

Making History Come Alive: The Boston Massacre Trials

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THE FIFTH OF MARCH 2020 was the 250th anniversary of an event commonly known as the “Boston Massacre,” and to commemorate it, my upper-level history class staged an unscripted presentation of the resulting historical trial in conjunction with third-year law students enrolled in Practice Court through the Baylor Law School. Making that production happen required extensive cooperation and coordination among many diverse participants, as well as consideration of and reaction to unusual circumstances that fall outside the purview of a normal history class. The exhibition represented only one piece of a much larger history course, titled “The Boston Massacre Trials,” which involved a comprehensive examination of the entire situation in Boston in 1770 before, during, and after that fateful night. While on the surface, it looks like a typical capstone course that many universities require of their history majors—using a microhistory approach to one specific event that allowed students to conduct in-depth research and study multiple, often conflicting, viewpoints of that event—this course was different because of its performance aspect, which necessitated an additional level of instruction in order for this activity to succeed. Even though this particular commemorative occasion has come and gone, the

methodology employed to teach this unique course can be applied to other historical events and can not only help students to fully engage with historical sources, but also give them the opportunity to explore history in a unique way.

The Idea

The idea for this course came from a lunch meeting I had in February 2019 with Gerald R. Powell, the Abner V. McCall Professor of Evidence at the Baylor Law School, during which I proposed a team-taught class that would link history students and law students enrolled in Practice Court in the extensive study of a specific historical event containing a significant legal component. This concept was not an unusual one, as Powell had previously staged fictional trials with actual historical events as their basis, using history graduate students as research assistants. Most recently, he had conducted a trial that involved the sinking of the RMS *Titanic* in April 1912, and he imagined a civil suit in which several widows who had lost their husbands in the tragedy sued the ship's operators, builders, and radio equipment manufacturers for negligence, alleging that the ship had not been constructed or outfitted properly and that its crew operated the ship recklessly under the conditions at sea at that time. Powell ran the first trial in July 2005 as part of his "Big Trial" capstone course for the Practice Court program with his law students as the attorneys, and he repeated it in June 2018 in conjunction with Baylor University's Mayborn Museum and its special display of *Titanic* memorabilia.¹

My original thought was to examine the Salem Witch Trials in a similar manner because of the large volume of historical evidence available and because colonial America is my field of expertise, but Powell suggested the Boston Massacre Trials because he had previously given several detailed presentations on that topic and therefore knew the material. There was also a significant amount of published sources, both primary and secondary, that were readily accessible for student use, including over 200 depositions from participants and bystanders about what they had seen or heard that night.² Once we looked at the calendar and saw that the 250th anniversary of that momentous event would take place the following year, we decided to use that topic and stage the trial on 5 March 2020.

The so-called “Boston Massacre” that occurred on the night of 5 March 1770 represented the culmination of tensions between Bostonian townspeople and British soldiers that had been growing for months. In the wake of the protests against the Stamp Act and the Townshend Duties, which included destruction of property and intimidation of appointed colonial officials, two regiments of British soldiers were sent to Boston to quell the unrest in October 1768. Their arrival only exacerbated an already difficult situation, and as the months of occupation continued, townspeople and soldiers clashed frequently, but on a small scale, such as exchanging insults or refusing to do business with each other. Both sides grew bolder in their attacks over time, and at the beginning of March 1770, colonial dockworkers and off-duty British soldiers came to blows, resulting in minor injuries and threats of retribution. By the fifth of that month, both sides were spoiling for a serious fight.³

Private Hugh White stood sentry in front of the Custom House that night to protect the collected tax money within, and several young boys heckled him while he was on duty. They were joined by other townspeople who were agitated from their own altercation earlier that evening with some soldiers outside their barracks. White called for reinforcements, and Captain Thomas Preston brought seven soldiers to rescue him. The small company quickly found themselves surrounded and were attacked verbally and physically with snowballs, oyster shells, rocks, and firewood. Private Hugh Montgomery fell to the ground, and as he was getting up, he fired into the crowd. His fellow soldiers followed suit in a piecemeal fashion. The townspeople disbursed, carrying away their dead and wounded. All told, five men were killed, and approximately a dozen were injured.⁴

In the hours immediately after the incident, Governor Thomas Hutchinson ordered the two regiments to be removed from Boston and the soldiers involved in the affair to be arrested. In the following weeks, local court officials took depositions from over 200 people who were in the vicinity that night and had either participated directly in the episode or had some connection to or knowledge about it. Over seven months later, Captain Preston stood trial for his role as the commanding officer of the British soldiers that night for allegedly giving the order to fire into the crowd, but he was acquitted of all charges. Three weeks after that, the seven soldiers were tried to

determine if they had fired intentionally or out of self-defense; five were acquitted, while two were found guilty of manslaughter.⁵

These two trials were historically significant because they demonstrated the colonists' commitment to the rule of law, despite their reputation for lawlessness, and because the testimonies brought to light the many diverse and often contradictory claims about what townspeople and soldiers had seen and experienced that night.⁶ While most historians know the basic facts about the Boston Massacre, few undertake close analysis of the voluminous evidence generated after that incident or focus on its subsequent yet noteworthy trials. This vast documentation, coupled with the upcoming anniversary, made the idea of creating a joint class that involved both history and law students staging a presentation of this trial an exciting and promising possibility.

The Logistics

Even though Powell had previous experience with this type of format, our trial would be much different from his others. While his law students would continue to serve as attorneys, rather than fulfilling their "Big Trial" course requirement, they would have to elect to take the class as an independent one-credit course in addition to their other coursework—which meant that they would not be able to devote as much time and effort to preparation. For the witnesses, I would recruit undergraduate students to enroll in a senior-level "Special Topics" course through the History Department, "The Boston Massacre Trials," in which they would conduct in-depth research into the events and everything related to the situation in Boston in 1770, developing detailed characters based on actual witnesses during the Boston Massacre that they could portray during our recreated trial. We also agreed to make the trial a public event open to all Baylor students, faculty, and staff, as well as the general population—free of charge—so we could have a large and wide-ranging audience in attendance. The trial would be part of a regularly scheduled class, held during our three-hour afternoon seminar, and would only last for one class period because it would be impossible to get students and audience members to commit to a multi-day event. Furthermore, because the trial involved and was geared towards undergraduate students, we needed a venue on campus for

easy access. Powell's two *Titanic* trials had taken place in the federal courthouse in downtown Waco, Texas and at the Mayborn Museum, respectively, and since history students would play key roles in this trial, we had to find a suitable location as close as possible to the building that houses the History Department.

Before we went any further, we each had to obtain permission from our supervisors to teach this special class since it would be different from our conventional coursework. Both the History Department and the Law School responded with enthusiastic approval. At the time, the History Department was undertaking a large publicity campaign to recruit more students to become history majors and minors in an effort to stop the steady decline in numbers experienced in the past decade. This innovative class seemed like a way to reach different students, as well as an excellent opportunity to raise the History Department's profile on campus. Furthermore, that same in-house initiative sought to diversify the department's offerings to its current history students in terms of pedagogy, and this unique class fit that proposal perfectly. The Law School was also looking for ways to partner with programs outside of its immediate discipline in order to appear more accessible to all students and more connected to the university as a whole. Both programs stood to benefit from this class and its resulting public event, so both were willing to commit the personnel and class time necessary to make it happen.

We also needed to recruit students to take the class to make sure that we had enough participants for it to work—and to meet the minimum enrollment requirements needed for a class to convene.⁷ Because the Law School's program is quite small, Powell was able to ask some of his advanced law students if they would be interested in this type of course and received a very positive response. Enrolling undergraduates, on the other hand, posed a greater challenge. I mounted a vigorous campaign during the Fall 2019 semester to advertise the class with flyers posted throughout our classroom building and visits to a few upper-level history classes to explain what the class was about and how it would operate. I also met with several different advisors responsible for counseling students about which classes to take so they could steer interested individuals towards this one.⁸ I reached out to the large Pre-Law Society, but was unable to meet with them in person and had to rely on a select few individuals to pass information to its members.

Because the class would have such unusual expectations, it was necessary for me to talk to each prospective student to explain exactly what would be asked of them. In short, it would take a very special type of student to make this class a success. Before enrolling in the course, each student had to meet with me to go over a lengthy list of requirements, which they signed off on much like a contract, and then I would issue a permit that would allow them to register for the class. This list of requirements included an accelerated and intense schedule of coursework (most of which had to be completed within the first month of class), a willingness to meet with law students outside the regularly scheduled class time, participation in a public performance of the trial in front of a large audience, compilation of detailed witness statements about an assigned historical character, and completion of a lengthy research paper. By insisting that students take that extra step of getting together with me in person to obtain permission to join the class and having them formally acknowledge the rigorous course expectations, I made sure that these students were aware of the additional effort that would be necessary for this class to succeed. In the end, I spoke with thirty students from a variety of majors, minors, and concentrations (usually some variation of history or pre-law) and ended up with an initial enrollment of over twenty students. That number slowly dropped during the semester break as they started delving into the large volume of difficult reading that they needed to complete within the first days of class, with enrollment finally leveling off at thirteen.

One final component that needed to be addressed was the venue for the trial. Finding an auditorium large enough for the event, but also located close to the History Department—as well as public parking—was a challenge. Furthermore, because such spaces are usually reserved for large lectures, I had to coordinate both with the Registrar's Office (to find a place that was not already in use for another class at that time) and with Institutional Events (which controlled scheduling for similar activities such as sponsored lectures). Therefore, I had to wait for the Spring 2020 Schedule of Classes to be published to know what was available and could not request a location until early October 2019. Powell and I had chosen several possible spaces that we were willing to use, but settling upon the right one took time and required the cooperation of several different departments. In the end, we were able to acquire Bennett Auditorium, a traditional theater-

like space with over 300 seats and a raised stage, located in the heart of the Baylor University campus, across the street from the History Department, and two blocks from a large parking garage.

The Class

Surprisingly, the first four weeks of course ran like a typical seminar where students read a large amount of material on the topic for the day, which we then discussed in detail in class (see **Appendix A** for course syllabus). We began with an overview of the situation in the American colonies in general and in Boston specifically in the years just prior to the Boston Massacre to familiarize all students with colonial history, since only a few had taken any courses on that subject previously. Fortunately, two books had been published within the past decade in anticipation of the 250th anniversary of the Boston Massacre to provide that context, in addition to a collection of primary sources about the event and its aftermath that featured an informative and lengthy introduction.⁹ We then looked specifically at that particular event, for which we read three sizable primary sources, and we not only discussed what happened that night, but also learned to appreciate multiple perspectives on a historical event, to interrogate primary sources, and to question the validity of eyewitness testimony.¹⁰ We also spent a class period reviewing court procedure and comparing how colonial times differed from modern ones. Selected readings for this day, which consisted of five scholarly journal articles and three excerpts from a study of colonial courthouses, were chosen based on personal familiarity with the subject and student accessibility, both in terms of content and library resources.¹¹ As for trial procedure, Powell and I decided to use modern practices—but with eighteenth-century characters—since that approach proved successful in how he had conducted his previous class on the *Titanic* tragedy and because both his law students and my history students (as well as the audience) would be more familiar and comfortable with current legal methodology. Finally, Powell gave a guest lecture on the Boston Massacre Trials themselves and walked the students, who had read the trial transcripts for that class day, through exactly what happened in the trials from a legal perspective.¹²

While the initial approach to these topics was traditional, students greatly appreciated the opportunity to examine a single historical

event more closely. Several agreed with one student's comment to me after our first class together that "this is exactly the type of class that I came to college for." Most were fully engaged with the material and participated in vigorous discussion and debate with it and with each other. While some found the volume of assigned reading and the eighteenth-century language daunting, many put forth the extra effort necessary to master it.¹³ This meticulous examination of this one event from modern and colonial perspectives allowed students to immerse themselves in the important issues at that time and appreciate various nuances within the proper historical context. Because the History Department does not require a capstone course and offers mostly standard historical surveys and lectures, none of the students had experienced this type of class before, and most seemed to like this more rigorous and intense approach to studying history.

After laying the groundwork and setting the stage (pun intended), it was time to shift attention to preparing for the trial performance. On the third day of class, I assigned a character to each student based on their personality, their academic and/or career interests, and the availability of materials about that character. Each character was an actual witness to the Boston Massacre and had provided a deposition in the real trial and/or in one of the pamphlets published soon after the incident, and from that, students were expected to research that character's background in terms of family, profession, political opinion, and any other relevant information, as well as what that character saw and did that night. To acquire extra details, students could pull material from other witnesses who were with their character at the time, and could conduct additional research to clarify and enhance what could not be discerned directly from their testimony. Students then submitted a detailed "witness statement" that described their character and stated what role that character played that night, and they shared these witness statements with each other and with the law students who would use them to build their cases.

Students found this task challenging yet exciting.¹⁴ They quickly realized how difficult it can be to conduct research on one specific person from colonial times, but they got creative about their sources. Several took to genealogy to track down their character's background, while some focused more on their character's profession and connections to the community. Like with all classes, some students took this assignment more seriously than others, and some excelled,

while others just did what they needed to do to get by. This lack of serious commitment by a few individuals at this early stage would cause problems in the future, but it reflects the composition of a typical class where some students are more dedicated to the work than others.

Once the students had created their characters, it was time for them to become that character and prepare for performance. One class day was dedicated to public speaking, for which students read excerpts from various self-help texts that served as reference materials for those who needed them.¹⁵ On that day, the class met in the auditorium where the trial would take place, and students engaged in various vocal warmups before working on voice projection since the venue was such a large space with no microphones for them to use. After they had conquered their initial jitters, they did some improvisational exercises with generic props and personas to help them get accustomed to the space and to working with each other. Another class day focused on character development and used historical improvisation to add context to their public speaking activities and allow them to try out and become more familiar with their characters. Specifically, the students pretended that their characters were convening in a tavern in March 1770 to discuss recent events, and everyone had to engage with and react to each other in character and in that setting. Students also learned some colonial mannerisms and colloquial language so they could act the part and stay true to the times.

In addition to our class meetings, students also had to meet with the law students to prepare the case for trial. This aspect of the class proved to be the most difficult for everyone involved and caused the most frustration for the history students in particular. Several problems became readily apparent, but unfortunately could not be helped. The Baylor Law School runs on a quarter system, while Baylor University operates on a semester system, and because the academic calendars do not coincide, the law students had just one week to review all the material that the history students had spent over a month examining. Powell only suggested one book about the Boston Massacre to his law students (one that had not been assigned to the history students) and it became obvious that few took the time to read it—and that those who did simply looked at the chapter that pertained to the trial.¹⁶ Furthermore, the law students were taking on this trial as a one-credit elective in addition to their usual coursework

and therefore had other priorities that took precedence. Powell's previous class on the *Titanic* had been offered as part of the regular curriculum, which allowed the law students much more time to develop their arguments. Finally, coordinating schedules to allow for group meetings between history and law students was difficult, to say the least. The history students had been warned during the one-on-one consultations before they had enrolled in the class that they would need to be flexible and accommodating when it came to these meetings, so they were surprised at how unversed the law students were in colonial history and at the additional expectations that were required of them in terms of rewriting their witness statements into formal affidavits and providing even more information about their characters when possible. Bringing two different classes of students together is complicated under any circumstances, but in this case, it was even more so.

While students worked on their characters, I needed to take care of all the backstage elements necessary to make this production a success. Powell and I visited the auditorium to decide what set pieces would make the place look like a courtroom and to figure out where everyone would be located throughout the performance. To build our courtroom, I had to acquire several large tables for the justices' bench and attorneys' desks, as well as sizable chairs for the justices to impress the audience with their importance, which meant working with Facility Services since these items had to come from other buildings. Additionally, I had to construct the witness stand and prisoner dock since no standard furniture would work. We also determined the best lighting setting so the audience would focus on the trial while still being able to see what else was happening in the auditorium. We recognized the acoustic challenges of this large venue and resolved to prepare our students to speak very loudly. Powell volunteered to provide the few props we would need (such as a flintlock musket), and on the day of the trial, he supplied every student with a makeshift quill and inkwell. We each planned to contact our respective academic units for assistance with advertising this event on various websites and social media and throughout the campus so we could fill the auditorium with as many spectators as possible. Our courtroom was nowhere near authentic, but it would provide enough elements to fuel the audience's imagination and give the performance sufficient context.

In addition to these physical requirements, we also needed to complete the cast list of participants in the trial. While the history students would serve as witnesses and the law students would act as the attorneys for prosecution and defense, there were several other court officials yet to be determined. Because Powell has many legal and personal connections to the local community, he agreed to find some appropriate judges who would be willing to volunteer their time to adjudicate the trial. He also knew many colonial re-enactors who were interested in partaking in the event in some way, and we decided to place them in the audience as interested observers who would occasionally shout comments about the proceedings and who would simply add color to the event. I am personally acquainted with someone who had acted for several years as the clerk of the court at Colonial Williamsburg, a renowned living history museum, who could fill that same capacity for us here. I also planned to recruit other history students who were not enrolled in the class, but were interested enough in the subject to serve as jurors. Suddenly, this small class had turned into an incredibly large production and involved a lot more people from many different backgrounds than ever expected.

Perhaps the most exciting part of the entire trial was the colonial costumes that we were able to obtain. Students had asked about this issue since the very beginning, and because the class had no monetary budget, I had repeatedly told them that it was not possible. After continued pressure from the history and law students and from Powell, I petitioned the History Department for funding to rent costumes, which was unexpectedly and generously approved. From there, I contacted about a dozen costume rental companies in the surrounding Dallas-Fort Worth and Austin areas to find out what was available and to negotiate the best terms. Meanwhile, all twenty-two history and law students had to supply personal measurements as soon as possible because we were working on a quick deadline that would involve not only the typical alterations, but also shipping to Waco. We had the additional challenge of outfitting all students as colonial men, since only men were allowed to conduct court business in colonial times. Besides donning male period clothing, female students needed to put their hair in a low ponytail (if possible) and not wear excessive jewelry or makeup. All the hard work paid off, however, when the costumes arrived a week before the trial. We ended up choosing a national costume rental company, and could not have been more

pleased with their product.¹⁷ Every costume was unique and made of lavish material, and nearly everything fit properly.

Having colonial costumes added so much to this event for several reasons. Visually, they helped transport the audience back to 1770 and made them feel like they were in a courtroom from that time period. More importantly, all students took their learning to a whole new level. Not only did the costumes help them to fully embody their character, but they also gave these present-day students the opportunity to try out life as a colonial man. They all had to deal with the unique and perhaps uncomfortable experience of wearing breeches and stockings, and they had to become accustomed to sitting, walking, and living in these unusual clothes. They also had to conquer a countless number of buttons on their shirts, waistcoats, and greatcoats since modern fasteners like zippers and Velcro did not exist. We did not obtain wigs and hats, to save on rental and shipping costs, and students needed to supply their own black dress shoes for comfort and hygiene purposes. Nevertheless, dressing in period clothing was by far the highlight of the entire event.

The Trial

The trial itself went smoothly, but not perfectly. Everything came together well enough to recreate the 1770 Boston courtroom as best as possible. The stage setting made the most of what was available, and the costumes definitely stole the show. All of the students and the additional personnel performed professionally, and while the re-enactors in the audience did add color to the event, they distracted attention from the trial with occasional outbursts that undermined all the hard work that the students had put into their performances. Nothing went wrong in terms of backstage operations, however, which allowed all of the other aspects of the presentation to work well.

That afternoon, students assembled in a makeshift costume shop in a vacant office to change clothes while I set the stage in the auditorium. Once dressed, they interacted with the audience to help them begin the transition to colonial times. Audience members also received a detailed program that included a description of the setting, the order of the presentation, a list of characters, and maps of the Custom House square and surrounding streets for reference (see **Appendix B** for partial program).

To begin the performance, I gave a brief introduction explaining the historical situation and what was about to occur. The bailiff called the court to order, and once the justices had taken their seats, the clerk read the indictment of the two soldiers to be put on trial. Lawyers for the prosecution and defense gave their opening statements, and most of the trial centered on witness testimony. Each of the witnesses (the history students) was called upon by the lawyers (the law students) to explain what they had seen that night and how they had participated in the so-called Boston Massacre, and each was closely cross-examined by opposing counsel. Here was where it became obvious who had prepared their characters—and who had not. Essentially, each history student faced an intense oral exam about their character in front of a large audience and had to answer with clearly articulated and historically accurate answers that could be heard throughout the auditorium. As expected, some performed better than others, but all did well enough to get their point across and contribute to the overall narrative.

After each side presented their closing arguments, the jury deliberated upon what they had seen and rendered a verdict. The seriousness of the jurors surprised us all; these were random history students that I had recruited to spend the afternoon watching this trial with no expectation of any sort of academic credit for their service, and yet they observed the entire proceedings closely, took copious notes, and carefully considered and seriously debated their decision. Their verdict did not match the historical one, which I clarified in my final remarks before court adjourned. Students then interacted with the audience again as they exited the auditorium to gauge their reaction to what they had seen and to maintain the overall ambiance of colonial times.

In the end, everyone agreed that it went as well as could be expected under the circumstances. It was nowhere near authentic, but it was not supposed to be. The audience (which numbered close to 250) was able to observe a unique teaching activity and experience a small taste of that historical era. Our goal had been for the audience to appreciate the significance of the Boston Massacre and its subsequent trials in history and, more importantly, to understand how complicated and confusing this incident really was. All too often, people simply accept the facts as they are presented to them in the media rather than challenging their legitimacy, and this trial

provided the audience with the opportunity to realize that there are multiple perspectives to every historical episode and that they should question the traditional narrative to determine for themselves if it is truly accurate.¹⁸

For the most part, the students enjoyed the entire episode. In the course evaluations administered by the university at the end of the semester, one student commented, “The performance was a highlight of my college career,” while another stated, “I LOVED the trial, much more than I thought I would. It was so cool seeing history come alive.” Sadly, this group was unable to meet in person after staging the trial to debrief. The presentation occurred two days before spring break, during which the university announced that it was transitioning to online teaching to prevent the spread of the Coronavirus and advised students not to return to campus unless absolutely necessary.

Despite this scheduling upheaval, the history students were already expected to submit an After-Action Report for the class two weeks after the trial where they reflected on their experience, on what worked for them and what did not, and on what important lessons they had learned from their preparation for and participation in this event. They all expressed similar joys with the colonial costumes and with how smoothly the actual trial as a whole proceeded, but they all also raised concerns about lack of preparation by the law students and frustration when working with them. They all wished that they had had more time to interact with the law students and to be on stage so they could present more information about their character and their involvement in the Boston Massacre—not to show off their knowledge, but to put forth a more complete picture to the audience of what had happened that night. Everyone had a mostly positive experience, however, and appreciated the opportunity to take part in this unique event and class.

After The Trial

While the trial marked the high point of the semester and the culmination of the students’ work on their characters, the class was not over yet. We returned to the traditional format of a large reading assignment and a small discussion group for one last time to tackle the topic of historical commemoration (namely, which events get

celebrated and how and why) and specifically how memorializing the Boston Massacre has changed over time.¹⁹ Boston officials did little to mark the 250th anniversary of this event, which, although disappointing, provided another point for discussion.²⁰ With class cancelled due to the onset of the Coronavirus pandemic and the shift to online teaching that occurred in its wake, students moved on to the remaining coursework that they had left to complete.

The final component of this course was a standard research paper. Students chose a topic based on their personal interests and needed to do primary and secondary research in order to write a twenty-five-to thirty-page paper, similar in scope and format to a journal article. Topics ranged from investigations into various colonial newspapers to show how the contemporary media reported and commented on the Boston Massacre and its subsequent trials, to studies of Thomas Hutchinson's role as the acting governor during that turbulent year. One student looked at how John Adams' part in the soldiers' trials affected and influenced his future political career, and another compared this historical episode to more modern incidents involving police or military clashes with civilian protestors. Two chose to look more closely at the soldiers' experiences as an occupying force in the American colonies and sympathized with their difficult situation. The research paper allowed the students to return to a more traditional and academic approach to this topic and to create the scholarly essay expected in most advanced history classes. Because they had participated in such detailed research for their characters, students were already familiar with the sources available to them and were mentally prepared to take on this intense intellectual project, and most did fairly well on them.²¹

Lessons Learned

This class involved a tremendous amount of work that required much preparation, both in terms of coursework and trial performance, as well as cooperation among multiple departments across the university—most directly, history and law. If such an activity were attempted again, there would need to be more time and better communication with the law students. That part of the class caused the most consternation for everyone involved. Furthermore, additional historical training for the law students would be necessary.

Coordinating the partnership between the history and law students also necessitated more direct oversight instead of expecting them to make those connections themselves. Team-taught classes are always a challenge, but this one was especially so because it required bringing together two very different types of students, with different schedules and with different academic and personal expectations from the class. These issues would have to be addressed in future partnerships.

Another major problem with this class, and with the trial itself, was size. Both became too big, which caused a multitude of problems. By having so many students, both history and law, there were too many participants who did not get enough time on stage to showcase all the work that they had done. I also had little control over which students decided to enroll in the class; even though I met with each one individually months before the class got underway, I could not get to know each one very well in such a short amount of time to determine if they were academically ready for and committed to this unique undertaking, nor could I turn any of them away for fear of not reaching the History Department's quota or causing personal offense to the student. I ended up with a typical mixed bag of students, some of whom were incredibly dedicated to this class and others who chose to coast along.²² In addition, I had high expectations in terms of the workload for this class, which turned out to be more on par with a graduate seminar than an undergraduate upper-level course. Most students met those expectations, but several commented informally throughout the semester that this was the most intense and demanding class that they had ever taken.

The number of people involved in the actual trial was also a surprise. Not until Powell and I listed everyone that we needed to fill the various roles—which we did not do until several weeks into the semester—did it become apparent just how many people would take part. There were my thirteen history students serving as witnesses, his nine law students as attorneys, four justices, a bailiff, a clerk, and fifteen additional history students as jurors (the standard twelve, plus three alternates). In addition to these forty-three specific characters, Powell also invited about twenty colonial re-enactors to attend, for a total of well over sixty individuals. While having all these individuals in costume (except the jurors) looked impressive, it was challenging to organize. It all came together in the end, but coordinating them all was difficult.

Considering the large amount of characters, and the large amount of material, the trial itself was far too short. Powell's previous trial involving the *Titanic* tragedy lasted an entire week and convened for four hours every afternoon for five days. This long length of time allowed for a thorough scrutiny of the witnesses, as well as detailed opening statements and closing arguments by the prosecution and defense. Our trial only lasted two hours on one afternoon and involved many more participants, which greatly curtailed the amount of information that each person could contribute. The actual trials in the wake of the Boston Massacre each took over a week to adjudicate and were the longest trials ever held in a colonial court.²³ While it was impossible to expect history undergraduate students to commit to a multi-day event (not to mention reserving a space and attracting an audience for that long), it would have allowed for much more in-depth examination of the witnesses, but would have also required additional research and preparation on their part. Students were able to capture the essence of what happened during the Boston Massacre and to get their points across, but had to sacrifice its many interesting and conflicting nuances in order to save time.

Overall, it was an exciting and highly rewarding experience. Bringing history to the stage and working in conjunction with the Law School added a whole different component to students' learning. In their course evaluations, students overwhelmingly enjoyed this class, and several cited it as one of the best that they had taken at Baylor. They appreciated the opportunity to study one historical event in depth and to take a creative approach to doing research and presenting their findings. One student requested more offerings of innovative classes such as this; because this one was such a success, perhaps that will happen with other historical events as a basis. In this age of multimedia, it is imperative for history teachers of all levels to find new ways to reach and teach future students, and this class accomplished that goal.²⁴

Notes

1. Alan Hunt, “Baylor Law Students Preparing for Titanic Trial,” Baylor University, July 1, 2005, <<https://www.baylor.edu/mediacommunications/news.php?action=story&story=34736>>; Alan Hunt, “Titanic Trial Ends in Multi-Million Dollar Verdict—and a Tear,” Baylor University, July 11, 2005, <<https://www.baylor.edu/mediacommunications/news.php?action=story&story=34754>>; “See Titanic On Trial at the Mayborn Museum,” Baylor University, June 21, 2018, <<https://www.baylor.edu/mediacommunications/news.php?action=story&story=199880>>; Carl Hoover, “Baylor Law Students Sharpen Skills in Titanic Trial Coinciding with Museum Exhibit,” *Waco Tribune-Herald*, June 29, 2018, <https://www.wacotrib.com/news/higher_education/baylor-law-students-sharpen-skills-in-titanic-trial-coinciding-with/article_9f100734-095c-5c22-a60e-bd2f95ed3d5f.html>.

2. Key primary sources included *A Short Narrative of the Horrid Massacre in Boston* (Boston, MA: Edes and Gill, 1770); *A Fair Account of the Late Unhappy Disturbance at Boston in New England* (London, United Kingdom: B. White, 1770); *Additional Observations to A Short Narrative of the Horrid Massacre in Boston* (London, United Kingdom: E. and C. Dilly, 1770); *The Trial of William Wemms, [et al.]* (Boston, MA: J. Fleeming, 1770). Relevant secondary sources consisted of Richard Archer, *As If an Enemy’s Country: The British Occupation of Boston and the Origins of Revolution* (New York: Oxford University Press, 2010); Eric Hinderaker, *Boston’s Massacre* (Cambridge, MA: The Belknap Press of Harvard Press, 2017); Hiller B. Zobel, *The Boston Massacre* (New York: W. W. Norton, 1970).

3. The best account of this situation from the perspective of the British soldiers is Archer, *As If an Enemy’s Country*, xiii-xviii, 1-181; for more general overviews, see Hinderaker, *Boston’s Massacre*, 29-158; Zobel, *The Boston Massacre*, 87-179.

4. Archer, *As If an Enemy’s Country*, 182-206; Hinderaker, *Boston’s Massacre*, 9-27; Zobel, *The Boston Massacre*, 180-205.

5. Archer, *As If an Enemy’s Country*, 202-225; Hinderaker, *Boston’s Massacre*, 159-220; Zobel, *The Boston Massacre*, 206-294.

6. Depositions can be found in *A Short Narrative of the Horrid Massacre in Boston*, Appendix, 1-78; and *A Fair Account of the Late Unhappy Disturbance at Boston*, Appendix, 1-28. The entire trial transcript has been published in *The Trial of William Wemms*. Dan Abrams and David Fisher provide a detailed overview of the trials in *John Adams Under Fire*, which came out after this class was already underway. See Dan Abrams and David Fisher, *John Adams Under Fire: The Founding Father’s Fight for Justice in the Boston Massacre Murder Trial* (Toronto, Canada: Hanover Square Press, 2020).

7. It is a generally accepted practice in the History Department that a class must have a minimum enrollment of ten students or it would be cancelled.

8. All student advising is handled through the College of Arts & Sciences Advisement (CASA) office, where one advisor handles all history majors and minors, and the History Department Undergraduate Program Director (UPD) also offers additional optional advising services. Because the course was listed in

the Schedule of Classes, though, I received inquiries from students from a wide variety of majors and minors who had just happened upon the class while looking through the course offerings for Spring 2020.

9. The two recent publications used in this class were Hinderaker's *Boston's Massacre* and Archer's *As If an Enemy's Country*, and the collection of primary sources was Neil L. York, ed., *The Boston Massacre: A History with Documents* (New York: Routledge, 2010). The most comprehensive book about this event is Zobel's *The Boston Massacre*, but it is far too detailed and dense for this class and presents a somewhat dated interpretation of the incident. Two books came out after the class had already begun that offered unique interpretations about specific aspects of this event, namely, Serena Zabin, *The Boston Massacre: A Family History* (New York: Houghton, Mifflin Harcourt, 2020) and Abrams and Fisher, *John Adams Under Fire*.

10. *A Short Narrative of the Horrid Massacre in Boston (1770); A Fair Account of the Late Unhappy Disturbance at Boston in New England (1770); Additional Observations to A Short Narrative of the Horrid Massacre in Boston (1770)*.

11. See the syllabus entry for January 30, "Colonial Court Procedure and Mannerisms" in Appendix A for details.

12. *The Trial of William Wemms*.

13. On the Course Evaluations administered by the university at the end of the semester, one student commented, "The reading was a lot sometimes, but it paid off in the end so I didn't mind."

14. One student noted in the Course Evaluations, "The most valuable aspect of this course was creating our own witness statements because it made us think as if we were actually a member of this event."

15. See the syllabus entry for February 13, "Public Speaking" in Appendix A for details.

16. See "Chapter 19: *Rex v. Wemms et al.*" in Zobel, *The Boston Massacre*, 267-294.

17. Many thanks to Kristin Wyly at Norcostco for all her assistance with acquiring, altering, and shipping these costumes.

18. Tommy Witherspoon, "History Takes the Stand: Baylor Law, History Students 'Relitigate' Boston Massacre Trial 250 Years Later," *Waco Tribune-Herald*, March 5, 2020, <https://www.wacotrib.com/news/higher_education/baylor-law-history-students-relitigate-boston-massacre-trial-years-later/article_d49d75f0-7d36-5b0d-835a-3c60e6c0b049.html>; Ben Swayze, "On 250th Anniversary of the Boston Massacre, Baylor Law Students Participate in Dramatic Retrials," Baylor University, March 10, 2020, <<https://www.baylor.edu/law/news.php?action=story&story=217892>>. The *Waco Tribune-Herald* followed up this event with two opinion pieces, one from the editor himself, that praised the performance and emphasized the themes mentioned above. "Ripped From the Pages of Our History!" editorial, *Waco Tribune-Herald*, March 7, 2020, <https://www.wacotrib.com/opinion/editorials/editorial-ripped-from-the-pages-of-our-history/article_2e852f2e-0225-5862-bc91-8fc8414cefd4.html>; Crawford Long, "Letters: Thoughts on History, Preservation, Incompetence, & Malevolence," opinion, *Waco Tribune-Herald*, March 12, 2020, <<https://www.wacotrib.com/>

opinion/letters_to_editor/letters-thoughts-on-history-preservation-incompetence-malevolence/article_277fb57e-d3f4-5d0e-a8e6-66f4a156b4c6.html>.

19. Bostonians commemorated this event every year with a speech given by a renowned statesman, which continued through the war years and beyond. The meaning of the Boston Massacre changed depending on the political times, and the tradition was eventually abandoned in favor of celebrating independence. The annual speeches were collected and published as *Orations Delivered at the Request of the Inhabitants of the Town of Boston to Commemorate the Evening of the Fifth of March, 1770* (Boston, MA: Edes, 1785). Furthermore, Mitch Kachun published a book focusing on the role that Crispus Attucks (one of the men killed that night and a mixed-race dockworker of unknown legal status) played in this event and how different civil rights movements throughout history have used and interpreted his story. Mitch Kachun, *First Martyr of Liberty: Crispus Attucks in American Memory* (New York: Oxford University Press, 2017). This class read a shorter version of this study in article form: Mitch Kachun, “From Forgotten Founder to Indispensable Icon: Crispus Attucks, Black Citizenship, and Collective Memory, 1770-1865,” *Journal of the Early Republic* 29 (Summer 2009): 249-263.

20. Philip Marcelo, “Tributes, Protest Mark 250th Anniversary of Boston Massacre,” Associated Press, March 5, 2020, <<https://www.apnews.com/article/fd3f5c08297b29da1eddb0b9095a4a845>>.

21. One student commented on the Course Evaluations, “it was also really awesome to write a paper on it—I became passionate about the Boston Massacre, and when it came time for research, I was really excited to write it.” Another stated, “I made memories to last a lifetime in that class, and by writing my first ‘big’ academic paper. I also learned a lot and was able to try my hand at a serious (aka long) paper.”

22. In the Course Evaluations, one student noted, “the attitude of some of my classmates became distracting at times....[It] is just a comment on how not everyone gets along with each other all the time.”

23. Massachusetts Superior Court, *The Trial of the British Soldiers of the 29th Regiment of Foot* (Boston, MA: Belcher and Armstrong, 1807; reprint, Miami, FL: Mnemosyne Publishers, Inc., 1969); Hinderaker, *Boston’s Massacre*, 187-220; Abrams and Fisher, *John Adams Under Fire*, 262-278.

24. Mark C. Carnes at Barnard College has created a series called Reacting to the Past that offers a series of role-playing games with historical context. Most use a debate format, but one uses a trial to connect students to history. See Michael P. Winship and Mark C. Carnes, *The Trial of Anne Hutchinson: Liberty, Law, and Intolerance in Puritan New England* (New York: W. W. Norton, 2013). Also see the Reacting to the Past website at <<https://reacting.barnard.edu>>.

Appendix A: Course Syllabus

*History 4340-03:
The Boston Massacre Trials
(Spring 2020)*

CLASS MEETINGS: R 2:00pm-4:45pm 209 Tidwell Bible Building

INSTRUCTOR: Dr. Jules Sweet
309 Tidwell Bible Building
Office: 254-710-6303
Email: Julie_Sweet@baylor.edu

OFFICE HOURS: Tuesdays, 12:30pm-3:30pm, and by appointment

INTRODUCTION:

You are traveling into a new dimension – one that combines history and theater, secondary reading and original research – to create a truly transformational education experience that will only occur once in a lifetime. *Your next stop – Boston, 1770.*

OBJECTIVES:

To commemorate the 250th anniversary of the Boston Massacre, students will engage in extensive research about the setting of Boston in 1770, the incident that occurred on 5 March of that year, the trials that followed, and the immediate aftermath and historical significance of the entire event.

Students will work in conjunction with law school candidates enrolled in Practice Court to stage a historical interpretation of the trials surrounding the Boston Massacre to be performed on 5 March 2020 for an audience consisting of the Baylor and Waco communities in Bennett Auditorium to commemorate the 250th anniversary of that event. Furthermore, students will write detailed research papers exploring the various characters and issues involved in this event, both to learn about and practice historical methodology, as well as prepare their characters for their performance.

TEXTBOOKS:

- Richard Archer, *As If an Enemy's Country: The British Occupation of Boston and the Origins of Revolution* (New York: Oxford University Press, 2010)
- Eric Hinderaker, *Boston's Massacre* (Cambridge, MA: The Belknap Press of Harvard Press, 2017)
- Neil L. York, ed., *The Boston Massacre: A History with Documents* (New York: Routledge, 2010)

ASSIGNMENTS:**Joint Book Review:**

For the first day of class, you will write a “joint book review” that covers both the Archer and the Hinderaker books. For this assignment, you will briefly summarize and critically analyze each text, as well as compare and contrast the two approaches to the topic. Your review should be 5-7 pages (double-spaced) and is worth 15% of your final grade.

Witness Statement:

To prepare for your role as a witness to the “Boston Massacre,” you will write a “witness statement,” which is similar to a legal deposition where you describe what you saw to the best of your recollection. You will be assigned a character, but you will develop that character from a composite of primary sources in order to assemble as much detail as possible. There will be further instructions about this assignment forthcoming, and it is worth 20% of your final grade.

Performance:

On Thursday, March 5, we will present a live performance of the trial that occurred after the “Boston Massacre” in conjunction with candidates from the Baylor Law School Practice Court for both the Baylor and Waco communities. Your participation is a necessary ingredient to the success of this event, which is why there is much preparation involved in the days leading up to it. You must meet with your lawyer and your professor often to prepare your character and be ready to improvise accordingly. Your preparation, participation, and performance on this day is worth 15% of your final grade.

After-Action Report:

An “after-action report” is an assessment of what worked for you and what did not regarding your performance and the event in general. It is an opportunity to step back and evaluate what happened, both good and bad, as well as a chance to digest what you learned from this experience. There will be further instructions about this assignment forthcoming, and it is worth 10% of your final grade.

Research Paper:

The other crucial ingredient to this class is the research paper, based on both primary and secondary research that you have accumulated over the course of the semester. It is your opportunity to create 25-30 pages of original work along the lines of professional scholarly articles with a specific agenda or thesis. You will come up with a specific topic over the course of the first half of the semester and assemble the necessary data to write it after Spring Break, and you will meet one-on-one with your professor to discuss drafts of this project. The research paper is worth 30% of your final grade.

In-Class Discussion:

For each class, you will bring a written list of discussion questions or topics about the reading material due that day to answer any concerns, to clarify any ambiguities, to facilitate conversation, and to help your colleagues make sense of the reading. You will not need to submit your list, but you are expected to have one. Your in-class discussions of each day’s materials are worth 10% of your final grade.

GRADE BREAKDOWN:

Joint Book Review	15%
Witness Statement	20%
Performance	15%
After-Action Report	10%
Research Paper	30%
<u>In-Class Discussion</u>	<u>10%</u>
TOTAL:	100%

GRADING SCALE:

A = 100-93 B+ = 89-87 C+ = 79-77 D+ = 69-67 F = 59-0
 A- = 92-90 B = 86-83 C = 76-73 D = 66-63
 B- = 82-80 C- = 72-70 D- = 62-60

EXTRA CREDIT:

Extra Credit is not an option, especially in this class, so do not ask for any additional work. **Why?** I expect your best effort on all assignments at all times, rather than submitting less-than-perfect work with the possibility of making it up later. Do it right the first time, and extra credit is irrelevant.

ATTENDANCE:

Do NOT miss class. Attendance is mandatory, and you will lose FIVE percentage points off of your final grade for each class that you miss. If you have a medical issue or are participating in a university-sponsored event, I must have an excuse in writing from your doctor or professor explaining your absence. There is no possible way to make up the work that you will miss while absent, and because this class relies so heavily on group participation, it is imperative that you attend every scheduled class day. This policy is especially true on performance day.

SCHEDULE OF CLASSES:

Thursday, January 16

Topic: What Happened?: An Overview of the Event

Reading Due: Archer, *As If an Enemy's Country*
 Hinderaker, *Boston's Massacre*, Intro,
 Ch. 1, 7-10; (also skim Ch. 2-6)
 York, *Boston Massacre*, Chronology, Part I

Writing Due: Joint Book Review

Thursday, January 23

Topic: What “Really” Happened: Primary Accounts of the Event

Reading Due: Report in *Boston Gazette* (12 March 1770)
Selections from York, *Boston Massacre*:
- Document 9: A Most Shocking Scene
- Document 19: *A Short Narrative*
- Document 20: *A Fair Account*
- Document 21: *Additional Observations*

Thursday, January 30

Topic: Colonial Court Procedure and Mannerisms

Reading Due: Jerome R. Reich, *Colonial America*, Ch. 10, 17
Carl R. Lounsbury, *The Courthouses of Early Virginia*, pp. 3-10, 16-28, 216-230
Warren M. Billings, “The Growth of Political Institutions in Virginia, 1634-1676,” *William and Mary Quarterly* 31 (April 1974): 225-242
Warren M. Billings, “Pleading, Procedure, and Practice: The Meaning of Due Process of Law in Seventeenth-Century Virginia,” *Journal of Southern History* 47 (November 1981): 569-584
William E. Nelson, “The Legal Restraint of Power in Pre-Revolutionary America: Massachusetts as a Case Study, 1760-1775,” *American Journal of Legal History* 18 (January 1974): 1-32
Hiller B. Zobel, “Law Under Pressure: Boston 1769-1771,” in *Law and Authority in Colonial America*, ed. George Athan Billias, pp. 187-208
Selections from York, *Boston Massacre*:
- Introduction to Document 24: Questions About the Court Record (pp. 176-178)
- Introduction to Document 25: A Judge’s Directions to Jurors (pp. 187-188)

Thursday, February 6

Topic: The Trial: *Rex v. Preston* and *Rex v. Wemms, et al.*

Reading Due: *The Trial of William Wemms*
 Selections from York, *Boston Massacre*:
 - Document 18: Grand Jury Indictment
 - Document 25: A Judge's Directions to Jurors

Guest Lecture: Prof. Gerald R. Powell, Abner V. McCall
 Professor of Evidence

Thursday, February 13

Topic: Public Speaking

Reading Due: Alyson Connolly, *Public Speaking Skills*,
 Ch. 11, 14, 16, 20, 21, 22
 Learning Express, *Public Speaking Success*,
 Lessons 1, 13, 15, 16
 Dale Jones, "Theater 101 for Historical
 Interpretation," American Association for
 State and Local History Technical Leaflet
 #227
 Bob Bedore, *101 Improv Games for Children
 and Adults: Fun and Creativity with
 Improvisation*, pp. 1-8, 12-19, 152-168

Writing Due: Witness Statement

Thursday, February 20

Topic: Historical Improvisation

Reading Due: Review previous readings & Witness Statements

Thursday, February 27

Topic: Getting Ready for the Big Day: "Dress Rehearsal" and
 Group and Individual Meetings with Lawyers and Professors

Thursday, March 5 – PERFORMANCE

Instructions: Come to class at the usual time and place to prepare for performance
 Relocate to performance venue (TBA)
Stage Trial Performance (3pm-5pm)
 Stay one hour afterwards to interact with audience

Thursday, March 12 – SPRING BREAK

Thursday, March 19

Topic: Issues of Historical Memory and Commemoration

Reading Due: *Orations Delivered at the Request of the Inhabitants of the Town of Boston to Commemorate the Evening of the Fifth of March, 1770*
 Selections from York, *Boston Massacre*:
 - Document 17: Coroner’s Inquest for Crispus Attucks
 - Document 28: Annual Commemoration
 - Document 30: Monument to the Fallen
 - Document 31: A More Balanced View
 Current Events Articles (TBA)
 Mitch Kachun, “From Forgotten Founder to Indispensable Icon: Crispus Attucks, Black Citizenship, and Collective Memory, 1770-1865,” *Journal of the Early Republic* 29 (Summer 2009): 249-263

Writing Due: After-Action Report

Thursday, March 26 One-on-One Meetings about Research Papers

Note: You must make an appointment to meet with your professor on this day and come prepared with a topic and plan for research and writing (at minimum).

Thursday, April 2 Research & Writing

Thursday, April 9 Research & Writing

Thursday, April 16 Research & Writing

Thursday, April 23 **LAST DAY to submit Research Paper**

Appendix B: Partial Program

**THE BOSTON MASSACRE
TRIALS**

March 5, 2020
250th Anniversary of the Boston Massacre
3:00-5:00pm
Bennett Auditorium

THE TRIAL

Rex v. Montgomery and White

THE SETTING

Boston, 1770

THE BACKGROUND

Two regiments of British troops have occupied the city of Boston for seventeen months to maintain law and order during colonial protests of the Townshend Duties. Tensions between soldiers and townspeople have steadily increased, and many confrontations have occurred.

On the night of 5 March 1770, a crowd of colonists clashed with a small party of British soldiers in front of the Customs House. Shots were fired, and five colonists were killed and several more wounded. Within days, this event became forever known as “The Boston Massacre.” Months later, the soldiers were put on trial for murder.

Our event today is a historical interpretation of that trial to commemorate the 250th anniversary of that fateful night.

ORDER OF PROGRAM

Introduction

Call to Order

Presentment of Charges

Opening Arguments

Witness Testimony

Closing Arguments

Jury Deliberation

Publication of the Verdict

Concluding Remarks

PUBLIC NOTICES

- Turn off all electronic devices.
- No pictures or recordings of this performance of any kind are permitted.
- The program will last two hours.
- Cast members will be available afterwards to interact with the audience.

*This event is brought to you by
the Department of History and the Baylor Law School,
performed by Dr. Sweet's "Boston Massacre Trials"
history students and Prof. Powell's law students.*

PARTICIPANTS

- Narrator:** Dr. Julie Anne Sweet
Professor of History and Director of Military Studies
- Chief Justice:** Prof. Gerald R. Powell
Abner V. McCall Professor of Evidence
- Justices:** Hon. Ralph T. Strother, Judge, 19th District Court
Hon. Jeffrey C. Manske, U.S. Magistrate Judge
Hon. John E. Neill, Justice, 10th District Court of Appeals
- Prosecutors:** Cody Branstetter, Tori Coates, Megan Ferguson,
Stefan Garcia, Seth Stukalin
- Counsel for Montgomery:** Austin Dam, Christina Rosendahl
- Counsel for White:** Hallie Hicks, AJ Horner
- Defendants:** Private Hugh Montgomery: Danny Dunn
Private Hugh White: Katy Clevenger
- Witnesses:** Jonathan Williams Austin: Allesandra Albertini
Ebenezer Bridgham: Evelyn Morrey
Benjamin Davis, Jr.: Caleb O'Donnell
Nicholas Ferreter: Adam Williams
Capt. John Goldfinch: Joshua Wells
Dr. Richard Hirons: Jennifer Throne
Dr. John Jeffries: Brooke Beard
Edward Langford: Benjamin Aaron
Henry Knox: Katie Loeff
Richard Palmes: Ry Hutchinson
Edward Payne: Jeremy Danzell
- Bailiff:** Delea Sayers
- Clerk:** Dr. Tom Riley
Lieutenant Commander, U.S. Navy, Retired
- Jury:** History Students
- Townspeople:** Re-enactors & Audience