

Roles in Criminal Trials

Attorneys

Attorneys control the presentation of evidence at trial and argue the merits of their side of the case. They do not themselves supply information about the alleged criminal activity. Instead, they introduce evidence and question witnesses to bring out the full story.

Prosecutors present the case for the state against the defendant. By questioning witnesses, they try to convince the judge or jury that the defendants are guilty beyond a reasonable doubt. They suggest a motive for the crime and will try to refute any defense presented by the defendant.

Defense Attorneys present the case for the defendants. They offer their own witnesses to present their client's version of the facts. They may undermine the prosecution's case by showing that the prosecution has failed to prove its case beyond a reasonable doubt, that prosecution witnesses cannot be depended upon, or that their testimony makes no sense or is seriously inconsistent.

Each student attorney will act in one of the following roles:

- conduct direct examination
- conduct cross-examination
- do the necessary research and be prepared to act as a substitute for any of the other attorneys.

Any of the three attorneys may make opening statements and closing arguments.

Witnesses

They supply the facts in the case. Witnesses may testify only to facts stated in or reasonably implied from the witness sheets or fact situation. Suppose that a witness's sheet states that he left the Ajax Store and walked to his car. On cross-examination he is asked whether he left the store through the Washington Street or California Avenue exit. Without any additional facts upon which to base his answer, he could reasonably name either exit in his reply, probably the one closest to his car. Practicing his testimony with the attorneys for his own team will help to uncover the gaps in the official materials that he will need to fill for himself.

Imagine, on the other hand, that a witness sheet included the statement that someone fired a shot through Mrs. Jones's closed curtains into her living room. If asked whether she saw the gunman, the witness could answer, "No." She

could not reasonably claim to have a periscope on the roof or to have glimpsed the person through a tear in the curtains. Neither response would be reasonable, and both would add a very important fact, which cannot be found in the case materials. If a witness is asked a question calling for an answer, which cannot reasonably be implied from the material provided, she must reply, "I don't know" or "I can't remember."

(Note: If prosecution witnesses wish to testify about the physical characteristics of the defendants, they should base their statements on the actual people playing the defendants on the day of trial. Witnesses, then, must have a chance to see each other before the trial begins.)



Court Clerk and Bailiff

Court clerks and bailiffs aid the judge in conducting the trial. In an actual trial, the court clerk keeps track of the court records. The bailiff provides the security of the courtroom and also escorts witnesses and juries in the courtroom.

When the judge arrives in the courtroom, the clerk and bailiff should introduce themselves and explain that they will assist as court clerk or bailiff. If the person playing the role is the only clerk/bailiff available for a courtroom, he/she will need to perform all of the duties listed below. If necessary, the person can ask someone else sitting in the courtroom to get the witnesses from the hallway when they are called to the stand.

When the judge has announced that the trial shall begin, the clerk says: "All rise. Superior Court of the State of _____, County of _____, Department _____, the Honorable Judge _____ presiding, is now in session. Please be seated and come to order."

When the bailiff has brought a witness to testify, the clerk may swear in the witness as follows: "Do you solemnly affirm that the testimony you may give in the case now pending before this court shall be the truth, the whole truth, and nothing but the truth?"

Other Courtroom Roles

An actual criminal trial might involve the additional participants listed below. For classroom exercises, students may fill any of the roles of judge, jurors, marshal, court recorder, prosecution coordinator, and defense coordinator.

Reporters and spectators also attend some trials.

Source: Excerpted from mock trial materials prepared by the Constitutional Rights Foundation.

Rules of Evidence

In actual courtroom trials, what spoken testimony and physical evidence are allowed into evidence is governed by very complex rules. These rules are designed to ensure that both sides receive a fair hearing and to keep out any evidence that doesn't relate to the issue of the case, isn't reliable, or whose value as evidence is totally outweighed by how prejudicial it would be. The complexity of the rules of evidence used with mock trials varies, depending upon the experience of the class and teacher in conducting mock trials. A more simplified form of rules appears below. However, more challenging rules are used in mock trial competitions and by more experienced classes; for example, see the rules of evidence prepared by the Arizona Bar Foundation for use with the Arizona mock trial competition at www.azbf.org.



How a Resource Person Can Help

1. Select a mock trial case that raises issues relevant to the objectives of the concepts being studied.

2. Assist with the coordination and support activities necessary to implement a mock trial, specifically:

If desired, procure a sufficient number of attorneys and law students and a judge to serve as trial participants and/or resource persons.

Make arrangements to use actual courtrooms, if desired.

Invite non-class members to attend, if desired.

Assign roles of those involved in the trial and determine how to make jury assignments.

3. Make certain that students are familiar with mock trial procedures and their roles.

4. Assist students in developing their roles or testimony when help is needed.

5. Oversee the presentation of the trial itself.

6. Conduct the debriefing session.

The resource person may wish to arrange the classroom in a way that suggests a courtroom.

Source: Reprinted with permission from the Leader's Handbook of the Law in a Free Society project.

Standard Objections

An attorney can object any time she or he thinks the opposing attorney is violating the rules of evidence. The attorney may object to questions that the other side's attorney is asking, to answers that a witness is giving, or to exhibits that the other side is attempting to admit into evidence. Generally attorneys are not allowed to object to opening statements or closing arguments.

The attorney wishing to object should stand up and do so at the time of the violation. When an objection is made, the judge will ask the reason for the objection. The objecting attorney should state what specific rule of evidence is being violated.

Then the judge will turn to the other attorney who asked the question or offered the exhibit, and that attorney usually will have a chance to explain why the objection should not be accepted (that is, should be "overruled") by the judge.

The judge will then decide whether the question, answer, or exhibit must be discarded because it has violated a rule of evidence ("Objection sustained") or whether to allow the question, answer, or exhibit to become part of the trial record ("Objection overruled").

Irrelevant Evidence "I object, Your Honor.

This testimony is irrelevant to the facts of the case." This means that the witness's answer, the attorney's original question, or the exhibit will not help the trier of fact to decide the issues in the case.

Leading Questions "Objection. Counsel is leading the witness." Leading the witness is only objectionable when done on direct examination. Leading questions are proper on cross-examination. A leading question is one that suggests the answer to the question and is usually answered by "yes" or "no."

Hearsay "Objection. Counsel's question (the witness's answer or the exhibit) is based on hearsay." Hearsay is a statement made outside of the courtroom. Statements that are made outside of the courtroom are usually not allowed as evidence if they are offered in court to show that the statements are true.

The most common hearsay problem arises when a witness is asked to tell what another person said to him or her.