
Trial Procedure

1. Prosecution Opening Statements. Give the prosecution team five minutes to briefly summarize their case prior to calling witnesses.
2. Prosecution Witnesses
 - a. The prosecution team can call witnesses one at a time. Have the students serving as witnesses take the stand.
 - b. The witnesses do not simply recount their story. Rather, the prosecution team asks them questions based on their statements that will highlight the prosecution's case.
 - c. Cross-examination by Defense
3. Defense witnesses
 - a. The defense calls witnesses one at a time. They may call new witnesses or they may re-call witnesses who have previously testified.
 - b. The witnesses do not simply recount their story. Rather, the prosecution team asks them questions based on their statements that will highlight the prosecution's case.
 - c. Cross Examination by prosecution
4. Defense Closing Arguments
5. Prosecution Closing Arguments
6. Military Tribunal Deliberations – Have the members of the military tribunal go to a separate room and deliberate the case. They must vote on whether or not Henry Wirz is guilty or not guilty of violating the laws of war. For the purposes of the mock trial, the students can reach their verdict with a simple majority

Civilian Trial v. Military Tribunal

Students may ask about how a military tribunal is different from a traditional civilian trial.

1. In a military tribunal there is no traditional judge or jury. Instead, officers from the military make up the tribunal. As a group they serve as the jury, but also make judgments on procedural matters like a judge would in a traditional court. In any post war military tribunal, it is important to remember that the tribunal is made up of members of the victorious army, and the defendants are often members of the defeated army.
2. In a military tribunal there the prosecution team is part of the military. Therefore, tribunal members and the prosecutor are on the same side going into the trial.
3. Military tribunals are usually concerned with violations of military law and the laws of war. The cases that are heard by military tribunals are typically major cases involving military procedure and responsibility that may not make sense to a civilian jury in a traditional courtroom.
4. In many military tribunals there is no presumption of innocence. It is often up to the defense to prove their innocence.
5. In a military tribunal, Constitutional rights often do not apply, especially in postwar cases involving defendants from the armed forces of foreign military powers.