

ILLINOIS STATE BAR ASSOCIATION
2006 HIGH SCHOOL MOCK TRIAL INVITATIONAL

March 3 and 4, 2006

University of Illinois at Springfield
Public Affairs Center

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People of the State of Illinois,)
On behalf of Lincoln County Cemetery,)
It's personnel and patrons)
v.) *No. 424 2006*
Jesse Dubois and Pat Dowling)

CORRECTED VERSION – February 1, 2006

Stipulations:

1. The event being prosecuted occurred on the evening of September 28, 2005, and the early morning of September 29, 2005; summer visiting hours were in effect as the event fell during Daylight Savings Time.
2. All parties agree that the weather was rainy off and on all day on the 28th, with periods of heavy rain and all parties agree that the rain stopped sometime before midnight.
3. It is also stipulated that Shelby Cullom is the owner of the 2004 Volkswagen Galactic Blue Beetle, with a distinctive white half-moon logo on the driver's side door; Illinois license SC 2004.
4. Shelby Cullom's plea agreement is recognized by all parties as being valid and an official offer by the State's Attorney that has been accepted by Cullom and entered by the Judge.
5. All parties agree that damages to the monuments and markers at the Cemetery exceed \$500 in total.
6. All students in the trial problem are to be considered minors. As such, Cullom's plea agreement is not public; however, his/her admission information is in his/her witness affidavit.
7. All proper procedures were adhered to; including appropriate Miranda warnings, contact of parents, offer of counsel, etc.
8. If Officer Mathewson is called to testify, he/she is qualified as an expert in the field of fingerprint and shoe print analysis and may testify as to the forensics report with a reasonable degree of scientific certainty.

Statement of the Case

On the evening of September 28, 2005 and into the early morning hours of September 29, 2005, Lincoln County Cemetery, in rural Springfield, Illinois experienced acts of vandalism considered serious enough to bring criminal charges against three Springfield teens (class three felony charges).

Eye witness, Skeeter Ferris, employed by the Cemetery, witnessed three youths exiting the Cemetery as they climbed a fence at the Walk-in gate, a gate not currently in use, at approximately 2:00 a.m. on the morning of September 29. Ferris also witnessed a car owned by one of the youths leaving the perimeter of the cemetery immediately following the youths climbing the fence and running away. Ferris was able to note distinctive markings on the car and get a partial license plate.

Ferris's dog, Wolf, led Ferris to a part of the cemetery that had been vandalized following the departure of the students. Ferris immediately reported the incident to the Director of the Cemetery, who notified police. An extensive search of the property ensued, during which additional vandalism was discovered. Also discovered was a student identification card, which matched the name of the owner of the car Ferris had seen departing the cemetery with the three youths inside.

Three youths were arrested, based on a partial license plate and the confession of witness Shelby Cullom. Cullom testifies that he/she did enter the cemetery after hours, accompanied by Jesse Dubois and Pat Dowling, all three students at a local Herndon High School. Cullom admits to being on the property after hours and has agreed to cooperate with police and the State's Attorney and, under a plea agreement, will testify against Dubois and Dowling at trial. The plea agreement is stipulated as including a plea of guilty, with 20 hours of community service and six months of supervision, after which, if Cullom has no additional legal problems, the record will be expunged.

Dubois denies having been in the cemetery after hours, but does admit to being on the property during the day on September 28.

Dowling admits to being on the property, but denies that any of the damage caused was intentional vandalism.

Definition of Vandalism: the crime of intentionally damaging property belonging to other people.

STATE OF ILLINOIS)
) SS
COUNTY OF LINCOLN)

**IN THE CIRCUIT COURT OF THE 7TH JUDICIAL CIRCUIT,
LINCOLN COUNTY, ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS)
 Prosecution)
)
v.) No. 424 2006
)
PAT DOWLING AND JESSE DUBOIS)
 Defendants)

INFORMATION

Vandalism of a Cemetery, Class 3 Felony

State's Attorney Tracy Anders, representing the People of the State of Illinois, complainant, now appears before the Circuit Court of Lincoln County and states that Pat Dowling and Jesse Dubois, defendants, have, on or about the late evening and/or early morning hours of September 28 and/or September 29, 2005, in Lincoln County, State of Illinois, committed the offense of cemetery vandalism in that they, without legal justification, knowingly committed the offense of vandalism when they willfully and knowingly defaced, vandalized and/or injured gravestones and other memorials, monuments and markers inside Lincoln County Cemetery in Springfield, Illinois (A class 3 felony as the estimated number of markers damaged is at least five (5) and no more than ten (10)).

Vandalism of a Cemetery, Class 4 Felony

Should trier of fact find inconclusive on the charges of Class 3 Felony Vandalism of a Cemetery, State's Attorney Tracy Anders, representing the People of the State of Illinois, complainant, would ask that Defendants, Pat Dowling and Jesse Dubois be found guilty of Vandalism of a Cemetery, a Class 4 Felony, as on or about the late evening and/or early morning hours of September 28 and/or September 29, 2005, in Lincoln County, Illinois, defendants, without legal justification, knowingly committed the offense of vandalism when they willfully and knowingly defaced, vandalized and/or injured gravestones and other memorials, monuments and markers inside Lincoln County Cemetery in Springfield, Illinois (a Class 4 Felony if the estimated number of markers is at least one but no more than four gravestones).

Criminal Defacement of Property, Class 4 Felony

Should trier of fact find inconclusive on the charges of Class 3 or Class 4 Felony Vandalism of a Cemetery, State's Attorney Tracy Anders, representing the People of the State of Illinois, complainant, would ask that Defendants, Pat Dowling and Jesse Dubois be found guilty of Criminal Defacement of Property, a Class 4 Felony, as on or about the late evening and/or early morning hours of September 28 and/or September 29, 2005, in Lincoln County, Illinois, defendants knowingly defaced property when they knowingly damaged the property of another without consent

by defacing or otherwise damaging property within Lincoln County Cemetery. Criminal defacement of property is a Class 4 felony if the damage to the property exceeds \$300, State's Attorney Anders asks that in addition to any other sentence that may be imposed for a violation of this Section that is chargeable as a Class 4 felony, Defendants be subject to a mandatory minimum fine of \$500 plus the actual costs incurred to repair the effect of the damage to the property. In addition to any other sentence that may be imposed, State's Attorney Anders also seeks, if Defendant's are found guilty of Criminal Defacement of Property, a court order directing Dowling and Dubois to perform community service for not less than 30 and not more than 120 hours.

Criminal Trespass to a Cemetery, A Class A Misdemeanor.

Should trier of fact find inconclusive on charges of Class 3 or Class 4 Felony Vandalism of a Cemetery, and/or Criminal Defacement of Property, State's Attorney Tracy Anders, representing the People of the State of Illinois, complainant, would ask that Defendants, Pat Dowling and Jesse Dubois be found guilty of Criminal Trespass to a Cemetery, a Class A Misdemeanor, as on or about the late evening and/or early morning hours of September 28 and/or September 29, 2005, in Lincoln County, Illinois, defendants knowingly entered the premises of a public or private cemetery without authorization and did so during the hours that the cemetery was posted as closed to the public.

Signature: _____
Tracy Anders, State's Attorney, Lincoln County

I have examined the above complaint and the person presenting same and have heard evidence thereon and am satisfied that there is probable cause of filing same. Leave is given to file said complaint.

Summons issued by Judge Barry Lyman

_____ (Signature)

Witness Affidavits

Prosecution:

Reece Mathewson, Lincoln County Sheriff's Department – Police Officer
Skeeter Ferris, Cemetery After-Hours Security
Shelby Cullom, Student

Defense:

Lee Dubois, Parent of Jesse Dubois
Jesse Dubois, Student
Pat Dowling, Student

*Prosecution may call any two of the three prosecution witnesses
Defense may call any two of the three defense witnesses*

Prosecution Witness

Reece Mathewson, Lincoln County Sheriff's Deputy

1. My name is Reece Mathewson. I'm a Sheriff's Deputy in Lincoln County. I have served on the force for 15 years and have two citations for excellence. As it happens, my routine patrol takes me past the cemetery almost daily. I am quite familiar with the entire property and the surrounding area.

2. I responded to a call from Robin McDermott, Director of Lincoln County Cemetery, indicating that there had been an overnight breach of cemetery security and that significant damage had been done to some historical markers on the property. Director McDermott had gotten a report from the night watch person, Skeeter Ferris, indicating that Ferris had witnessed intruders leaving the property and had found a number of damaged headstones.

3. Ferris indicated that he/she had chased three youths to the Walk-in gate and Wolf; his/her dog, had chased them over the fence at approximately 1:30 a.m. Skeeter had walked back to the phone and had reported the incident to the Director of the Cemetery, Robin McDermott, who advised Ferris to stay inside with the dog so none of the damage would be disturbed, pending arrival of the police. McDermott placed a call to the sheriff's department, indicating that the youths had already left the property and we decided, as the rain had stopped and the sky was clear, to wait for daylight to investigate. We posted guards around the damaged monuments and set up perimeter tarps in case the rain started again. We did this to protect fingerprints we might find. And we did find fingerprints and footprints linking all three of the minors to property.

4. We set up a temporary investigation headquarters near the caretaker's residence, as that area is fenced and wouldn't be bothered by visitors after the cemetery opened.

5. After the initial police investigation, which included taking a statement from Skeeter Ferris, and following Ferris around the grounds, I led a group of law enforcement officials and trained cemetery volunteers in a sweep of the entire property to determine the extent of the damage. All volunteers were briefed on procedures, which included calling a police officer to a suspected site to protect evidence. This search was undertaken with the assistance of the Lincoln County Association for the Preservation of Historic Graves, as they are perhaps the most familiar with the various markers and their condition. They were able to draw a map of the damaged markers that has been provided. These folks are qualified and highly professional and underwent police training in how to identify and preserve evidence. The volunteers worked in teams, and those teams each had a police officer present to ensure a proper line of evidence, if any was found.

6. I happen to be the person who found Cullom's student ID at the Dowling monument. I can testify that the ID was properly bagged and tagged, with no possibility that fingerprints were damaged.

7. Given the muddy conditions, it was evident that we would be able to obtain a number of excellent fingerprints on various toppled monuments. The fingerprints all matched Dowling and Dubois. None of the fingerprints matched Cullom, though Cullom's fingerprints were found on the walk in gate, as were those of Dowling and Dubois. And we know Cullom was present, as Cullom admitted this and as Ferris stated he/she saw Cullom's car and coat leaving the property. In fact,

Cullom has greatly helped our case by agreeing to plead guilty to the crime and receiving court supervision in exchange for testifying against the other two involved in this vandalism.

8. It is obvious that Cullom's story is accurate. These three students were all in the same areas of the cemetery and at least two of the students could be linked to the two major damage sites with excellent fingerprint evidence. Forensics has confirmed that the cloth swatches are from the jacket owned by Cullom.

9. Cullom, in his/her affidavit, states that the damage started at the Dubois monument. It should be noted that not all the damages on the markers in question in this case might have been done by the accused. However, we have included them on this list to indicate that there is a possibility that the accused may have had some involvement on the destruction or marring of these markers.

10. Nothing in Illinois' Cemetery Protection Act limits the liability of any party. As some of the monuments damaged are large and historically significant, the parties who are found guilty, and if they are minors, their parents, are looking at a hefty restitution payment for fixing the damage that was done.

11. I am also aware, and this information is posted around the perimeter of the cemetery for the public, that there are posted hours when the public is allowed on the property. That law states that any person who knowingly enters or knowingly remains upon the premises of a public or private cemetery without authorization during hours that the cemetery is posted as closed to the public is guilty of a Class A misdemeanor. This law is a step in the right direction but I firmly believe that it should be strengthened and provide much stiffer penalties to those that enter or remain on cemetery properties after hours. I imagine that the percentage of people who do remain or enter after hours are intending no good. Perhaps a greater penalty would serve as a more effective deterrent.

12. I was also present for some of the questioning of the students who were apprehended. We made three separate arrests in this case and interviewed all three of the students before they could get together to discuss their stories. We went into their homes with search warrants and were able to secure the torn jacket and three pair of muddy shoes, all of which the students admit are their own. I personally arrested Cullom and Dubois and they voluntarily turned over their muddy shoes. Other officers were dispatched to arrest Dowling. I must say I was impressed with the two kids I arrested. At least they showed respect for their elders. I heard from the officers that arrested Dowling that they had a bit of a struggle with that kid. They said that Dowling was pretty confrontational and verbally abusive.

13. I've seen this kind of vandalism. We've had problems in this county with ritualistic violence, or violence conducted as part of an initiation. While there is no current evidence that these three students were participating in a ritual initiation, which may have included an act of vandalism, we aren't ruling that out. If evidence links additional students to this case, we will happily investigate and encourage the state's attorney to bring charges against them.

14. Shelby Cullom has cooperated with our office and the State's Attorney and is going to help us prosecute the other two kids. I feel pretty confident that the plea agreement will help us in this case. Cullom has admitted to the vandalism and will be able to testify as to what happened at the cemetery and, in return, I hope the judge will grant supervision and community service. There is, I

believe, some possibility that the College will allow Cullom to keep his/her scholarship. It's nice to see a kid admitting to his/her mistakes and taking responsibility for them.

Prosecution Witness

Skeeter Ferris, Cemetery Watchperson

1. My name is Skeeter Ferris. I am an employee of Lincoln County Cemetery. I work three nights a week at the Cemetery, as a night watch person. On the nights I work, my dog, his name is Wolf, and I arrive at 6:00 p.m. and work until 6:00 a.m. It's a long, twelve-hour shift, but the work is quiet and we like it. We walk the perimeter of the grounds at least twice each shift, and occasionally use one of the Cemetery golf carts to cruise around the place. There are cameras posted at the official entrances still in use with tapes in them. I also monitor those cameras when we're not out walking or driving the grounds. There is no camera at the old walk-in gate as it's padlocked. It's a small Cemetery. It's only about 50 rather hilly acres, with some beautiful trees, but it's easy to walk.
2. I've worked for the Cemetery for about 25 years now. I'm 45 years old. In addition to working for the Cemetery as a night watch person, I also serve on the Cemetery Board, I am familiar with virtually every aspect of the Cemetery's management. I am also familiar with all forms of cemetery restoration and maintenance.
3. On the night in question, I had been on duty for about 6 hours or so when Wolf started acting funny and pulling on his leash. He almost never does that. He's a calm old dog, not easily riled. When he tugs like that, it usually means something's up so I follow his nose. He pulled me along and a right good clip until we came across one of the damaged markers. That's when I knew for sure he was on to something serious.
4. I don't carry a cell phone or a flashlight. It's light enough in the Cemetery with the security lighting, or the moon, and the cell phone would just be another thing to carry and make noise if it happened to ring. Wouldn't like to disturb the peace of the place. Funny, I know, but that's how I think. I respect those who rest there. Anyhow, my pockets are usually full of dog treats for Wolf.
5. Wolf and I like the quiet times we spend at the Cemetery at night. Lots of folks might think it's a creepy job, or a nervous kind of thing to do, but it's not. It's like spending time in a park. Only this park has lots of statues and monuments in it. And it's also got quite a few very old markers, and some of the first citizens of this county rest here. Guess you could say that about any old cemetery, but this one is ours and we're proud of it.
6. Anyhow, I made a mental note of where the broken marker was located, and kept following Wolf. He dragged me toward the walk-in gate. As we approached, we saw three young people running toward the fence. Wolf was begging for me to drop the leash so he could go chase them. I knew Wolf wouldn't hurt anyone, so I let him go.
7. He dashed toward those kids like he was on fire. You should have seen those kids. The one in the jacket turned toward me and yelled. Got me to almost laughing, seeing those kids scramble over the fence. Afraid of a dog like Wolf. Wolf's nothing but a tiny old Yorkshire Terrier, weighs in at a full five pounds soaking wet, and these kids were yelling and making a big deal like Wolf was going to rip them apart. It was a sight to see.
8. Those three kids climbed the fence with no problems, except for Wolf jumping at their toes and barking. They were obviously young people, and in good shape. I couldn't tell if they were

boys or girls, but one had on a pretty distinctive plaid jacket. I could see it very well as the streetlights were on at the gate, lighting the area pretty well. Goofy place for kids to sneak in and out, it's so well lit. Guess they were relying on the fact that the lane outside the gate isn't much traveled anymore, especially at night.

9. Anyhow, after the kids made their escape, I walked over to the gate to see if they'd bent or damaged anything there. As I got to the gate, I leashed Wolf and then we heard a car engine start up the street a bit and then tires squealing. The car came right past the gate. There were three people in it, and because of the lights, I could see that one of the people had that same plaid jacket on. Those three were the ones that had climbed the fence just minutes before. I made a note of the type of car, a dark blue or black Volkswagen with a white thing painted on the driver's side door, and got a partial license plate, letters SC and the first three of four numbers. I remember that clearly because my folks came from South Carolina. The police, from that, were able to find the car owner.

10. After that, I walked back through the cemetery through some of the older sections, where I'd seen the kids running from, checking on the condition of some of the oldest markers. Wolf pulled me to some of the ones that had been knocked down. Wolf was a tremendous asset. I think he should get some sort of commendation for his work that night.

11. Anyhow, by about 2:00 a.m. it was clearing enough to see better by moonlight, and I could see additional damage in some areas. That's when I walked back to the Cemetery office and placed a call to the Director reporting the incident. At that time, I told the Director that I had a partial license plate ID of people who could be questioned about the damage.

12. It was Wolf, by the way, who helped the police find the swatches of cloth from that plaid coat. One swatch was found at a headstone, and another was found at the walk-in gate. Kid must have torn it when climbing on the way in or out.

13. The next day, a meeting of the Board was called and I attended that meeting. We toured the cemetery property again and viewed the damage. Because we had the full cooperation of the police, we very quickly were able to ascertain the full extent of the damages in a timely manner.

14. Our cemetery has experienced an aggressive act of destruction. Approximately 10 stones in the cemetery, which was founded in the 1830's, were marred, toppled, damaged or destroyed. Because some of the stones are old, and are those of locally significant persons, directly relating to the history of Lincoln County, we can't be satisfied with simply gluing or cementing them together. They must be restored. They are fragile pieces of art that must be carefully pieced together and secured, remounted, and leveled. Families of the deceased must be consulted.

15. Repairs are going to be expensive. The reason for the expense is based on many factors. It varies depending on the damage done. If there's minor damage, and we are able to mount the stone back on its footings and seal it without complications, the expense may be minimal. However, sometimes lifting the broken pieces causes additional damage to the more fragile pieces. Some of the stones are made of sandstone or limestone and they've been out in the elements for almost 100 years. Some we may be able to refit and epoxy or cement back together, but the breakage will always be visible. Some may be damaged to the point where they need to be replaced entirely. Special machinery may be needed to jack the heavier pieces into position. And, given the age of the cemetery, the age of the monuments in the areas having the most damage, we're not going to be able

to drive a lift into the area. This is going to cost us in hours, sweat and labor, as well as for materials and professional consultations.

16. I've been asked if the cemetery's visiting hours are clearly posted. They are. Signs are at all official entrances still in use that indicate hours of operation when the public is welcome to visit. We try to make the property as accessible as possible while protecting the historical and significant monuments that are entrusted to our care.

17. We all know that after dark a cemetery is "spooky" and most youths would not dare enter a cemetery's protected and sacred ground, especially at night. Most teens are raised to respect public and private property. There are some, the more curious, adventurous, lonely, rowdy and "just for the heck of it" type teens that seem to perceive a cemetery as a challenge. They're the ones who cause these problems. They see the cemetery as an irresistible temptation...a challenge...a place to smoke, drink, make out and not be hassled by adults. It's been like this for generations. We are lucky that laws have been implemented to protect our cemeteries, the dearly departed that are laid to rest in them, and the historical monuments and works of art that can be found in many cemeteries.

18. When you see damage in a cemetery, it's not always vandalism. Metal pinning causes condensation, rusting and movement. The pins will eventually bend or break, and the weight of the stone will naturally topple the monument. The defense will probably try to tell you that the area damaged on the night in question is one of the oldest in the cemetery and that the damage could have been natural. If you'd seen it, you'd know it wasn't natural aging that damaged those stones. It was reckless destruction that followed a direct path, cutting a swath through one of the most historically significant areas of the cemetery. The muddy footprints left clearly indicate the path of destruction and there are fingerprints.

Prosecution witness

Shelby Cullom, Student

1. My name is Shelby Cullom. I'm a 17-year old senior at Herndon High School. I've never been in trouble before. I've never been arrested. I've never even been sent to the principal's office. I'm a good student, with about a 3.5 grade point average on a four-point scale. I've been accepted to Illinois State Teacher's College, as I want to be a history teacher. I have a full scholarship to college, based on my SAT and ACT scores and my participation in the history club. The scholarship is also based on an essay I wrote on the social responsibilities of teens.

2. I've agreed, on the advice of my lawyer and after consulting with my parents and school counselor, that I should plea guilty and accept an agreement proposed by the State's Attorney; in return I'll testify against my friends. I don't feel particularly proud of what I'm doing, but I have to do what's best for my family and me. So, I'll testify and I'll be able to do the community service and keep my nose clean for six months and my record will be spotless. I've also heard from my college that I'll be able to keep my scholarship. I've also decided to write letters of apology to the cemetery and to the families affected by our acts. We did something wrong and I'm trying the best way I know how to make it right.

3. I think the idea of visiting the Cemetery came up after our history club read a booklet on the history of Lincoln County Cemetery. It was sort of cool to realize that someone with my name was buried there. I wanted to visit the grave and talked with Pat Dowling and Jesse Dubois about it. I specifically mentioned it to them as their names appeared in the same booklet. We had been friends since grade school and usually agree on just about everything. This time we didn't agree. I wanted to visit the cemetery during the daytime so I could get some good photos of the markers to send to one of my cousins, also named Shelby Cullom. Jesse and Pat had other ideas. They wanted to sneak in after dark. They thought it would be more challenging and interesting. I guess I let myself get talked into it, even though I knew it wasn't a good idea. I didn't want to appear to be scared or timid, which is what they accused me of being when I voiced my concerns.

4. I will admit that the idea of visiting the cemetery after hours did become more challenging and exiting when we started to actually plan the visit, but as we pulled up to park along the lane by the walk-in gate, I remember saying out loud that I thought this might not be such a good idea. Dowling and Dubois laughed at me. They thought I was a chicken. I don't think of myself as being afraid, I just didn't think it was a good idea. I don't like being in trouble. I don't like disappointing my parents. They work hard and trust me to do the right thing. I know I let them down when I climbed that fence.

5. I was the one who drove to the cemetery. I guess I thought that if I were driving, I'd have some control of the situation and would be able to leave when I wanted to leave. When I realized my ID was missing, I got nervous. I wanted to retrace our steps to see if I could find it. Not just because I was nervous about losing the ID, and maybe having someone find it and know we were in the Cemetery after hours, but I'd need it to get into school the next day.

6. I realized that my student ID was missing when I reached into my pocket for a Kleenex. I have allergies and my nose was running. I had to stop once in awhile to blow my nose as I'd forgotten to take my allergy medicine. Pat and Jesse teased me and said I was a crybaby. I quickly became a

target of verbal abuse from Pat and Jesse. Maybe that's because they were afraid and they were picking on me to cover up their jitters. I don't know. It wasn't fun.

7. I parked about a half a block away from the walk-in gate. I parked under some trees so the car wouldn't be too obvious to any passers by that might be in the area. I was driving my car, a 2004 Volkswagen Beetle in Galactic Blue. It was a gift from my parents when I learned about my college scholarship.

8. After we parked, I guess that was around Midnight, we walked to the gate and climbed over with no problems. That was what I thought was going to be the hard part. There was a dim security light over the gate, making us entirely visible to anyone passing by.

9. Once we got inside the cemetery, it was easy to find the Cullom gravesite. It's close to the gate we'd just climbed. The streetlights helped us find it. It was still really damp and had just stopped raining and I suggested leaving again. Jesse and Pat laughed at me. Told me to button my jacket and chill. They walked off toward the north end of the cemetery, looking for Dowling's marker.

10. We stopped and scraped the mud off our shoes on a big marker with some sort of seat. The thing was massive. I don't know whose it was. I guess we figured the next time it rained, the mud would wash away. Didn't see any harm in it, but now they've included that marker as one we damaged. Is a little bit of mud considered damage?

11. We stayed as close to the fence as we could while we walked toward the North end of the cemetery; I supposed we were all thinking that if we were seen, we could jump the fence and run to the car. I think by this time even Jesse and Pat were feeling nervous. We were all pretty quiet.

12. We found the Cullom monument and moved on to the Dowling plot toward the north. We found that easily enough. Then we were on to the Dubois marker. This one was much harder to find as it's in a more central part of the cemetery. I remember saying that we'd already seen two of the monuments at night, why do the third? Jesse and Pat laughed at me again and sort of shoved me, trying to kid me out of being so cautious, I suppose. I wasn't happy. That I do know. I am really sorry that I ever agreed to go to the cemetery and even sorrier that I didn't leave when I knew I should have left.

13. We eventually found the Dubois marker and I said, "Great, now let's get out of here." That's when the real problems started. I turned around and started to walk toward the walk-in gate and tripped over something on the ground. I caught myself but cut myself and sprained my wrist when I fell. I remember yelling at Pat and Jesse, "Now can we leave?" They laughed. Turns out I fell over a broken marker.

14. Pat and Jesse thought I was faking it, until I showed them I was bleeding and had ripped my jacket during the fall. It wasn't until later that I realized a piece of cloth had torn away and was left on the ground.

15. I begged them to leave. I didn't know how I was going to explain my cuts, the sprained wrist and my ruined jacket to my parents. I said, "I'm leaving, you do whatever you want." And I started to walk away. The ground was soggy and I was miserable. There was thunder and a bit of

lightening, but the rain had stopped a while ago, when we'd gotten to the cemetery I think. I didn't even turn around to look back to see if they were following me. I just kept on walking back toward the Dowling monument where I thought I might have lost my school ID.

16. I guess I got far enough ahead of Jesse and Pat that I couldn't hear what they were doing. I was concentrating on holding my wrist so it wouldn't hurt. I was also trying not to bleed all over myself. I found the Dowling monument pretty easily, but didn't find my ID. I did turn around then to see if Pat and Jesse were behind me. They were there, but they were pretty far away. As they caught up with me, I heard one of them say, "They'll never be able to pin that one on us." I am positive it was Jesse who said that. I waited as they caught up with me and we three walked along the East side of the cemetery, following the fence again, until we go near the walk-in gate. We were all muddy as all get out so we stopped by some big monument and scraped our shoes and boots on the seats until we were relatively clean.

17. We all three got to the gate at about the same time. Then some little dog came barking at us out of nowhere and we had to really scramble to get away without being nipped. We got to the car with no problems and I gunned the engine and raced away. I think I got home at about 2:30 a.m. or so, after dropping Jesse and Pat at the school where Jesse's car was parked. I must have torn more of my jacket when we climbed over the fence, as the police have another piece that they found there. My new shoes, which my parents got for me for getting my scholarship, have been confiscated as evidence.

18. It wasn't until the police came to my house the next day to arrest me that I really heard the extent of the damage Jesse and Pat were doing behind me.

19. My parents are so disappointed. I hate seeing them so upset and sad. I'd do anything to undo what's happened.

20. I'm willing to take responsibility for my actions. I admit to being in the cemetery after hours, I admit to tripping over a marker that was already destroyed. I admit that I lost my student ID and ripped my coat when I fell and again when we left the cemetery. But, I had absolutely nothing to do with the rest of the destruction that happened that night and I was not aware that it was going on. As I said, I got nervous and afraid after I hurt myself and I walked pretty far ahead of Jesse and Pat to get to the gate.

21. I haven't spoken to either Jesse or Pat since the incident, but I do believe that they are responsible for the damages.

Defense Witness

Pat Dowling, student

1. My name is Pat Dowling. I'm a senior at Herndon High School. I am 17 years old. I deny having anything to do with the damage in the cemetery. We were there at the cemetery the during the afternoon.

2. I already have a bit of a record and I'm an easy target. I once got caught shoplifting, and I've got a reputation for being a bit of a daredevil. I'll try almost anything, so long as it's legal.

3. They're trying to make me a scapegoat because Shelby Cullom's precious college scholarship was in jeopardy. So Shelby and his/her family are trying to make me the scapegoat, and they're dragging Jesse Dubois into the story for good measure.

4. I thought the three of us were friends, but I can't say that now that there are all these accusations and I've been arrested. For crying out loud, I know I have to behave. I'm on probation now at school, and was when this happened, so this will probably get me expelled for the rest of my senior year. I'll have to either transfer to a private school, which my parents won't be able to afford, drop out, or spend a year waiting to come back to try my senior year again.

5. My family has money problems. I'm not an only child, like Cullom. I have to share and help out around the house. I've made mistakes, but I got my head on straight now and I want to make something of myself. I have a part time job after school, working at a grocery store. Most afternoons and evenings I'm there. I don't have much time to hang with my friends anymore. That's turned out to be a good thing. I've been staying out of trouble.

6. About a week before the incident, Cullom and Dubois came up to me during lunch one Friday and asked if I'd be interested in going to the cemetery to check out the graves with our family names on them. I thought, what the heck, sure. It would be interesting. It might make my parents proud of me to know that I care about my ancestors and learning more about them.

7. And we did go to the cemetery, but it was the afternoon before the destruction happened and we left way before dark. I went there with Cullom and Dubois, like they said, to see the monuments with our family names on them. I was going to do rubbings of some of the monuments. We had a map of the cemetery that showed where the family markers could be found.

8. Anyhow, that afternoon it was rainy, so I didn't bring paper and pencils with me, but I did bring a map. The cemetery was a nice place to visit. Like a big park. We walked in the area where the damage was done, but I'm guessing that most of the damage we're accused of doing was already stuff that was broken. We sure didn't do anything intentional. It was pretty muddy and slippery and we may have slipped and fallen into some monuments, maybe once or twice, but we didn't mean to harm anything. We were just there to look.

9. That's probably when my fingerprints got all over the place. I guess the cemetery wants payment or satisfaction or something...but I'm telling you that if we did hurt anything, we didn't mean to. We're not vandals. The police are saying that my fingerprints being found means that I was there at night. They're saying something about all the rain having washed them away if they'd been made during the day. Well, all the places where the most damage occurred were under huge

trees, full canopies of leaves. Sure it was muddy because it had been raining for days, but the rain in the afternoon and evening was pretty light, as I recall, and it might not have touched those fingerprints at all because of the dense foliage.

10. The cemetery guard says there were three people running for the fence, but this Skeeter Ferris, the guard, says he/she couldn't see faces. So how come they're accusing us? They're saying that Cullom's coat was ripped and pieces were left all over the cemetery. Cullom's ID was also supposedly found in the cemetery, and I've heard that Cullom admits to being in there after hours. So what if none of his/her fingerprints were found? It's pretty obvious that Shelby Cullom is more interested in a college scholarship than in friendship and telling the truth.

11. The police arrested all of us separately and I've had no contact with Cullom or Dubois since being arrested so I don't have any idea what they're saying. We're all grounded, according to what my parents say. I'm not allowed to use the phone and I'm not allowed to use the computer. I'm allowed to go to classes and to work. I don't have classes with either Cullom or Dubois, so it's been easy not to see them.

12. I'm betting that Cullom's exaggerating the entire event, making it into an ordeal for him/her and playing the innocent kid, all brilliant and talented. Bet he/she is saying none of this was his/her idea and he/she got forced into everything that may have gone on.

Defense witness

Jesse Dubois, student

1. My name is Jesse Dubois; I'm a junior at Herndon High School. I'm 16 years old. I'm friends with both Shelby Cullom and Pat Dowling and have been for years. The three of us have always been a team. Even though I'm a year younger, we've been close.
2. I remember well the night we were supposed to have been at the cemetery. We'd been there the afternoon before when it was raining and we decided that coming back at night would be fun. We were all laughing about it. Pat didn't have to work that night, first night he/she had had off in some time. We were all looking forward to spending time together. But even though we talked about it, we didn't go through with it.
3. Pat's been having trouble in senior year. Pat got caught shoplifting, but no charges were filed. Pat's parents were called and they took care of the punishment. And Pat's been having trouble maintaining grades, so we've been seeing less than we'd like of him/her. Pat, to his/her credit, has admitted to making mistakes and has been working hard to rectify the situation. I can't say I'd mind Pat doing senior year again, as we'd get to be in class together, but that's not what Pat wants. Me neither really.
4. Pat and I sometimes think Shelby's a bit of a brainiac, always thinking about grades and school and the future and making his/her parents proud. Pat doesn't share that same commitment to excellence and I guess neither do I. Pat and I like to have fun. Shelby's more serious.
5. Anyhow, we went to the cemetery the afternoon in question and walked around in the rain for a while. It was pretty muddy, so I'm sure we left tracks all over the place. We didn't see anyone at all while we were there. We found all of markers we were looking for and it was cool seeing our names carved out like that. I don't think any of us are really related to those folks, it's a coincidence, but it's pretty eerie. Seeing your name on a monument makes you think about being dead. Pretty creepy stuff. But we mentioned, I remember, that maybe those folks buried there would think it was cool that folks were still walking around with names the same as theirs. Different kind of conversation for us, as we're usually talking about movies or TV shows and junk like that. I think we felt grown up, thinking about mortality and being remembered after death.
6. So, we were at the cemetery that afternoon, and that's when we decided to go back that evening...but we didn't go. We decided against it. I remember while talking that Shelby even offered to drive later that night. While walking around the cemetery during the afternoon, we found the walk-in gate and decided that's where we'd enter later, if we came back. It wouldn't have been a big deal... the gate's pretty easy to climb and there are no houses around so no one would have seen us. But we didn't go back.
7. We didn't think much about it the rest of the afternoon. Pat decided to go home and check in with the parents and then come back to my house.
8. Shelby came over to my house after dinner. We went to the basement and started watching movies, waiting for Pat to show up. Pat got there at about 9:00 p.m. We knew my parents were home and we kept watching movies until we fell asleep.

9. I remember I wore a pair of old work boots to the cemetery in the afternoon because I knew it would be muddy because of the rain. They're pretty worn, but they're comfortable and keep my feet dry. After the afternoon trip to the cemetery, I didn't wear them again. The police took them when they came to my house. The police haven't returned them to me yet. Evidence I guess.

10. A little after Pat arrived, I think Mom called down to the basement and asked how much longer we were going to be there and did we want a pizza. That's when I asked if Shelby and Pat could spend the night. Mom said it was ok with her if it was ok with their parents. We assured her it was and I think Mom and Dad went to bed then or soon after.

11. I've seen the list of damage we've supposed to have done. Could it be possible that the cemetery is trying to take advantage of us kids and our parents by charging us for damages to monuments we never went near? Some of the damage is for chipping. We didn't have anything with us that afternoon we went there that could have chipped a stone. Wouldn't that take a tool of some kind?

12. And they're charging us for damages to some Governor¹'s monument and we didn't go near it. And they're also saying we damaged the Lindsay and the Broadwell stones. Never saw them. Sure didn't go near them. Couldn't have been us that did that damage. I'm betting those particular monuments crumbled or leaned or collapsed on their own due to negligence on the part of the cemetery, or cemetery staff knocked them when mowing and they're blaming us to get us to pay for the damages.

13. Cullom probably pointed a finger at us to get off the hook and keep his/her reputation and scholarship in good order. Disappointing to have a friend like that.

¹ This refers to the Northcott monument, near the walk in gate.

Defense witness

Mr/Mrs. Lee Dubois, Parent of Jesse Dubois

1. My name is Lee Dubois, I am the parent of Jesse Dubois. We have three other children and live about five blocks from the Cemetery in question.
2. Jesse is our oldest child and we are very proud of him/her. Ours is a very open and trusting family. We believe in our children and had no reason to believe that Jesse, Pat and Shelby were up to any mischief. In fact, I am willing to testify under oath that the all three of the accused in this matter were at our home when the infractions took place.
3. On the night in question, Jesse had been to the cemetery in the afternoon helping Pat with a school project. Pat has had some problems and Jesse has been very supportive and helpful in helping Pat find direction. Another reason we are proud of Jess.
4. We were aware of the afternoon cemetery trip and approved of it. I think history is important and our children should learn from the past and respect it. I was delighted that the three were taking such an interest in local history.
5. I'm not sure what time they returned from the cemetery that afternoon, but Jesse said that he/she had invited Pat and Shelby over for the evening to watch television and hang out in our basement. This was fine with me. I like having the kids around our home. That way we know what they are doing and I think the other parents feel the same about our home and our parenting. We have good children. They obey and are nice, good kids. They don't fight or argue or get into trouble. All our children have good grades and have no behavior problems. I've never received a phone call from school complaining about any of our children.
6. That evening, we ate dinner as a family and at about 8:00 p.m. Shelby arrived. Shelby is a wonderful child. So bright and outgoing. We chatted for a bit about the scholarship Shelby had been awarded and then Shelby and Jesse went to the basement family room and I heard the television set go on. Around 9:00 p.m. or so, Pat arrived and I sent him/her to the basement to join the others. Pat was very polite and sweet, thanking me for letting him/her come over for the evening.
7. As I said, I don't believe it could possibly have been these three children who did the damage at the cemetery. They were, I am confident, in our basement enjoying the evening.
8. We ordered a pizza at about 9:15 or so and it was delivered very quickly. I remember thinking that the kids were eating rather late and might end up staying until about midnight, which wasn't unusual at all. That was fine because Jesse had asked if the others could spend the night and we had approved, and I knew they would all be with us all night. I was also very glad that they were at our house on such a rainy evening. I don't like Jesse out driving in bad weather.
9. After the pizza was delivered, our younger children were put to bed. This is sometimes a time consuming project that takes some time. By 10:00 they were tucked in and asleep, leaving only Jesse and the other kids in the basement.

10. I remember we called down the basement stairs later in the evening to see if the kids needed anything else and Jesse said no, they were great. They were laughing and having fun. Jesse came upstairs a little later to get sodas for the others and went right back down. That's when we said good night and locked the house and went upstairs to our bedroom.

11. We left the lights on in the kitchen in case the kids needed anything. There is a bathroom in the basement, and blankets and pillows in a closet, so I didn't think we'd hear anything more from the kids during the evening. The basement is furnished with a television, video games, a computer with internet access and two sofas that pull out into beds. We often have kids spend the night at our home because the room is so comfortable and there is so much they can do.

12. I remember that I stayed up until about midnight reading and never heard anything other than the television and an occasional laugh from the basement. I know those kids were in our home the whole night. Even though I didn't go down to check, I am confident that they were there. The police have asked if the kids might have been able to sneak out that evening after we went to sleep. I just can't imagine that we wouldn't have heard or sensed something. I was up until around midnight or a little before and I know I heard them laughing and I heard the television set as I turned out the light.

13. I'm not a heavy sleeper and neither is my spouse. I think we'd have known if the kids had snuck out. I remember that I woke up early morning hours and looked at the clock in our bedroom. It was 3:12 a.m. I don't know what woke me; it may have been a noise of some kind. I got out of bed and went to the basement to check on the kids. They were sprawled all over the basement, sleeping soundly.

14. I got up early the next morning and I was quiet in the kitchen, as I thought the kids were still asleep in the basement. Jesse's muddy boots were in the laundry room at the head of the basement stairs, where they must have been since they got home from the cemetery in the afternoon. Jesse came upstairs at about 7:30 and said that the others had left already. He said that they hadn't slept much and Pat and Shelby had left at about an hour earlier. That wasn't unusual either. I know Pat has a job and might have needed to get some sleep at home before going to work.

15. I was absolutely shocked and horrified when the police came to our home that day and arrested Jesse for what had happened at the cemetery. Again, I honestly and truly don't believe these kids are capable of that kind of activity.

16. I heard that Shelby Cullom has pled guilty and had reached an agreement with the State's Attorney that will wipe the slate clean. I don't know why Shelby did that. I think any reasonable person would believe these kids and understand that there's been a horrible misunderstanding. I think Shelby was afraid of losing that scholarship and decided to admit to anything in order to keep it. After all, what's community service and six months of good behavior in exchange for a college scholarship?

17. And now the press is talking about parental responsibility. We are responsible parents. Responsible enough to know that our child was in our home on the night this happened.

EXHIBITS

EXHIBIT A

Estimates - Based on damages as indicated by search of Cemetery property morning after September 28 incident²

- #32 **Dr. Gershom Jayne** (damaged, fingerprints found)
REPAIR ESTIMATE - stone off base, base shifted requiring jacking and reinforcement of footings. Repair includes stone masonry work to refit after reinforcing footings.
Estimate - \$775.00
- #27 **General John Cook** (damaged, fingerprints found)
REPAIR ESTIMATE - stone off base, base shifted requiring jacking and reinforcement of footings. Repair includes stone masonry work to refit after reinforcing footings.
Estimate - \$775
- #63 **William A. Northcott** (smearred with mud, looked as if shoes had been cleaned off on stonework)
REPAIR ESTIMATE - hand wash of entire monument to remove excessive mud, twigs, sod, etc. from seat area.
Estimate - \$200
- #11 **Nellie Grant Jones** (smearred with mud, scratched)
hand wash of entire monument to remove excessive mud, twigs, sod, etc. from seat area.
Estimate - \$100
- # 45 **James Conkling** (smearred with mud, scratched) hand wash of entire monument to remove excessive mud, twigs, sod, etc. from seat area.
Estimate - \$100
- Monument A, Unreadable due to age (smearred with mud) hand wash of entire monument to remove excessive mud, twigs, sod, etc. from seat area.
Estimate - \$200
- Monument B, Unreadable due to age (smearred with mud) hand wash of entire monument to remove excessive mud, twigs, sod, etc. from seat area.
Estimate - \$200
- Monument C, Unreadable due to age (smearred with mud) hand wash of entire monument to remove excessive mud, twigs, sod, etc. from seat area.
Estimate - \$200
- #57 **Nicholas Vachel Lindsay** (students deny--sunken on base, leaning)
Estimate to re-seat and secure - \$300

² Please note: This exhibit is provided by the cemetery personnel and their listing breakdown is their own and may not accurately reflect what is stated in witness affidavits or forensics report (Exhibit B). This exhibit should be used only for purposes of confirming amounts of damages.

#58 Moses Broadwell (students deny--sunken on base, leaning)
Estimate to re-seat and secure - \$500

EXHIBIT B

Abbreviated Forensics Report - No damage found at Monument No. 31 (Dubois), but muddy footprints around base match those of footwear worn by Cullom and Dowling. No footprints could be matched to Dubois at this location.

1. Dr. Gershom Jayne, Monument No. 32
Stone pushed off base. Bash has shifted. Footprints match those taken from the shoes of the two defendants.
2. General John Cook, Monument No. 27
Stone pushed off base. Bash has shifted. Footprints match those taken from the shoes of the two defendants.
3. Monument A, Unreadable due to age
Mud smeared on face, top and back of monument. Fingerprints clearly match those of the two defendants.
4. Monument B, Unreadable due to age
Mud smeared on face, top and back of monument. Fingerprints clearly match those of the two defendants.
5. Monument C, Unreadable due to age
Mud smeared on face, top and back of monument. Fingerprints clearly match those of the two defendants.
6. Monument No. 57 (Lindsay)
Monument sunken on base and leaning. No official report made in Cemetery records prior to night in question. Possibly done by defendant(s) but no conclusive forensic evidence points in this direction.
7. Monument No. 58 (Broadwell)
Monument sunken on base and leaning. No official report made in Cemetery records prior to night in question. Possibly done by defendant(s) but no conclusive forensic evidence points in this direction.
8. Monument No. 63 (Northcott)
Muddy footprints around and on monument. Clean matches on shoes³ worn by Shelby Cullom, Jesse Dubois and Pat Dowling. Dubois fingerprints found on edge of monument. No fingerprints linking Cullom or Dowling to the monument. Fingerprints were also clean, not smeared.
9. Monument No. 11 (Jones)
Monument smeared with mud and scratched. Some footprints found, impossible to identify.
10. Monument No. 45 (Conkling)
Monument smeared with mud and scratched. Some footprints found, impossible to identify.

All of the defendants' shoes were found in their homes and have been preserved as evidence, though will not be available at trial. Officer Reece Mathewson may testify as she/he was the arresting officer in two of the three arrests and Mathewson took possession of the shoes of Dubois and Cullom.

³ Cullom wore an extremely expensive pair of a popular brand of sneaker, virtually brand new. Dubois wore a pair of very worn work boots, with a distinctive wear pattern and a crack across the right foot toe area. Dowling wore a pair of commonly available sneakers, no unusual wear pattern.

EXHIBIT C

Cemetery Map

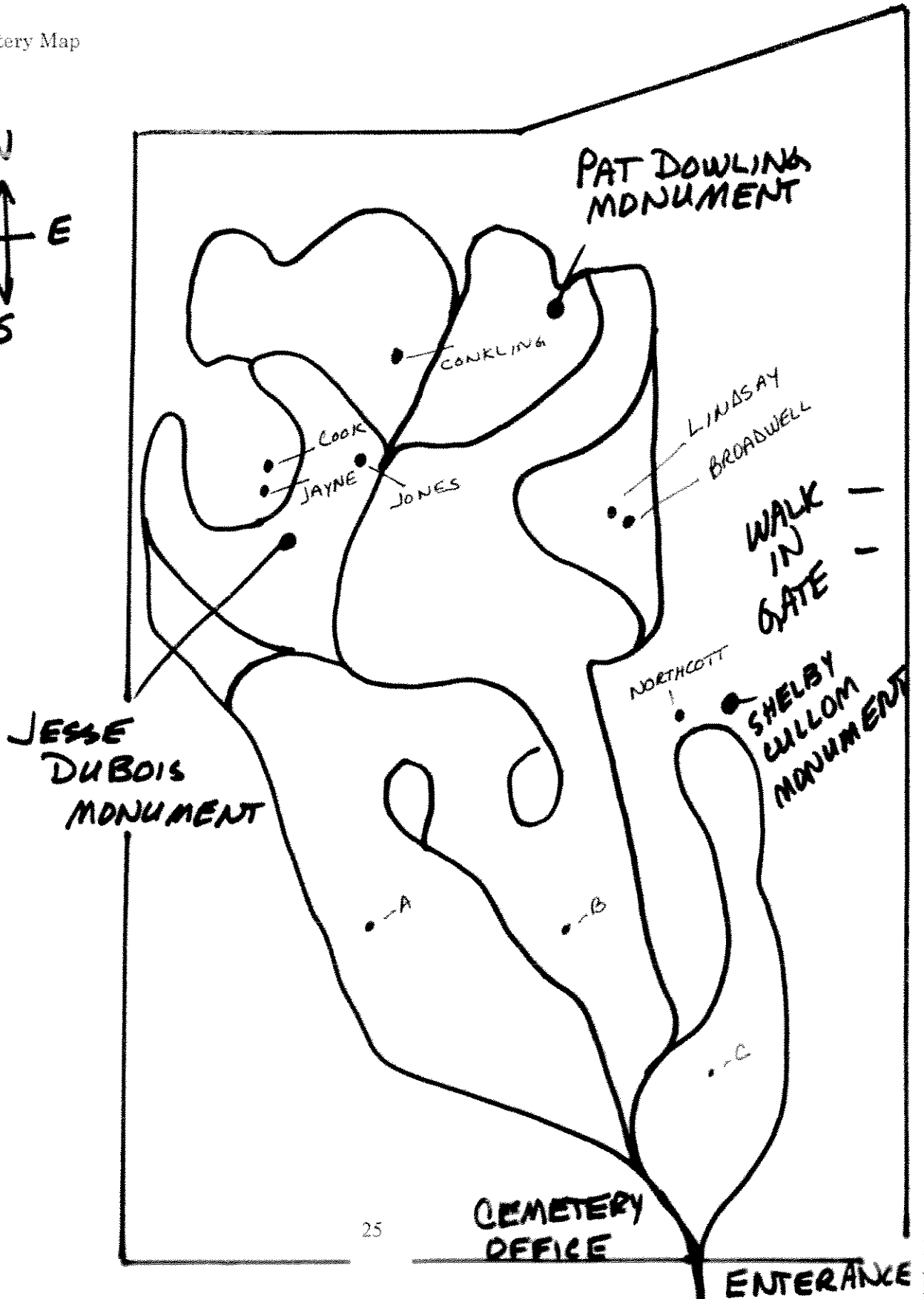
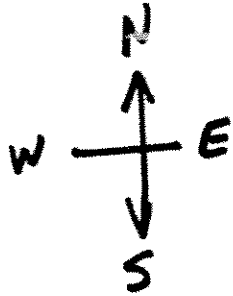


EXHIBIT D

September 30, 2005

Lincoln County Cemetery Director And Cemetery Personnel

To Whom It May Concern:

My name is Shelby Cullom and I have admitted to entering Lincoln County Cemetery after hours. I have been charged with vandalism and destruction of some historically significant monuments in the Cemetery. Even though I had nothing to do with the vandalism, I am writing to apologize for all the problems my friends and I have caused based on our sneaking onto the property after hours.

I will happily do whatever I can to make things right. I will help pay for repairs, even though I am not responsible for the damage. I will work at the cemetery as a volunteer to clean gravesites and mow and trim. I will do what ever it takes to make things right again.

I have disappointed my parents and I very much want to make them proud of me again and I want to earn back the trust that they have lost.

I hope you will let me know if there is anything I can do to make things right. Remember, I didn't vandalize anything, but I will help clean up what was damaged. It's the right thing to do.

Thank you.

Shelby Cullom

Cc: Mom and Dad
Sheriff's Office
State's Attorney's Office

EXHIBIT E

3 Juveniles In Custody In Cemetery Vandalism

Springfield Star, September 30, 2005

By Tracy Lyman

SPRINGFIELD - After only hours of investigation, the Lincoln County Sheriff's Office arrested three local teens in connection with damages discovered at Lincoln County Cemetery in the early morning hours of September 29. The three are all currently students at Herndon High School.

The reported damages could exceed \$5,000 and include destruction of at least two historically significant monuments and defacing of three additional historically significant headstones.

The State's Attorney has determined that this case is serious enough to warrant charges under Illinois' Cemetery Protection Act. This law deals with desecration of headstones and/or monuments and provides that any person who "willfully and knowingly defaces, vandalizes, injures, or removes a gravestone or other memorial, monument, or marker

commemorating a deceased person or group of persons...is guilty of a Class 4 felony for damaging at least one but no more than 4 gravestones, a Class 3 felony for damaging at least 5 but no more than 10 gravestones, or a Class 2 felony for damaging more than 10 gravestones. If found guilty, the teens will be required to "provide restitution to the cemetery authority or property owner for the amount of any damage caused."

Lincoln County Cemetery is famous as the final resting place of many people who made historically significant contributions to the community and the State of Illinois.

Cemetery spokesperson, Burke Vonnahmen, Director of Lincoln County Cemetery and President of the Lincoln County Association for the Preservation of Historic Graves, has indicated that damaged monuments include those honoring Dr. Gershom Jayne, General John Cook and William A. Northcott as well as those honoring the daughter of Ulysses S. Grant, Nellie Grant Jones

and James Conkling. Investigations continue that could also link the three arrested students to damages found at the monuments honoring a local poet and author.

Director Vonnahmen said, "I am very grateful for the incredible job the police have done in investigating this case and am confident that the people responsible for this abomination will be brought to justice. We will use every law we can find to ensure that an example is set and people know that this kind of behavior is not going to be allowed."

If the students are found guilty of desecration or vandalism of between five and ten headstones or monuments, they may face prison time as well as a fine; and, under the parental responsibility laws currently in place, the three, if unable to offer financial restitution, will have to face their parents, who will be responsible under Illinois' Parental Responsibility Law.

STATUTES AND JURY INSTRUCTIONS

PROPERTY (765 ILCS 835/) Cemetery Protection Act.

(765 ILCS 835/0.001) (from Ch. 21, par. 14.001)
Sec. 0.001. Short title. This Act may be cited as the Cemetery Protection Act.
(Source: P.A. 86-1324.)

(765 ILCS 835/1) (from Ch. 21, par. 15)

Sec. 1. (a) Any person who acts without proper legal authority and who willfully and knowingly destroys or damages the remains of a deceased human being or who desecrates human remains is guilty of a Class 3 felony.

(a-5) Any person who acts without proper legal authority and who willfully and knowingly removes any portion of the remains of a deceased human being from a burial ground where skeletal remains are buried or from a grave, crypt, vault, mausoleum, or other repository of human remains is guilty of a Class 4 felony.

(b) Any person who acts without proper legal authority and who willfully and knowingly:

(1) obliterates, vandalizes, or desecrates a burial ground where skeletal remains are buried or a grave, crypt, vault, mausoleum, or other repository of human remains;

(2) obliterates, vandalizes, or desecrates a park or other area clearly designated to preserve and perpetuate the memory of a deceased person or group of persons;

(3) obliterates, vandalizes, or desecrates plants, trees, shrubs, or flowers located upon or around a repository for human remains or within a human graveyard or cemetery;
or

(4) obliterates, vandalizes, or desecrates a fence, rail, curb, or other structure of a similar nature intended for the protection or for the ornamentation of any tomb, monument, gravestone, or other structure of like character; is guilty of a Class A misdemeanor if the amount of the damage is less than \$500, a Class 4 felony if the amount of the damage is at least \$500 and less than \$10,000, a Class 3 felony if the amount of the damage is at least \$10,000 and less than \$100,000, or a Class 2 felony if the damage is \$100,000 or more and shall provide restitution to the cemetery authority or property owner for the amount of any damage caused.

(5) Any person who acts without proper legal authority and who willfully and knowingly defaces, vandalizes, injures, or removes a gravestone or other memorial, monument, or marker commemorating a deceased person or group of persons, whether located within or outside of a recognized cemetery, memorial park, or battlefield is guilty of

a Class 4 felony for damaging at least one but no more than 4 gravestones, a Class 3 felony for damaging at least 5 but no more than 10 gravestones, or a Class 2 felony for damaging more than 10 gravestones and shall provide restitution to the cemetery authority or property owner for the amount of any damage caused.

* * *

(c) The provisions of this Section shall not apply to the removal or unavoidable breakage or injury by a cemetery authority of anything placed in or upon any portion of its cemetery in violation of any of the rules and regulations of the cemetery authority, nor to the removal of anything placed in the cemetery by or with the consent of the cemetery authority that in the judgment of the cemetery authority has become wrecked, unsightly, or dilapidated.

(d) If an unemancipated minor is found guilty of violating any of the provisions of subsection (b) of this Section and is unable to provide restitution to the cemetery authority or property owner, the parents or legal guardians of that minor shall provide restitution to the cemetery authority or property owner for the amount of any damage caused, up to the total amount allowed under the Parental Responsibility Law.

(e) Any person who shall hunt, shoot or discharge any gun, pistol or other missile, within the limits of any cemetery, or shall cause any shot or missile to be discharged into or over any portion thereof, or shall violate any of the rules made and established by the board of directors of such cemetery, for the protection or government thereof, is guilty of a Class C misdemeanor.

(f) Any person who knowingly enters or knowingly remains upon the premises of a public or private cemetery without authorization during hours that the cemetery is posted as closed to the public is guilty of a Class A misdemeanor.

(g) All fines when recovered, shall be paid over by the court or officer receiving the same to the cemetery association and be applied, as far as possible in repairing the injury, if any, caused by such offense. Provided, nothing contained in this Act shall deprive such cemetery association, or the owner of any lot or monument from maintaining an action for the recovery of damages caused by any injury caused by a violation of the provisions of this Act, or of the rules established by the board of directors of such cemetery association. Nothing in this Section shall be construed to prohibit the discharge of firearms loaded with blank ammunition as part of any funeral, any memorial observance or any other patriotic or military ceremony. (Source: P.A. 92-419, eff. 1-1-02.)

(765 ILCS 835/3) (from Ch. 21, par. 17)

Sec. 3. The directors of any cemetery society, or cemetery association, may appoint policemen to protect such cemetery and preserve order therein, and such policemen shall have the same power in respect to any offenses committed in such cemetery, or any violation of this act, that city marshals or policemen in cities have in respect to maintaining order in such cities or arresting for offenses committed therein.

(Source: Laws 1885, p. 57.)

(720 ILCS 5/21-1.3)

Sec. 21-1.3. Criminal defacement of property.

(a) A person commits criminal defacement of property when the person knowingly damages the property of another without his or her consent by defacing, deforming, or otherwise damaging the property by the use of paint or any other similar substance, or by the use of a writing instrument, etching tool, or any other similar device.

(b) Criminal defacement of property is a Class A misdemeanor for a first offense if the damage to the property does not exceed \$300. Criminal defacement of property is a Class 4 felony if the damage to property does not exceed \$300 and the property damaged is a school building or place of worship. Criminal defacement of property is a Class 4 felony for a second or subsequent conviction or if the damage to the property exceeds \$300. Criminal defacement of property is a Class 3 felony if the damage to property exceeds \$300 and the property damaged is a school building or place of worship. In addition to any other sentence that may be imposed for a violation of this Section that is chargeable as a Class 3 or Class 4 felony, a person convicted of criminal defacement of property shall be subject to a mandatory minimum fine of \$500 plus the actual costs incurred by the property owner or the unit of government to abate, remediate, repair, or remove the effect of the damage to the property. To the extent permitted by law, reimbursement for the costs of abatement, remediation, repair, or removal shall be payable to the person who incurred the costs. In addition to any other sentence that may be imposed, a court shall order any person convicted of criminal defacement of property to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction. The community service shall include, but need not be limited to, the cleanup and repair of the damage to property that was caused by the offense, or similar damage to property located in the municipality or county in which the offense occurred. If the property damaged is a school building, the community service may include cleanup, removal, or painting over the defacement. In addition, whenever any person is placed on supervision for an alleged offense under this Section, the supervision shall be conditioned upon the performance of the community service. (Source: P.A. 90-685, eff. 1-1-99; 91-360, eff. 7-29-99; 91-931, eff. 6-1-01.)

CIVIL LIABILITIES
(740 ILCS 115/) Parental Responsibility Law.

(740 ILCS 115/1) (from Ch. 70, par. 51)

Sec. 1.

This Act shall be known and may be cited as the Parental Responsibility Law.

(Source: P. A. 76-1679.)

(740 ILCS 115/2) (from Ch. 70, par. 52)

Sec. 2. As used in this Act, unless the context otherwise requires, the terms specified have the meanings ascribed to them:

(1) "Legal guardian" means a person appointed guardian, or given custody, of a minor by a circuit court of the State, but does not include a person appointed guardian, or given custody, of a minor under the Juvenile Court Act or the Juvenile Court Act of 1987.

(2) "Minor" means a person who is above the age of 11 years, but not yet 19 years of age. (Source: P.A. 85-1209.)

(740 ILCS 115/3) (from Ch. 70, par. 53)

Sec. 3. Liability. The parent or legal guardian of an unemancipated minor who resides with such parent or legal guardian is liable for actual damages for the wilful or malicious acts of such minor which cause injury to a person or property, including damages caused by a minor who has been adjudicated a delinquent for violating Section 21-1.3 of the Criminal Code of 1961. Reasonable attorney's fees may be awarded to a plaintiff that is not a governmental unit in any action under this Act.

(Source: P.A. 90-311, eff. 1-1-98.)

(740 ILCS 115/4) (from Ch. 70, par. 54)

Sec. 4. Any municipal corporation, county, township, village or any other political subdivision or department of the State of Illinois, or the United States or any of its instrumentalities, or any person, partnership, corporation, association or any incorporated or unincorporated religious, educational or charitable organization is entitled to enforce the liability imposed by this Act. (Source: P.A. 88-406.)

(740 ILCS 115/5) (from Ch. 70, par. 55)

Sec. 5. Limitation on damages; damages allowable. No recovery under this Act may exceed \$2,500 actual damages for each person, or legal entity as provided in Section 4 of this Act, for each occurrence of such wilful or malicious acts by the minor causing injury, in addition to taxable court costs and attorney's fees. In determining the damages to be allowed in an action under this Act for personal injury, only medical, dental and hospital expenses and expenses for treatment by Christian Science practitioners and nursing care appropriate thereto may be considered. (Source: P.A. 90-311, eff. 1-1-98.)

(740 ILCS 115/6) (from Ch. 70, par. 56)

Sec. 6.

This Act shall not affect the recovery of damages in any other cause of action where the liability of the parent or legal guardian is predicated on a common law basis. (Source: P. A. 76-1679.)

(740 ILCS 115/7) (from Ch. 70, par. 57)

Sec. 7. Section 12-107 of the Code of Civil Procedure, as now or hereafter amended, is not applicable to judgments obtained under this Act.
(Source: P.A. 82-783.)

JURY INSTRUCTIONS

11.83 Definition of Cemetery Vandalism

A person commits the offense of cemetery vandalism when he wilfully and knowingly

obliterates, vandalises or desecrates a grave and the amount of damage is at least \$10,000 and less than \$100,000;

or

defaces, vandalizes, injures or removes a gravestone or other memorial or monument, or marker commemorating a deceased person or group of persons and damages at least five but no more than ten gravestones.

11.84 Issues In Cemetery Vandalism

To sustain the charge of cemetery vandalism, the State must prove the following proposition:

1. That the defendant(s) wilfully and knowingly obliterated, vandalized or desecrated a grave and the amount was at least \$10,000 and less than \$100,000

or that the defendant(s) wilfully and knowingly defaced, vandalized or injured a gravestone or other memorial, monument or marker commemorating a deceased person and damaged at least five but no more than ten gravestones.

If you find from your consideration of all the evidence that this proposition has been proved beyond a reasonable doubt, you should find the defendant(s) guilty.

If you find from your consideration of all the evidence that this proposition has not been proved beyond a reasonable doubt, you should find the defendant(s) not guilty.

16.01 Issues in Criminal Defacement to Property

A person commits the offence of criminal defacement of property when he knowingly damages the property of another without that person's consent by defacing, deforming, or otherwise damaging such property by the use of paint or any similar substance or by the use of a writing instrument, etching tool, or any other similar device and such damage to the property exceeds \$300.

To sustain the charge of criminal defacement of property, the State must prove the following propositions:

1. That the defendant(s) knowingly damaged the property by defacing, deforming, or otherwise damaging such property by the use of paint or any similar substance or by the use of a writing instrument, etching tool, or any other similar defice; and
2. The defendant(s) did so without the consent of property owner; and
3. The damage to the property was more than \$300.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant(s) guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

16.23 Definition Of Criminal Trespass To A Cemetery

A person commits the offense of criminal trespass to a cemetery when he intentionally violates any of the rules made and established by the board of directors of a cemetery for the protection or government thereof.

Or

Knowingly enters or remains upon the premises of a public or private cemetery without authorization during hours that the cemetery is posted as closed to the public.

16.24 Issues In Criminal Trespass To A Cemetery

To sustain the offense of criminal trespass to a cemetery, the State must prove the following proposition(s):

1. That the defendant(s) knowingly violated any of the rules made and established by the board of directors of a cemetery for the protection or government thereof.

Or

2. That the defendant(s) knowingly entered the premises of a public or private cemetery without authorization and did so during the hours that the cemetery was posted as closed to the public.

If you find from your consideration of all the evidence that the proposition or propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that the proposition or propositions have not been proved beyond a reasonable doubt, you should find the defendants not guilty.

EDUCATIONAL MATERIALS

Beyond this point, materials are for educational use only and may not be used during the mock trial event.

**In *The Mikado* by Gilbert & Sullivan,
we are told to "LET THE PUNISHMENT FIT THE CRIME."**

This lesson plan is recommended to support instruction on citizenship, law-related education, juvenile justice, and to instruct on the consequences of breaking the law.

Appropriate for grades 7-12

Materials needed: 2006 Illinois State Bar Association High School Mock Trial Materials

Time needed: Three 50-minute class periods

First class period:

Have students read the 2006 Illinois State Bar Association High School Mock Trial Scenario and witness statements. For purposes of this lesson plan, ask the students to assume that each of the defense witnesses is guilty of vandalism in the cemetery. Have students concentrate on:

- Damages to the cemetery property
- Who is harmed
- How would the families feel if they saw the destruction at the cemetery
- The backgrounds of the three students involved in the incident

Second class period:

Discuss each of the above, asking students to try to identify with each of the students involved in the incident.

- Can they explain why the person would have entered the cemetery property and damaged the monuments?
- Are there extenuating circumstances that can excuse or explain the behavior?
- Should these be taken into consideration in determining appropriate punishment?
- Should the students each receive the same punishment or receive different "sentences?"
- If this is a first offense, should the punishment be lighter than if it was a pattern of behavior?
- Does prison time act as a deterrent against future crimes?
- Do the students feel remorse?
- Do they accept responsibility for their actions?

Third class period:

Discuss possible punishments

- restitution (payment to the cemetery)
- fine (payment to the families)
- community service
- serving time
- apologies extended to families and cemetery personnel
- probation
- education/training/counseling
- restraining order to avoid places or people (ban from cemetery property)
- limiting activities, house arrest (students may only attend school, work and then go home)

Ask students to consider what punishment they would choose for each of the three defendants. This is a good time to put students into groups of three or four and allows five to ten minutes to determine the appropriate punishment for the vandalism. Students may choose one or a group of punishments. For instance, they could mandate that the offenders pay restitution to the cemetery, pay a fine to the families who experienced the harm, apologize to all parties harmed, and be sentenced to house arrest.

Ask students to consider, when determining the appropriate punishment the purposes for the punishment. Will it or should it:

- deter the students from doing it again or serve as an example to others?
- protect society?
- help rehabilitate the offenders?
- provide restitution to the families or cemetery?

Ask each group to nominate a spokesperson, who will present to the class as a whole their recommendation for punishment for each of the three defendants. Teacher may write the names of each of the three defendants on the chalkboard and begin listing suggested punishments under each name, keeping a tally of which options are suggested most often. After all groups have announced their recommended punishments, and you are able to see which defendant receives the most votes for which punishment, discuss why the students felt that was the most appropriate punishment and discuss "does the punishment fit the crime?"

Ask the students what was most important to them in making their recommendations for punishment:

Did they feel that the crime was particularly egregious?

Did they consider the defendants' family situations?

Did they consider prior records or bad acts?

Did they consider the feelings of the cemetery personnel?

Did they consider the feelings of the families whose monuments had been vandalized?

Did they consider the intelligence of the defendant?

Did they feel the defendants' were being truthful in their statements?

Did they think it was important to sentence each individually or give the same punishment to all?

Why?

After discussing the above, the teacher should indicate to the class: If convicted of a crime, in addition to the punishment, other issues a person might face after conviction include:

- may lose the right to vote
- may lose the right to serve on a jury
- may not be able to hold public office
- may not be able to join the armed forces
- may not be able to receive a firearm license
- may lose job or jeopardize future job opportunities
- may not be able to receive business license

Teacher may ask the class, would any of these factors change your feelings regarding the guilt or innocence of the defendants? Discuss why or why not.

Teacher may also bring up the parental responsibility issue, indicating that if the students are sentenced to reimburse the cemetery or families, could this punishment extend to the parents? Cite parental responsibility statutes.

Related activities:

- Internet search for cases mentioning cemetery or other vandalism. What punishment was imposed?
- Draft a school policy regarding school vandalism and list possible punishments that would fit the crime.
- Undertake a community volunteer project to help clean an area that has been vandalized.
- To discuss possible punishments and the appropriateness, invite a judge to speak to the class, you may also consider inviting a lawyer, police officer and/or mediator to discuss related issues.
- Assign students to craft an advertising campaign that discusses vandalism issues and could serve as a deterrent.
- Assign students to create original artwork/posters that are anti-vandalism.
- Assign students the task of creating their own jury instructions relating to vandalism and appropriate punishments.

Additional discussion topics:

Why do people vandalize? Is the damage directed at an ethnic group, religion, community, neighborhood, or other "class?"

Did someone just get out of control and not think about consequences? Would anger management have helped?

**2006 Illinois State Bar Association
High School Mock Trial
Clarification Memorandum
February 27, 2006 – FINAL UPDATE**

Responses to questions posed. This update memorandum will be circulated as additional questions are posed and answered.

1. We do not have a copy of Shelby Cullom's plea agreement, and we don't know exactly what he/she is actually pleading guilty to. **As a minor, Cullom's plea agreement would not be public. You will need to refer solely to the witness affidavit.**

2. Is Cullom's plea agreement binding in this case even if Cullom is not called as a witness?
Yes.

3. How do you pronounce DuBois? **Use the French pronunciation: "Doo-Bwah"**

4. Exhibit B states that "Officer Reese Mathewson may testify as he was the arresting officer..." Does this mean that Officer Mathewson is allowed to testify about Exhibit B without facing foundation or hearsay objections? **Exhibit B is Officer Mathewson's report. As such, the text is not hearsay. Officer Mathewson, as investigating officer, was present and assisted in accumulating and documenting evidence at the cemetery. Exhibit B is meant to reflect a forensics report by an expert that has been accurately excerpted into Officer Mathewson's official report. We are adding a NEW STIPULATION that if Officer Mathewson is called to testify, he/she is qualified as an expert in the field of fingerprint and shoe print analysis and may testify as to the forensics report with a reasonable degree of scientific certainty.**