

CLASSROOM LAW PROJECT proudly sponsors the 18<sup>th</sup> Annual Statewide

# 2003-04 OREGON HIGH SCHOOL MOCK TRIAL COMPETITION

**State**

**v.**

**Martin**

a criminal case where a student is charged with murder  
after a high school rock climber is found dead  
at the base of a cliff

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### **Special thanks to**

All teacher and attorney coaches, regional coordinators, county courthouse personnel, attorneys, and other volunteers whose dedication and hard work make the regional and state competitions successful. Without their efforts, this event would not be possible.



**CLASSROOM LAW PROJECT**  
**2003-04 Oregon High School**  
**Mock Trial Competition**

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## **I. 2003-04 MOCK TRIAL COMPETITION**

This packet contains the official materials which student teams will need to prepare for the Eighteenth Annual Oregon High School Mock Trial Competition.

Each participating team will compete in a regional competition. Winning teams from each regional will be invited to compete in the state finals to be held in Portland on March 12 and 13, 2004. In May 2003, the winning team from the state competition will be eligible to represent Oregon in the National High School Mock Trial Championship in Orlando, Florida.

The mock trial is designed to clarify the workings of our legal institutions for young people. In the mock trial, students portray each of the principals in the cast of courtroom characters. As the student teams study a hypothetical case, conduct legal research, and receive guidance from volunteer attorneys in courtroom procedure and trial preparation, they acquire a working knowledge of our judicial system. Students participate as counsel, witnesses, court clerks, and bailiffs.

Since teams are unaware of which side of the case they will present until shortly before the competition begins, they must prepare for both the prosecution and defense. All teams must present both sides at least once.

The phrase, "beauty is in the eye of the beholder," points out the differences that exist in human perceptions. That same subjective quality is present in the scoring of the mock trial. Even with rules and evaluation criteria for guidance, as in real life, not all scorers evaluate a performance identically. While we do everything possible to ensure consistency in scoring, the competition reflects this quality that is a part of all human institutions, including legal proceedings.

## **II. PROGRAM OBJECTIVES**

For the **students**, the mock trial competition will:

1. Increase proficiency in basic skills such as reading, speaking, critical thinking skills such as analyzing and reasoning, and interpersonal skills such as listening and cooperating.
2. Provide the opportunity for interaction with positive adult role models in the legal community.
3. Provide a hands-on experience outside the classroom from which students can learn about law, society, and themselves.

For the **school**, the competition will:

2. Promote cooperation and healthy academic competition among students of various abilities and interests.
2. Demonstrate the achievements of high school students to the community.
3. Provide a challenging and rewarding experience for participating teachers.



### III. CODE OF ETHICAL CONDUCT

At the first meeting of the Mock Trial Team, this code should be read and discussed by students and their teacher. **The Code of Ethical Conduct governs participants, observers, guests and parents** at all mock trial events.

All participants in the Mock Trial Competition must adhere to the same high standards of scholarship that are expected of students in their academic performance. Plagiarism of any kind is unacceptable. Students' written and oral work must be their own.

**Coaches, non-performing team members, observers, guests, and parents shall not talk to, signal, communicate with or coach any member of the currently performing side of their team during trial. This rule remains in force during any recess time that is called by the judge.** Currently performing team members may, among themselves, communicate during the trial; however, no disruptive communication is allowed. Non-team members, teachers and coaches must remain outside the bar in the spectator section of the courtroom.

**Team members, alternates, attorney coaches, teacher coaches and any other persons directly associated with the Mock Trial team's preparation are not allowed to view other teams in competition so long as they remain in the competition themselves.**

**Students** promise to compete with the highest standards of deportment, showing respect for their fellow students, opponents, judges, evaluators, attorney coaches, teacher coaches, and mock trial personnel. All competitors will focus on accepting defeat and success with dignity and restraint. Trials will be conducted honestly, fairly and with the utmost civility. Students will avoid all tactics they know are wrong or in violation of the rules, including the use of unfair extrapolations. Students will not willfully violate the rules of the competition **in spirit or in practice.**

**Teacher coaches** agree to focus attention on the educational value of the mock trial competition. They shall discourage willful violations of the rules. Teachers will instruct students as to proper procedure and decorum and will assist their students in understanding and abiding by the competition's rules and this Code of Ethical Conduct.

**Attorney coaches** agree to uphold the highest standards of the legal profession and will zealously encourage fair play. They will promote conduct and decorum in accordance with the competition's rules and this Code of Ethical Conduct. Attorney coaches are reminded that they are in a position of authority and thus serve as positive role models for the students. All participants are bound by all sections of this Code of Ethical Conduct and agree to abide by the provisions. Teacher and attorney coaches should ensure that students understand and agree to comply with this Code. Violations of this Code may result in disqualification from competition.

**Charges of ethical violations** involving persons other than the student team members must be made promptly to a trial coordinator who will ask the complaining party to complete a dispute form. The form will be taken to the competition's communication's center, whereupon a panel of mock trial host sponsors will rule on any action to be taken regarding the charge, including notification of the judging panel. Violation occurring during a trial involving students competing in a round will be subject to the dispute process described in the Rules of the Competition.

## **IV. THE CASE**

### **A. INTRODUCTION**

The case is set in the coastal town of Driftwood City. It is a community that is proud of its high school -- its graduates are well known for going to prestigious colleges and universities. Competition at the school is tough. Some now wonder whether it is so tough that it sent one young star off to a tragically early grave. What follows are the details of the case.

### **B. CHARGES**

The prosecution charges the defendant Beck Martin with two counts:

Count one - Murder (Mock Trial Penal Code sections 187, 188, 189)

Count two - Manslaughter (Mock Trial Penal Code section 192).

### **C. MOCK TRIAL STATUTES**

#### **Mock Trial Penal Code, Section 187**

(a) Murder is the unlawful killing of a human being...with malice aforethought.

#### **Mock Trial Penal Code, Section 188**

Such malice may be express or implied. It is express when there is manifested a deliberate intention unlawfully to take away the life of a fellow creature. It is implied, when no considerable provocation appears, or when the circumstances attending the killing show an abandoned and malignant heart. When it is shown that the killing resulted from the intentional doing of an act with express or implied malice as defined above, no other mental state need be shown to establish the mental state of malice aforethought. Neither an awareness of the obligation to act within the general body of laws regulating society nor acting despite such awareness is included within the definition of malice.

#### **Mock Trial Penal Code, Section 189**

##### **Degrees of murder**

All murder which is perpetrated by means of a destructive device or explosive, knowing use of ammunition designed primarily to penetrate metal or armor, poison, lying in wait, torture, or by any other kind of willful, deliberate, and premeditated killing, or which is committed in the perpetration of, or attempt to perpetrate, arson, rape, carjacking, robbery, burglary, mayhem, kidnapping, train wrecking, or any act punishable under Section 206, 286, 288, 288a, or 289, or any murder which is perpetrated by means of discharging a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict death, is murder of the first degree. All other kinds of murders are of the second degree.

To prove the killing was "deliberate and premeditated," it shall not be necessary to prove the defendant maturely and meaningfully reflected upon the gravity of his or her act

#### **Mock Trial Penal Code, Section 192**

Manslaughter is the unlawful killing of a human being without malice. It is of three kinds:

(a) Voluntary - upon a sudden quarrel or heat of passion.

(b) Involuntary - in the commission of an unlawful act, not amounting to felony; or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection...

(c) [omitted]

#### **D. EVIDENCE**

Only the following physical evidence may be introduced at trial (found after witness statements):

1. A faithful reproduction of the map of Ballena Beach.
2. A faithful reproduction of the map of the cove.
3. A faithful reproduction of the coroner's diagram of Anne Marcus' body.

#### **E. STIPULATED FACTS**

*The following information is **background**. There is information about the community of Driftwood City and its high school. For Mock Trial purposes, the information should be considered **common knowledge** by those who live there.*

Driftwood City High School is located on the coast. At the school, honor students vigorously compete with each other hoping to gain entry to the nation's top colleges. Every year, the English department creates a final exam for all its honors literature classes. The department administers the exam both as a grade in Honors English Literature and to determine the recipients of three Distinguished Writers Foundation ("DWF") scholarships to college. The DWF was established by graduates of Driftwood High to promote the school and the study of literature. The scholarship recipients are announced at graduation. In 2003, the exam was given on May 30, two weeks before graduation.

In recent years, there have been problems at Driftwood City High with cheating. To crack down on cheaters, the administration instituted an honor system in which students are required to report incidents of cheating. Those who know about cheaters and who fail to report them are treated the same as the cheaters themselves. For a first offense, the offender gets a one-day suspension and a failing grade on the assignment in question. A second offense results in an "F" in the class and a permanent demerit in the student's school record. This rule is rigorously enforced and allows for no exceptions. In 2002, students Beck Martin and Cody Ward had been caught cheating. Both were first-time offenders.

In the spring of 2003, Beck, Cody, and Anne Marcus were seniors at Driftwood. They had known each other for years from participating together in academic programs, and all three had been on the honor roll. Anne was a tall 17-year-old girl and an avid rock climber, known to climb regularly at Ballena Beach. Beck and Cody were both of slight build, were slightly taller than Anne, and were athletes. Beck was a rower and captain on the school's crew team, and Cody ran cross-country on the track team. All three were in Larry Molina's Honors English Literature, and each had been accepted at Empire University for the fall. They took the test on May 30 as scheduled.

*Prosecution and defense also stipulate to the following facts:*

1. The English exam photocopy had both Beck Marton's and Cody Ward's handwriting on it.

2. Anne Marcus and Beck martin have type A blood.
3. Dr. Aidan Hobbes and Dr. Sage Gracian are qualified expert witnesses and can testify to each other's statements.
4. Larry Molina, Aunt Myra, Beck Martin's parents and his minister, and the individual who found the body are unavailable to testify.
5. All witness statements were taken in a timely manner.
6. The vandalized locker belonged to Anne Marcus.
7. For purposes of this trial, on June 6, 2003, sunset was at 8:04 p.m. and high tide was at 8:48 p.m.

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1           **F.       WITNESS STATEMENTS**

2  
3       **Prosecution witness: Cody Ward**

4       My name is Cody Ward and I live at 42 Chimel Road in Driftwood City. I am 17 years old, and I  
5       graduated from Driftwood City High School in August, after completing summer school.  
6       I took Larry Molina's Honors English Literature course in the spring. Both Anne Marcus and  
7       Beck Martin were also in the class. I had studied hard all semester, because I had applied to a  
8       number of schools and I awaited hearing about scholarship information. Among the colleges I  
9       had been accepted to was Empire University, which honored scholarships from the Distinguished  
10      Writers Foundation. I knew that in the past, the top three grades on the honors literature exam  
11      received these scholarships and received honors at the graduation ceremony too. My older  
12      brother had received the award two years ago, and my sister received the award last year. I really  
13      felt like I had to follow in their footsteps. The whole atmosphere of the class was competitive.  
14      The students compared their quiz and essay grades with each other. It was intimidating. I know I  
15      am a good student, but I still felt the pressure.

16  
17      Maybe that explains why I agreed with Beck to cheat on the exam. Beck had a school volunteer  
18      service job working in the English department and snooped around to find the extra keys to  
19      Molina's cabinets. One day, probably in early May, Beck came up to me after school and  
20      showed me a copy of Molina's exam. There were multiple choice and essay questions. I could  
21      not believe my eyes. Beck was angry that there were no answers written on it, but told me that  
22      the questions gave us an opportunity to prepare in advance. At first, I told Beck to put the exam  
23      back. I had already been caught the year before for plagiarism. I had learned my lesson, or so I  
24      thought, but Beck was insistent, telling me that I had to go along with it because now I knew too  
25      much. I guess I ought not blame Beck. It was my stupid decision to go ahead with Beck's plan.  
26      So, we prepared our answers before the exam and did very well. I suppose we were pretty bold,  
27      because on June 6, we started talking about it in the hall at school. Beck was handing me the  
28      prepared exam and telling me to get rid of it. I said it was not my job to do that, when Anne  
29      Marcus came over to us and grabbed the exam paper. She looked at it and then at us and said, "I  
30      can't believe this! You guys cheated." We pleaded with her to keep it quiet and give us the  
31      paper back, but she refused. She said she was going to tell the principal about it on Monday if we  
32      did not turn ourselves in by then. Then she stuffed the papers in her backpack and threw the  
33      backpack into her locker right there. She locked it up and walked away. I felt like we were  
34      doomed.

35  
36      On Sunday, June 8, Beck asked me to drive us down to Ballena Beach to talk with Anne. I  
37      thought that would be a complete waste of time, because I knew Anne would not change her  
38      mind. But I had nothing else to do, and Beck insisted that we go. On the way there, Beck talked  
39      about Anne and became more and more agitated. Beck called Anne a "backstabber" for  
40      threatening to turn us in. I was afraid of getting in trouble, but I could see that Anne risked  
41      getting in trouble for not turning us in. I asked Beck what good it would do to talk to Anne, but  
42      Beck would not listen to me.

43  
44      When we arrived, we hiked up the ridge of the rock face where Anne was climbing. We waited  
45      for a couple of minutes, and when Anne reached the ridge, Beck just snapped. Anne was

1 standing there, gathering up the rope when Beck lunged forward and grabbed Anne's collar.  
2 Beck muttered something and made a noise. Then I saw Anne swinging her arms, like she was  
3 trying to keep her balance. She yelled and had this terrified look on her face. Before I could do  
4 anything, Beck let go of her collar, and the two of them stood there for a few seconds. Anne did  
5 not move. Beck dusted off her shoulder and said, "We don't want you to get hurt, do we?" Then  
6 Anne coiled up her rope and said she wanted to leave.

7  
8 Beck mentioned the exam to her. Beck said, "Let's go talk about this at the cove." Anne did not  
9 say anything, but just stared at Beck. They started walking together in the direction of the cove,  
10 and I followed. I had second thoughts at this point about trying to convince Anne. She seemed  
11 determined to turn us in. But before I knew it, the two of them started screaming at each other. I  
12 am not sure who screamed first, but it startled me. Beck's face turned red, and Beck grabbed  
13 Anne's arm. Anne tried to get out of Beck's grip, but could not do it. So Anne just punched Beck  
14 in the shoulder and screamed, "Let me go!" By this time, we were at the tip of the promontory  
15 where the trail curved around toward the cove. The two of them would not stop screaming at  
16 each other. Beck let go of her arm, but stood there on the ridge between her and me. Beck then  
17 pushed her shoulder, and she pushed back. I said, "This is a total waste of time, Beck." I told  
18 them I was going back to my car, rather than watch them beat each other up. They ignored me  
19 and walked toward the cove. I turned and headed back to my car. I walked slowly, being careful  
20 on the rocky trail.

21  
22 When I got back, the clock on my dashboard said it was 7:50. I sat in the car and turned on the  
23 radio. I only got out of the car to go to the restroom once or twice over the next hour or so while  
24 I waited for Beck. It was very dark when Beck finally showed up at the car at 9:00 p.m. I asked  
25 where Anne was. Beck said, "At least I got one more day out of her." I assumed this meant that  
26 Anne was not going to tell on us. That seemed odd because the two of them had been fighting so  
27 fiercely. Beck seemed angry, and we argued. Beck accused me of ditching them on the ridge, and  
28 I accused Beck of keeping me waiting for so long. We got in the car, and I drove us back to the  
29 city. On the way back, I turned on my car's interior lights to look for something and I noticed a  
30 small spot on inside of Beck's right wrist. It looked like dried blood. I did not think anything of it  
31 at the time. We did not talk at all during the ride home. Beck still seemed angry and ignored me.  
32 I was also fed up with Beck. That kid was always getting me in trouble.

33  
34 I arrived at school the next day at 11:00 after my doctor's appointment. A little later, the  
35 principal announced Anne's death. I was shocked and I almost fainted. Just after lunch, around  
36 1:15, I got a note to go to the office. There I saw Officer Kripke and the principal but the  
37 principal left the room. The officer talked with me for a few minutes and told me that Anne had  
38 turned us in for cheating. I thought I had my college plans all wrapped up, but at that moment I  
39 realized my plans were destroyed. I explained that Beck and I had been with Anne at the beach  
40 the night before. I told the officer about Beck and Anne's fight, and that Beck was with her for a  
41 long time alone. I remembered the strange stain on Beck's wrist, and I told the officer about it  
42 and that it looked like dried blood. Then the officer thanked me and let me go back to class.

1 **Prosecution witness: Officer Loren Kripke**

2  
3 My name is Loren Kripke. I am 32 years old and I have been an officer in the Driftwood City  
4 Police Department for five years. In addition to investigative and other police duties, I have been  
5 been the School Resource Officer (SRO) at Driftwood High for the past three years. I  
6 investigated Anne Marcus' death.

7  
8 As SRO, I know that most Driftwood High graduates go on to attend college and honor students  
9 in advanced classes tend to be accepted at some of the country's top schools. Image is important  
10 and classes are competitive. Students are known to taunt, even sabotage, each other to get good  
11 grades.

12  
13 The administration tries to keep a lid on cheating which has become rampant over the past  
14 couple of years. An honor system was developed two years ago to educate students about the  
15 pitfalls, discourage would-be cheaters, and require students to report incidents of cheating. In the  
16 spring of 2002, Cody Ward and Beck Martin were among the students caught cheating. Both of  
17 them received the punishment for a first offense, knowing that a second offense would get them  
18 into more serious trouble.

19  
20 Beck and Cody stood out among the students in their class for both academic and athletic honors.  
21 Beck is on the crew team, trained hard and lifted weights. Beck has leadership qualities, too, but  
22 was known to use them negatively and tended to be sarcastic. Cody has a similar personality,  
23 though Cody's hostility was known to go beyond sarcasm at times with other students. At the  
24 beginning of last year, Cody was stopped from taunting a transfer student. Cody was  
25 uncooperative to the point that when the teacher's back was turned, Cody punched the other  
26 student in the chest. Cody was suspended for a day from school, and there was a parent  
27 conference. That year, Cody was disciplined one other time for a similar incident.

28  
29 Students in Cody or Beck's type of situation know that if they got in any more similar trouble,  
30 they could fail a class and have to repeat the course over the summer. They would not walk  
31 across the stage at graduation, and they would lose their chance of receiving the DWF  
32 scholarship. All of these factors would probably jeopardize their chances to go to a prestigious  
33 college, even if they had been accepted already.

34  
35 On the morning of Monday, June 9, at approximately 7:00 a.m., I received a call from dispatch  
36 that someone had found a body washed up on the shore at Ballena Beach. When I arrived on the  
37 scene a few minutes later, I found out that the body was not on the main beach, where I had  
38 assumed it would be, but was in a little cove just south of the main beach. When I saw the body,  
39 I knew it was just a kid, a girl maybe 16 or 17 years old. There was a small crowd of onlookers  
40 that had gathered in the cove, and I had to clear them out of there up to the ridge until the  
41 coroners arrived.

42  
43 I conducted a search of the cove and visually examined the body. One of the first things I noticed  
44 were some reddish marks on her wrists. The first thought I had was that she had been bound. She  
45 was wearing climbers' clothes and still had her belt on with utility pouches and some small metal



1 rings, which are called carabiners. I noticed that there was a ledge of rock a few inches above the  
2 sand at the foot of the southern cliff face in the cove. The ledge was about four feet wide, and  
3 sparsely covered with sand. It had no tide pools or moisture on it, so it was above the level of  
4 high tide that had covered a large portion of the sand early that morning. On this ledge, I also  
5 found a small rock that was just big enough to fit into my hand, and it had dried blood on it.  
6

7 At about 11:00 a.m., the medical examiner ("M.E.") called me to give a report. The M.E. told me  
8 that the deceased was Anne Marcus and that the cause of death was drowning. The M.E. also  
9 told me that a forensics test showed that the blood on the rock I had found positively matched the  
10 blood of the victim, and that there was a laceration on the side of her head that was consistent  
11 with receiving a blunt force blow to the head.  
12

13 I was officially assigned to investigate the case and called the high school around 11:30 a.m. and  
14 said that Anne Marcus' body had been found that morning at the cove. I said that the matter was  
15 being investigated but that I had no other facts at that time, and made an appointment for 1:00  
16 p.m. in order to get more information about Anne Marcus.  
17

18 I arrived at the high school and learned about Anne's school friends and possible enemies by  
19 asking routine questions. I learned that Anne was a studious and popular girl. I also learned that  
20 Anne had confidentially reported to the administration that an incident of cheating the previous  
21 Friday. The cheaters were Beck Martin and Cody Ward and that they both believed that Anne  
22 was going to report them on Monday. I also learned that Anne's locker had been vandalized that  
23 morning.  
24

25 In my conversations with administrators and staff, I learned that everything looked normal at  
26 6:30 in the morning. But during first period Anne Marcus' locker was found open with the door  
27 bent in the middle, and with a cracked combination lock. Papers were reportedly strewn on the  
28 floor of the locker, and a backpack inside was turned over and unzipped. Additionally, at about  
29 7:00 a.m., before school started, Beck Martin was seen near the school entrance.  
30

31 I decided it was a good idea to talk to Beck and Cody about what they knew. Cody arrived first.  
32 I asked Cody a few questions. I said that I knew about the cheating and asked if s/he could tell  
33 me anything special about Anne. Cody told me that s/he and Beck had talked to Anne at Ballena  
34 Beach the previous evening. Cody also mentioned that Beck and Anne had been fighting there,  
35 that Cody had left them alone on the trail to the cove, and that Beck did not return until around  
36 9:00 p.m. Cody also mentioned that Beck had a stain on the inside of Beck's right wrist that  
37 looked like blood.  
38

39 When Cody left the room I asked for Beck. I also said that I wanted to talk to Beck alone. Beck  
40 soon arrived and I told Beck that I needed to ask a few questions. I told Beck to sit down and I  
41 read the *Miranda* rights just in case. I used a conversational tone and sat in the principal's chair  
42 so that I would not be standing over Beck. I asked if Beck and Anne Marcus were friends.  
43 Almost immediately, Beck said how sad it was that Anne hit her head and died. I knew that no  
44 one else beside myself and the M.E. knew anything about Anne's head wound. I had not told  
45 anyone, not even Anne's parents.

1  
2 Based on the information I had from the M.E. and conversations with Cody Ward, Beck Martin,  
3 and others around school, I had enough evidence to present to a judge for an arrest warrant. I  
4 knew that Beck had been alone with Anne Marcus for a substantial time and was the last known  
5 person to see her alive. With the warrant, I arrested Beck Martin later that day.

1 **Prosecution witness: Dr. Aidan Hobbes**

2  
3 My name is Aidan Hobbes. I earned a bachelor's degree in chemistry from Middle State  
4 University and then went on to Jefferson University Medical School. I graduated from Jefferson  
5 with distinction in 1990 and did my residency training at Driftwood City Hospital's pathology  
6 lab before taking a position as an Assistant Coroner for Ocean County. During my first year as a  
7 coroner, I was assigned to be director of the forensic serology lab. I am now assistant chief  
8 coroner and have been appointed chairperson to the State Committee for Professional Standards  
9 in Forensic Pathology for the last three years. I am also the medical examiner in the death of  
10 Anne Marcus.

11  
12 As part of my initial examination of the body on the beach, I observed several things. Marcus  
13 was wearing climber's garb, a short-sleeved T-shirt, shorts, and shoes. There were ligature marks  
14 on her wrists. There was also an injury on her head, just above the left temple, which looked like  
15 a laceration. The area around her left eye was swollen, which appeared to me to be the result of  
16 some kind of trauma, like getting punched in the eye. At 7:30 a.m. when I examined the body,  
17 she was in an advanced state of rigor mortis. Her whole body was stiffened, except for the large  
18 muscles in her lower legs. There were some small cuts and bruises, consistent with her being  
19 bumped around in the rocky surf.

20  
21 Back at the medical examination lab, I discovered saltwater in Marcus' lungs. I surmised that  
22 Anne had drowned. By the state of rigor mortis of the body, I estimated that she had died  
23 sometime between 8:00 p.m. and midnight on June 8. Rigor mortis is a process by which the  
24 compounds in the body's muscles that provide muscular energy are lost. As the heart stops  
25 beating and respiration ceases, these compounds lose a necessary supply of oxygen and nutrients,  
26 and the muscles stiffen. The process starts with the small muscles in the head and neck, and  
27 progresses downward to the toes over the course of 8-12 hours for a body of average weight and  
28 musculature like that of Anne Marcus. Also, it can take longer in cold temperatures. Marcus died  
29 in the ocean and at night when the air temperature drops significantly. Assuming she died at  
30 about 8:30 p.m., then she would be in full rigor by 8:30 a.m. the following day. Yet probably  
31 because of the cold, her legs generally remained flaccid at the time of my laboratory  
32 examination. If she had died only eight hours before her body was found, far fewer of her  
33 muscles would be in a state of rigor.

34  
35 While conducting the autopsy at my lab, I looked more closely at the ligature marks on Marcus'  
36 wrists. In the course of rock climbing, it would be highly unusual for a climber to sustain  
37 virtually congruent injuries to both wrists. It would mean the climber would have to hold on to  
38 the rope with both hands and then to fall, sustaining almost identical rope burns on both wrists.  
39 The chances for this happening are very small, as there is no reason for an experienced climber  
40 to make such a gesture. I have seen congruent marks like these in only nine or 10 other cases I  
41 have dealt with, both as a pathologist and as a student intern. In each of those cases, the victim  
42 was tied up by someone else.

43  
44 I also examined the wound above Marcus' left temple. I believe the only way she could have  
45 sustained this wound would be from some blunt force instrument or object. There is a five

1 centimeter laceration, which tapers at one end. Directly underneath, her skull has a hairline  
2 fracture. This is consistent with someone else holding out an object and hitting Marcus directly  
3 on the side of the head. It is not consistent with Marcus' falling onto the rocks. To sustain a  
4 falling injury to the head like this, she would have had to tilt her head dramatically toward her  
5 right shoulder in order to connect her temple squarely against the rocks. No one in a falling  
6 motion, even from the 25-five foot height of the particular cliff in the cove, would have the time  
7 or the presence of mind to do so. Moreover, the small rock on which Officer Kripke found the  
8 dried blood itself could not have caused the injury if Marcus fell on it unless it was tightly  
9 wedged into a larger rock, which from the officer's report was not the case.

10  
11 As for the blood on the rock, early testing revealed that it was type A, the same as Marcus'.  
12 Medical records show that Beck Martin also has type A blood. In a murder investigation of a  
13 brutal crime, this can pose a problem for a forensic investigator, but we have a different situation  
14 here. First, Martin has not claimed to have sustained any injury on June 9, so there is no reason  
15 to believe that the blood could belong to Martin. Second, blood is identifiable by more than just  
16 type. Everyone's blood contains enzymes and proteins with a myriad of potential chemical  
17 makeups. Scientists have identified 12 such "genetic markers," each of which has between three  
18 and 10 separate types. I found in the sample of dried blood on the rock two of the six identifiable  
19 genetic markers that were present in a blood sample taken from Marcus' body. Moreover, these  
20 two genetic markers were of the same type as those markers from Marcus' body. The chances for  
21 this being a coincidence are, again, very small.

22  
23 Therefore, it is in my professional opinion that Anne Marcus was struck on the side of the head  
24 and perhaps knocked unconscious as a result, before or after being bound with rope. Her body  
25 was thrown or pushed into the surf where she subsequently drowned.

1 **Defense witness: Beck Martin**

2  
3 My name is Beck Martin. I am 17 years old. I live at 789 Fortuna Road in Driftwood City.  
4 During the 2002-03 school year, I was a co-captain on Driftwood's crew team. Throughout high  
5 school, I had won many awards for academic decathlons, debate society competitions, and  
6 fiction writing.

7  
8 I will admit up front that I cheated on the Honors English Literature exam in Mr. Molina's class.  
9 I am deeply ashamed that I did this. The irony is that I think I would have done well on the exam  
10 anyway. I had an "A" in that class already. But my parents were really counting on me to earn a  
11 scholarship to enable me to go to Empire University. It is a family tradition to excel in school.  
12 That DWF scholarship was very important to me. I was afraid of getting anything less than an  
13 "A" in Mr. Molina's class. That is also why I cheated in algebra that other time.

14  
15 In early May, I took the spare key to Molina's cabinet from the office of the English department.  
16 I was an intern in the English department as part of the school volunteer community service  
17 program. In Molina's cabinet, I found a blank exam, photocopied it, and returned the blank exam  
18 and the key. No one was the wiser, until Cody Ward noticed me taking the key from my pocket  
19 as I walked into the English department's empty office. Cody asked what I was doing, but I did  
20 not want to say. Cody threatened to tell the dean that I was nosing around without permission, so  
21 I showed Cody the exam photocopy. Cody asked to get a copy of that, too. I said, "OK." After  
22 that, we worked together over the next couple of weeks preparing all the answers in advance. We  
23 aced the exam, of course.

24  
25 At school on June 6, I asked Cody to get rid of the exam copy we had used. I took it out of my  
26 backpack and handed it to Cody. That is when Anne Marcus approached us and grabbed the  
27 exam from Cody's hands. She looked at it, and I could tell she knew right away what it was. She  
28 accused us of cheating. Of course, she was right. We begged her to keep her mouth shut about it.  
29 She was angry, though. She accused us of destroying her chances for getting the scholarship.  
30 Then she put the exam in her backpack and locker. She said it would stay there either until we  
31 turned ourselves in or until she told on us sometime Monday.

32  
33 I was afraid, so I tried calling Anne's phone number many times over the weekend. When Anne  
34 did not return any of my calls, I decided to talk to my minister that Sunday morning. Just before  
35 church began, I told him that I cheated and that I wanted to turn myself in. The reverend agreed  
36 that was the best thing to do. I just wanted a little more time to do it. I wanted Anne not to turn  
37 us in until Tuesday so I could think about how to explain it to my parents. I felt like my life was  
38 ruined, so I needed courage. I wanted to tell them when they called Monday night. They called  
39 me every Monday night while they were away in Europe.

40  
41 I called Cody in the afternoon. Cody insisted that I find out where Anne was. I knew Anne was  
42 an avid rock climber and that she loved to climb the rock face at Ballena Beach. Cody offered to  
43 drive us down there so that we could talk to her. I did not tell Cody about my plan to get Anne  
44 just to postpone telling on us.

1  
2 When we got there, we saw Anne. She was the only climber on the rock face. We walked along  
3 the ridge and waited for her. When Anne reached the ridge I had the fright of my life. A piece of  
4 rock gave way under her foot when she turned to gather up her rope. I grabbed her quickly to  
5 keep her from falling. She seemed startled. It all happened within a few seconds. Cody laughed  
6 and did not even attempt to help, which I thought was a bizarre reaction.  
7

8 Anne started to walk toward that cove, and we went with her. Cody lagged behind a bit, and  
9 Anne and I talked. I asked Anne to wait until Tuesday, because I wanted to explain it to my  
10 parents before the school told them. Anne refused. Still, I begged Anne, though she said she  
11 would not change her mind. We argued about it. Anne was annoyed that we had come down to  
12 see her and that Cody kept laughing. When we were almost at the cove, I turned around and saw  
13 that Cody was gone. Anne and I climbed down into the cove. There we talked for a while, and  
14 she finally said she would not turn us in until Tuesday morning. She still seemed annoyed with  
15 me, and said, "Whatever. You have until Tuesday." She started climbing up the southern cliff. I  
16 watched her climb for a little while and then I left.  
17

18 It took me a while to walk back to Cody's car as it got darker. It was 8:30 p.m. according to my  
19 watch when I arrived at the car, but Cody was not there. I was upset because Cody stranded us  
20 on the trail and now was gone. I decided to take a walk to cool off, so I headed north up the  
21 beach. It was about 9:00 p.m. and totally dark when I came back.  
22

23 Back at the car, I saw Cody was waiting for me this time, sitting on the hood of the car. I was  
24 mad at Cody for ditching me. I told Cody that Anne would wait one more day. I also said, "I  
25 thought we were in this together." Cody laughed again, which I thought was a weird response to  
26 what I said. We shouted a little at each other, but then Cody drove me home. We were both silent  
27 all the way home. I do not know where Cody got this idea about a spot on my wrist. I never saw  
28 anything on my wrists that day.  
29

30 On Monday, I arrived at school at 7:00 a.m. Sometimes I come early to work out on the rowing  
31 machine in the gym. I also thought I might confess about cheating, but I chickened out. I was  
32 scared, because I never got along very well with the administration. A couple of hours later, the  
33 school announced that Anne had died. I was shocked. I realized that I might have been the last  
34 person to ever see Anne. That cove can be a dangerous place.  
35

36 Just after 1:30 or so, I was told to go to the principal's office. I went there and I saw Officer  
37 Kripke. I sat down. The officer read me the rights they say on the cop shows. I thought I was  
38 under arrest and I was nervous because I had never been questioned by the police before. The  
39 officer said my statements were being tape-recorded, which to me sounded serious. Then the  
40 officer asked me about Anne at the beach. This did not sound right to me. I had no idea what this  
41 was about so I asked to see my Aunt Myra who lived down the street from us. Since my parents  
42 were gone, I wanted to talk to her before talking to the officer. The officer said that my aunt was  
43 not going to be called, but that I could have an attorney. This frightened me, but I felt I needed  
44 permission to get up, so I did not move. The whole situation was intimidating. Then the officer  
45 asked me if Anne and I were friends. I was still so horrified that she was dead, the officer's

1 question just jolted me. I mentioned that I assumed she had fallen from the cliff where I last saw  
2 her and possibly hit her head. She was an experienced climber, but she had had minor accidents  
3 before. The whole questioning had me confused. The officer's tone of voice was very stern.  
4  
5 When the questioning ended I was sent back to class. I was totally shocked when I was arrested  
6 later. I cannot believe that anyone would think that I killed Anne.

1 **Defense witness: Dr. Sage Gracian**

2  
3 My name is Sage Gracian. I retired in 2000 from the Ocean County Coroner's Office after  
4 working for 18 years as an assistant coroner. I earned my bachelor's degree in biology from  
5 Northern California College in 1965. I worked in the Peace Corps in West Africa for two years  
6 before returning to earn my medical degree from Jefferson University Medical School in 1971. I  
7 entered private practice and in 1980 began teaching a clinical course at Jefferson. In 1981, I  
8 changed the emphasis of my career and became certified in forensic pathology. In 1982 I was  
9 hired by the Ocean County Coroner's Office. I have since worked as a coroner, taught seminar  
10 courses, and have published nine articles in professional journals on the practice of forensic  
11 pathology. My book, *Traumatic Anatomy and Physiology*, has become a standard introductory  
12 text in forensic medicine programs nationwide. Since retirement, I have continued teaching at the  
13 university. I am also a past president of Coastal Rock Climbers.

14  
15 At the request of the defendant, I have reviewed the records of the Ocean County Coroner's  
16 Office and have been able to examine the physical evidence, morgue photographs, and tissue  
17 samples. With all due respect to Dr. Hobbes, I have some problems with the conclusions reached  
18 regarding the death of Anne Marcus.

19  
20 First, I will begin with the so-called ligature marks on her wrists. Ligature marks indicate  
21 binding of some kind, as in a person being tied-up. The photos I saw of Marcus' wrists certainly  
22 showed reddish marks. They looked like marks from a rope. However, I disagree with the  
23 examining coroner's analysis. First of all, the marks are not even all the way around the wrist.  
24 On the left wrist, in fact, the marks did not appear on the underside, indicating that the rope,  
25 which caused the mark, was not wrapped around the entire wrist. Also, Anne Marcus was a rock  
26 climber, and so am I. I have seen numerous climbers give themselves similar rope marks on their  
27 arms and legs during moments of carelessness or when a sudden gust of wind causes them to  
28 slip. I believe there is not enough evidence to call the marks on Marcus' wrists "ligature marks."

29  
30 Second, the wound on Marcus' head may have come from a variety of causes. The records show  
31 that the wound opening was 5 centimeters long. It is also slightly triangular in shape, which to  
32 me indicates a kind of scraping motion. This could easily be the result of Marcus' falling from  
33 the cliff. If her head had turned in a certain way, her striking the bottom could have caused this  
34 type of injury. The force of the fall on even a small rock, like the palm-sized one in question  
35 here, would have resulted in a nasty head wound. Even if Marcus fell from a low elevation,  
36 maybe 10 feet, she could have received an injury such as the one we see on her temple. Such a  
37 wound could also have easily disoriented her and led her to stumble into the deadly surf.

38  
39 Third, the swelling of her left eye is consistent with one of two causes. The first is a blunt force  
40 blow, such as a blow from a fist to the eye. The second, and far more likely cause, is swelling  
41 related to the head injury and fall from the cliff. This collateral swelling of the capillaries around  
42 the eye frequently comes from suffering a blow to the temple, as I have seen in numerous  
43 cadavers. The cuts and bruises on her body, including the eye, appear to have come from her  
44 falling on the rocks and from thrashing in the surf onto the boulders.



1 Fourth, we cannot easily approximate the time of Marcus' death. The certificate of death  
2 indicates that Marcus was pronounced legally dead at 7:30 a.m. on June 9 when Dr. Hobbes  
3 arrived at Ballena Beach. Of course, physiologic death is much harder to pinpoint. Rigor mortis  
4 is generally unreliable as a means to determine time of death, when compared to other methods  
5 such as body temperature or stomach contents, because of all the variables. Though the water  
6 and weather was cold, which can slow the process of rigor, Anne was also slender, which can  
7 speed up the process. Judging from the records, I believe there is not enough evidence to say she  
8 died as early as 8:00 or 8:30 on June 8.

9  
10 Finally, the blood analysis is not conclusive. Usually, it takes three or four matching genetic  
11 markers shared between two blood samples in order for scientists to have a fairly definite claim  
12 that the samples are from the same source. With each unmatched marker, the chance of their  
13 being from the same person decreases exponentially. All of us share genetic markers in many of  
14 the same combinations. Identification through exact matches are more uncanny than is usually  
15 thought. Even so, once blood leaves the body, the enzymes that make up these genetic markers  
16 begin to deteriorate. Dried blood on a rock out in the open air is probably the worst sample from  
17 which to draw any conclusions without DNA evidence. No DNA testing was done here.

18  
19 In my professional opinion, Anne Marcus died an accidental death in the Ballena Beach cove.  
20 She fell from the cliff and scraped her wrists on the climbing rope in the process. She hit her  
21 head and tragically stumbled into the crashing waves that swept her under the water's surface  
22 where she drowned. The boulders in the water prevented her body from drifting away.

1 **Defense witness: Ranger Dale Plotnik**

2  
3 My name is Dale Plotnik. I have been a ranger with the State Parks for 14 years. I have worked  
4 at the Ballena Beach Station for the last three years. Working at Ballena Beach has numerous  
5 responsibilities. I have to patrol the beach itself and outlying areas nearby, including camping  
6 areas up the coast from the beach and over 20 miles of hiking trails in the hills on the eastern side  
7 of the highway. I have to perform many duties such as park maintenance and enforcing park  
8 rules governed by state law.  
9

10 At other times, I monitor the day use parking lot for Ballena Beach. This requires me to be on  
11 duty in a kiosk, greet visitors, collect the day use fee, and to see everyone is out by sunset when  
12 the beach closes. Any car in the parking lot after sunset will also receive a citation. I warn all  
13 visitors of this when they arrive because the rule is intended to dissuade vagrants from sleeping  
14 there overnight.  
15

16 The Ballena Beach State Park has a distinctive geography. The beach itself is about a mile long  
17 and is popular with sunbathers and with surfers who like the waves. At the southern end of the  
18 beach is the promontory, quite popular for rock climbers. The cove itself is surrounded by cliffs,  
19 and at the top of these cliffs are a few private residences.  
20

21 The residences are set back from the edges of the cliffs. Once in a while, I patrol around the  
22 promontory to make sure that no one is trespassing in this private area. Sometimes I have seen  
23 the residents climbing down to the cove, though I would advise them against it because the area  
24 can be dangerous when the tide comes in.  
25

26 There are two routes to the cove from the beach, the ridge trail around the promontory and a dirt-  
27 hiking trail behind the eastern side of the promontory. The hiking trail is not much used,  
28 probably because it is very steep in places.  
29

30 On June 8 at about 6:15 p.m., I greeted a young woman in her car at the gate to the parking area.  
31 She appeared about 17 or 18 years old. I later learned that she was Anne Marcus when I saw her  
32 picture in the newspaper.  
33

34 Later at around 7:00 p.m. as I headed down a trail, I noticed two other individuals in the distance  
35 who arrived together in a white two-door sportscar. I don't think any other visitors arrived after  
36 them since I did not see any additional cars in the lot, but there were a few other cars in the  
37 parking area from earlier in the day.  
38

39 I closed the kiosk at sunset, about 8:05 p.m., and walked up the road north to make my  
40 inspection of the picnic area. When I returned to the parking lot at 8:40 p.m., I saw there were  
41 still two cars in the parking lot. One was the white sportscar, and the other was the car that  
42 arrived at 6:15. I approached both cars and saw that they were empty. I decided to check around  
43 the beach area just to see if the owners of the cars were nearby.  
44

1 I walked down the sand to the bottom of the north face of the promontory. It was almost dark,  
2 but there was still some twilight left. It must have been about 8:50 p.m. when I saw someone  
3 walking along the ridge on the promontory. The person was walking toward me and away from  
4 cove. I would say this person was at least 100 feet or more away from me, so I couldn't get a  
5 good description. I called up to the person that the beach was closed. I wondered if it was one of  
6 the people from the white car or the young woman, though the local residents above the cove  
7 sometimes use the promontory trail as beach access. It looked like the person waved at me, and I  
8 turned to walk north up the beach.

9  
10 As I walked I saw someone cross my path about fifty feet ahead of me, moving toward the  
11 parking lot. I waved and called out that the beach was closed. The person was wearing a white  
12 baseball hat and looked like the passenger in the sportscar that arrived at 7:00 p.m. After  
13 scouring the beach for a few more minutes, I returned to the parking lot and the white sportscar  
14 was gone. I wrote up a citation for the one car left in the parking lot. I drove back to the Ranger  
15 Station, and my workday was done.

16  
17 I spend a great deal of my free time with church activities, particularly the youth ministry. I have  
18 been a church Elder for several years at the same church the Martin family attends. So I have  
19 known Beck Martin for years. At the church, many of the teenage and young adult congregants  
20 are in the youth ministry program in which they sponsor charitable and social events. For the last  
21 two years Beck helped organize monthly food drives for a local homeless shelter. In fact, the  
22 local chamber of commerce awarded Beck a community service medal last year for this work.  
23 Even when others in the youth ministry did not follow through, Beck always managed to do so.  
24 It is impressive to see a teenager as mature as Beck Martin. The other congregants at the church  
25 also noticed this. Beck has a good reputation.

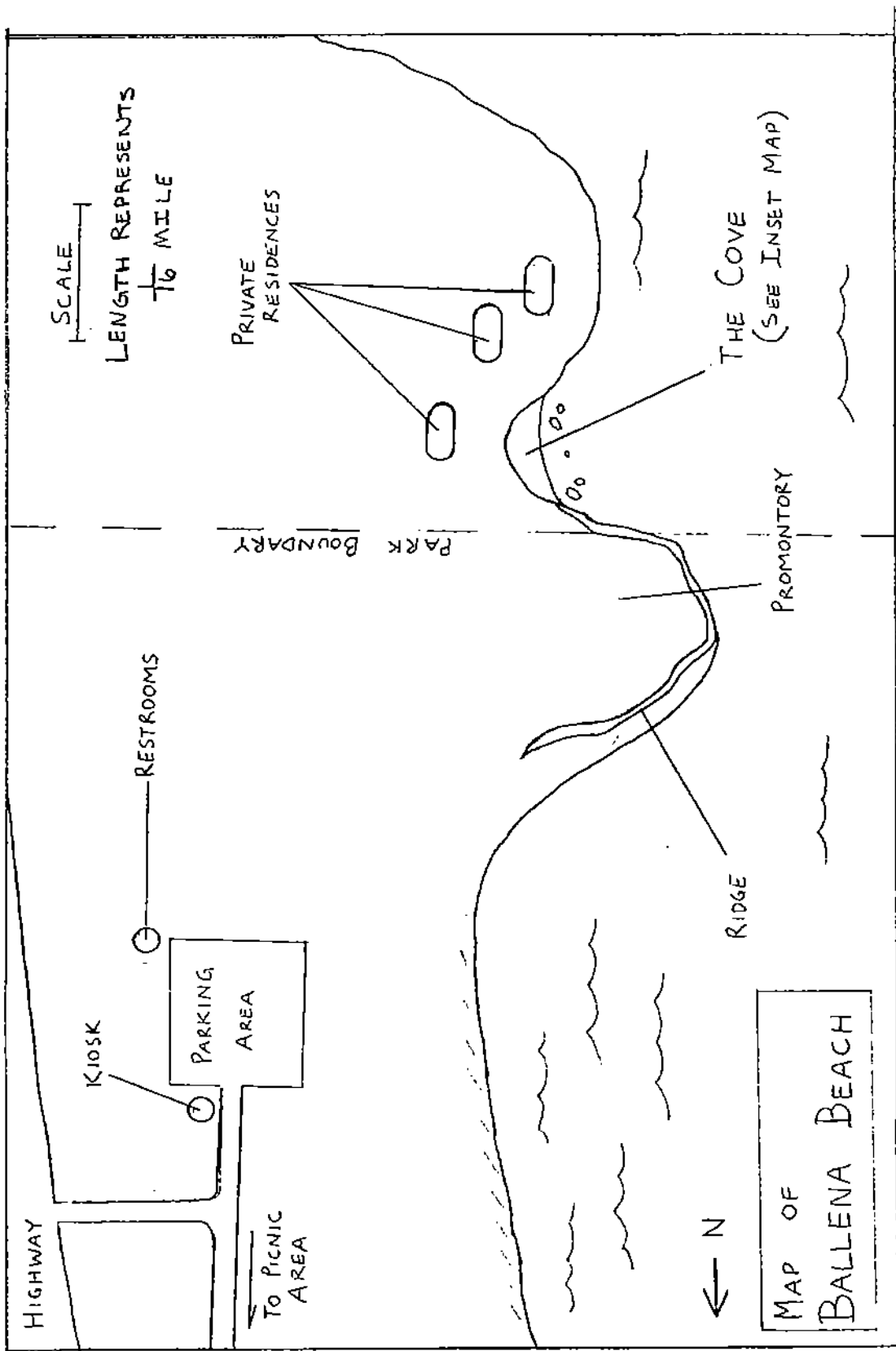
26  
27 We had a program in conflict resolution at the church not too long ago and Beck participated.  
28 Beck must have taken the messages to heart, because I have seen Beck settle arguments among  
29 others. Once there was a disagreement between two members about where some records of  
30 donations were kept. It was a trivial argument about some clutter that had built up in the youth  
31 ministry office. However, these two young people blamed each other for losing the donations  
32 records and were ready to fight over it. Beck stepped in and talked to each of them individually.  
33 and then together. Within a couple of minutes, they were shaking hands. It was amazing. Perhaps  
34 Beck will make a good minister or counselor one day.

35  
36 Beck also confided in me on the morning of Sunday, June 9, that s/he had cheated on an exam.  
37 Beck really seemed distraught by it. I understood because I know Beck's parents. Beck's parents  
38 are professional people and very well educated. Beck wanted nothing more than to follow in  
39 their footsteps. They had attended prestigious universities and assumed that Beck would do the  
40 same. Beck seemed worried that Mr. and Mrs. Martin would be severely disappointed about the  
41 cheating. I reassured Beck that they could also be forgiving. Beck was shaking during our  
42 conversation. Beck seemed remorseful about the cheating and told me that s/he would probably  
43 confess to the principal sometime on Tuesday after Beck's parents return.

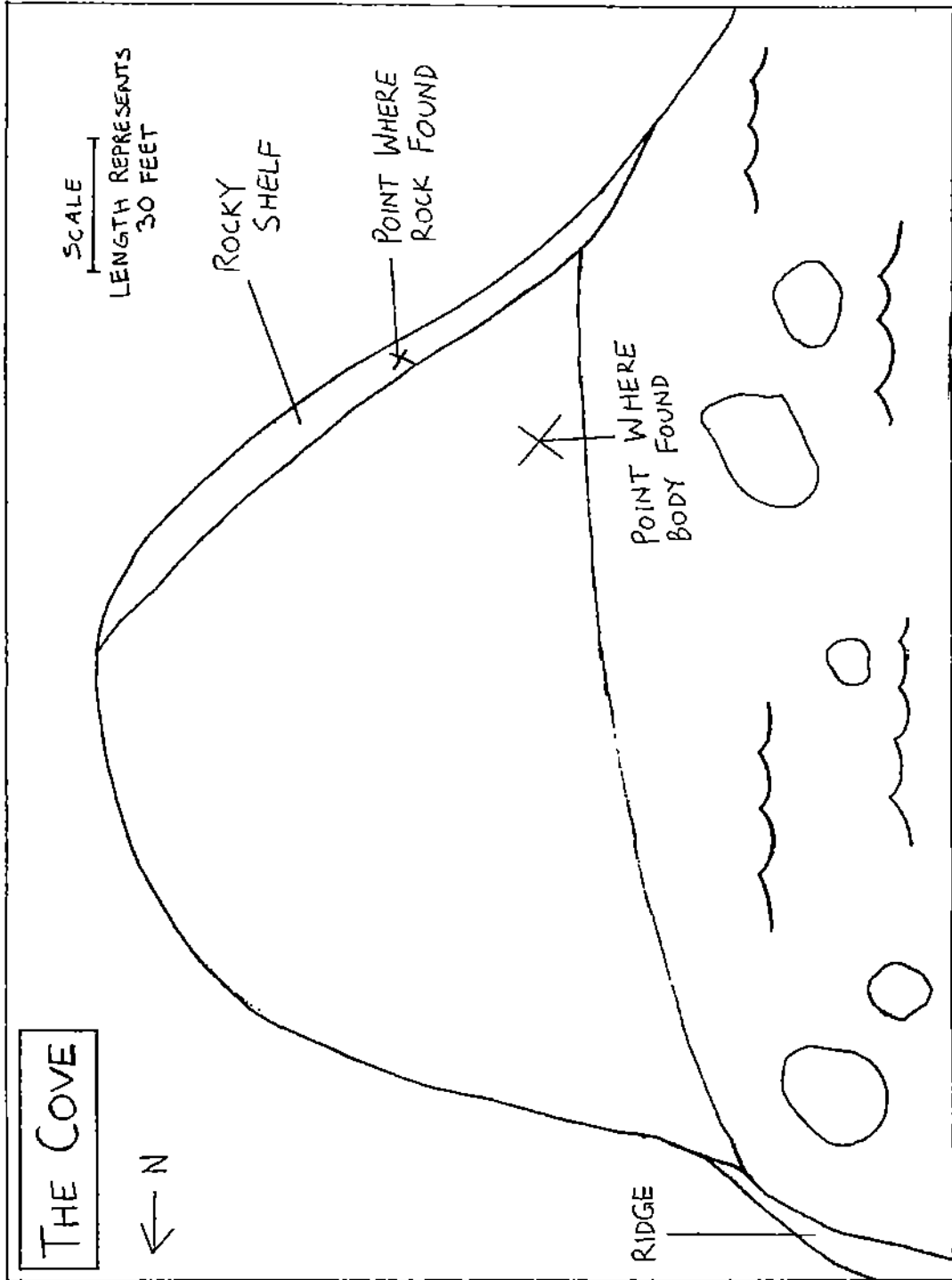
1 I think a lot about whether the people I saw in the park that night were Beck and Beck's friend. I  
2 wish I could say for sure. The fact is, it was just too dark and I was too far away.  
3

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OFFICIAL DIAGRAM  
BALLENA BEACH



OFFICIAL DIAGRAM  
COVE AT BALLENA BEACH



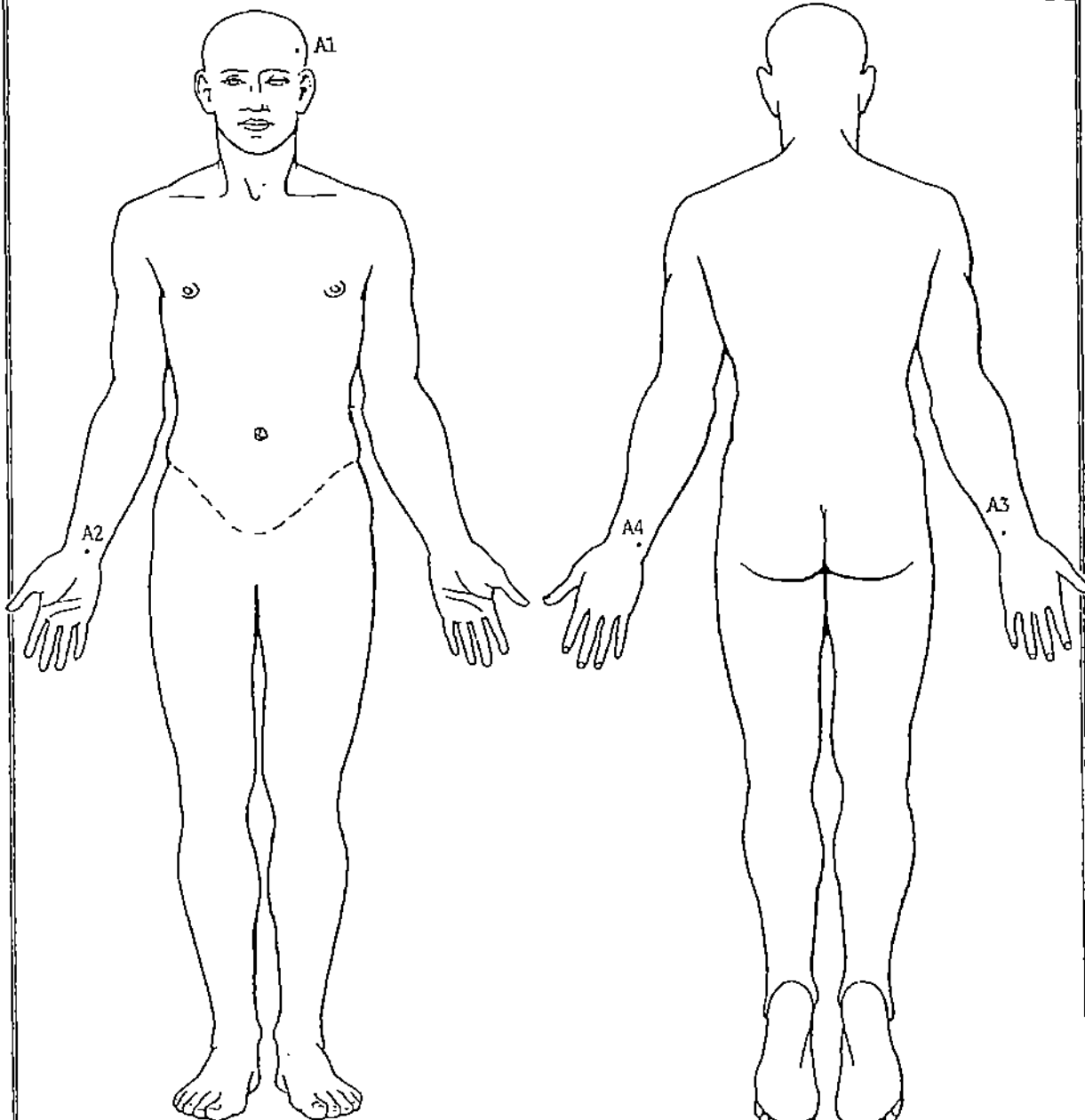
OFFICIAL DIAGRAM  
CORONER'S DIAGRAM OF ANNE MARCUS' BODY

COUNTY OF OCEAN

DEPARTMENT OF CORONER

- A1 - Wound
- A2 - Mark
- A3 - Mark
- A4 - Mark

DIAGRAM OF ANNE MARCUS'  
BODY



*Ch. William Hobbes* M.D.  
Medical Examiner