



# ICC Handbook

Everything highlighted I deem important.

Everything in red I thought I needed to add in.

### ***Before the conference:***

The cases will be based on real cases or real world disputes. This case should comprise of **three pieces of any type of evidence**. If there is **more evidence it will be ruled inadmissible**. Evidence can be witnesses, documents or anything else. Attorneys should try to **keep track** of their **sources in case the factual basis of evidence is challenged**. All papers should be copied, (enough for about 15 to review unless otherwise instructed), stapled, and ready to go by the day of the conference.

A. Title Page

B. Brief:

A brief is a written summary of the case. **Most of the details should be left for the trial**. The brief is the first chance to influence the justices.

C. Witnesses:

During the trial, each side may call **one witness** (an expert or someone who witnessed an event). Witnesses can be played by a friend or anyone else willing to fill the part (in emergencies, chairs can take the stand). The chairs will allow significant, but reasonable, leeway in the creation of fictional characters. While witnesses can use note cards, they should not read off them. **Be careful with witnesses. In the past the individuals filling the part have deviated from the script and actually hurt the side of the case they were trying to help. If you use a witness be prepared and make sure you are both on the same page.**

D. Documents:

An attorney can bring in documents of any type **(These primarily tend to be news articles from the internet)** as long as they are **factual**. Ideally, an expert witness interprets documents for the court; however, this is often not possible and the attorney usually presents documents to the court. **Lawyers cannot interpret the document when they are asked about it. Their answer must be directly stated in the document, within reason.**

E. Opening/Closing Statements:

After the evidence has been prepared, the attorney should draft an opening statement **(this should be pre-written, it is optional to put this in your case)**. An opening statement should outline the case to the justices **with the bias of the side giving it**. It should leave the justices with the important points of one side's case and mention what the defendant is being charged with. In addition, the attorney should put together at least rough outline of the major points for a closing statement. There will be no objections during opening or closing statements but they should be reasonable.

Possible format of Opening Statements:

- a. Introduction which explains the basic conflict of the trial
- b. Explanation of the background and events which have led to the trial **I would prefer more of this in the brief.**
- c. Introduction of this side's evidence **optional**
- d. Discrediting of opponent's case **optional**
- e. Conclusion which restates the conflict and often gives two options for resolution, one "right" and one "wrong."

***Format for Title Page:***

Defense / Prosecution of Mr./Ms. X  
Presented by: Lawyer Name

Hilton 2017  
International Criminal Court  
November 3-4, 2017

**Format for Brief:** It is very important that you include all parts of the brief in your case.

Brief of \_\_\_\_\_

This case involves the following questions:

(Here attorneys present the question that their side feels the case entails. Each question should present one facet of the case. Usually entails 3-7 questions.)

- I. Question #1
- II. Question #2
- III. etc.

*(Summary of Arguments in essay form - briefly summarize your side's views as to the essential matters in the case. It should be concise and clear so a justice can refer to it for clarification during the case. It should have an introduction and a logical order. In addition it should include a counter-argument for any expected opposition arguments. After reading the brief, a justice should be fully aware of everything the side plans to present in its case.) I would recommend lawyers to write about the background here so jurists have a hard copy and not just a verbal account.*

The (Prosecution/Defense) of (Defendant's name) respectfully requests the Court to adjudge and declare as follows:

*(Here you will state the results of the case that you would like to see, i.e. defendant cleared of all charges, or the defendant guilty of crimes against humanity etc.)*

- (a). Expectation 1
- (b). Expectation 2

Charges will be determined based on the Rome Statute.

## **Format for Affidavit and Presentation of Witnesses:**

Nathan Hale  
Position and relevance to the case

My name is Nathan Hale and I am 21 years old and I live in New York City, New York. I am related to this case because I (...). In my recollection (...) happened. Thus, I believe the defendant must be (innocent / guilty).

*Nathan Hale*

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**Signed, Nathan Hale**

(\*Note to Lawyers: Written affidavits obviously must be much longer and much more detailed explaining exactly what you want your witness to say to help convince the jury to decide in favor of your desired verdict.)

### **Affidavits**

An affidavit is simply a sworn written statement, which explains the qualifications and experiences of a witness. The witness must sign it at the bottom. The witness is strictly bound to the statements made in his or her affidavit. In fact, if a witness contradicts his or her affidavit on the state, he or she is guilty of perjury. An affidavit should at worst outline and at best explicitly state the information about which the witness will be questioned at the trial. They can be any length and should sufficiently explain the witness' testimony. **I will accept limited leeway in the creation of a witness. When you send me your evidence I expect to see the sources from which you created your witness before I allow the use of said witness.**

### **Direct Examination**

Involves the attorney asking his/her witness open-ended questions. They should first focus on the witness' background and then points relevant to the case. The questions should not lead the witness toward any answer and should be prepared ahead of time and practiced.

### **Cross Examination**

During the cross examination the opposition's lawyer attempts to discredit the witness on the stand or poke holes in the witness' testimony. It is mostly "yes" or "no" questions that do not allow the witness to elaborate or force the witness to answer difficult questions. It is a good idea to prepare a cross examination ahead of time using the witness' affidavit although it should be focused on what is revealed during direct examination.

## ***Format for Documents:***

### ***Sources***

Documents should be totally factual and from reputable sources. This means evidence from places like Wikipedia and blogs should not be relied on. **I will verify all documents' sources so get good sources the first time or I will make you get new ones.**

### ***Document Presentation***

If a witness is not available to present a document **the attorney will present the document (this is what will happen most of the time, the attorney will present the document)** and lay out its relevance for the court; however, as he or she is not an expert of the document, an attorney **cannot extrapolate** from the document. The document should be able to prove your point and be almost impervious to anything on cross-examination. **A good document should be powerful enough to sway the jury's opinion towards a favorable verdict without any extrapolation by the lawyer.** The lawyer will only have six (6) minutes **maximum to read the document.** Thus, it is important that the lawyer pace him/herself when reading. If a lawyer reads only a certain part of an article, the **lawyer can only use that part for evidence.** There is **NO paraphrasing** allowed. Subsequently, the opposing lawyer can only cross-examine the part that the lawyer actually read from the document. Documents should be obtained through **credible sources** like news or magazine articles (online databases accepted), periodicals, and encyclopedias. **If there are any questions about the use of documents, e-mail the chairs.**

### ***Document Counter-Presentation***

The opposing attorney will have a chance to refute the relevance or validity of points raised by the document. If the opponent wants to attack the authenticity of the document, he or she must ask for a bench conference **(all documents will be previously verified by me, no lawyer should ask for a bench conference).** Allowing this response is at the chairs' discretion. **The lawyer should try to prove the inability of the document to prove its point.**

## **Other:**

### **Objections**

Objections can be found on the ICC Quick Reference Sheet. Lawyers are expected to fully utilize this when presenting their case. We cannot stress the importance of objections in the International Criminal Court. Objections are used when the opposing lawyer asks an inappropriate question based on the circumstances (see ICC Quick Reference). A lawyer will be graded by the effectiveness of their objections, not necessarily by the frequency. Yet, it is highly encouraged that each lawyer tries to make as many appropriate objections as possible. Please, please, please object.

### **Opening / Closing Statements**

These are meant to be summaries of what is to be presented in court. Openings are meant to be a bit more objective in order to summarize for the jury the circumstances and charges placed against the defendant. Openings also explain what evidence will be presented to show a point. Closing Arguments are where lawyers get to be more expressive. One last synopsis of the evidence should be presented. Lawyers should refute the opposing side's case by pointing out flaws and try boosting their case one last time. I don't mind if the opening and closings are quite subjective, I would encourage it to sway the jury. Be creative here.

### **Delivering Verdicts**

After the closing arguments are delivered, the two lawyers are asked to leave the room as the pages bar the doors. Meanwhile, the jury and the justice(s) discuss a verdict. The court will then proceed into a whip. Each jury member will state their verdict and the reason for their verdict based on the presentation of the cases. Jury members could declare the defendant to be innocent or guilty, abstain from voting, or deem the case a mistrial (base your verdict solely off of the case, prior knowledge is considered to be invalid. I cannot stress this enough). A mistrial occurs when the majority of jury members believe that neither side proved their points properly or thoroughly. We'll try our hardest to avoid mistrials. A simple majority is needed for a verdict. When the verdict is finalized, the lawyers will be called back in and a jury member will read the final decision to the court.

**Time table during the trial:** (may be subject to extensions or subtractions based on chairs' discretion)

1. Lawyers will have 5 minutes each of banked preparation time as jurors read each attorney's case
2. Opening Statements: **with Plaintiff going first** (5 minutes each)
3. The Plaintiff will present all evidence in desired order
  - Witnesses:
    - 4 minutes for direct examination
    - 2 minutes for cross examination
      - 2 minutes for re-direct (optional)
      - 2 minutes for re-cross (optional)
      - 2 minutes for committee questioning
  - a. Documents:
    - 4 minutes for presentation
    - 2 minutes for counter presentation/interpretation
    - 2 minutes for committee questioning
4. The Defendant will present all evidence in desired order
  - a. Witnesses:
    - 4 minutes for direct examination
    - 2 minutes for cross examination
      - 2 minutes for re-direct (optional)
      - 2 minutes for re-cross (optional)
      - 2 minutes for committee questioning
  - b. Documents:
    - 4 minutes for presentation
    - 2 minutes for counter presentation/interpretation
    - 2 minutes for committee questioning
5. Question & Answer period (5 minutes)
6. Closing Arguments: **with defendant going first** (5 minutes each)
7. Deliberations (time varies depending on case)

**(NOTE: Any period of witness examination (direct or cross) or document presentation is subject to two 1 minute extensions)**

Re-direct and re-cross are intended for lawyers who either forgot to make points during their initial examination or who would like to re-open an issue which they feel needs more attention. **Re-direct and re-cross are limited to 3 questions each, and can occur with any witness or document.** I have never seen re-direct and re-cross examinations on a document but I will allow it depending on time.