



Court Clerk Guide



ONTARIO BAR ASSOCIATION
L'ASSOCIATION DU BARREAU DE L'ONTARIO
A Branch of the Canadian Bar Association
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The Duties of the Court Clerk

The clerk helps the judge run the courtroom. The clerk will announce the opening of the court, recesses and adjournments, swear in witnesses, and mark exhibits when they are entered. There may be other jobs which the court clerk can perform for the judge or judges, such as providing pens and paper, and a glass of water.

Thank you for volunteering for this important role! Please read through the instructions thoroughly before the tournament, as they are not set out in exact chronological order. This guide will help you know what to do and what to say in particular situations.

Before the Trial Begins

Unless you are told differently by your tournament organizers, you should:

1. Make sure the room is set up:

- There should be four chairs at each counsel table, if it's possible to fit them. If not, set up the counsel tables as best you can. Some counsel may need to sit on the bench or on chairs behind the counsel table.
- There should be a lectern or stand set up between the two counsel tables for lawyers to place their notes on when speaking.
- Make sure there are enough chairs at the judges' dais for the number of judges who will preside, and place enough score sheets for each judge on the dais (the desk where the judges sit).
- Establish a place for the two timekeepers (one from each team) to sit, within view of where the lawyer addressing the court will stand. In a larger courtroom, there will often be space right in front of the judge, where court staff normally sit. In a smaller courtroom, you may need to arrange extra chairs near the front.

2. Introduce yourself to the judges:

- Tell them you are the clerk and go through the procedure for opening the court with them. Ask them if there is anything they need and, if you can't provide it, get a tournament organizer.

3. When teams arrive, identify them:

- If you know the teams that are supposed to be in your room, make sure the right ones are there. In any case, make sure that each team gives you copies of their appropriate team roster (Crown or Defence) – enough copies for each judge. The roster is a piece of paper that lists who is on the team and what they are doing. Place the rosters on the dais with the score sheets.

Opening and Closing the Proceedings

1. Announce the opening of court: Decide with the judges if they want to go out of the room and have you announce them when they come in, or if they just want to stand at the dais and have you announce the opening of court when they stand. In either case, say:

“Oyez, Oyez, Oyez! Anyone having business before the King’s Justice of the Superior Court of Justice, attend now and you shall be heard. Long live the King.”

Note: “Oyez” is pronounced “Oh-yay”. It’s an old term derived from Norman French which means “hear ye”.

When the judges have sat down, say “Be seated”. At this point, the judges will take over the proceedings. They will probably proceed with team introductions, and any procedural matters, and then ask you to “arraign” the accused. Take your cues from them.

2. Arraign the accused: Arraignment means that you will read the charge to the accused. Ask the accused to stand (if the judge has not already done so), and say for example:

[Name of accused] stands charged:

That he/she, on or about the [date], in the [location], did [description] contrary to section [section number] of the Criminal Code.

Once the accused has entered the plea, sit down and allow the judge to carry on. The next step that comes up will be to swear in the first witness.

3. Recess and close the proceedings: After the closing arguments have been made by both sides, the judges will adjourn for 15 minutes to decide on the verdict and fill out score sheets. When the judges are ready to adjourn and begin to stand up, rise as well and say:

“All rise. Court will now recess for 15 minutes”

You should open the door for the judges. Arrange with them ahead of time how they want to let you know that they are ready to return: they may ask you to wait outside the courtroom for them, or tell you that they will knock on the door when they are ready to return.

When the judges are ready to return, you will open the door for them, call the courtroom back to order and ask everyone to rise.

“All Rise. Court is now resumed, please be seated.”

The judges will then announce the verdict (guilty or not guilty) and give some feedback to the teams. Usually the judges switch to a more informal format at that point and the proceedings wind up when the judges finish giving their feedback.

When everything has finished, collect the score sheets from the judges and return them to the tournament organizers in the manner described to you when you were briefed.

During the Trial

1. Swear in witnesses:

When counsel calls a witness to the stand, stand up and say to the witness:

“Please state your name for the court.” Then,

“Do you wish to solemnly affirm or swear on a holy book?” A number of books are available at the witness stand in court.

If the witness wishes to affirm, say:

“Do you solemnly affirm that the evidence to be given by you to the court shall be the truth, the whole truth and nothing but the truth?”

If the witness wishes to swear on a holy book, say:

“Do you swear that the evidence to be given by you to the court shall be the truth, the whole truth, and nothing but the truth, so help you God?”

2. Mark exhibits when they are entered: Lawyers may enter pieces of evidence as exhibits. The judges will approve the entering of an exhibit once they have seen it, pass it to you, and you will mark the exhibits by number in the order they were entered: 1, 2, 3. Later on in the trial, lawyers may ask you for the exhibits by number to show them to a witness, and then give them back to you. If counsel asks you for an exhibit by describing it (e.g., “May I ask the clerk for the map of the area”, etc., give them the appropriate exhibit – they don’t have to ask for it by number).

3. Do anything else the judges ask you to do: The judges may have other needs for which they will call upon you. Keep in mind that a real courtroom is not nearly as formal or tense of a place as it seems to those unfamiliar with it, or who have just seen court on TV. In real life, there is lots of shuffling of papers, normal conversations to sort out details, and procedural hiccups. Don’t worry about doing everything exactly right or to the script. If you’re confused about something, you can ask the judges.

4. Do your best to keep the judges on time: As clerk, you do not need to keep time in the trial, but the time chart has been provided for you to follow along with the flow of the trial.

You’ll see that 15 minutes is set aside for judges to deliberate, and 10 minutes for them to give feedback to teams. The judges will almost always want to go over the 10 minutes for feedback. They can do that as long as there is time.

The schedule for your tournament will indicate what time the round must end. That time is when the judges must complete their feedback and teams must leave the room to go to their break, next trial, home, etc. That time is firm unless tournament organizers have told you the trials will run late (for example, because they started late).

You must politely break in and remind the judges when time has been reached. One way to do this firmly, but politely, is to stand up and say something like "Your Honours, the time allotted for this session has been reached. The parties must now depart for their next session".

It may also be useful to break in when time is close to being reached to say something like "Your Honours, the parties will need to leave in five minutes".

Mock Trial Time Chart

	Segment	Conducted by	Time (in minutes)	Notes
1	Preliminary matters	Judge(s) & Clerk	5	Introductions, read charge, enter plea, etc.
2	Opening statement	Crown	4	N/A
3	Direct examination of first Crown witness	Crown	10	For direct of <u>both</u> Crown witnesses
4	Cross-examination of first Crown witness	Defence	10	For cross of <u>both</u> Crown witnesses
5	Direct examination of second Crown witness	Crown	Remainder of 10 for direct examination	Subtract time used for direct of first Crown witness from 10
6	Cross-examination of second Crown witness	Defence	Remainder of 10 for cross-examination	Subtract time used for cross of first Crown witness from 10
7	Opening statement	Defence	4	N/A
8	Direct examination of first Defence witness	Defence	10	For direct of <u>both</u> Defence witnesses
9	Cross-examination of first Defence witness	Crown	10	For cross of <u>both</u> Defence witnesses
10	Direct examination of second Defence witness	Defence	Remainder of 10 for direct examination	Subtract time used for direct of first Defence witness from 10
11	Cross-examination of second Defence witness	Crown	Remainder of 10 for cross-examination	Subtract time used for cross of first Defence witness from 10
12	Preparation for closing arguments	Crown & Defence	2	Counsel may confer amongst themselves
13	Closing arguments	Defence	5	N/A
14	Closing arguments	Crown	5	N/A
15	Recess for judge's deliberation	Judge(s)	15	N/A
16	Delivery of verdict and feedback	Judge(s)	10	N/A
	Total		90	Trials may take longer depending on time stoppages