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Mock trials are a surprisingly fun and relatively uncomplicated way to engage students in learning about law. Their usefulness and versatility as a method of experiential learning means that they can be used not just for Law class, but for any number of courses and grade levels. This issue of The PLEA will explore the history and practice of mock trials, to get you on your way to implementing one in your classroom.





A BRIEF HISTORY

A mock trial, as the name implies, is a fictional courtroom re-creation. Mock trials can be based on real cases or they can be entirely hypothetical situations. Because of their experiential nature, they are a great way to consider and debate issues surrounding justice, a great way to better understand the court process, and a great way to build articulation and debate skills.

Mock trials—and their similar cousin “moot courts”—have been a central component of learning about the law for a very long time. As a method of legal education, mock trials and moot courts can be traced back to at least 14th Century Britain. At this time, they were a central training aspect for lawyers. Before an individual could be called to the bar (the process of being recognized as a lawyer) they had to successfully perform in moot court.

Even though mock trials and moot courts are still around, over time the role of simulation in training and certifying lawyers has changed. In North America, simulations began to fall to the wayside in the 1800s. In their place, the case-study method of considering and analyzing legal cases rose to prominence as the accepted method for formal education in law schools.

The rise of case studies was largely due to two factors. First, the Enlightenment had brought confidence to scientific methods of thinking. Second, law schools were struggling for respect as institutions of higher learning. It was believed that embracing scientific thinking by applying new “scientific methods” of case study to law would move the field in line with other areas of higher learning. As a consequence, higher-level law education would become a more respected discipline. By 1870, Harvard University sidelined simulation activities in favour of case studies in their law school.

Today, mock trials, moot courts, and other legal simulations still have a role to play in learning about the law: not only are simulations still found in most law schools, but moot courts still play a central role in the United Kingdom’s law education. And mock trials are not limited to universities. In the local K-12 educational context, mock trials are commonplace. Saskatchewan even has an annual mock trial competition called the McKercher Cup for high school students.

Because of their usefulness in building skills and understandings about laws, justice, court processes, and debate, the endurance of simulations in law-related education is understandable. Since their use is supported through the Saskatchewan curriculum, the coming pages will consider why you should implement a mock trial in your classroom, and how you can go about doing this. 🏛️



EFFECTIVE TEACHING PRACTICE

It is easy to see that mock trials can be an effective form of experiential learning. However, beyond simple intuition there is much research that indicates their effectiveness. Given that curricular links across several disciplines validate the use of mock trials, mock trials can be a sound part of many different programs of learning.

Anar Ahmadov, a London School of Economics professor and proponent of mock trials, has looked at research on the impact that role-play has on learning. What he found was surprising. One particular study indicated that students retain 10% of what they read, 20% of what they hear, 30% of what they see, 50% of what they see and hear, 70% of what they say, and 90% of *what they say while doing something*. This alone would suggest the efficacy of mock trials as a superior model for student engagement. Enforcing this perception, Ahmadov also pointed to evidence that students who engaged in role-play and collaborative exercises performed higher on subsequent tests than those students who received traditional instruction.

Of course, mock trials are not without their drawbacks. A significant deal of preparation time must be invested by teachers and students. As well, because of the complexity of real-life court processes, mock trials only function as a partial view of the justice system in action. However, these drawbacks are true of almost any dynamic learning activity and should not be considered reasons to avoid pursuing them.

Classroom learning should have curricular links, so one of the great things about mock trials is their ability to intersect with several of Saskatchewan's K-12 programs. The links to Law 30 and Social Studies 30 are obvious. Yet, there are other perhaps less-obvious but equally valid links. As just one example, the Power and Authority Outcome 6.3 of Social Studies 6, "Explore examples and explain how people, such as ethnic minority groups, the disabled, youth, and the elderly, may be affected by injustice or abuses of power" could be fulfilled by a mock trial.

What may be even more surprising is that the curricular links are not confined to the Social Sciences. Just one example is how mock trials can be used to meet the drama-related outcomes and indicators of Saskatchewan's Arts Education curricula. And because the Arts Education curricula points out that "Making connections among the arts strands, and with other areas of study, can help students increase the breadth and depth of their learning," a mock trial as a cross-curricular unit of study would be a great opportunity to link Arts Education across disciplines.

It is teachers who are empowered to meet curricular requirements in the manner they see best-fit to their learning environments. With this in mind, the coming pages will profile two mock trial kits available from PLEA and ways to develop your own mock trial, so that you can begin the thinking process on how a mock trial could play out in your classroom. 🇺🇸

MOCK TRIAL PROFILE

R. v. WYLER

Self-contained mock trial kits can be a useful tool for implementing mock trials. A good kit will simplify the process by providing everything necessary for a successful staging of a mock trial. A look at PLEA's *R. v. Wyler* will help illustrate a typical mock trial kit so that you better understand what to expect.

R. v. Wyler is a case about theft, designed for use in upper-middle-years or high school classrooms. It provides relevant background material on the criminal justice system and an introduction to courtroom personnel. Along with this background material, the kit includes short summaries of the role for each trial participant.


Mark Wyler has been charged with stealing a home theatre system from a friend, Dana Schroeder. Mark's defence is that the theft was a prank: he says that he had warned Dana that the locks on her house were not secure and that her expensive electronics were not safe.

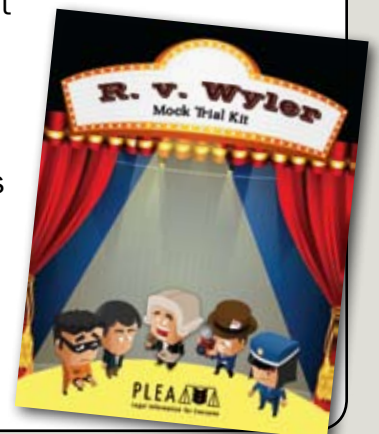
There is some evidence in support of Mark's defence. His initials were traced in dust on the shelves where the home theatre was kept and he made no attempt to hide the equipment. In fact, Mark invited Dana to his house where the electronic items were openly visible.

Dana, however, did not see things this way. To her, the incident was no mere prank. Returning home from a holiday, she found that her home theatre system was missing. She promptly reported it to the police. Later that day, she discovered the missing items in the corner of his living room when Mark invited her over for dinner. She became enraged and telephoned the police. As a result, criminal charges were laid.

The fact situation in this mock trial kit is complex enough to allow students to argue either for or against the guilt of Mark Wyler. The kit does not prescribe the outcome but leaves enough ambiguity to allow students some leeway in interpreting the facts and arguing the legal points of the case. The law of theft does allow for a defence of prank, although the precedents are few and they are old.

R. v. Wyler is organized into five lessons, and includes all required accompanying information in reproduceable forms. Perhaps one of the most important aspects of the kit is the final lesson's emphasis on debriefing after the trial has taken place.

Because it is simple enough for students to grasp, yet has a complex enough fact scenario to allow for good arguments to be made by both sides, *R. v. Wyler* is a useful and flexible mock trial kit for both middle-years and high school students. Copies of *R. v. Wyler* are available at no charge from plea.org. 





UNDERSTANDING PAROLE

PLEA's *Understanding Parole* is a different kind of mock trial. Understanding Parole examines parole, an often-misunderstood process in the criminal law arena. Parole is the release of a prisoner from prison before the expiry of the sentence.

The concept of parole recognizes that most offenders will eventually be released into the community. It is based on the philosophy that the best way to protect society is through the gradual release of offenders back into the community, under supervision and with conditions. This, it is believed, contributes to a safer society by helping offenders re-integrate into society as law abiding citizens.

Consider this: Statistics show that the vast majority of inmates released on full parole — around 80% — successfully completed their parole. About 15% had their parole revoked for technical violations. It is only around 5% who re-offended while on parole. Despite this tremendous success rate, the media tends to focus on the small minority who re-offend. Because of these misunderstandings of parole, it is important that students learn about the process and its results. The overwhelming majority of paroled offenders successfully re-enter society to live productive, crime-free lives.

Unlike other mock trial kits, *Understanding Parole* does not employ a traditional courtroom focus. Instead of a judge and jury there is a mock parole hearing, which is heard in front of a Parole Board.

Understanding Parole allows students to role-play so that they understand how the Parole Board works. It outlines the parole process, including the factors that the Board considers such as risk assessment, and specific considerations such as the individual's behaviour in jail. The kit provides detailed background information, includes fact sheets for different offenders and compares and contrasts their cases, provides background information on the duties of Parole Board members, and outlines the step-by-step instructions for a mock parole hearing.

Like other mock trial kits, *Understanding Parole* requires students to engage in role-play, so appropriate scripts are provided. And much like other good mock trial kits, its lesson plans culminate in a debriefing activity, allowing students to consolidate and more deeply consider what was learned.

Understanding Parole gives a glimpse of the difficult decision-making process that goes on before any imprisoned offender is released on parole. *Understanding Parole* is most-suited for Law 30 and Social Studies 30 students, though some English A30 teachers have used it as a component of their study of *More Joy in Heaven*. 🏠



DEVELOPING YOUR OWN MOCK TRIAL

CRIMINAL CASES

Most mock trial kits, such as PLEA's *R. v. Wyler*, include the information needed to stage a mock trial. However, it is not always necessary to use a prepared kit to engage a class in a mock trial. Mock trials can be developed based on anything from current events to famous trials in history.

Just like a prepared mock trial kit, certain elements of a court trial must be included if you are developing your own mock trial based on criminal law. Fortunately, a good mock trial kit, such as PLEA's *R v Wyler* will have many basic steps required for any mock trial, such as courtroom personnel outlines and basic courtroom set-ups and procedures.

When it comes to choosing the situation for your mock trial, ambiguous cases often work best. There are many ways to choose a case: it could be based on a recent real-life case, a historical case such as the trial of Louis Riel, or it can even be a case of your own making.

Most prepared mock trial kits will include a draft trial script so that students understand procedure and information outlining the basic roles and duties of each official in the courthouse. Other materials will need to be prepared, such as:

1. Relevant Law

You will need to look up the relevant law and explain it to your students. PLEA has a great deal of plain-language information that clarifies laws. Go to plea.org and search the area of the law you have questions about.

2. Exhibits

A good mock trial will often use interesting exhibits. For example, a murder trial may include the weapon that was alleged to have been used in the crime. A theft may include the items alleged to have been stolen.

3. Witness Role Sheets

In order for witnesses to understand and develop the roles they are to play, they will need a basic outline of their role as witnesses. The role sheets can be fairly brief, and may not even be required if your mock trial is based on a literary work.

With these tools in place, you can be on your way to a successful mock trial. While developing your own mock trial may require more preparation than a prepared mock trial kit, it can also be a lot of fun and very relevant to particular issues studied in class! And as mentioned, don't be afraid to make it a cross-curricular project. As just one example, think of the potential of an ELA - Law - Arts Education collaboration to put Jack on trial for the attempted murder of Ralph in *Lord of the Flies*. The only limit is your creativity. 📖

DEVELOPING YOUR OWN MOCK TRIAL

CIVIL VS. CRIMINAL CASES

Up to this point, most of the discussion about mock trials has been based on criminal law. However, a civil case would also make an excellent mock trial. If you are creating your own mock trial based on civil law, it is important to be aware how civil law differs from criminal law. The chart below explains some of their differences.

Civil Law	Criminal Law
Concerned with the private matters between individuals, encompassing such areas as family matters, contracts, debts, and insurance.	Concerned about wrongs against society, encompassing such areas as theft, homicide, and assault.
Cases are initiated by the individual concerned, called the plaintiff. When a person decides to sue someone, they go to court to file a claim.	Cases usually start when the police charge a person with an offence. The Crown Prosecutor decides whether to proceed with a criminal prosecution.
Most cases will either be heard in Small Claims Court or in the Court of Queen's Bench.	Cases begin in Provincial Court but may move to Court of Queen's Bench depending upon the nature of the alleged crime.
Cases may be based on written laws, called statutes. When there are no statutes setting out the area of law in question, cases are resolved using the reasoning from similar cases as precedents.	Cases are always based on written laws, called statutes. However, criminal cases will often look to past precedents created by earlier court rulings to interpret the law.
Cases must be proved on a balance of probabilities. This means that the side with the stronger evidence will prevail, even if their evidence is only a little more convincing than the other side.	Cases must be proved beyond a reasonable doubt. This means that the evidence and the facts establish the guilt of the accused and do not show any other sensible explanation of the events.
People are judged to be or not to be legally responsible for their actions. Judge will determine the remedy: often this is either financial compensation or injunctions to prevent further harm.	People are judged to be innocent or guilty of the crime they are accused of. Judge will determine the sentence: often this includes fines and imprisonment.

Despite these differences, the trial processes of both civil and criminal matters are similar. However, civil cases include a formal process to see if a settlement can be reached. This leads to many cases being settled before they go to trial.

A civil law mock trial can be just as interesting as a criminal law mock trial. However, it is important to keep the differences in mind if you are developing your own civil trial. 📖



Now that you have a basic introduction to the concept of mock trials, here are a few resources to get you going!

MOCK TRIAL KITS

PLEA's *R. v. Wyler* and *Understanding Parole* Mock Trial Kits are available at no charge. Find them at plea.org.

Many of PLEA's counterpart organizations across Canada have mock trial kits. The Justice Education Society of British Columbia and the Ontario Justice Education Network have several mock trials available at no charge. To learn more, check out their websites at www.justiceeducation.ca and www.ojen.ca.

ONLINE DISCUSSIONS

Perjuries is an international online discussion community for mock trials. Check them out at www.perjuries.com.

INFORMATION ABOUT THE LAW

PLEA offers a full library of plain-language information about the law that can help along most mock trials. Use the search tool at plea.org.

GUEST SPEAKERS

PLEA can help to arrange a guest speaker from the legal community to help explain trials. Head to plea.org and click on Request a Speaker.

MCKERCHER CUP

The Canadian Bar Association (Saskatchewan Branch) holds an annual mock trial tournament as part of Law Day celebrations. Learn more at www.cbask.org.

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