trial, a witness’ police statement is not in itself evidence in the trial. For the purposes of this exercise, however, assume that the Statements of Julie Langis and Patrick Morin were verbatim testimony already heard at trial. These Statements – i.e. their testimony – should be addressed in your closing.
2. Students may also assume that both Ms. Langis and Mr. Morin were challenged during the evidence portion of the trial using their criminal records and the Wiretap Transcripts. Students should invite the jury to draw conclusions about their credibility where these materials contradict their statements / trial testimony.

Additional Guidance

The closing argument is the lawyer’s final opportunity to give perspective, meaning, and context to the evidence introduced throughout a lengthy trial. It is the last chance for the lawyer to forcefully communicate his position to the jury, to convince them why his version of the “truth” is correct.

...Remember, closing arguments are heard – not read – by jurors. Because of this, they represent the modern-day, highest form of ancient profession and art: that of the storyteller. Like the wandering bards of yore, the attorney must command the attention of the courtroom. He must use every psychological and emotional tool at his command to tell his client’s story. The advocate must use his summation to touch not just the intellect of the jurors, but also their emotions. But there is one vital difference between yesterday’s storytellers and today’s advocates. Where the bard sat at the foot of the king and entertained, the lawyer’s storytelling has the power to put evil men to death, to free the innocent, and to make whole the injured. Such is the power of the words, the tale, the closing argument.³

The purpose of a Closing Argument is to give the jury the tools it needs to reach a verdict. Whether Closing for the Crown or for the Defence, the advocate’s role is to tie all (critical) evidence together and persuade the jury of what that evidence means. The overarching question each advocate should ask her or himself is why the jury should return the verdict the advocate is seeking. In tackling this question during an Address, there are different approaches. Still, like any oral presentation, each jury address should be:

- **Deliberate.** The Crown must prove the charges as laid out in the Indictment beyond a reasonable doubt, and should explain to the jury how it has done so. The Defence, in contrast, should tell the jury how the Crown failed to meet its’ burden.

- **Organized.** Advocates should organize their argument using places, times, and/or themes.

- **Logical.** Do not ask the jury to accept something no reasonable person would accept; call on jurors to use common sense.

- **Responsive to the trial record.** The Closing **must** relate to the evidence actually adduced at trial. Typically, advocates will build up their own theory using this evidence before rebutting their opponent’s theory.

• **Accurate.** Do not misstate the evidence. This is important for all advocates, but especially so for the Crown, as the Crown is not *in theory* supposed to be interested in the outcome.

• **Selective.** The jury has often sat through days and days, if not weeks or months, of evidence. Advocates should not describe every piece of evidence adduced at trial, but rather should use topics or themes to guide the most compelling evidence they *do* refer to.

• **Self-aware.** Do not pretend bad facts do not exist; rather, explain why these bad facts do not matter, or where they inevitably do, why these bad facts are nevertheless not determinative of the jury’s verdict. Also, address inconsistencies in the evidence, and tell the jury what to make, or not make, of them.

• **Simple.** The trier of law – that is, the judge – will explain to the jury in detail the law they must apply. Do not spend *too* much time with the ‘law’ and focus instead on facts: jury addresses usually should not refer to any cases by name, employ Latin terminology, or go into painstaking detail about legal principles or elements of the offence.