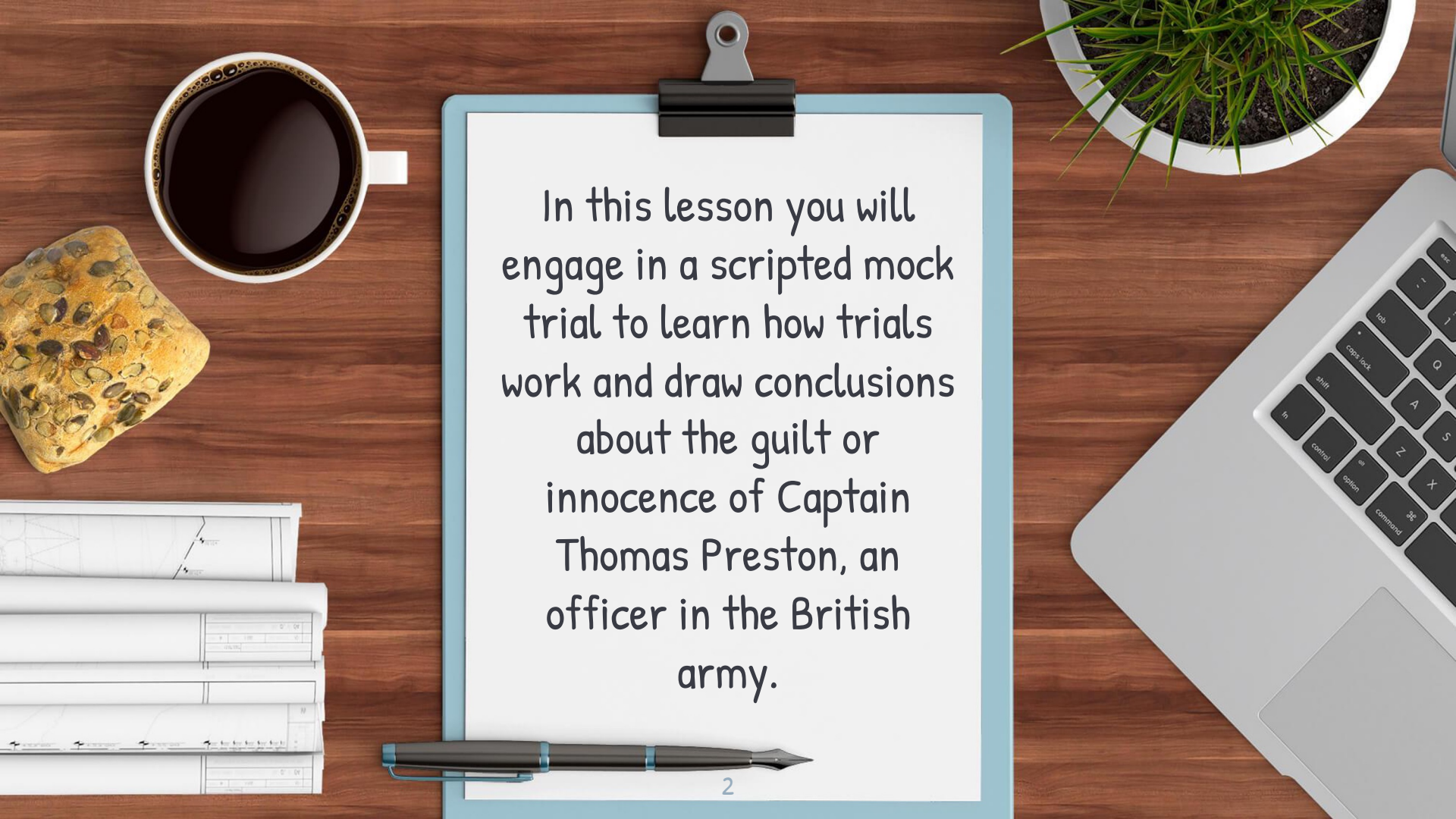
A top-down view of a wooden desk. In the center is a white sheet of paper with handwritten text. To the left is a grey pen holder with various pens and a silver pencil. At the bottom left is a white ruler. To the right is a white coffee cup with dark coffee, a small pile of green and yellow snacks, and a small potted plant with green grass-like leaves. A white laptop is partially visible at the top.

LESSON 10: SCRIPTED MOCK TRIAL - BOSTON MASSACRE

UNIT 6
GRADE 4



In this lesson you will engage in a scripted mock trial to learn how trials work and draw conclusions about the guilt or innocence of Captain Thomas Preston, an officer in the British army.



ESSENTIAL QUESTION:

Was Captain Thomas Preston guilty
of giving an illegal order to fire?
What evidence supports my
conclusion?

STIPULATED FACTS

FACTS EVERYONE AGREES TO

Resource 1: Stipulated Facts (facts everyone agrees to)

What Happened on March 5, 1770?

What Caused the Tensions in Boston to Increase?

Many people in Boston were angry in early 1770. More than 2,000 British soldiers were in their city. The 16,000 colonists who lived in Boston did not like having the soldiers in their city. They believed that the soldiers were part of an illegal "standing army" sent there to enforce Britain's unfair laws. To make matters worse, the Quartering Act required the people of Boston to help cover the costs of having British soldiers in the colonies by making them provide the soldiers with housing, food, and drinks.

Small fights between colonists and soldiers—and between patriot colonists and colonists loyal to England (loyalists)—were happening more frequently. Some patriots began damaging stores that sold goods from England. They also harassed the store owners and their customers. All of this was done to protest the taxes and the presence of British soldiers in Boston.

On February 22, a mob of patriots attacked a loyalist's store. A tax collector named Ebenezer Richardson lived near the store and tried to stop the crowd that was throwing rocks at the store. He fired his gun through the window of his home. One of his shots killed an 11-year-old boy named Christopher Seider. This made the patriots angrier than ever. The funeral for Christopher was the largest ever seen in Boston. Boys carried Christopher's coffin in front of a line of people nearly a mile long.



The Death of Christopher Seider

Did the Violence End with Christopher's Tragic Death?

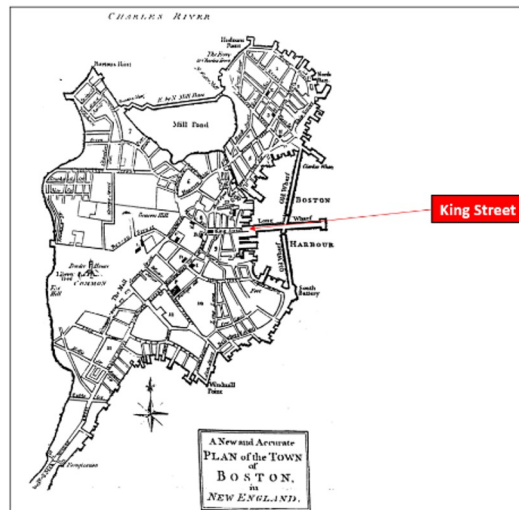
No. Several days later, a fight broke out between colonists and British soldiers. It ended without serious injuries but made the colonists and soldiers angrier. Some colonists wanted the soldiers out of their city.

How Did the Problems Begin on March 5th?

On the cold, snowy evening of March 5, 1770, an English soldier named Private Hugh White was guarding England's tax money. That money was stored inside a building called the Custom House on King Street. A group of angry colonists gathered around White, insulted him, and threatened him.

At some point, Private White whacked a colonist with his gun. The colonists threw snowballs, ice, stones, and oyster shells at White. Bells started ringing throughout the town—usually a warning that a house was on fire. The fire bells caused a large number of colonists to pour out into the streets. There were no fire departments in Boston at this time in history. So, whenever the fire bells rang every able-bodied

person was required by law to bring buckets to help put out fires. Many people came down to King Street when they heard the fire bells ring.



The colonists continued to attack Hugh White. He eventually fell and called for help.

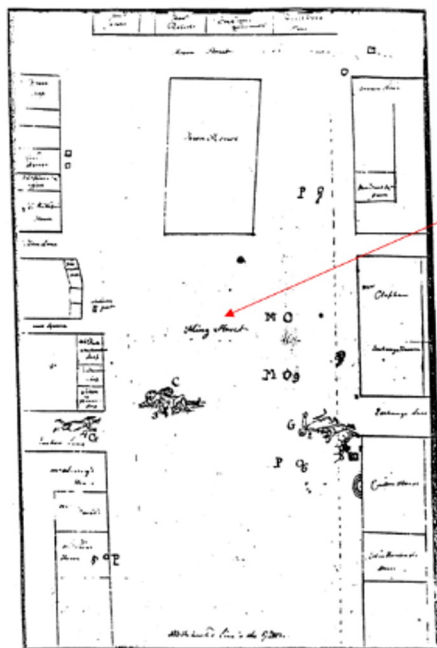
Did Help Arrive?

Yes. Captain Thomas Preston, an officer in the English army, arrived on the scene with seven other soldiers. Now there were a total of 9 soldiers including Captain Preston and Hugh White. The soldiers gathered in front of the Custom House with Hugh White to help protect him.

Suddenly, shots rang out. Three people from Boston were killed immediately, including a Black man named Crispus Attucks. Samuel Maverick, a 17-year-old boy who was standing in the back of the crowd

was hit by a bullet that bounced off of a wall. Samuel died the next day. Another man named Patrick Carr died nine days later from his wounds.

The sketch below of shooting victims lying on King Street was drawn by a famous colonist named Paul Revere.



III. Paul Revere's plan of the Massacre, drawn for use in the subsequent trial. From the Melles Chamberlain Autograph Collection.

Was Anyone Arrested?

Yes. Captain Thomas Preston and 8 soldiers who were there that evening were arrested the next morning. Authorities interviewed witnesses over the next few days. The testimony - statements given by witnesses - that you will hear in our mock trial came from the witnesses statements.

Captain Preston and the other 8 soldiers were charged with murder. The rest of the British soldiers were moved out of Boston to prevent an all-out rebellion. The shock of the deaths and the removal of the soldiers out of Boston helped lower tensions.

Was Anyone Put on Trial?



Yes. The authorities decided to try Captain Preston separately from the soldiers. Why? Under British law, it was illegal for an officer to order his men to fire weapons into a crowd of unarmed civilians. If Captain Preston did give his men an order to fire into the crowd, the other soldiers could claim that they were only following his orders and would be found not guilty. This is why Captain Preston's trial was first. If Captain Preston was found guilty, there would be no need to put the other soldiers on trial.

What was the Main Question for the Jury to Decide?

The trial of Captain Preston took place at the Queen Street Courthouse in October of 1770. And yes, he and the other 8 soldiers were kept in jail from March when he was arrested until October when his trial began. That was almost seven months in jail, and they had not yet been found guilty. Keep this in the back of your mind because you will eventually learn about how the people who wrote laws for our country made sure that accused people would have a right to a speedy trial.



The main question in the trial of Captain Preston was - did he give his men an order to fire into a crowd of unarmed civilians? If a jury concluded that he did, they would have to find him guilty.

We are now going to put Captain Preston on trial to see what you conclude. Was he guilty or not guilty?

King Street Thirty Years after the “Boston Massacre”

The oil painting below by James Brown Marston was originally entitled “Old State House” but was later changed to “State Street 1801”. The main street shown in the painting was called “King Street” in 1770 but later changed to State Street after the colonies severed their relationship with Great Britain. The painting shows the artist’s conception of the Customs House as it looked 30 years after the “Boston Massacre”. The Customs House is the red building on the lower left side of the painting.



Resource 2: Story Map of the Events of March 5, 1770

Directions: Draw 4 key developments in the story. Then, write a paragraph describing what is happening in each phase of the story.

First

Next

Then

Finally

King Street Thirty Years after the “Boston Massacre”

The oil painting below by James Brown Marston was originally entitled “Old State House” but was later changed to “State Street 1801”. The main street shown in the painting was called “King Street” in 1770 but later changed to State Street after the colonies severed their relationship with Great Britain. The painting shows the artist’s conception of the Customs House as it looked 30 years after the “Boston Massacre”. The Customs House is the red building on the lower left side of the painting.



Resource 3: Mock Trial Instructions and Overview

We are about to do a mock trial of Captain Thomas Preston. A mock trial is a pretend trial but the information that you will hear is based on primary source documents from 1770.

In this mock trial, Captain Preston is accused of murder involving the deaths of 5 citizens of Boston. The question in this trial is **did Captain Preston order his men to fire into a crowd of unarmed civilians on the night of March 5, 1770? If he did, he must be found guilty.**

Some of you will be pretending to be attorneys. An attorney is a lawyer. Others will be pretending to be witnesses. Both attorneys and witnesses will be given papers that tell you what to say.

Others may be pretending to be a bailiff or members of a jury.

The prosecution always goes first in a trial because they have to prove that Captain Preston gave an order to fire and is therefore guilty. The prosecution wants the jury to find Captain Preston guilty. They will present witnesses who will say things that MAY lead you to believe that Captain Preston is guilty.

After the prosecution asks questions of a witness, the defense will be given time to ask questions of those same witnesses. This is called "cross examination." The defense wants the jury to find Captain Preston not guilty.

After the prosecution finishes with its last witness, they will "rest their case." This means that they have no more witnesses.

Then, the defense side will then bring their witnesses to the stand and ask questions. The defense witnesses will say things that MAY lead you to decide that Captain Preston is not guilty.

The prosecution will then be able to "cross examine" the defense side's witnesses.

When the defense side has asked questions of all its witnesses, the defense will say, "we rest our case." At this point, the trial part of this activity is over. It is then up to the jury to decide whether Captain Preston was guilty or not guilty.

STEPS IN A MOCK TRIAL

1. Bailiff Opens the Trial – “All rise, the Superior Court of Massachusetts Bay is now in session. The sometimes Honorable Judge _____ is now in session. God save the King!”
2. Judge Presents an Overview of the Case
3. Opening Statement- Prosecution. Briefly summarize the facts that are favorable to your side, explain the important evidence that your side will present, and ask the jury to return the verdict that you are seeking.
4. Opening Statement- Defense. Briefly summarize the facts that are favorable to your side, explain the important evidence that your side will present, and ask the jury to return the verdict that you are seeking.
5. Prosecution Calls Its Witnesses/Defenses Cross-examines each one.
6. Prosecution Rests: after it has called all of its witnesses.
7. Defense calls its witnesses/prosecution cross-examines each one.
8. Defense Rests: after it has called all of its witnesses.
9. Closing Statements- Prosecution then Defense. Prosecution may rebut. Review the evidence that was favorable to your side, remind the jury of the law or the reason it should not be enforced (“send a message”), and ask them to return a favorable verdict.
10. Jury deliberates and the verdict is announced (Sentencing if necessary).

You will be in groups that allow you to rehearse for the mock trial.

Groups will consist of...

- a. a witness
- b. attorney who will do direct examination of that witness
- c. attorney who will cross-examine that witness

Resource 7: Mock Trial Script

Prosecution Presents Its Case

Direct Examination of Witness: William Wyatt

Judge: Prosecution, you may call your first witness.

Attorney: William Wyatt, please take the stand.

Bailiff: Do you promise to tell the truth, the whole truth, and nothing but the truth?

Witness: I do.

Attorney: Please state your full name for the jury.

Witness: My name is William Wyatt.

Attorney: Were you there on the night when the British soldiers were being attacked by the citizens of Boston?

Witness: yes

Attorney: How far away from the Captain were you standing when the shots were fired?

Witness: about two yards away from the officer when the first order to fire was given, and about 5-6 yards away when the last order to fire was given.

Attorney: Who gave the order to fire?

Witness: the officer

Attorney: Where was the officer standing when he gave the order to fire?

Witness: Behind his men.

Attorney: Why do you think the officer was standing behind his men?

Witness: So that he would not be injured by the crowd and so that when he gave the order to fire his men would not accidentally shoot him.

Attorney: Thank you, no further questions

TAKE NOTES DURING THE MOCK TRIAL

Resource 8: Note Recording Sheet

Prosecution Witness Statements

Witness Name	Did this witness say that Captain Preston gave an order to fire?	Did you believe this witness? Why or Why Not	Use "S" for Soldiers to show how the soldiers were lined up and a "C" to show where Captain Preston was standing.
William Wyat			
Daniel Calef			
Robbert Goddard			
Benjamin Burdick			

Resource 10: Outcomes of the Trials - Facts are Stubborn Things

Did Captain Preston Have a Hard Time Finding a Lawyer?

Yes he did. As you might imagine, many colonists in Boston were very upset with the British soldiers after five of their neighbors were shot and killed on March 5, 1770. They were particularly upset with Captain Preston because he was in charge of the soldiers, and many believed that he ordered them to fire into the crowd.

Any colonist who tried to defend Captain Preston would certainly become extremely unpopular in Boston.

John Adams was a young lawyer living in Boston at the time. He kept a diary and published it later in his life. He wrote the following in his diary:

“The next morning [March 6, 1770] I think I was sitting in my Office near the steps of the Town house stairs. Mr. [James] Forrest came in...I had met him before. With tears streaming from his eyes he said ‘I come with a very important message from an unfortunate man - Captain Preston in prison. He wishes to have a lawyer but cannot get one.’”

Facing great risk to himself, his family, and his career, John Adams agreed to be Captain Preston's lawyer stating that *"Council [a lawyer] ought to be the very last thing that an accused Person should want in a free Country."*

The trial of Captain Preston began on October 24, 1770. Seven months had passed since the tragedy on King Street, but emotions were still running high. The courtroom was packed with many hoping that Captain Preston would be found guilty.

John Adams and three other lawyers from Boston defended Captain Preston bravely and skillfully. Other brave colonists who were called as witnesses testified in favor of Captain Preston despite the fact that this was a very unpopular thing to do.

On October 30th, the jury reached its verdict - *NOT GUILTY!* The reaction in the courtroom was loud with a mix of disappointment and anger among some colonists, but relief and joy from those who supported Captain Preston.

It was and still is a surprise to many that a trial could be held in Boston where so many people hated the British soldiers, yet the people of that city gave Preston a fair trial and found him not guilty. After the trial, John Adams explained, "facts are stubborn things."



Turn to a partner and discuss the following: What did John Adams mean when he said, "facts are stubborn things"?

What about the Other Eight Soldiers?

The trial of the other eight soldiers who were charged with murder began on November 27, 1770. The verdicts were announced nine months to the day of the tragedy on King Street - December 5, 1770. Six of the soldiers were found NOT GUILTY. Two soldiers - Matthew Kilroy and Hugh Montgomery - were found guilty of manslaughter.

So, How Were The Soldiers Punished?

A good question with a VERY interesting answer.

Under British law in 1770, the punishment for manslaughter was death.

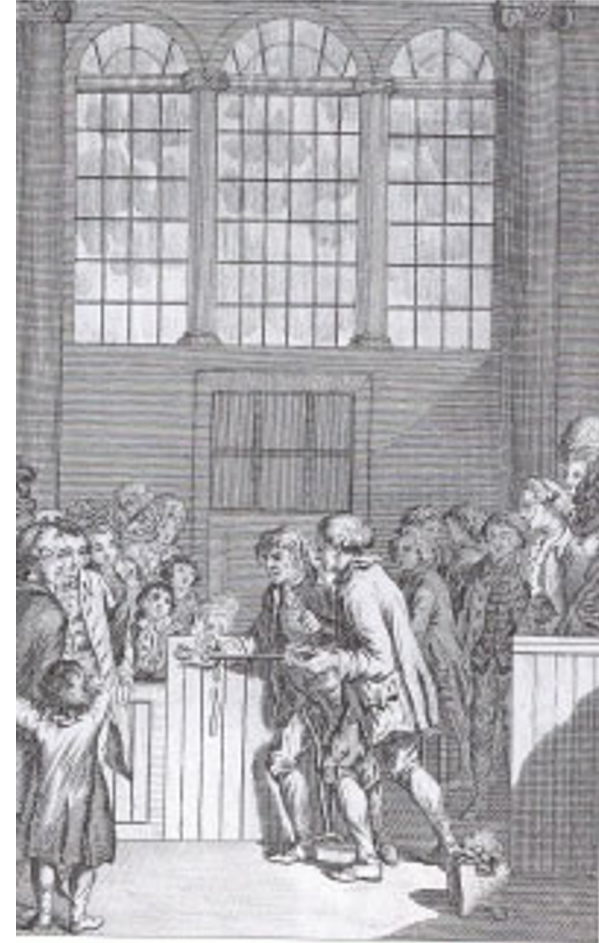
But there was an unusual legal practice in the British Empire at this time. It was called “benefit of the clergy.” A person who was found guilty of a crime could plead “benefit of the clergy” after a guilty verdict was announced.

Benefit of the clergy involved three things. First, the person found guilty had to read a passage from the Bible without making any mistakes. After the verdict was announced, the guilty person would “call for the Bible” and be asked to read Psalm 51 which begins “Have mercy upon me, O God...”

If the person did this, he or she would then be branded on the thumb. This was very painful and usually involved using a knife to cut an “M” if the crime was manslaughter or the sign of a cross into the skin so deep that it would leave a permanent scar. Why? Because the law said that a person could only plead “benefit of the clergy” once in a lifetime. The scar could be used to identify people who did this once already so that they could not get away with any more crimes.

Lastly, the person who received the benefit of the clergy had to leave the place where the crime was committed and never return. Matthew Kilroy and Hugh Montgomery both pleaded benefit of the clergy and were released, never to return to Boston.

P.S. John Adams went on to serve as an officeholder in many government positions. In 1796, the American people elected him to be the second President of our country. Late in life Adams wrote that his decision to be Captain Preston’s lawyer was “*the greatest service I ever rendered my country.*”



EXPLAINING COMPETING ACCOUNTS

Remember, the testimony that you heard from witnesses at the mock trial are based on real statements given by people who were at the scene of the shootings on March 5, 1770. In all, over 90 people gave depositions and, much of it was conflicting.

Why might there be different and conflicting accounts of what happened on March 5, 1770?

Does it mean that some or everyone was lying? What are some alternative explanations?

SHOW ME WHAT YOU KNOW!

Resource 11: Checks for Understanding

Timeline A	Timeline B	Timeline C
Patrick Carr died from his wounds	England started taxing the colonists	Colonists threw snowballs, ice, and stones at Hugh White
Captain Preston arrived with 7 soldiers to help Hugh White	11-year-old Christopher Seider was shot and killed	England started taxing the colonists
Soldiers fired into the crowd	Colonists threw snowballs, ice, and stones at Hugh White	Captain Preston arrived with 7 soldiers to help Hugh White
11-year-old Christopher Seider was shot and killed	Captain Preston arrived with 7 soldiers to help Hugh White	Soldiers fired into the crowd
Colonists threw snowballs, ice, and stones at Hugh White	Soldiers fired into the crowd	11-year-old Christopher Seider was shot and killed
Crispus Attucks was shot and killed	Crispus Attucks was shot and killed	Crispus Attucks was shot and killed
Captain Preston and 8 soldiers were arrested	Captain Preston and 8 soldiers were arrested	Patrick Carr died from his wounds
England started taxing the colonists	Patrick Carr died from his wounds	Captain Preston and 8 soldiers were arrested

1. Look at the three timelines above. Reading from top to bottom, which of the timelines shows the correct order in which the events described in the story occurred? Circle the correct answer

Timeline A or Timeline B or Timeline C

2. Which of the following caused large numbers of colonists to go out onto King Street on March 5, 1770?
- Ebenezer McIntosh shot Christopher Seider
 - the funeral for Christopher Seider
 - Captain Preston was arrested
 - the fire bell started ringing.

2. What changed as a result of the killing of Christopher Seider?

- British soldiers were taken out of Boston
- England repealed its taxes on the colonists
- Store owners stopped selling English goods
- Colonists became even more angry at the British

3. Why might William Wyatt have suggested that Captain Preston gave his men an order to fire?

- He was a patriot
- He was a loyalist
- He was one of the soldiers
- He was a friend of Captain Preston

Read the statement below.

A newspaper article published in Boston in 1770 stated that Captain Preston gave his men the order to fire on the night of March 5, 1770.

4. Which evidence would that newspaper most likely have used to draw that conclusion?

- the word of a witness for the defense
- the word of the prosecution
- the word of a member of Britain's Parliament
- the word of British soldier

Read the statement below.

A different newspaper article published in Boston in 1770 stated that Captain Preston did not give his men the order to fire on the night of March 5, 1770.

5. Why might there be two different accounts of what happened on March 5, 1770?
