

# B Planning for a Mock Trial

## 1. Time Factors

A successful mock trial can be a largely impromptu event taking place right in the classroom and occupying one or two class periods at most. It can also be an intricately planned event, with class preparation taking a full week or even more, and with trial presentation requiring two or more complete class periods.

Both types of mock trials, and many variations on them, have demonstrated their value as strategies for learning in the high school classroom. Each teacher needs to exercise discretion in selecting which approach to use. A key criterion is the amount of time available for this activity. Another is the specific learning objectives the teacher is aiming for at that particular point.

The lesson plans provided in this manual are built around time sequences for each activity that have proven realistic on the basis of experience with hundreds of mock trials of all kinds. Throughout, the references to class periods assume 50-minute lengths of time.

## 2. Student Involvement

A mock trial project should involve every student in the class for the entire unit. Careful planning is essential to achieve this goal of total involvement. Students not assigned specific, active roles quickly lose interest. However, not every student in a large class can play an attorney or a witness. Realistically, then, in classes larger than fifteen or twenty, how can every student be actively involved?

To a large extent, the answer depends on the individual teacher and the classroom situation. Suggestions to aid teachers in arranging total involvement include:

### a. Number of Attorney and Witness Roles

In each mock trial case\*, *each side* uses two witness roles and six possible attorney roles (listed in Lesson Plan #4). In sum, there are sixteen principal roles.

### b. Alternates

Alternate witnesses are essential to safeguard against last-minute absences. Since attorneys can usually cover for each other, teachers can also assign alternate attorneys. With alternates for each attorney and witness role, as many as thirty-two students could be assigned roles.

\*The cases are available from Social Studies School Service.

### c. Teams

Cooperative learning is one of the important objectives of the mock trial process. The team and small-group activities which are essential to mock trial preparation provide the vehicles for cooperative learning.

Lesson Plan #3 provides instructions for dividing the class into teams. For the purposes of active involvement in trial preparation, every student should be assigned to one team or the other, and should then be expected to participate fully in small-group discussions and team strategy sessions.

The lesson plans call for small groups at certain points and also indicate which principal roles are involved at each stage. The principal role-players and alternates as well as other students to assist them should all be assigned to small groups and participate in them.

### d. Role Assignments

Note that specific role assignments for attorneys and witnesses are not mentioned until Lesson Plan #4. Unless the mock trial is to be a fairly short, informal classroom event, there is no need to rush into role assignments. The longer every student remains a candidate for any role, the higher the level of student interest in the mock trial preparations will be.

### e. Juries

In large classes it may be preferable to include all unassigned students on the jury. (Note, however, possible other roles, under f. below.) Use of a jury is a good way to keep all students actively involved during the actual trial.

However, during the trial preparation stage, students who will be serving on the jury should be assigned to work with the teams. Even though in real life jury members start a trial impartially with no prior knowledge of the case, in the mock trial the educational value of having jury members assist with case preparation outweighs the need to simulate reality.

Nevertheless, activities designed to demonstrate the importance of an impartial jury are valuable. (One way is to conduct a roleplay of a "voir dire" exercise—this is when lawyers or the judge ask prospective jurors questions to gauge their impartiality. A lawyer could help with this.) If the class strongly desires a truly impartial jury for their trial, another class can be invited to sit as the jury.

#### f. Other Roles

The trial itself has room for roles other than attorneys and witnesses. These roles include:

1. Judge or Judges (See #5 below)
2. Clerk or Bailiff (See #7 below)
3. Formal Observers (See #8 below)
4. Members of the Jury
5. Court Artist
6. Reporters from Newspapers and TV.

Again, the goal is to involve every student. All students in the class, whatever their eventual role in the trial, should participate on trial preparation teams.

### 3. Preparation of Materials for Students

The student materials in this manual include an Introduction to the Trial Process, Steps in a Trial, and Simplified Rules of Evidence. (These perforated pages are to be torn out and duplicated for each student.) Cases are available as separate booklets.

Before starting the mock trial unit, teachers need to determine which materials to give the class and when. The teacher may copy and distribute the entire packet at once or give out only sections at a time. A few suggestions that can help with this decision:

- a. "The Trial Process" is a general introduction for students who have not previously studied trials in detail, or for those needing refresher reading. It is a good first handout.
- b. "Steps in a Trial" is a guide designed to assist students with their preparation for mock trial roles.
- c. "Simplified Rules of Evidence" is recommended for distribution only to classes in which the teacher plans to devote a substantial amount of time to trial preparation. For the sake of time and simplicity, teachers may prefer not to use these rules for short, informal mock trials.
- d. "Case Materials" are separate packets with the facts and pieces of evidence for the specific trial the class will conduct. All students should receive a copy of this material. (The cases are available from Social Studies School Service.)

### 4. Legal Assistance

The mock trials presented in the cases include hypothetical laws appropriate for use in any classroom. However, teachers may prefer to use a law actually on the books in the jurisdiction where the school is located.

To obtain information about an appropriate law that would work for a mock trial, teachers should consult with a local attorney or attorneys. The Bar Association in the area can often assist teachers in identifying attorneys who could help out.\*

Attorneys and law students are also valuable resources to assist students in the actual preparation for a mock trial. When using attorneys or law students as class presenters, team advisers, or judges, the teacher must take the time to brief them so that they understand the educational objectives of the program and recognize that the class will necessarily be using simplified procedures and rules of evidence.

### 5. Judging

Two important early decisions for the teacher are who will judge the trial and whether to use a jury. These decisions are influenced by time and learning objectives, as well as by class size. A few suggestions might help with this decision:

- a. If the judge is to be a student, he/she should be able to learn the trial process well, have the capacity to be decisive, and have the ability to give directions to other students.
- b. The teacher may choose to serve as the judge in situations where substantial control over the actual process is important. Such situations may apply with the very first trial, where everyone is a novice; where time is unusually tight; or where the teacher wants to have a free hand in interrupting to explain or drill as the trial moves along.
- c. An attorney, law student (preferably beyond first year), or local judge may be invited to act as the judge. This arrangement is most appropriate for the more formal trial where the class has spent much time preparing. As with other situations using an outside resource person, the teacher should make arrangements well in advance. (A full week is minimal.) The resource person agreeing to take the judge's role will need to know the date, time, and place. Equally important, the judge needs to gain a thorough familiarity with the educational objectives of the class and with the simplified procedures that will be used in the mock trial. It is also advisable to pass the actual trial facts and statements on to the judge prior to the trial date.

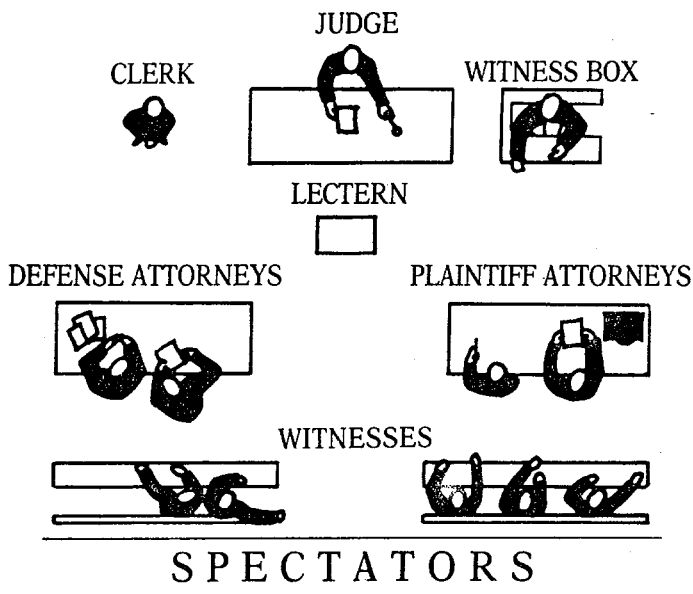
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\*If you would like assistance in finding such attorneys, contact the National Institute for Citizen Education in the Law, 25 E Street, N.W., Suite 400, Washington DC 20001 (202) 662-9620.

- d. With a large class, the teacher may wish to place the students who are not participants in the trial on a "jury." The jury then has the task of deciding the outcome of the case. When the time comes for jury deliberations, the teacher may find it advantageous not to have the jury go out but have it deliberate fishbowl-style right in the classroom. This gives nonjurors the opportunity to observe the decision-making process, but of course they may not participate in the jurors' discussion.

## 6. Classroom Arrangement

For the actual trial, the room should be arranged as follows:



If the trial will attract a sizable group of spectators, teachers might wish to hold the proceedings in a larger room or auditorium. Such larger rooms will usually require microphones at the attorney's lectern, judge's bench, and the witness box. All such details should be firm several days before the trial, and audio equipment should be tested and adjusted before the trial gets under way.

## 7. Selecting and Instructing the Clerk

Every trial should have a clerk (sometimes called a bailiff) who takes care of announcing the entrance of the judge, calling the case, marking evidence, and swearing in witnesses. The teacher should instruct the student selected at least one day before the actual trial. A section entitled "Clerk's Directions" is included as a part of Lesson Plan #6: The Mock Trial.

## 8. Preparing the Observers

Because there may be more students than can have attorney and witness roles, or than can assume such other roles as bailiff, the teacher may wish to designate observers. This is not just a "catch-all" role. The observers will be valuable in debriefing the trial. They will have the job of observing the trial as it unfolds, of looking for good points and errors and deficiencies, and of making notes that can be referred to afterwards when it comes time to analyze the event.

Lesson Plan #6 reminds the teacher to hand out the Mock Trial Observation Sheet (p. 24) to each observer before the trial begins.

## 9. Mock Trial Administrative Checklist

These are tasks the teacher should check off as accomplished. Some are noted as "optional"—all others are necessary for successful trials.

- Trial Selected
- Time-frame Determined (dates for each lesson and trial itself)
- Lesson Plans Adapted
- Materials Selected for Students
- Materials Copied for Students
- Students' Preparation Begun
- Court Field Trip Date Set (optional)
- Attorneys (or Law Students) Identified to Help (optional)
- Attorneys Invited (optional)
- Attorneys Briefed (optional)
- Judge Identified
- Judge Invited (actual judge, attorney, teacher, or student)
- Judge Briefed and Provided Materials
- Room Selected
- Microphones Ordered (for larger rooms only)
- Invitations Sent (other classes, administrators, parents, etc.) (optional)
- Observation Sheets Copied and Handed Out (optional)
- Jury Selected/Instructed (optional)
- Clerk Selected/Instructed
- Judge's Robe (an academic gown will suffice), Gavel, etc. Obtained (optional)
- Students' Preparation Completed
- Trial Conducted
- Trial Debriefed