

Fort Smith National Historic Site

National Park Service
U.S. Department of the Interior



“Do equal and exact justice...” Federal Court at Fort Smith (1872-1896) Mock Trial

Lesson Plan

Grade Level: 7-12

Objectives:

- To participate in structured courtroom experience
- To develop skills of critical and strategic thinking, questioning, listening, oral presentation, argument, and decision making
- To foster cooperation among students and community at large and school system
- To provide a means of career exploration for students and prepares them for future roles as parties, witnesses or jurors in legal actions
- To outline the 19th century federal court process
- To explain the unique jurisdiction of the federal court at Fort Smith and the cultural diversity in Indian Territory and Western Arkansas
- To compare and contrast the federal government’s policies regarding Indians, blacks, whites & women
- To identify problems/crimes and punishment addressed by federal court at Fort Smith and compare to crimes today

Background:

For 24 years, from 1872-1896, the Federal Court for the Western District of Arkansas at Fort Smith had legal jurisdiction over Indian Territory (present day Oklahoma). This land was home to the American Indians forcibly removed by the United States government from their lands in the southeast US during the Trail of Tears in the 1830s. The Cherokees, Chickasaws, Choctaws, Muscogee Creeks, and Seminoles were recognized by the United States as sovereign nations within their own lands. They had their own tribal government, including courts and tribal police. Yet, they had no legal jurisdiction over crimes committed on their lands that involved a non-tribal member. After the Civil War, conditions in Indian Territory were chaotic. Many whites were moving into Indian Territory, some illegal, in search of new lands and newly developing economic opportunities. With the increase in population, crime increased. As a result, the federal court at Fort Smith was established to try those criminal cases that involved non-Indians.

Judge Isaac C. Parker presided over the court at Fort Smith for 21 years. Appointed to the bench by President Grant in 1875, he served until his death in 1896. Parker heard more than 13,000 cases, of which over 12,000 were criminal. The criminal cases heard in the Fort Smith court

included murder, rape, assault, larceny, and liquor trafficking. United States law demanded the death penalty for those convicted of the capital offenses of rape and murder. It was the jury of 12 men, not the judge, who decided guilt or innocence. Upon conviction of a capital crime, Parker had no choice but to sentence the individual to hang. 160 people, of whom 4 were women, were sentenced by Parker, but only 79 men were executed on the gallows.

The court at Fort Smith had the reputation as being a “court of no appeals.” When the Western District of Arkansas was created by Congress it was given circuit as well as district powers. Judge Parker as district judge was also the circuit judge and heard appeals. A defendant’s only chance at avoiding the gallows was to have his/her lawyer present the case to the President of the United States and ask for a commutation or pardon. Two men were pardoned by the President, and several others had their sentences commuted to life in prison. In 1889 Congress passed the Criminal Appeals Act which allowed defendants in capital cases the right to appeal to the Supreme Court. Many of those convicted of a capital crime in the Fort Smith court after 1889 appealed to the Supreme Court. Thirty-one convictions were reversed between 1891 and 1897; twelve were upheld and one was dismissed.

New laws were passed by Congress in the 1880s and 1890s that established federal courts in Kansas, Texas, and Indian Territory that reduced the jurisdictional area of the court at Fort Smith. Finally, on September 1, 1896, Congress removed the court’s territorial authority completely. The federal court for the Western District of Arkansas continued to operate, but its unique role was brought to an end.

Resources/Handouts:

Mock Trial Handbook

- Federal Court: Nineteenth Century Context
- Maps of Indian Territory 1866-1889
- Maps of Federal Judicial Districts in Indian Territory 1883-1896
- Mock Trial Process (overview)
- Trial Process – general introduction
- Steps in a Trial
- Guidelines for Jury in Determining Guilt in Murder Case in 19th century
- Roles of People in Courtroom
- Outline of Basic Court Procedures – Western District of Arkansas, 1875-1896
- Case Files
 - A. US vs. Shepard Busby and William Busby – 1891
 - B. US vs. Crawford Goldsby, alias Cherokee Bill – 1895
 - C. US vs. Elsie James & Margaret James – 1889
 - D. US vs. Jack Spaniard – 1889
- Sources for Further Research
- Mock Trial Observation Sheet

Photographs, Images, and other Resources for Crawford Goldsby, alias Cherokee Bill trial

- Judge Parker (see Historic Images file at: www.nps.gov/fosm/photosmultimedia/photogallery.htm)
- Jailer Larry Keating (See Historic Images file)
- Drawing of Execution of Cherokee Bill (see Historic Images file)
- Sketch of Courtroom--use as example of courtroom artist (see Historic Images file)
- Judge Parker's second death sentence of Crawford Goldsby, alias Cherokee Bill (www.nps.gov/fosm/historyculture/parker-second-death-sentence-of-cherokee-bill-1895.htm)

Checklist for trial day:

- Spoken introduction to explain what audience will see
- Explanation of 19th century trial/legal standards (basic info)
- Jury deliberation? Break for spectators?

Keep in mind:

- Audience and jury need some background knowledge of case (ie. "newspaper version" of events)
- Audience should be reminded that presentation is based on 19th century standards and events
- Audience should know that mock trials are a learning tool; not intended as theatrical performances
- Student prosecuting and defense attorneys should prepare very strong opening and closing arguments; should work towards getting clear statements from witnesses. They control audience understanding of the case.
- Witnesses must speak up! Witnesses should also remember not to laugh when their friends ask them questions.
- Student participants need to stay quiet and in one general location while jury deliberation is occurring.
- After trial have a commentator presentation (comparison of verdicts) and audience questions.

Suggestions for Commentators:

- Analyze strong and weak points of each case presented in the trial.
- Identify the person or persons whose performance in the trial made a difference in the case.
- Critique the trial from the standpoint of its success in achieving justice. Was justice achieved?
- Compare the historical trial with the mock trial and/or modern trials.
- Compare the mock trial experience to what usually occurs in real courts.

Commentators should receive a copy of the mock trial handbook and should know which case they will be reviewing.

Additional Suggested Activities:

- Have students take on role of newspaper reporter writing on court case and write an article for the newspaper.
- During trial, have “courtroom artists” drawing people in courtroom.
- Write a letter from juror home describing trial and how he felt making decision.
- Diagram the steps involved in court case.
- Compare a capital crime case in news today with capital crimes heard by the federal court in the 19th century.
- Research contemporary newspaper accounts of case.
- Using newspaper article with list of jurors, locate counties from which jurors came.

Ties to the Arkansas Social Studies Frameworks

Social Studies Curriculum Grades 7-8

Strand: Civics – Standard 4: Government – Students shall develop an understanding of the forms and roles of government.

C.4.7.1

C.4.8.1

C.4.8.5

Strand: Civics – Standard 5: Government—Students shall develop an understanding of the rights and responsibilities of citizens.

C.5.7.11

C.5.8.11

Strand: Civics – Standard 5: Citizenship – Students shall develop an understanding of how to participate, develop, and use the skills necessary for effective citizenship.

C.5.7.3

C.5.8.5

Social Studies Curriculum Grades 9 -12

American Government

Strand: United States Constitution

Content Standard 8: Students shall investigate the organization, process, and role of the judicial branch

Civics

Strand: Citizenship

Content Standard 1: Students shall examine citizenship.

Content Standard 2: Students shall examine the rights, responsibilities, privileges, and duties of citizens.

Strand: Government

Content Standard 3: Students shall analyze the purposes of government.

Content Standard 8: Students shall analyze the organization, authority, and function of federal, state, and local government.

Strand: Laws

Content Standard 9: Students shall evaluate federal, state, and local laws

Civics/American Government

Strand: Citizenship

Content Standard 1: Students shall examine citizenship.

Content Standard 2: Students shall examine rights, responsibilities, privileges, and duties of citizens.

Content Standard 3: Students shall analyze and evaluate the purposes of government.

Strand: Structure of Government

Content Standard 8: Students shall analyze the purpose, organization, authority, and function of federal, state, and local government.

Content Standard 9: Students shall evaluate federal, state, and local laws