

# **UTAH MOCK TRIAL TEACHERS' HANDBOOK**



**for  
ELEMENTARY and  
MIDDLE SCHOOLS**

**UTAH LAW RELATED EDUCATION**

## **FOREWORD**

Law-Related Education (“LRE”) has become an integral part of elementary and secondary school curricula. LRE emphasizes fundamental issues and concepts in democratic governance. LRE focuses upon law, its sources, meaning, and consequences. LRE helps provide the skills necessary for making moral and ethical decisions.

The purpose of this publication is to provide educators with a means to assist students on the path to becoming informed, responsible citizens. The contents of this book stress elements such as cooperative learning, critical thinking, decision making, civility, and conflict resolution.

Since its inception, the goal of Utah Law Related Education has been to encourage students to be more active, concerned, and knowledgeable citizens. The Utah Mock Trial Program provides an excellent opportunity for all students to practice citizenship and legal skills.

It is the obligation and opportunity of the youth of today to use and understand America’s tradition of the “rule of law and the role we play”. It is this tradition that keeps us free.

## PREFACE

The Utah Mock Trial Program was established in 1980 to teach students their legal rights and responsibilities as engaged citizens. The focus of the elementary program is to integrate the study of the United States Constitution and Bill of Rights through children's literature and mock trials. Elementary and middle schools can help young people develop a greater understanding and appreciation of their cultural heritage, citizenship responsibilities, and opportunities. As a result of studying children's literature in conjunction with the legal process, students have demonstrated a better understanding of their government, laws, rights and responsibilities, and commitment to those principles.

Elementary school educators have expressed a need for mock trials to facilitate teaching law-related and constitutional issues in elementary and middle school grades. In response to that need, ULRE is updating the handbook for Elementary and Middle Schools created in 1990 by LRE and the Citizenship Education Project. This handbook will assist educators in teaching many aspects of the Constitution and Bill of Rights; and in turn, students will become well informed, self-governing, and culturally literate citizens. The handbook is available under "programs" on our Mock Trial Webpage at [www.lawrelatededucation.org](http://www.lawrelatededucation.org)

Thank you to all the professionals, educators, students, and ULRE staff who took an active part in the original 1990 Citizenship Education Project.

## **PROGRAM OBJECTIVES**

The Utah Mock Trial Program is designed to give students an understanding of the law, the legal system, and their rights and responsibilities as engaged citizens. Our objectives include the following:

- To recognize the vital importance of our United States Constitution and the Utah State Constitution.
- To further an understanding of the law, court procedures, and our legal system.
- To encourage students to be engaged citizens endowed with the knowledge, skills, attitudes, and confidence to participate fully in democratic life.
- To increase students' proficiency in basic life skills, such as listening, speaking, reasoning, and responsive thinking.
- To promote increased communication, civility, and cooperation among students, educators, and community participants.
- To give teachers and student participants, friends, and parents who attend mock trials an increased understanding and an appreciation of the dynamic nature of the law and the legal system.

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# **UNDERSTANDING CLASSROOM MOCK TRIALS**

## **USING MOCK TRIALS IN THE CLASSROOM**

This online book contains many activities to help students understand the components and value of mock trials.

Mock trials are a complex drama. A believable trial in which students prepare and logically argue a case by the prosecution/plaintiff and defense can be very exciting for both teachers and students.

There are many good reasons for using mock trials in elementary and middle school settings.

- Students become familiar with the legal system and legal jargon.
- Teachers note many wonderful things happening in their classrooms as a result of preparing for a mock trial.
- Students learn how to look at both sides of an issue and perhaps dispel some biases that exist in our society and within themselves.
- Entire classes are involved with mock trials which emphasize interactive, cooperative learning for students.
- Students develop positive dispute resolution skills.
- Mock trials provide natural springboards for delving into other legal matters.
- Mock trials may be used for teaching across the curriculum.
- Students develop critical thinking skills, public speaking skills, and self-esteem.

Please note that mock trials are intended to give the flavor of an actual trial. Many things that occur in our mock trials would not happen in our justice system. For example, many of the defendants in these trials are minors and might be referred to peer court or juvenile court. Therefore, we have made some procedural changes where necessary.

Please feel free to change, adapt, and photocopy these materials and trials. Sharing experiences and ideas is important in improving educational programs, and we appreciate receiving any feedback you may have after using the materials and mock trials provided in the Elementary section of our Mock Trial Webpage.

## **CRITICAL LEARNING EVENTS**

All beginning learners need a sense of the whole before they start to learn something about the parts.

1. Choosing a Case: Criminal or Civil
  - a. **Criminal:** In a criminal trial, a person is accused of a particular act which the law calls a crime. The person who does the accusing is the prosecutor. The prosecutor tries to prove that they did commit the crime “beyond a reasonable doubt”.
  - b. **Civil:** In a civil trial, the person who does the complaining is called the plaintiff. The person they are complaining about is the defendant. It is a non-criminal lawsuit in which an individual, business, or government entity sues another to protect, enforce, or to be compensated for a civil violation.
2. Choosing a Trial: Choosing a Criminal or Civil case to present to a judge and jury.
3. Choosing an Offense: (a – i) are Criminal (j and k) are Civil
  - a. Kidnapping
  - b. Telephone abuse
  - c. Computer Crimes
  - d. Library Theft
  - e. Burglary and Criminal Trespass
  - f. Robbery
  - g. Murder in the First Degree
  - h. Murder in the Second Degree
  - i. Manslaughter
  - j. Destruction of Property
  - k. Trespass

*Utah Criminal Code Statutes, Section 76, will be posted on our Mock Trial webpage. Civil statutes may be found online.*

## **CRIMINAL CASE**

**PROSECUTION:** It is the prosecution’s job to prove, “beyond a reasonable doubt,” all elements of the crime. The prosecution is charged with protecting the interests of the state and carrying out the intent of its laws.

**DEFENSE:** It is the defense’s job to refute the prosecution’s explanation of the facts/scenario. It is more like a debate than a discussion. The job of both defense and prosecution is to interpret the law to their benefit.

## **CIVIL CASE**

**PLAINTIFF:** To win a civil case, the plaintiff must convince the jury by “a preponderance of the evidence” that the defendant did something wrong, such as destruction of property or trespass. This means the plaintiff merely needs to show that the fact in dispute is more likely than not.

**DEFENSE:** It is the defense’s job to refute the plaintiff’s explanation of the facts/scenario.

**QUESTIONS:** Read the case summary of the Scripted Mock Trial. If available, obtain a copy of the book, nursery rhyme, or movie. Read or have students read the mock trial and then guide the students to discover the *who, what, when, where, and how* of the crime.

1. Ask students to think about the main points of the crime or civil violation.
2. Ask the students to create a list of characters from the script.
3. What behavior was acceptable and unacceptable character behavior?
4. Who were the witnesses for Prosecution/Plaintiff and Defense?
5. How does the Prosecution connect the law to the crime, and how does the Defense dispute those connections? How does the Plaintiff connect the law to the civil violation, and how does the Defense dispute those connections.

## **CREATING THE TRIAL**

1. **Determining the Whole Case:** The case of characters is dependent on the size of the class to perform the mock trial. You may involve 16-35 students. (*You may contact the Utah State Bar for a list of Attorneys who are willing to visit the classroom.*)

2. **Necessary Roles**

- a. Bailiff: Swears in the witnesses, marks evidence, introduces judges, keeps time.
- b. Judges (one to three)  
One presiding judge: Makes the rulings, decides recesses and adjournment.  
Two panel judges: Deliberate with presiding judge in decision making.
- c. Witnesses (1-3): Describe what they saw at the scene of the crime or civil violation.
- d. Defendant: A person who allegedly committed the crime or civil violation.
- e. Prosecuting/Plaintiff Attorneys (1-3): Make opening statement and closing arguments; conduct direct examination and cross-examination of witnesses.
- f. Defense Attorneys (1-4): Make opening statement and closing arguments; conduct direct examination and cross-examination of witnesses.
- g. Jury (an even number; 4 to 12): Jurors choose a foreperson, listen to the evidence presented, deliberate behind chambers, and decide the guilt or innocence of the defendant.

3. **Optional Roles**

- a. Another Bailiff : If another bailiff is used, the prosecution/plaintiff and the defense may each have their own bailiff. Each bailiff swears in their own witnesses and presents evidence to the judge(s). The plaintiff/prosecution bailiff usually introduces judges.
- b. Court Recorder: Takes verbatim notes of the proceedings.
- c. Courtroom Artist: Captures one moment in time during the trial.
- d. Courtroom Journalist: Tells the story of “Who, What, When, Where, and How” of the trial.
- e. Audience: Can act as evaluators after watching the trial proceedings.

## THREE BASIC PARTS OF MOCK TRIAL

The following steps have been simplified and modified from what would take place in an actual courtroom. There are three basic parts to a trial: pre-trial events, the actual trial, and post-trial activities. Most of the pre-trial and post-trial parts are standard, scripted statements and will be posted in the Elementary Section on our Mock Trial Webpage. [www.lawrelatededucation.org](http://www.lawrelatededucation.org)

1. **Scripted Statements:** List of the ritualistic, scripted statements (See online Elementary Section.)
  - a. Opening of the court
  - b. Swearing in of the jury
  - c. Swearing in of the witnesses
  - d. Objections and possible responses
  - e. Judge's instructions to the jury
2. **Pre-Trial**
  - a. Opening of the court (done by Bailiff)
  - b. Swearing in of the jury (done by Clerk or Bailiff)
3. **Trial**
  - a. Opening Statement: Prosecution/Plaintiff Attorney
  - b. Opening Statement: Defense Attorney
  - c. Witness Direct Examination: Prosecution/Plaintiff; cross-examination by Defense
  - d. Witness Direct Examination: Defense; cross-examination by Prosecution/Plaintiff
  - e. Closing Arguments: Prosecution/Plaintiff Attorney
  - f. Closing Arguments: Defense Attorney
4. **Post-Trial:**
  - a. Judge's Instruction to jury
  - b. Reading of the verdict

## DETAILED PARTS of the TRIAL

The following is a detailed description of each part of the trial. There will be example scripts for each trial part in the Elementary Section of the Mock Trial Webpage.

1. Opening of the Court, the swearing in of the jury and the swearing in of the witnesses are scripted, so all you must do is decide which Bailiff (if you have two-*always nice if you have two*) will do what.
2. **Opening Statement by Prosecution/Plaintiff.** The attorney begins by telling the jury the important information. Drawing a verbal diagram of the case.
  - a. Type of crime/civil violation
  - b. Facts of case
  - c. Who was involved

- d. Relevant evidence
3. **Opening Statement by Defense.** The attorney begins by telling the jury they will prove that the prosecution/plaintiff does not have a valid case. The defense attorney presents the defendant's side of the case. Again, drawing a verbal map of the events.
  4. **Witness Direct Examination by Prosecution/Plaintiff.** Direct examination (questioning) of each of its own witnesses. At this time, testimony and other evidence to prove the prosecution's/plaintiff's case will be presented. The purpose of direct examination is to allow the witness to narrate the facts in support of the case. A chance to show your own witnesses at their best.
    - a. The attorneys for both sides, on both direct and cross-examination, should remember that their *only function is to ask questions*; attorneys themselves may not testify or give evidence, and they must avoid phrasing questions in a way that might violate this rule.
    - b. Avoid complex and wordy questions. Keep it simple. Take the witness by small steps. Don't attempt to obtain conclusions...that is the court's job. Avoid redundant, monotonous questions. When your facts are in evidence, cease questioning.
  5. **Witness Cross-examination by Defense.** After the attorney for the prosecution/plaintiff has completed questioning the witness, the judge then allows the defense attorney to cross-examine the witness. The cross-examiner seeks to discredit, clarify, or cast doubt upon the testimony of the opposing witness. Inconsistency in stories, bias, and other damaging facts may be pointed out to the judge and jury through cross-examination. *(Follow same process for each witness).*
    - a. Avoid hostility toward the witness. When you receive a favorable answer, drop the matter and wait for closing to emphasize it.
    - b. Impeachment: If testimony is given which you feel contradicts the witness's statements, wait until cross-examination then confront the witness with the statements and bring out inconsistencies with testimony given.
  6. **Witness Direct Examination by Defense.** Direct examination of each defense witness follows the same pattern as above which describes the process for prosecution/plaintiff witnesses.
  7. **Witness Cross-examination by Prosecution/Plaintiff.** Cross-examination of each defense witness follows the same pattern as above which describes the process for defense witnesses.
  8. **Closing Arguments (Prosecution/Plaintiff goes first).** The objective of closing arguments is to provide a clear and persuasive summary of the evidence you presented to prove the case and the weaknesses of the other side's case. Argue for your position. Ask for "guilty or not guilty verdict".
  9. **Suggestions for preparing Closing Arguments.**
    - a. Isolate the issues and describe the issues briefly; how your presentation resolved these issues.
    - b. Review the witness's testimony.
    - c. Outline the strengths of your side's witnesses and the weaknesses of the other side's witnesses.

- d. **Remember** to adapt your arguments at the end of the trial to reflect what the witnesses **actually said** as opposed to the anticipated weaknesses of the other side.
- 10. **Judge's Instructions to Jury.** The judge's instructions are already scripted. The presiding judge should read those to the jury and instruct them to make a fair decision about the case.
- 11. **Jury Deliberation.** The bailiff takes the jury to a secluded room, so they may make a decision for the case. (In a real trial, the jury leaves the courtroom to reach a verdict.) For teaching purposes for a mock trial, the jury could talk about the case and come to a decision in front of the rest of the class. A majority vote of the jurors will decide the verdict.
- 12. **Reading of the verdict.** This is scripted and will be in the online Elementary Section of the Mock Trial Webpage.
- 13. **After the Trial.** When the jury has reached a verdict, the mock trial is over. The following questions should help the audience evaluate the mock trial simulation.
  - a. How well did each person play their role?
  - b. With what crime/civil violation was the defendant charged?
  - c. What (law(s) was (were) broken?
  - d. What is (are) the major issue(s)?
  - e. What arguments did the defense present?
  - f. What arguments did the prosecution/plaintiff present?
  - g. What facts were not presented?
  - h. What was the decision? Do you agree or disagree?
  - i. Are there grounds for an appeal?