

Mock Trial Student Brief **Theft of the Declaration of Independence**

For the **Mock Trial** activity your class will plan and execute a simulated civil or criminal court case. There will be no jury only a judge for this Mock Trial.

You should be prepared to not only present your own argument supported by evidence but also have thoroughly considered all the evidence in order to be prepared to ask or answer questions during the trial.

In addition to the Mock Trial, there is a **Follow-up Debrief** where you will put yourself in the role of an **Independent Digital Forensic Investigator** for the court and answer some questions.

By participating in the mock trial and the follow-up debrief the goal will be for you to strengthen your ability 1) to speak in public; 2) think critically to address a complex question or problem; and 3) learn to work as a team to achieve a common goal. On the last page (page 4) is the **student proficiency rubric** with criteria that will be used to assess your proficiency during the Mock Trial and Follow-Up Debrief.

MATERIALS

To prepare for the Mock Trial you will be reviewing the following:

- **Mock Trial Student Brief**
- **Preparing for A Mock Trial Handout (New York Times)**
- **Mock Trial Plan Handout-Due Process (more detailed description of Mock Trial)**
- **Two Digital Forensic Reports** submitted as evidence:
Report by Caroline Moutiez
Report by Briaux Alexandrine
- **Application for recording** audio or video clips.

MOCK TRIAL TEAMS

You will be a member of one of the following teams. The actual number of students in a team will depend on your class size. **Every member of the team should be prepared to present some aspect of the argument and/or evidence.**

- Prosecuting Attorneys (2-5 students) / Plaintiff
- Defense Attorneys (2-5 students) / Defendant 1 – Mr. Francesco Sforza
- Defense Attorneys (2-5 students) / Defendant 2 – Mr. Tim Pressive
- Witness – Digital Forensic Experts (2-5 students) for Defendant 1
- Witness – Digital Forensic Experts (2-5 students) for Defendant 2
- Bailiff – Timekeeper (the teacher)

PRESENTATIONS & OBJECTIONS¹

For in-class presentations to permit judges to hear and see better, attorneys should stand during opening and closing statements, direct and cross-examinations and all objections.

Presentations include:

- Opening Arguments
- Presenting Evidence & Questioning Witnesses
- Cross Examination and Redirect
- Closing Statements

A part of Mock Trial is **the raising and arguing of objections**. Objections are raised when the opposing counsel attempts to bring in evidence or testimony that go against the rules of evidence. When an objection is raised, the judge may either overrule or sustain it immediately, or ask opposing counsel for their argument about why the testimony/evidence is admissible. Time is paused for objections.

To prepare for this aspect of the Mock Trial you should consider and practice:

- what the opposing team may ask you
- what questions you may ask the opposing team

See **Mock Trial Plan** for description of common types of objections: **Leading question, Hearsay, Immaterial and Irrelevant, Opinions and Conclusions, Nonresponsive Answer.**

For more information regarding presentations review **Mock Trial Plan (Procedures)** and **Mock Trial Handout (NY Times Learning Network)**

MOCK TRIAL TIME LIMITS & ORDER OF PRESENTATIONS³

Statement/Examination/Argument	Time Limit
Opening Statement	5 minutes per side
Direct and Redirect Examination	25 minutes per side (adjust this depending on the number of students on the team and class length)
Cross and Re-cross Examination	25 minutes per side (adjust this depending on the number of students on the team and class length)
Pre-Closing Preparation	2 minutes
Closing Argument	5 minutes
Rebuttal (Prosecution only)	Is a portion of the closing argument time

The Prosecution/Plaintiff:

- gives the opening statement first
- gives the closing argument first
- may reserve a portion of its closing time for a rebuttal. The Prosecution/Plaintiff need not request or state that it is reserving rebuttal time.

TIMEKEEPING¹

Time is kept track of by the bailiff/timekeeper (your teacher), who times co-counsel's statements, examinations, and arguments. Time is stopped for objections.

Timekeepers are responsible for fairly and accurately keeping and reporting the time during the trial presentation. Timekeepers display the time remaining (on the mini whiteboard if in the class or in the chat window if presenting online) and indicate how much time is remaining during a particular part of the trial.

- Time runs from the beginning of the witness examination, opening statement, or closing argument until its conclusion.
- Introduction of counsel or witnesses prior to the opening statement shall not be included in the time allotted for opening statements.
- However, if counsel or witnesses are introduced once the opening statement has commenced, such time shall be included in the time allotted for the opening statement.
- Time stops only for objections, questioning from the judge, or administering the oath. Time does not stop for introduction of exhibits.

MOCK TRIAL DEBRIEF²

After a brief discussion you will be asked to put yourself in the role of an **Independent Digital Forensic Expert for the court** and present a Digital Forensic Brief focusing on the following questions.

Consider the opening statements, closing arguments and the digital forensic witness testimony to answer the following questions:

- What did the jury have to decide in this case?
- What specific evidence or arguments were particularly convincing?
- What specific evidence or arguments were particularly weak?
- Did the facts speak for themselves or did the presentation and performance matter?
- How did the process shed light on the digital forensic material? How did the process impact how you saw the characters and issues in a different way?
- As an Independent Digital Forensic Expert what information presented would you present? Is there additional evidence you believe should have been provided?

OTHER RESOURCES

To prepare watch:

Finding the Truth:

<https://www.open.edu/openlearn/people-politics-law/the-law/criminology/finding-the-truth>

Mock Trial Example <https://www.youtube.com/watch?v=zd89JpoHePE>

Excerpts for activity are from:

1 <https://digitalcommons.tourolaw.edu/cgi/viewcontent.cgi?article=1026&context=jel>

2 <https://learning.blogs.nytimes.com/2010/10/04/in-any-case-conducting-a-mock-trial/>

3 https://en.wikipedia.org/wiki/Mock_trial

Student Proficiency Rubric

CRITERIA MOCK TRIAL	Developing	Proficient	Exemplary	Suggestion for Student
Student is prepared for Mock Trial	has no or minimal notes	has some notes	has detailed notes	
Student presentation and arguments are reinforced with Digital Evidence & Timeline of Events	mentions only digital evidence OR elements from timeline of events but not both or not from both reports	mentions digital evidence AND elements from timeline of events from both reports but does little cross referencing between the two reports	mentions detailed digital evidence and elements from timeline of events AND cross references details between the two reports	
Student presents information clearly during the trial	information needs additional organization and more key facts	information is (a) organized but lacks key facts OR (b) information could be better organized however key facts are presented	information is well organized and many key facts are presented	

CRITERIA FOLLOW-UP DEBRIEF	Developing	Proficient	Exemplary	Suggestion for Student
Student provides a summary of critical findings relating to the case reinforced with supporting digital evidence and elements from the timeline of events . Criteria for summary includes the following: 1. specific location or devices where traces of digital evidence were found 2. evidence from the two digital forensic reports 3. includes elements from timeline of events and its relevance to key findings 4. cross-references information from both reports describing how information reinforces or contradicts each other	summary includes 1-2 of the criteria outlined	summary includes 3 of the criteria outlined	summary includes all 4 criteria outlined	mention key elements that could be improved on
Student presentation and arguments are reinforced with Digital Evidence & Timeline of Events	information paints a limited picture of events OR conclusions are made without supporting evidence	information paints a clear picture of events OR conclusions are made with supporting evidence	information paints a clear picture of events AND conclusions are made with supporting evidence	