

MOCK TRIAL NOTEBOOK TEMPLATE

1. Click File, then Make a Copy or Download to get your own, editable copy of this template
2. Read your Mock Trial Scenario and make plans to prove or defend your case
3. Watch this 60-second [video](#) to quickly get an overview of how to make a mock trial notebook
4. View the [How to Conduct a Mock Trial](#) slide show to learn how to testify and argue in court
5. Combine and tab the following items in a binder or PDF to create a physical or digital Mock Trial Notebook ([example](#)) (popular scanning apps include Adobe Scan and Genius Scan)

People v.	Table of Contents – include every item listed	Page
Criminal Complaint (create using facts and charges from police report and statutes)		
Prosecution Opening Statement – <i>list charges & elements; list & introduce your witnesses</i>		
Defense Opening Statement – <i>preview your theme; list & introduce your witnesses</i>		
Prosecution Direct Examination of Prosecution Witness 1 – <i>use open-ended questions</i>		
Defense Cross Examination of Prosecution Witness 1 – <i>use leading questions</i>		
Statement of Prosecution Witness 1 (from Mock Trial Scenario)		
Prosecution Direct Examination of Prosecution Witness 2 – <i>use open-ended questions</i>		
Defense Cross Examination of Prosecution Witness 2 – <i>use leading questions</i>		
Statement of Prosecution Witness 2 (from Mock Trial Scenario)		
Prosecution Direct Examination of Prosecution Witness 3 – <i>use open-ended questions</i>		
Defense Cross Examination of Prosecution Witness 3 – <i>use leading questions</i>		
Statement of Prosecution Witness 3 (from Mock Trial Scenario)		
Prosecution Direct Examination of Prosecution Witness 4 – <i>use open-ended questions</i>		
Defense Cross Examination of Prosecution Witness 4 – <i>use leading questions</i>		
Statement of Prosecution Witness 4 (from Mock Trial Scenario)		
Defense Direct Examination of Defense Witness 1 – <i>use open-ended questions</i>		
Prosecution Cross Examination of Defense Witness 1 – <i>use leading questions</i>		
Statement of Defense Witness 1 (from Mock Trial Scenario)		
Defense Direct Examination of Defense Witness 2 – <i>use open-ended questions</i>		
Prosecution Cross Examination of Defense Witness 2 – <i>use leading questions</i>		

Statement of Defense Witness 2 (from Mock Trial Scenario)	
Defense Direct Examination of Defense Witness 3 – <i>use open-ended questions</i>	
Prosecution Cross Examination of Defense Witness 3 – <i>use leading questions</i>	
Statement of Defense Witness 3 (from Mock Trial Scenario)	
Defense Direct Examination of Defense Witness 4 – <i>use open-ended questions</i>	
Prosecution Cross Examination of Defense Witness 4 – <i>use leading questions</i>	
Statement of Defense Witness 4 (from Mock Trial Scenario)	
Prosecution Closing Argument – <i>prove venue, ID, every element of every charge</i>	
Defense Closing Argument – <i>show how the facts fit your theme; establish reasonable doubt</i>	
Prosecution Rebuttal Argument – <i>highlight weaknesses in defense case</i>	
Exhibits (from Mock Trial Scenario) – <i>list and number your exhibits with objections/support</i>	
Jury Instructions (from Mock Trial Scenario)	
Stipulations	
Common Objections	
Scorecards – <i>score your teammates and each attorney and witness</i>	

PROSECUTION OPENING STATEMENT

Here is a typical prosecution opening statement format. You may follow this or create something else. I am providing a roadmap/preview of this case. Defendant (D) is charged with:

Charge		
Elements		

For you to find D guilty, I must prove each element beyond a reasonable doubt. Evidence will show:

Witness 1 (Name:) Highlight how this testimony meets elements:

Witness 2 (Name:) Highlight how this testimony meets elements:

Witness 3 (Name:) Highlight how this testimony meets elements:

Witness 4 (Name:) Highlight how this testimony meets elements:

That's the prosecution's case. The evidence I introduce will prove beyond a reasonable doubt that the defendant is guilty of every crime charged. Now, I am asking you to:

1. Listen to the witnesses
2. Pay careful attention to the evidence that is admitted, &
3. Use your common sense

At the close of this trial, I will ask that based on the evid, you find the defendant GUILTY as charged

DEFENSE OPENING STATEMENT

Introduce your theme (e.g., my client was framed, rush to justice, sloppy police work, etc.)

- Remind the jury: client is innocent, state carries all the burden, jury's job is important
- Make/frame any concessions that you must
- Rest of the story, gray areas, etc. Be creative. You only need to establish reasonable doubt
- If the prosecutor made promises you don't think s/he can keep, note them for closing

Defense theme:

Witness 1 Highlight how this testimony advances defense theme/weakens prosecution's case:

Witness 2 Highlight how this testimony advances defense theme/weakens prosecution's case:

Witness 3 Highlight how this testimony advances defense theme/weakens prosecution's case:

Witness 4 Highlight how this testimony advances defense theme/weakens prosecution's case:

Let's critically examine the evidence offered (question motives behind testimony, circumstantial evidence, expert qualifications, etc.). At the end of this trial, after we review the evidence that has been presented, I will ask you to find my client NOT guilty.

PROSECUTION DIRECT EXAM OF PROSECUTION WITNESS 1

Here are some typical questions, to get you started.

State your name, occupation, how long (elicit training/experience if needed)

Turn your attention to _____ on/at approximately _____ am/pm?

Did something draw your attention? Where?

Venue

What did you find? (victim, Ws, observations)

Then what did you do? (further investigation)

Do you see that person in the courtroom? Please point out and describe for the record? ID

DEFENSE CROSS EXAM OF PROSECUTION WITNESS 1

- Highlight facts that support your theme of the case
- Elicit facts that weaken your opponent's case
- Challenge evidence that hurts your case, e.g., witness issues with
 - **perception** – from where you stood, you couldn't see the alleged event take place?
 - **recall** – your memory of the incident was better when it occurred than it is today?
 - **bias** – you don't like my client? you are testifying to help the police? You don't want to get in trouble for your role?

* Note: Prosecutors need only prove venue and ID once per case, not with each witness

PROSECUTION DIRECT EXAM OF PROSECUTION WITNESS 2

Here are some typical questions, to get you started.

State your name, occupation, how long (elicit training/experience if needed)

Turn your attention to _____ on/at approximately _____ am/pm?

Something draw your attention? Where?

Venue

What did you find? (victim, Ws, observations)

Then what did you do? (further investigation)

Do you see that person in the courtroom? Please point out and describe for the record? ID

DEFENSE CROSS EXAM OF PROSECUTION WITNESS 2

- Highlight facts that support your theme of the case
- Elicit facts that weaken your opponent's case
- Challenge evidence that hurts your case, e.g., witness issues with
 - **perception** – from where you stood, you couldn't see the alleged event take place?
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* Note: Prosecutors need only prove venue and ID once per case, not with each witness

PROSECUTION DIRECT EXAM OF PROSECUTION WITNESS 3

Here are some typical questions, to get you started.

State your name, occupation, how long (elicit training/experience if needed)

Turn your attention to _____ on/at approximately _____ am/pm?

Something draw your attention? Where?

Venue

What did you find? (victim, Ws, observations)

Then what did you do? (further investigation)

Do you see that person in the courtroom? Please point out and describe for the record? ID

DEFENSE CROSS EXAM OF PROSECUTION WITNESS 3

- Highlight facts that support your theme of the case
- Elicit facts that weaken your opponent's case
- Challenge evidence that hurts your case, e.g., witness issues with
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* Note: Prosecutors need only prove venue and ID once per case, not with each witness

PROSECUTION DIRECT EXAM OF PROSECUTION WITNESS 4

Here are some typical questions, to get you started.

State your name, occupation, how long (elicit training/experience if needed)

Turn your attention to _____ on/at approximately _____ am/pm?

Something draw your attention? Where?

Venue

What did you find? (victim, Ws, observations)

Then what did you do? (further investigation)

Do you see that person in the courtroom? Please point out and describe for the record? ID

DEFENSE CROSS EXAM OF PROSECUTION WITNESS 4

- Highlight facts that support your theme of the case
- Elicit facts that weaken your opponent's case
- Challenge evidence that hurts your case, e.g., witness issues with
 - **perception** – from where you stood, you couldn't see the alleged event take place?
 - **recall** – your memory of the incident was better when it occurred than it is today?
 - **bias** – you: don't like my client? are testifying to help the police? don't want to get in trouble for your role?

* Note: Prosecutors need only prove venue and ID once per case, not with each witness

DEFENSE DIRECT EXAM OF DEFENSE WITNESS 1

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Turn your attention to _____ on/at approximately _____ am/pm?

Something draw your attention? Where?

What did you find? (victim, Ws, observations)

Then what did you do? (further investigation)

PROSECUTION CROSS EXAM OF DEFENSE WITNESS 1

Elicit facts that support your theme of the case

Elicit facts that hurt your opponent's case

Challenge witness statements that hurt your case (e.g., issues with perception, memory or bias, e.g.:

- You are his/her mother?
- You don't want to see D in trouble?
- Were you afraid your friend, D, would get in trouble if you gave stmt?
- You are afraid your friend, D, will get in trouble now if you don't?

DEFENSE DIRECT EXAM OF DEFENSE WITNESS 2

Here are some typical questions, to get you started.

State your name, occupation, how long (elicit training/experience if needed)

Turn your attention to _____ on/at approximately _____ am/pm?

Something draw your attention? Where?

What did you find? (victim, Ws, observations)

Then what did you do? (further investigation)

PROSECUTION CROSS EXAM OF DEFENSE WITNESS 2

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What did you find? (victim, Ws, observations)

Then what did you do? (further investigation)

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Something draw your attention? Where?

What did you find? (victim, Ws, observations)

Then what did you do? (further investigation)

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Elicit facts that hurt your opponent's case

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- You are his/her mother?
- You don't want to see D in trouble?
- Were you afraid your friend, D, would get in trouble if you gave stmt?
- You are afraid your friend, D, will get in trouble now if you don't?

PROSECUTION CLOSING ARGUMENT

Here is a typical prosecution closing argument format. You may follow this or create something else. Go over the elements, showing how the evidence satisfies each:

Charge			
Elements			

What has been proven beyond a reasonable doubt? What is reasonable?

Remind the jury to use common sense

DO NOT:

1. Discuss **sentencing** (the only way he will spend time behind bars is guilty on all counts)
2. Ask jurors to put yourself in anyone's **shoes** (imagine you're the victim, you were robbed, etc.)
3. Ask jurors to set an **example** (let's show these criminals that we don't allow vandalism in our town)
4. Ask why the defendant did **not testify**, or why he "lawyered up," instead of cooperating with police

DEFENSE CLOSING ARGUMENT

Show how the evidence fits your theme

Point out weaknesses in the prosecution's case, unproven elements, weak links

Remind the jury of the burden of proof and presumption of innocence; muddy the waters

DO NOT:

1. Discuss **sentencing** (my client could go to prison for 10 years!)
2. Ask jurors to put yourself in anyone's **shoes** (imagine you are my client)
3. Ask jurors to set an **example**

PROSECUTION REBUTTAL ARGUMENT

Respond to Defense closing. Point out inconsistencies in Defense case

EXHIBIT LIST

List and number each exhibit you plan to offer into evidence, along with any evidentiary rules that might apply. Remember that each exhibit must be offered through a witness, as described below.

Prosecution Exhibit	Number	Basis for Admissibility, per the Rules of Evidence

Defense Exhibit	Number	Basis for Admissibility, per the Rules of Evidence

HOW TO OFFER AN EXHIBIT INTO EVIDENCE

1. Say: "Your Honor, may I approach the witness?"
2. Show your marked exhibit to opposing counsel
3. Show your exhibit to the witness, and say "I am showing you Exhibit #. Can you tell me what it is?"
 - a. **REAL EVIDENCE** (e.g., a knife), ask "How do you recognize it?"
 - If it is **unique**, establish its identifying characteristics
 - If it is **not unique**, establish chain of custody to prove it has not been changed
 - Has this been locked in evidence until you retrieved it for this trial?
 - b. Is it in the same condition as when you originally saw it?
 - c. **DOCUMENTARY EVIDENCE** (e.g., documents, photos)
 - Is this a fair & accurate representation of what it purports to be?
4. "Your Honor, I offer State's/Defense Exhibit into evidence"
5. The judge may ask if opposing counsel has any objection and may allow argument; then the judge will either receive the exhibit or not.



COMMON OBJECTIONS

Objection	Basis/Example/Fix
Argument	Attorney is making an argument, not asking a question Fix: Ask questions; save arguments for closing
Argumentative/Badgering	Ex: You expect us to believe you started the fire accidentally? Fix: Ask a more neutral question
Asked and Answered	Fix: Ask a different question
Calls for Narrative	Question invites a broad, non-specific response Fix: Ask more specific questions
Calls for Speculation	Witness has insufficient first-hand knowledge to answer Ex: Was the defendant confused or scared when he fled? Fix: Ask a question this witness can directly answer
Compound	Multiple questions are asked Ex: When did the fight start and when did the police arrive? Fix: Break into individual questions
Confusing	Question is misleading or vague Fix: Ask a simpler question
Calls for Hearsay	Question calls for an out of court statement offered for its truth Ex: What did the bartender say to the officer? Fix: Ask a question for which this witness has direct knowledge
Lack of Foundation	Question calls for an answer this witness is not qualified to give. Ex: If you weren't speeding, would the crash have been fatal? Fix: Ask a qualified witness
Leading on Direct Exam	Question suggests its answer Ex: The stoplight was red? Fix: Ask an open-ended question
Non-responsive	The witness is not answering the question Ex: Q: Do you know the victim? A: I know she's a dirty liar. Fix: Ask the judge to direct the witness to answer the question
Relevance	Ex (theft case): Did the defendant have illegal drugs on him? Fix: Ask question that pertain to issues to be decided in case
Question Exceeds Scope	Question falls outside the mock trial scenario packet

MOCK TRIAL SCORECARDS

Your Name: _____

Enter ratings of 1 to 5 and add your comments

Teammates must cooperate to prepare cases and perform at trial

Star Rating	What it means
★★★★★	Excellent
★★★★	Above average
★★★	Average
★★	Below average
★	Poor

Student Name	Prep ★	Trial ★	Comments	TEAM SCORECARD

Trial 1 Scorecard – People v. _____

Attorneys must advance a clear, organized theme, via proper questioning, objections & argument

Witnesses must testify accurately from memory, authentically portray role & clearly address jury

Role	★	Student Name	Comments	TRIAL SCORECARD
Prosecutor				
Defense Atty				
Pros Wit 1:				
Pros Wit 2:				
Pros Wit 3:				
Pros Wit 4:				
Def Wit 1:				
Def Wit 2:				
Def Wit 3:				
Def Wit 4:				

Do you have suggestions to improve our Mock Trials? Please add them here! Thanks!

Trial 2 Scorecard – People v. _____*Attorneys must advance a clear, organized theme, via proper questioning, objections & argument**Witnesses must testify accurately from memory, authentically portray role & clearly address jury*

Role	★	Student Name	Comments	TRIAL SCORECARD
Prosecutor				
Defense Atty				
Pros Wit 1:				
Pros Wit 2:				
Pros Wit 3:				
Pros Wit 4:				
Def Wit 1:				
Def Wit 2:				
Def Wit 3:				
Def Wit 4:				

Trial 3 Scorecard – People v. _____*Attorneys must advance a clear, organized theme, via proper questioning, objections & argument**Witnesses must testify accurately from memory, authentically portray role & clearly address jury*

Role	★	Student Name	Comments	TRIAL SCORECARD
Prosecutor				
Defense Atty				
Pros Wit 1:				
Pros Wit 2:				
Pros Wit 3:				
Pros Wit 4:				
Def Wit 1:				
Def Wit 2:				
Def Wit 3:				
Def Wit 4:				