



# Col. John Chivington & Sand Creek a Historical Mock Trial

---

## Commissioner\* Guidelines

In order to do an effective job as a member of the jury\* in a historical mock trial, you will have to strive to be as objective as possible. You are expected to be familiar with the general “mood” of Colorado and Denver in the early 1860s. However, you are not expected to know anything about what specifically happened at Sand Creek. For example, you might know that both the Indians and the whites of Colorado skirmished with each other from time to time. You might also have heard that on November 27th, 1864, elements of the territorial cavalry, under the command of Colonel John Chivington, fought a band of Cheyenne Indians in southeast Colorado; however, you don’t know any of the specific facts of what happened on the day of the fight. You should not serve on the jury if you feel incapable of giving a fair verdict based on the evidence.

The judge will explain the charges against the defendant — Colonel John Chivington — and the law that applies to the case. It is your task to decide the facts. The attorneys from both the defense and prosecution will explain the case from *their* point of view, but it is what the witnesses say — the evidence — that should determine your thoughts and eventually, the verdict.

You must listen carefully to all the evidence presented by the witnesses, especially under direct examination. You must determine if they are telling the truth, lying, or simply not contributing anything relevant to the case.

When all the evidence has been presented, the judge will ask the jury to “retire” to the jury chambers and consider a verdict. The judge should remind you at this time that the “burden of proof” is on the prosecution; a person is considered innocent until proven guilty “beyond a reasonable doubt.” You should try to reach a vote of “guilty” or “not guilty” by consensus (everyone in the jury agrees). A jury never declares a person “innocent,” only *guilty* or *not guilty*. That means that it is possible for you to *believe* that Colonel Chivington is guilty, but to also find him not guilty because the prosecution failed to present enough evidence to remove all doubt from your mind.

When the jury has decided its verdict, you should return to the courtroom. The judge will ask the jury foreman to hand the verdict to the sergeant-at-arms, and then read the verdict aloud.

At no point during the mock trial activity — neither during the pretrial phase nor the actual trial — should the attorneys be discussing the trial with the members of the jury. If any juror is approached by one of the attorneys and asked to discuss the case, they should report the incident to the judge immediately.

\* The “jury” in a military trial is called the “commission”, and the officers that serve on it are called “commissioners”.