

YMCA Michigan Youth in Government



**2016-17
Model Judiciary Program
Rules Packet**

Table of Contents

Overview of the Model Judiciary Program.....	2
Definitions	2
Trial Procedure	3
Trial Rules.....	4
Evidence and Objections	7
Objections	7
Evidence.....	9
Tips and Advice	12
General	12
Attorneys.....	13
Witnesses	13
Opening Statements.....	14
Direct Examination.....	14
Cross-Examination	14
Closing Arguments	15
Evidence and Objections	16
Scoring – Rules	17
Scoring -- Trial Components and Performance Levels	18
Judges Ballot for Mock Trial Competition	19
Mock Trial Critique Sheet	20
Notes	22



Overview of the Model Judiciary Program

Please read this information carefully. It summarizes the organization, trial procedures, and rules for participating in YMCA MYIG Model Judiciary Program. It is important that all participants (teams, advisors, coaches, parents, etc.) understand this information, they are responsible for any violation of the trial procedures or rules.

All teams are composed of four to six members. The members are expected to change roles from witness to attorney and attorney to witness as the schedule dictates. Each team is expected to argue both sides of the case, as they will be responsible to present both sides during the competition.

Each team will be assigned a team number upon registration. During the conference any and all references to the respective team will be by that assigned number only.

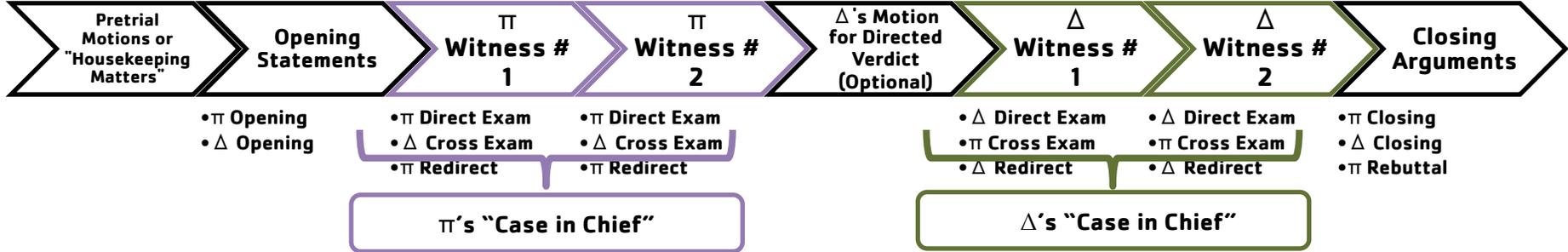
Definitions

- | | |
|--|---|
| <ul style="list-style-type: none">• Round: A competition trial.• Semi-Final Rounds: The two rounds that take place after the completion of rounds 1-6.• Conference Round: The round consisting of the two winners from the previous semi-final rounds.• State Final: The round consisting of the winning team from the first conference competition and the winner of the second conference competition. The winner of the State Final has the right to compete in the National Competition.• Win/Loss Record: Number of rounds a team has won and lost during Rounds 1-6.• Team Member: Any one of the 4-6 individuals on a team.• Team: A group of 4-6 students competing together.• Side: The role played by a team during a particular round (i.e. prosecution/plaintiff or defense).• Modification/Waiver: Any addition, deletion, or change to the MJP Rules. | <ul style="list-style-type: none">• Presiding/Scoring/Critiquing Judge: Used interchangeably to refer to the adult responsible for running the trial, ruling on objections and motions, providing member point scores and team win/loss scores, and giving feedback to the team members.• MJP Program Director: The individual responsible for the administration and supervision of the Model Judiciary Program as established by the YMCA Michigan Youth in Government office.• MJP Executive Committee: The group established to write and edit the MJP competition's procedures and rules, mediate disputes, and enforce sanctions for violations. The Executive Committee works separately from the MJP Program Director, who has no vote on the MJP Executive Committee. |
|--|---|

Trial Procedure

The chart below represents the order of an MJP trial.

- The "Π" symbol represents the Prosecution (for criminal trials) or Plaintiff (for civil trials).
- The "Δ" symbol represents the Defense.



Trial Rules

Failure to follow any of the rules may result in any penalty that the MJP Executive Committee deems appropriate, including but not limited to team point reduction, individual point reduction, or disqualification. All team members, advisors, coaches, and parents in a courtroom (whether participating in the trial or not) are subject to these rules.

1. Rule Changes and Authority of Judges:

- a. Presiding judges do not have authority to waive, cancel, modify, suspend, or add any rule.
- b. Any modification to rules for specific rounds must be granted by the MJP Executive Committee in writing, and is valid only for the duration of the round for which the modification was granted. The modification must be provided to both teams and the presiding judge before the round begins. The modifications will not be publicly posted, but will be maintained in the MJP Office and will be available for review upon request.
- c. The MJP Executive Committee reserves the right to amend these rules as necessary, potentially even during a conference. In the event the rules are amended, the change will be provided to the teams' advisors.

The judge has final authority for any courtroom decision not affected by these rules, including but not limited to objections, pretrial motions, courtroom seating, scoring, critiques, and decorum.

2. Witness statements have been stipulated to, as far as signatures and dates. Each witness statement was appropriately signed and dated before a notary public.
3. Teams are limited to the facts in the record, and any reasonable inferences that can be drawn from the record. Points may be deducted if, in the opinion of the judge, teams begin to step too far outside of the record.
4. The YMCA MYIG Office will provide all evidence. Use of any other pieces of evidence is prohibited and the use of any additional evidence will be result in a penalty at the discretion of the MJP Executive Committee.
5. All stipulated facts and mock trial statutes are correct and must be accepted as true by the parties and judges.

6. Team Sizes and Duties:

- a. Teams shall consist of between four and six members each. During any one trial, two attorneys and two witnesses from each team will participate. Any additional team members will be on "standby" during that trial. Team members' responsibilities (i.e. attorney, witness, or standby) will change during the competition, but not within a trial.
- b. During a trial, each team must divide its duties. Each attorney must conduct one direct-examination and one cross-examination. The attorney who conducts direct-examination on a witness is the only attorney allowed to object during the opposing team's cross-examination of that witness. Similarly, the cross-examining attorney for a particular witness is the only attorney allowed to object while that witness is in direct examination. One attorney will deliver an opening statement; the other attorney will deliver the closing argument.
- c. Each team is expected to be able to argue both sides of the case during the conference.
- d. Witnesses will testify only for their own team. All witnesses are gender neutral and participants without regard to gender may play witnesses.

- e. Standby members on a team may be asked by the judge to perform courtroom tasks, such as keeping time. Regardless of any additional duties assigned by the judge, the standby members are expected to pay close attention to the trial and be respectful of the trial process.
- f. Each team member must perform each one of the following roles at least once during the course of the preliminary rounds (i.e. first two days of the MJP Conference): an opening statement, a direct examination, a cross examination, a closing argument, and act as a witness.
- g. No team member may be substituted once a trial has started without prior approval of the MJP Program Director. If a team loses a member due to an illness or emergency during a trial or during the conference, the team must notify the MJP Program Director as soon as practicable. In such a case, the MJP Program Director has the sole discretion on how to proceed.
- h. Each team must call both of it's witnesses. The witnesses will not actually take an oath, but will be treated as having been sworn.

7. Time Limits:

- a. Teams are responsible for keeping track of the time limits for each portion of the trial and respecting the time limits. Standby members of a team should keep track of their team's times as well as the times of their opposing council.
- b. Redirect examination of a witness counts toward the time limit for direct examination of that witness.
- c. Voir dire of a proposed expert witness counts against the cross-examination time of that witness.
- d. The time limits on each phase of the trial are listed below:

Opening Statements	n's Opening Statement	4 minutes
	Δ's Opening Statement	4 minutes
n Witness 1	n Direct Exam	10 minutes
	Δ Cross Exam	10 minutes
	n Redirect Exam	<i>(Included in direct exam)</i>
n Witness 2	n Direct Exam	10 minutes
	Δ Cross Exam	10 minutes
	n Redirect Exam	<i>(Included in direct exam)</i>
Δ Witness 1	Δ Direct Exam	10 minutes
	n Cross Exam	10 minutes
	Δ Redirect Exam	<i>(Included in direct exam)</i>
Δ Witness 2	Δ Direct Exam	10 minutes
	n Cross Exam	10 minutes
	Δ Redirect Exam	<i>(Included in direct exam)</i>
Closing Arguments	n Closing	5 minutes
	Δ Closing	5 minutes
	n Rebuttal	3 minutes
Judges' Critique		19 minutes
		Total: 120 minutes

Note: Teams may NO LONGER request aggregate time.

8. Teams may prepare trial notes and notebooks, but submission of trial briefs, written motions, or similar documents is not permitted. Teams may not cite statutes or case law outside of the competition packet.
9. Coaches and observers shall not talk to, signal, communicate with, or otherwise coach the teams during trial. "Scouting" other teams is strictly prohibited.
10. Team members, advisors, parents, and teachers should have as little contact as is practical with the judges outside of the trial environment, to avoid any appearance of impropriety between the judges and teams. Any team who wishes further communication with a specific judge should submit the request in writing to the MJP Program Director. Any such further communication should be in the presence of a neutral third party.
11. Judges are not to speak to team members, advisors, parents, students, teachers, principals, or family members of the above individuals regarding discussions between the judge and the MJP Executive Committee without prior approval from the Executive Committee. The team members and advisors are responsible for enforcement of this rule. Any violation of this rule is grounds for immediate disqualification against the team for that round.
12. Judges shall not coach teams during a trial. Suggestions for improvement are to be made during the critique phase of the trial.
13. Team members should dress professionally. Judges have discretion to penalize team members if attire does not follow The YMCA Michigan Youth in Government Dress Code.
14. The use of cameras (still or video) inside the courtrooms is only allowed by YMCA MYIG Press members and the official YMCA MYIG photographer. The YMCA MYIG Press may videotape the semi-final, conference final, and state final rounds. Copies of these videos will may made available.
15. Operation of cell phones is not appropriate courtroom demeanor and will not be allowed in the courtroom. Violations by individuals associated with a team (even if the violator is not a team member) may cause point reduction or disqualification for that team.
16. The MJP Executive Committee may disqualify any team member who fails to observe proper courtroom decorum or adhere to The YMCA Michigan Youth in Government Mock Trial Rules or Code of Conduct. Disqualification of a team member may also result in disqualification of the team.
17. Appeals:
 - a. Legitimate grounds for appeal are limited to a judge, team member, or observer's failure to comply with the MJP Mock Trial Rules during a trial.
 - b. Any complaint or appeal must be addressed immediately after the round in which it took place, and before the judge's critique. The appeal or complaint shall be reported by one team member to the MJP Program Director, and will be considered by members of the MJP Executive Committee.
 - c. The MJP Executive Committee's discussions regarding an appeal will not be shared outside the Committee. The Committee may, at its sole discretion, invite advisors, team members, or other individuals to discuss the issue with the Committee.
 - d. The decision of the MJP Executive Committee is final and binding. The Committee has no obligation to discuss the reasoning, rationale, or any other aspect involved in the decision-making process. The adherence to the rules and spirit of the competition will be the sole motivation for the Committee's decisions.

Evidence and Objections

Objections

Objections are rules that the court uses to ensure that all testimony is accurate and trustworthy. If the other side asks or answers a question that violates one of the rules below, the appropriate team member may object to the question or answer.

This is an all-inclusive list of objections. If an objection is not listed below, you cannot use it during trial. Each of the objections below includes the purpose for the objection, a plain-language explanation of the objection, and an example of objectionable material.

1. **Leading** (FRE 611)

- a. Purpose: To prevent attorneys from suggesting answers to their witnesses during direct examination.
- b. Rule: During direct examination, only open-ended questions may be asked.
- c. Example:
 - i. An attorney asking his or her witness "Is it true that you were driving a yellow Camaro on June 16th?"
 - ii. This is a leading question. This suggests the answer to the witness, without allowing the witness to answer for him or herself.
 - iii. This could be fixed by asking the witness "What, *if anything*, were you driving on June 16th?" Many leading questions can be corrected in this way.

2. **Speculation** (FRE 611)

- a. Purpose: To prevent witnesses from guessing or making up answers.
- b. Rule: Witnesses may not guess or speculate to answer a question.
- c. Example: "Does the Defendant look like the type of person who would shoot someone?"
- d. Exception: This does not apply to witnesses who courts have accepted as expert witnesses. Expert witnesses can testify on any subject within their field of expertise. This objection can be applied to an expert witness if the expert witness is testifying outside of his or her field of expertise.

3. **Lack of Personal Knowledge** (FRE 602)

- a. Purpose: To prevent witnesses from testifying on issues on which they do not have direct knowledge. This is closely related to Speculation.
- b. Rule: Witnesses may only testify on what they personally have knowledge of.
- c. Example: "What is the Defendant's favorite color?" (Assuming the Defendant never told the Witness the favorite color.)
- d. Exception: This does not apply to witnesses who courts have accepted as expert witnesses. Expert witnesses can testify on any subject within their field of expertise.

4. **Compound** (FRE 611)
 - a. Purpose: To prevent multiple questions from being asked together, which could result in confusing answers.
 - b. Rule: When an attorney asks a question, the Witness should be allowed to answer before another question is asked.
 - c. Example: "Do you have a car, and have you ever driven it to Alaska?" If the witness simply answers "no," it is not clear whether the witness does not have a car, or has a car but has never driven it to Alaska.
5. **Confusing** (FRE 611)
 - a. Purpose: To prevent confusing questions from being asked.
 - b. Rule: Do not ask confusing questions.
 - c. Example: "Three days before you went to the supermarket, is it true that you had recently purchased a gun from your first cousin (once removed) but then only four weeks later, resold it to your neighbor from twenty years before?"
6. **Relevance** (FRE 401)
 - a. Purpose: To prevent irrelevant testimony from confusing the court/jury, and to prevent irrelevant testimony from entering the record.
 - b. Rule: A witness may only testify if the testimony will have a potential to directly impact the case at hand.
 - c. Example: Asking a witness about his mother's eye color, when the witness's mother has nothing to do with the court case.
7. **Argumentative** (FRE 611)
 - a. Purpose:
 - i. To prevent attorneys from being too aggressive with witnesses on cross-examination, and
 - ii. To prevent attorneys from stating unproven facts as true.
 - b. Rule:
 - i. Do not be too mean to witnesses.
 - ii. Do not state facts as true, if any evidence has not proved them.
 - c. Example:
 - i. Repeatedly asking a witness the same question until you get the answer you want.
 - ii. In your opening statement, referring to details of a piece of evidence that has not been introduced as evidence yet. Similarly, in your closing argument, referring to a piece of evidence that was not introduced at trial.
8. **Foundation** (FRE 901)
 - a. Purpose: To properly show the court about the background of proposed evidence or testimony.
 - b. Rule: If a witness is going to testify on a subject, event, or evidence, you need to ask some "foundation" questions first to demonstrate how the witness knows about that subject, event, or evidence.

- c. Example: Calling a witness to the stand, and immediately asking about the results of a DNA test, without establishing how the witness knows about the DNA test, whether the witness has even seen the DNA test before, what the DNA test is about, ...

9. **Hearsay** (FRE 801)

- a. Purpose: To prevent witnesses from testifying on statements they heard outside of court, when those statements cannot be independently verified.
- b. Rule: A witness cannot testify on a statement that was made out of court by someone other than the witness (i.e. the “declarant”) to prove the truth of that statement.
- c. Example: In Suzie’s murder trial where Billy is the defendant, a witness who is not Billy cannot say “Last week, I heard Billy say that he was going to kill Suzie.” Billy’s statement is hearsay, so it is not allowed. It is (1) a statement (2) made out of court by Billy, who is not the witness, (3) being used to prove that Billy murdered Suzie.
- d. Exceptions: There are a few exceptions to the hearsay rule. If witness testimony is hearsay, but falls under one of the below exceptions, the witness may offer that testimony.
 - i. Party-Opponent: when an opposing party made the out-of-court statement about the case (for example, the defendant or the plaintiff). (FRE 801(d)(2)).
 - ii. Present Sense Impression: The out-of-court statement describes or explains an event or condition immediately after the declarant witnessed it. (FRE 803(1)).
 - iii. Excited Utterance: The out-of-court statement relates to a startling event or condition, made while the declarant was under the stress of excitement that the event or condition caused and made before the declarant had time to fabricate a false statement. (FRE 803(2)).
 - iv. Then-Existing Mental, Physical, or Emotional State: The out-of-court statement was about the declarant’s then-existing state of mind (such as motive, intent, or plan) or an emotional, sensory, or physical condition (such as mental feeling or pain). (FRE 803(3)).
 - v. Public Records and Reports: A record, report, or statement of a public office setting forth the activities of the office and relating to an activity that the office has a duty to carry out. For criminal cases, this does not include matters observed by police officers. (FRE 803(8)).
 - vi. Business Records: A record, report, or statement that was made by someone with knowledge of the information. The record, report, or statement must have been kept in the course of a regularly conducted activity of the business and keeping the record or information was a regular practice of that business. (FRE 803(6)).

Evidence

1. Exhibits

- a. In order to use an exhibit during trial, you must go through several steps to have it admitted as an exhibit. Before an exhibit is admitted, it is only a proposed exhibit. The substance of the proposed exhibits cannot be discussed during trial. The process of admitting an exhibit proves to the court that the exhibit is actually what you say it is, and that the witness who will be testifying about the exhibit has knowledge of the exhibit.
- b. During direct or cross examination of a witness, use the following steps as a guide to have a proposed exhibit admitted as an exhibit:
 - i. Obtain the proposed exhibit from the bench (remember to ask permission to approach the bench.)

- ii. State out loud that you are offering “proposed exhibit (exhibit number)” for identification.
 - iii. State out loud that you are showing the proposed exhibit to opposing counsel, and then do so.
 - iv. State out loud that you are handing the proposed exhibit to the witness, and then do so (remember to ask permission to approach the witness.)
 - v. Lay a proper foundation for the proposed exhibit by asking the witness at least the following questions:
 1. Do you recognize this proposed exhibit?
 2. How do you recognize it?
 3. Has it changed substantially since you last saw it?
 4. Is it a fair and accurate representation of (whatever it is)?
 - vi. Ask the court to admit “Proposed Exhibit (exhibit number)” as “Exhibit (exhibit number).” The court may ask the opposing team if they have any objections. If the court is satisfied, the proposed exhibit is admitted as an exhibit.
 - vii. Now, you may ask the witness about the substance and contents of the exhibit. Do not forget to retrieve the exhibit from the witness after you are done examining the witness about the exhibit.
 - viii. Any witness can be questioned about any exhibit, and any attorney can establish the foundation for admission of any exhibit (assuming that witness has the knowledge to establish the foundation.).
- c. Once an exhibit has been admitted, it can be given to the jury (“published”) so they can look at it. It can be read from or used throughout the rest of the trial, including with other witnesses. It can also be used and referred to in closing argument.

2. **Expert Witnesses** (FRE 702)

- a. A witness may be admitted as an expert witness if that witness’s scientific, technical, or specialized knowledge will help the jury (or judge, if there is no jury) understand the evidence or determine facts in the case. Normally, witnesses may only testify on facts within their personal knowledge. However, expert witnesses may testify on their opinions of anything within their area of expertise. For example, a regular witness cannot testify whether the defendant would be psychologically motivated to commit a murder. However, an expert witness in criminal psychology would be able to testify on this subject.
- b. In order to have your witness admitted as an expert witness, you must prove to the court that the witness is an expert in a particular area. This process involves laying a foundation for the court that your witness is really an expert.
 - i. As part of the direct examination process, have your witness answer questions about his or her technical ability, such as educational background, work experience, and research completed.
 - ii. After you have fully explored the witness’s expertise, you must ask the court to enter the witness as an expert witness in the field of (whatever field of expertise your witness is an expert in).

- iii. The opposing team has an opportunity at that time to cross-examine the witness to show why that witness should not be admitted as an expert. This process is called voir dire.
 - iv. At the end of the cross examination, the judge will make a determination on whether the witness will be entered as an expert.
- c. After a witness is entered in as an expert witness, the expert witness can then testify on anything within his or her field of expertise. Speculation and lack of personal knowledge objections may not be made against expert witness testimony within his or her field of expertise—this is one reason why having an expert witness is such a great advantage.

3. **Impeachment** (FRE 607)

- a. If, during direct or cross-examination of a witness, the witness makes a statement that does not agree with his or her witness statement, you can impeach them to demonstrate to the court that one of the statements must be a lie.
- b. First, be absolutely sure that the statement is inconsistent. Once you are certain, ask these questions to establish the foundation behind the witness statement:
 - i. You gave a witness statement for this case?
 - ii. You were being truthful and honest when you gave that statement?
 - iii. You were under oath for that statement?
 - iv. You had a chance to review that statement before you signed it?
 - v. And you signed it on (date)?
- c. After the witness answers yes to these questions, locate the inconsistency in the witness statement and have the witness read it aloud. Then ask the following questions (If the witness answers no, then move on and mention it during your closing argument):
 - i. Would you agree with me that your witness statement says (what witness statement says)?
 - ii. But when you were testifying a few moments ago, you said (inconsistent statement that the witness said before)?
- d. After this, you have successfully impeached the witness. Proceed with the rest of your cross-examination.

4. **Memory Refresh** (FRE 612)

- a. During direct examination, a witness may forget part of his or her statement or forget his or her testimony. After your witness says, "I don't remember," you may proceed with the following steps to help refresh the witness's memory using his or her witness statement.
- b. Ask the witness if he or she has made a written statement that was truthful, and was made at a time when his or her memory was better.
- c. Ask the witness if reviewing his or her witness statement that they gave under oath would help refresh his or her memory.

- d. Once the witness agrees, call the court's attention to the location (page, paragraph) in the witness statement including the testimony that will be used to refresh the witness's memory.
- e. Hand the witness statement to the witness, and ask the witness to read the relevant portion of the testimony.
- f. When the witness is finished reading, ask the witness if his or her memory is refreshed. If so, proceed with re-asking the question that the witness did not know how to answer.

Tips and Advice

General

1. Familiarize yourself with the case materials.
2. Always be polite and courteous. Never lose your temper.
3. Dress professionally.
4. Be relaxed and in control. Even if you are nervous, appearing confident is important.
5. Always stand when the judge enters or leaves the room. It is appropriate to say "Yes, your Honor" or "No, your Honor" when answering questions from the judge.
6. Arrive in the courtroom at least 15 minutes before your round is scheduled to begin to acquaint yourself with the layout and prepare for an on-time trial.
7. Any timekeepers or extra team members should be in the jury box, if one is provided.
8. The attorney's tables are set to seat two attorneys comfortably. Be sure there is adequate room to rise from your chair and approach the bench or witness stand.
9. Attorneys should neatly organize their materials on the tables. Do not have unnecessary papers, briefcases, or pencils.
10. Witnesses should seat themselves in separate areas of the spectator's section. This will eliminate unnecessary conversation during the trial.
11. Be sure to remove your hat while indoors.
12. Do not chew gum during trial.
13. Be sure to speak loudly and enunciate each word, as microphones are usually not available.
14. Remember that from the bench, the judge has a good view of the entire courtroom. Focus on good seating posture. Put your feet flat on the floor, or cross your legs in a professional manner. Avoid nervous mannerisms, such as shaking your leg or tapping your pencil.
15. Your case should have a theme, also called a "hook." The theme of your trial is a way to help the jury (or judge, if there is no jury) identify with and relate to your side, and why your side should win the trial. Themes should be creative, and are often either a single word or a phrase that explains your case. For example, in a murder case where the defendant was angry or aggressive by nature, the prosecution could use "The Color Red" as its theme to represent the defendant's

anger. Try to include the theme during every part of your trial. Ideally, the theme should be used three times during your opening to help secure it in the judge's mind. As you become more skilled, try to argue against your opponent's theme during the trial.

Attorneys

1. If the judge rules against you on an objection, take defeat gracefully and act cordially toward the judge and the other side. Say "thank you, your Honor" and sit down. Just because a judge overrules your objection does not mean that you have lost the case.
2. Always stand when you address the court, including making objections.
3. Before trial, teams may ask the judge for certain pretrial motions or "housekeeping matters." Granting or denying pretrial motions is in the sole discretion of the presiding judge. A list of common pretrial motions is below:
 - a. The ability to aggregate time limits, as long as the overall trial time limit is respected.
 - b. Permission to move freely about the "well" (the courtroom floor) during the trial.
 - c. Asking the judge's preference on whether attorneys must always ask to approach witnesses (e.g. to show the witness a piece of evidence), or if only one request per witness is necessary.
4. After the plaintiff or prosecution rests its case, the defense may call for a "Directed Verdict." In a Directed Verdict, the defense must argue why the plaintiff or prosecution, even after calling all its witnesses, has no chance to win the case. The defense is expected to cite specific parts of the statute used in the case, and how the plaintiff or prosecution failed to prove the elements of the statute. Note: In a real trial, if the judge granted a Directed Verdict, the trial would end immediately and the defense would win. In MJP, the judges will always deny a motion for Directed Verdict, to give the defense an opportunity to present its case.
5. Stand behind the lectern during questioning or delivering opening statements and closing arguments, unless you have previously been granted permission to move about the well, approach the witness, or approach the bench.
6. Avoid reading from notecards or cue cards wherever possible. Lawyers who maintain more natural eye contact generally are more persuasive.
7. Do not be afraid to object. If your gut tells you something is objectionable, confidently make an objection. You will not be penalized for trying.
8. Keep a notepad at the counsel's table for notes and comments to your co-counsel. You should not be whispering or talking during the competition at the counsel's table.

Witnesses

Witnesses play a key role on the mock trial teams. In the competition, witnesses may score as many points as the attorneys. Many trials are won and lost on the witness stand.

1. Know what you should testify to and what other witnesses know.
2. Witnesses may not use notes while on the stand.
3. Review your testimony repeatedly with your attorneys. Have them cross-examine you to help discover the weaknesses in your testimony. Be prepared to handle hostile and unexpected questions from opposing counsel.

4. Do not try to memorize exactly what you will say in court, and do not read your witness statement word for word. Instead, try to recall what you observed at the time of the incident and describe it naturally.
5. Be the witness. You must establish your credibility as a witness by accurately portraying the character. Demonstrate the knowledge and understanding of the person. If a judge or attorney asks you a question you have not rehearsed, do not panic. Just answer the question as you think the witness would, consistent with the witness statement.
6. Listen carefully to questions. Before you answer, make sure you understand what was asked. If you realize that you answered a question incorrectly, ask the judge if you may correct your answer.
7. Do not give your personal opinion or conclusions when answering questions, unless specifically asked. Give only the facts, as you know them, without guessing or speculating. If you do not know the answer or do not understand the question, do not be afraid to say so.
8. When answering questions, speak clearly so you will be heard. The judge must hear and record your spoken answer; so do not respond by shaking your head in a “yes” or “no” manner.
9. Any witness can be questioned about any exhibit, and any witness can establish the foundation for the admission of an exhibit.

Opening Statements

1. The objective of opening statements is to give the court an overview of the storyline of the trial. You should not be making legal arguments during opening statements, only previewing evidence and witnesses. Above all, focus on telling a clear story during your opening statement.
2. Start with an introduction of you and your co-counsel. Your co-counsel should stand when introduced.
3. You should describe the two witnesses your side will call, and what those witnesses will discuss. If you plan to admit exhibits, this should be discussed in your opening statement as well.
4. The opening should include the crime or statute that is at issue in the case, as well as a description of each of the different parts—or elements—of that crime or statute. The prosecution/plaintiff must prove all of those elements to win the case. The defense must keep the prosecution/plaintiff from proving at least one of those elements.
5. In criminal trials, the prosecution must prove all elements of the statute beyond a reasonable doubt. In civil trials, the plaintiff must prove all elements of the statute by a preponderance of the evidence (more likely than not that the plaintiff is correct). This is called the prosecution’s/plaintiff’s “Burden of Proof.” This should be discussed and explained to the judge/jury during your opening statement. Try using an analogy to explain it.
6. For the prosecution in criminal trials, the opening statement must include location of the offense, offense, venue where the offense occurred, identification of the suspect in the courtroom, and the date of the offense—you can use the mnemonic LOVID to remember these elements. In real life, if the prosecution does not include LOVID, the case may be dismissed.
7. For the defense in criminal trials, you should mention that the defendant has a 5th Amendment right to not testify in court, but is choosing to of his/her own free will. This shows the judge and jury that the defendant has nothing to hide, and wants to tell his/her story.
8. Be sure to mention your theme in your opening statement.

9. During your opening statement, be careful not to make promises about what the judge or jury will hear during the trial. If something does not go according to your plan at trial, do not get frustrated. Stay calm and get through as much information as you can.

Direct Examination

1. The main purpose of a direct examination is to let the witness tell his or her story. As the attorney, try to put all the attention on the witness. Ask simple, open-ended questions to guide the witness through the story.
2. You should only ask open-ended questions during your direct examination. These are questions that require for more than a “yes” or “no” answer. This allows your witness to tell his or her story.
3. Do not ask questions that lead the witness toward a particular answer. These are called leading questions, and are not allowed on direct examination. See the Evidence and Objections section for more detail.
4. Witnesses can only discuss what they have personally experienced. They are not allowed to make educated guesses or conclusions about things they have not personally experienced. The only exception is expert witnesses, who are allowed to testify on anything within their field of expertise, subject to the Rules of Evidence. See the Evidence and Objections section for more detail.

Cross-Examination

1. Cross-examination is difficult, even for law students and practicing attorneys. Many say it is the hardest trial skill to master, so do not feel defeated or frustrated if you believe you are having issues with cross-examination. Though it is stressful, it can be a very fun part of the trial.
2. During direct examinations, the witness is in the spotlight. Cross-examination is the opposite—all attention should be on the attorney, not the witness.
3. Create your questions carefully. Good cross-examination questions should be very short, and always close-ended.
4. The best cross-examination questions will only have two possible answers from the witness: the answer that makes the witness look bad, or a lie. If the witness answers in a way that makes him or her look bad, then you are doing a good job on cross-examination. If the witness lies to avoid looking bad, then you can impeach the witness (to make him or her look bad). Cross-examination questions should almost always be leading questions.
5. Never ask a question that you do not know the answer to.
6. Consider breaking up one complex question into several very simple ones. Example (with pauses to let the witness answer after every question): “You went to the scene, correct? And then you saw the body? There was a gun? On the floor? Next to the body? But there was no blood on the floor, correct? Isn’t it true that you did not secure the scene?”

Closing Arguments

1. This is your last opportunity to speak to the court, so be persuasive. Use all of the evidence and testimony that occurred during the trial to your full benefit.
2. It is OK to prepare a closing before trial, but be ready to modify your closing. For example, if you planned on admitting an exhibit, but the judge did not allow it to be admitted, do not reference it in your closing.

3. Be sure to bring up the elements of the crime or statute, and why your side proved all of the elements of your case and why it weakens the opposing council's case, (for the prosecution/plaintiff) or why the other side did not prove one or more of them (for the defense). This should be the biggest focus of your closing.
4. Make sure to mention the burden of proof when discussing the elements above.
5. Do not forget about your theme. You should use it at least three times during your closing argument, just like the opening statement. If the other side used a theme, try to use it against them and explain why it does not make sense.
6. If the other side made promises during opening statement that they did not keep during trial, remind the court of this during your closing argument.
7. Be sure to highlight any holes in the opposing side's witness testimony that occurred during trial.
8. During your closing argument, you should refer to any admitted exhibits during the trial to help explain your case or damage the other team's case.

Evidence and Objections

1. When you hear an objectionable question or answer, stand up quickly and say "Objection, your honor." Then, once you have been recognized by the judge, state your objection and reasoning behind your objection.
2. The court may allow the other side to argue against the objection.
3. If the judge says, "sustained," the judge agreed with the objection and the attorney must (a) rephrase the question in a non-objectionable way, or (b) move to the next question.
4. If the judge says, "overruled," the judge did not agree with the objection and the question may be re-asked to the witness.
5. Very often, a question may be objectionable for multiple reasons. If you can list multiple objections to a question or answer, this shows you have a very good grasp of the rules of evidence and increases the likelihood that the judge will sustain the objection. Remember, it only takes one correct objection to stop a question.

The last and most important tip: HAVE FUN. You have worked very hard on this, and you know what you are doing. Enjoy the competition.

Scoring – Rules

- Judge’s score sheets and critique sheets are enclosed for the team members to become familiar with.
- Six rounds will be set up on a round robin basis. Decisions will be win/loss based on numerical scores for each trial. Participants will be judged on opening statements, direct examination, cross-examination, closing arguments, evidence and objections and demeanor.
- “Bye” rounds will not result in any disadvantages to a team’s overall score.
- The four teams with the best winning record at the completion of the sixth round will move on to the semi-final rounds. In the event there is a tie between two teams for fourth place the tie-breaking decision is based upon the “Margin of Victory”.
 - Margin of victory is the number of points a team won or lost a round by. For example, if Team A’s score was 100, and Team B’s score was 95 in round one, Team A’s margin of victory is 5 points, and Team B’s margin of victory is -5 (negative 5) points.
 - If two teams have the same win/loss record after the preliminary rounds, the team with the highest overall margin of victory would move on to the next rounds.
- Scores will not be posted at any point in the competition.
- Score sheets will be available after the competition is completed at each conference. Critique sheets will be available at the conclusion of each round. At no point will the conference semi-final rounds, the conference final round or the state final score sheet be available for review.
- If a team drops out or is disqualified from the competition, the next highest-ranking team may be permitted to replace the absent team at the discretion of the MJP Executive Committee.
- A coin flip will determine team sides in the semi-final, conference final, and state final rounds. However, the teams may agree beforehand to stipulate to a specific side.

Scoring -- Trial Components and Performance Levels

Trial Components
<p>Opening Statement</p> <ul style="list-style-type: none"> • Tells a story • Establishes LOVID (Location, Offense, Venue, ID, Date) • Previews own witnesses • Burden of Proof • Theme/Theory • Asks for verdict
<p>Direct Examination</p> <ul style="list-style-type: none"> • Develops a conversation with witness • Uses open-ended questions • Sets the scene for testimony • Obtains necessary information for claim/defense
<p>Cross Examination</p> <ul style="list-style-type: none"> • Tells their own story through witness • Asks leading questions • Can tell what they want out of the witness and accomplish it • Uses witnesses words against them
<p>Closing Argument</p> <ul style="list-style-type: none"> • Argues the evidence • Does not just restate it • Reestablishes LOVID • Relates back to theme of opening • Connects the dots of testimony of all witnesses • Argues elements and burden of proof • Asks for verdict
<p>Evidentiary Issues</p> <ul style="list-style-type: none"> • Shows knowledge of Federal Rules of Evidence • Lays proper foundations • Makes timely and appropriate objections • Responds to objections directly • Asks for or responds to directed verdict/judgment of acquittal, including standard of review
<p>Demeanor/Procedure</p> <ul style="list-style-type: none"> • Professional attire • Respectful to the court and opposing counsel • Does not make frivolous objections

Performance Levels
<p>5: Excellent</p> <ul style="list-style-type: none"> • Creative • In role • Passionate about client • Uses opposing client's arguments against them • Has clear theory and/or theme
<p>4: Very Good</p> <ul style="list-style-type: none"> • Understands issues • Uses theory throughout case and analyzes facts well
<p>3: Good</p> <ul style="list-style-type: none"> • Recognizes key issues • Makes and responds to objections • Has clear theory
<p>2: Fair</p> <ul style="list-style-type: none"> • Prepared • Able to perform, but misses key facts and issues • Unable to lay a proper foundation without assistance
<p>1: Poor</p> <ul style="list-style-type: none"> • Not prepared • Inarticulate • Stumbling • Not learning from mistakes

Judges Ballot for Mock Trial Competition

Date:		Presiding Judge (Printed name):	
Round:			
Team Number:		Team Side (circle one):	Prosecution/Plaintiff Defense

Scoring: Circle the appropriate number below for each student attorney and witness. Be sure each category is scored for each student.

Scoring Guide: 1=Poor, 2=Fair, 3=Good, 4=Very Good, 5=Excellent

Attorney 1					
Student Name:					
Open/Close:	1	2	3	4	5
Direct Exam:	1	2	3	4	5
Cross Exam:	1	2	3	4	5
Evidence+Objections:	1	2	3	4	5
Demeanor:	1	2	3	4	5
<u>Individual Total:</u>					

Attorney 2					
Student Name:					
Open/Close:	1	2	3	4	5
Direct Exam:	1	2	3	4	5
Cross Exam:	1	2	3	4	5
Evidence+Objections:	1	2	3	4	5
Demeanor:	1	2	3	4	5
<u>Individual Total:</u>					

Witness 1					
Student Name:					
Direct Response:	1	2	3	4	5
Cross Response:	1	2	3	4	5
Overall Character:	1	2	3	4	5
Originality:	1	2	3	4	5
<u>Individual Total:</u>					

Witness 2					
Student Name:					
Direct Response:	1	2	3	4	5
Cross Response:	1	2	3	4	5
Overall Character:	1	2	3	4	5
Originality:	1	2	3	4	5
<u>Individual Total:</u>					

Team Total _____

In my opinion, the <<Prosecution/Plaintiff>> ----- <<Defense>> (circle one) presented the better overall case in form, presentation, and preparation.

Presiding Judge Signature: _____

Mock Trial Critique Sheet—Type 1

Round: _____ TEAM NUMBER: _____

Opening Statement

Factors to consider: Tells a story; Establishes LOVID (location, offense, venue, ID, date); Previews own witnesses; Burden of proof; Theme/theory; Asks for a Verdict; Ends strong.

Direct Examination

Factors to consider: Develops a conversation with witness using a logical progression of questions; Uses open-ended questions; Sets the scene for testimony; Obtains necessary information for claim/defense.

Attorney #1

Attorney #2

Cross Examination

Factors to consider: Tells their own story through witness; Asks leading questions; Can tell what they want out of the witness and accomplish it; Uses witnesses' words against them.

Attorney #1

Attorney #2

Closing Argument

Factors to consider: Argues the evidence; Does not just restate it; Relates back to theme of opening; Reestablishes LOVID; Connects the dots of testimony of all witnesses; Argues elements and burden of proof; Asks for verdict.

Evidentiary Issues

Factors to consider: Shows knowledge of Federal Rules of Evidence; Lays proper foundations; Makes timely and appropriate objections; Responds to objections directly; Asks for or responds to directed verdict/judgment for acquittal, including standard of review.

Attorney #1

Attorney #2

Demeanor/Procedure for Entire Team

Factors to consider: Professional attire; Respectful to the court and opposing counsel; Does not make frivolous objections; overall presentation of the case.

Witnesses

Factors to Consider: Knowledge of statements, ability to work with their attorney and opposing attorney, overall attitude, willingness to answer questions

Witness #1:

Witness #2:

Notes