

(1) The bailiff calls court to order as the judge enters.

(2) The judge announces case of *State of Washington v. Herschel C. Lyon* and reads aloud these instructions:

"This is a criminal case brought by the State of Washington charging the defendant, Herschel C. Lyon, with first degree murder. The State claims that Herschel C. Lyon, with a premeditated intent to cause the death of Sam Steelhead, caused his death. In support, the State claims that on March 31, Herschel C. Lyon attacked Sam Steelhead, killing and eating him. The State denies the defendant acted out of necessity. The State claims Herschel is an overweight sea lion that eats fish, specifically Sam Steelhead, to please the crowds of humans at restaurants alongside the Locks."

"Herschel admits that he killed and ate a steelhead on March 31, although he claims that he is not sure who the steelhead was. He claims that he did this out of necessity because he needs to eat 40 pounds of fish per day in order to maintain his health."

"The bailiff will now swear in the jury." (The bailiff announces: "Will the jury please rise and raise your right hands? Please indicate your agreement by saying 'I do.' Do you swear or affirm that you will base your decision solely on the evidence presented before you in this case, not allowing any prior class work to influence your final decision?") After the bailiff swears in the jury, tell the jury to be seated.

"The burden of proof in this case is on the prosecution; it is proof beyond a reasonable doubt. The defendant must prove his defense of necessity by a preponderance of the evidence."

"The case will now follow in this order. First, the prosecutor will make an opening statement, outlining the evidence to be presented on behalf of the prosecution's case. The defense lawyer will then make an opening statement, outlining the defense case. Second, the prosecutor will introduce evidence. At the conclusion of the prosecutor's evidence, the defense may introduce evidence. Third, after all the evidence has been presented, I will give you more instructions, after which the lawyers will make closing arguments. Then you will go to the jury room, select a presiding juror, and decide on your verdict."

(3) The judge asks counsel to introduce themselves and their clients.

(4) Prosecution's Opening Statement (3 minutes*)

*Time for each activity is tracked by a clerk who notifies the judge and lawyer of remaining time by holding up cards indicating "2 minutes," "1 minute", and "O" remaining.

(5) Defendant's Opening Statement (3 minutes)

(No reservation to the end of the Prosecution's Case-in-Chief.)

(6) Prosecution's Case-in-Chief, which consists of three witnesses:

Sandy Steelhead, Sibling of Sam Steelhead
Robin Whitecub, Director of the Cedar River Tribal Hatchery
Lotta Sport, President of Trout for All

(Direct examination is limited to 5 minutes for each witness;
cross-examination to 3 minutes for each witness)

Note: The bailiff, not the judge, swears in witnesses.

(7) Defendant's Case-in-Chief, which consists of three witnesses:

Herschel C. Lyon, Defendant
Dee D. Kated, Director of the Seattle Greenpeace Office
Ev R. Reddy, Retired biologist

(Direct examination is limited to 5 minutes for each witness;
cross-examination to 3 minutes for each witness)

(8) After all of the testimony, the judge then reads aloud the closing instructions to the jury:
"To convict Herschel C. Lyon of the crime of murder in the first degree, the prosecutor must have proved each of the following elements beyond a reasonable doubt:

That on or about the 31st day of March, Herschel C. Lyon mauled Sam Steelhead, thus causing his death;

**That Herschel C. Lyon acted with intent to cause the death of Sam Steelhead;
That the intent to cause the death was premeditated; and
That Sam Steelhead died as a result of Herschel C. Lyon's acts."**

"It is a defense to a charge of murder in the first degree that the homicide was committed due to necessity. To establish the defense, Herschel must prove that circumstances required him to kill Sam to protect his own health in a reasonable manner and that there was no other acceptable choice for him."

"When you go to the jury room, you should first pick a presiding juror. It is his or her duty to see that discussion is carried on in an orderly fashion, that the issues are fully and fairly discussed, and that every juror has a chance to participate."

"All of the jurors must agree upon a verdict. When you have so agreed, the presiding juror will notify the bailiff who will conduct you into court to declare your verdict."

(9) Prosecution's Closing Argument (3 minutes including rebuttal)

(10) Defendant's Closing Argument (3 minutes)

(11) Prosecution's Rebuttal

(12) Jury Deliberations

- **Debriefing**

After the trial, the judge should convene the students for debriefing. Any time the jury reaches a verdict, the judge should suspend the debriefing process and allow the jury to render its verdict. Following the verdict, the judge should resume the debriefing.

During the debriefing the judge should acknowledge the contributions of the bailiff and clerk, and later thank the jury for listening. The judge should then offer constructive comments to the students, explaining the reasons for rulings on objections, discussing the effectiveness of their strategies and commenting on the performance of witnesses. The judge may describe how this mock trial differs from actual cases.

- **Verdict**

The presiding juror will read the verdict. The judge may poll the jury if time allows.

- **Adjourn**