



Driving on the Right Side of the Road
Texas Municipal Courts Education Center

Mock Trial Guide



Sponsored by:
Law Focused Education, Inc
State Bar of Texas
Texas Municipal Courts Education Center
Texas Department of Transportation



TEXAS MUNICIPAL COURTS EDUCATION CENTER

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A Letter to Teachers

In Texas, school-age children use all kinds of transportation: cars, buses, bicycles, and scooters—just to name a few. Knowing how to safely navigate Texas's roadways—whether as pedestrians, bicyclists, or motorists—saves lives. Learning about these traffic safety issues as they relate to students' rights and responsibilities as citizens helps bring ideas of civic virtue to life.

Driving on the Right Side of the Road (DRSR) is a program, in cooperation with the Texas Municipal Courts Education Center (TMCEC), Texas Law-Related Education (LRE), and the Texas Department of Transportation (TxDOT), that seeks to bring traffic safety back to Texas classrooms. Visit each organization's website:

DRSR: www.drsr.info TMCEC: www.tmcec.com LRE: www.texaslre.org TxDOT: www.txdot.gov

The DRSR program consists of teaching units that infuse traffic safety issues and traffic safety laws into language arts, social studies, math, and health classes for grades Kindergarten through 12th grade. Lessons incorporate the latest LRE instructional strategies as well as the opportunity to utilize judges and court support personnel as resource persons in classrooms. The DRSR curriculum includes hands-on interactive lessons that promote critical and creative thinking skills, appropriate activity sheets, online computer-based learning games, and gifted and talented extension activities. Finally, these lessons provide opportunities for students to conduct research, incorporate independent study, and participate in simulations. All materials are provided free of charge thanks to generous funding from TxDOT.

We encourage you to invite guest speakers from the judiciary as a resource to assist in teaching these lessons. Judges, lawyers, and court support personnel, as well as those working in law enforcement, can answer many of the questions that arise, while giving your students an opportunity to interact with positive role models. Contact your local municipal judge and invite him or her to visit your classroom as a member of your academic team. Give the judge a specific topic to teach or lesson to use. If you have trouble identifying local resource persons, please email us and we will be happy to assist you (drsr@tmcec.com).

Many of the materials are available in Spanish, as are many other DRSR materials and resources. Please explore our website or contact us for additional free traffic safety and educational resources.

We hope that you have a successful school year!

Ryan Kellus Turner
Executive Director
TMCEC

Elizabeth De La Garza
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TMCEC

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The Municipal Traffic Safety Initiative (MTSI) traffic safety grant
The Texas Municipal Courts Education Center (TMCEC)
The Texas Department of Transportation (TxDOT)



TEACH THE BASICS

Characters in the Courtroom.	2
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CHARACTERS IN THE COURTROOM

Learning Objectives

Students will:

1. Understand the positions and responsibilities of all the officers of the court.
2. Utilize problem-solving skills through the use of analysis and evaluation.

TEKS: SS 5.20A, 8.19C, Govt. 13B

Materials Needed:


- “Characters in the Courtroom” Learning Stations (1-11) attachment
- Copies of the “Diagram of a Courtroom” attachment for each student in the class

Vocabulary:

bailiff	judge
court reporter	juror
defendant	prosecuting attorney
defense attorney	witness

Teaching Strategy:

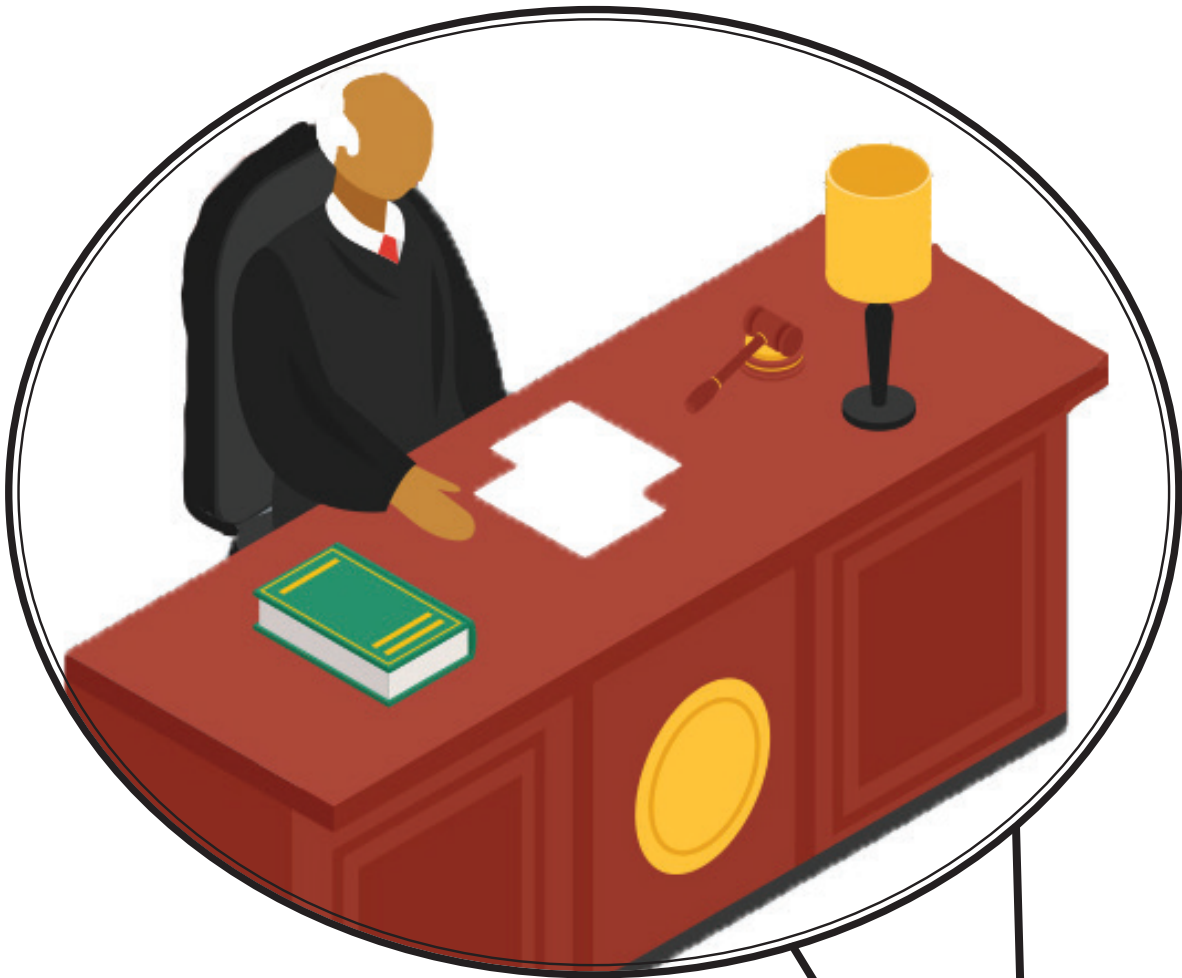
1. Preceding the lesson, tape the “Characters in the Courtroom” Learning Stations on the walls of the classroom.
2. Tell students that various people in the courtroom have special responsibilities to make sure that trials are fair and that everyone is treated equally.
3. Give each student a copy of “Diagram of a Courtroom.” Explain to students that the Learning Stations taped on the walls display the characteristics of the positions of each character in the courtroom. Using the information of each station, students should match the responsibilities listed on each station with the appropriate position listed on the identification sheet.
4. Allow time for students to visit each station and record their findings on the “Diagram of a Courtroom.” Students may work in pairs or independently.
5. After students have listed each station, debrief this part of the lesson by discussing the correct answers and the importance of each courtroom character.
6. To assess the students’ understanding, attach a label with the name of one of the courtroom characters on the back of each student in the class. (Students should not see the labels that are put on their backs. The names of the various courtroom characters may be used more than once.)

- 
7. Instruct students that they are going to play a game called “Who Am I?” Students will interact with classmates and try to determine which character they are by asking classmates questions about the job their characters perform. Their questions may only be answered by “yes” or “no,” and students are not allowed to ask specifically, “Am I the judge?” Questions can only cover information about their jobs. Students may only ask each classmate two questions. When students think they have figured out who they are, they should return to their seats.
 8. Ask each student to state who he or she thinks he or she is and why. Discuss the questioning strategies students used and the number of questions asked before discovering their identity.

Extension for Gifted/Talented: Have students create a “Help Wanted Poster” for one of the characters in the courtroom. Posters should state the characteristics and responsibilities that their selected person should possess. A picture of the character described should also appear on the poster.



Learning Station #1



I make sure that the trial is fair and that everyone has a chance to present his or her side of the case. I sometimes have to rap my gavel to keep order in the court.



Learning Station #2

**In a criminal case, I am
the person accused of
breaking the law.**



Learning Station #3



During the trial, it is my job to record everything that is said by everyone in the courtroom. I usually type on a special machine similar to a typewriter.



Learning Station #4



I announce the entrance of the judge and swear in the witnesses. I ask them to swear an oath to tell the truth when they testify during the trial.

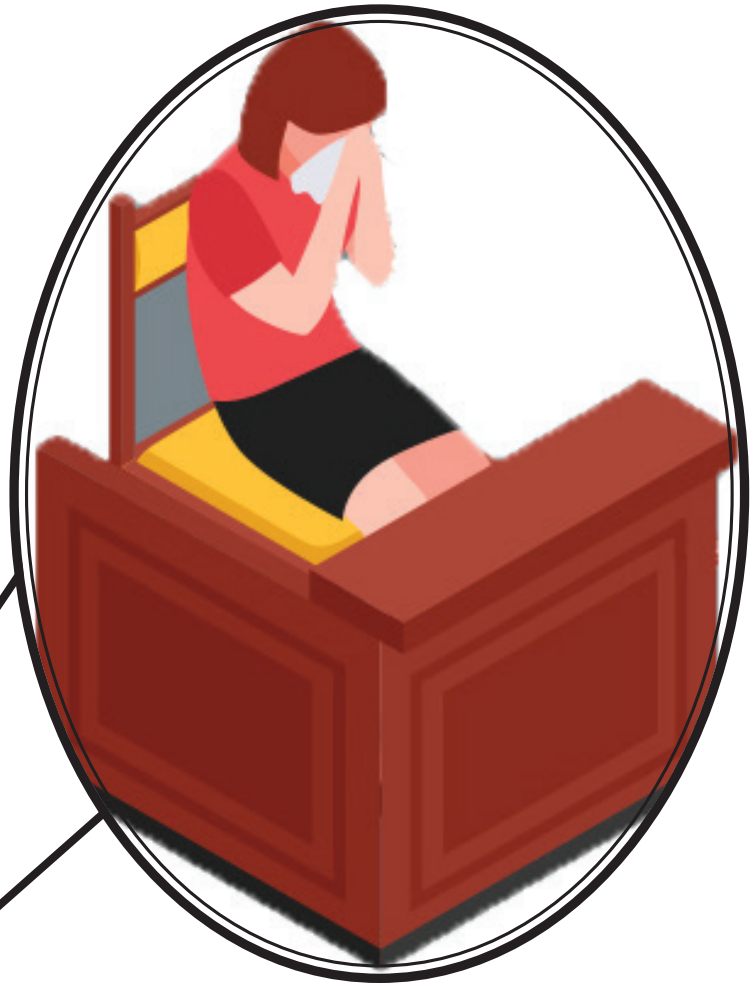
Learning Station #5



I am an attorney, and I represent the rights of the citizens of the State of Texas in a criminal case. It is my job to convince the jury that the defendant is guilty of breaking the law. One way I do this is by questioning witnesses on the facts of the case.



Learning Station #6



I have been asked to testify in court about what I know, have seen, and/or have heard concerning the facts of the case. I take an oath and promise to tell the truth.



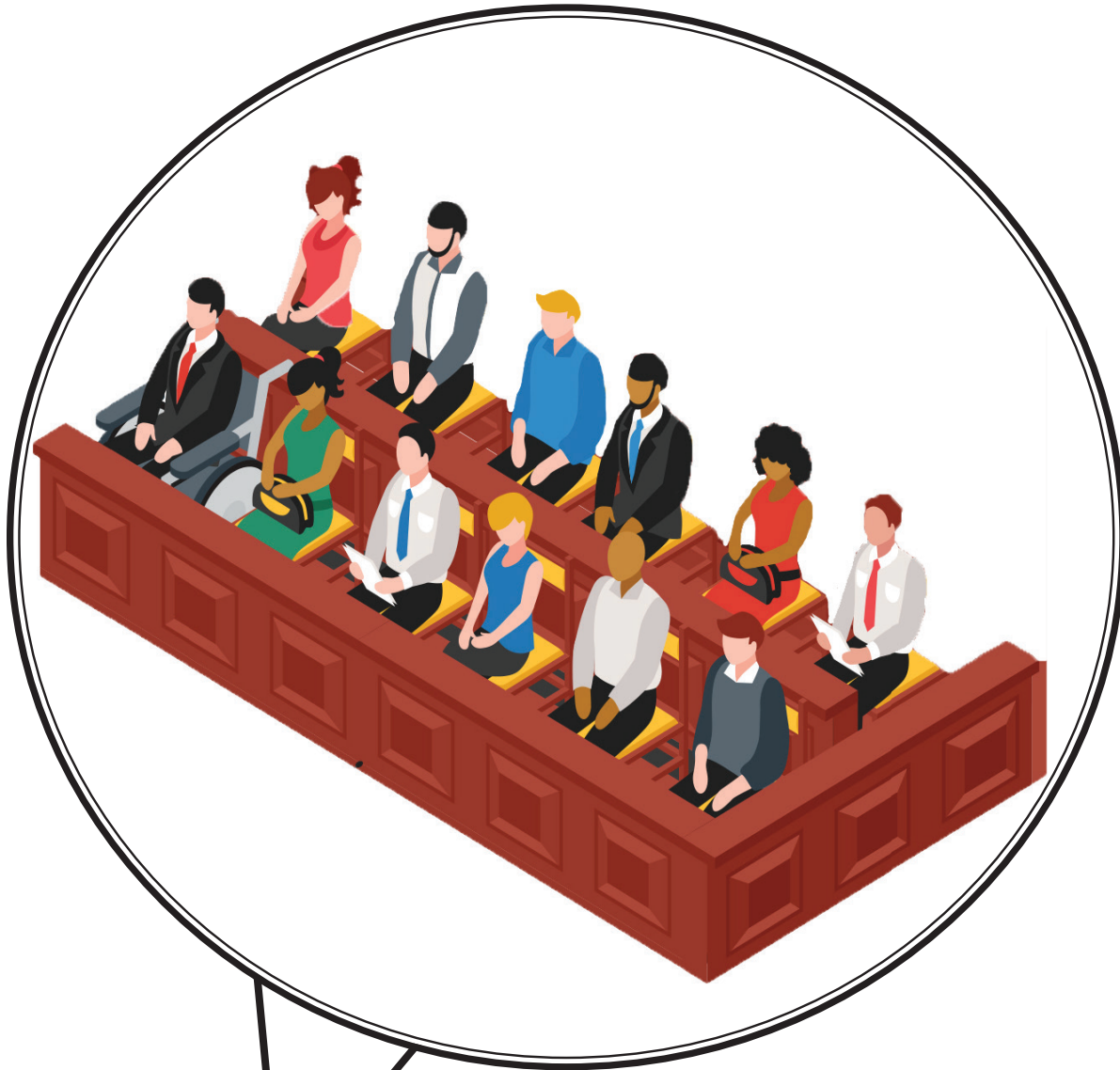
Learning Station #7



I am hired to help people with their criminal charges. I represent the defendant in criminal cases. During the trial, I question witnesses to bring out the facts of the case.



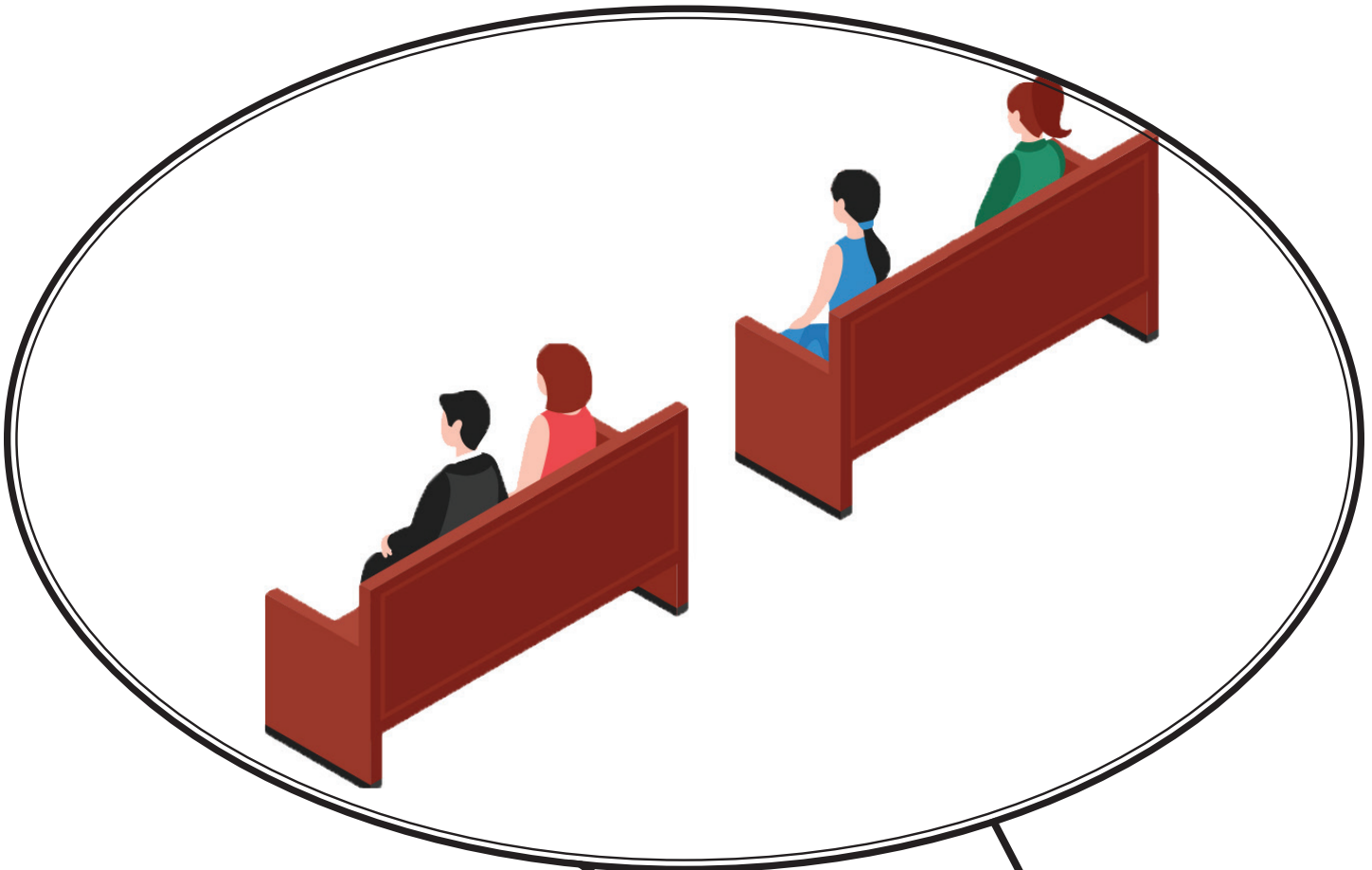
Learning Station #8



Twelve (or six) of us listen to the testimonies of all the witnesses during a trial. After the judge has given us special instructions, we decide the outcome, or verdict, of the trial.



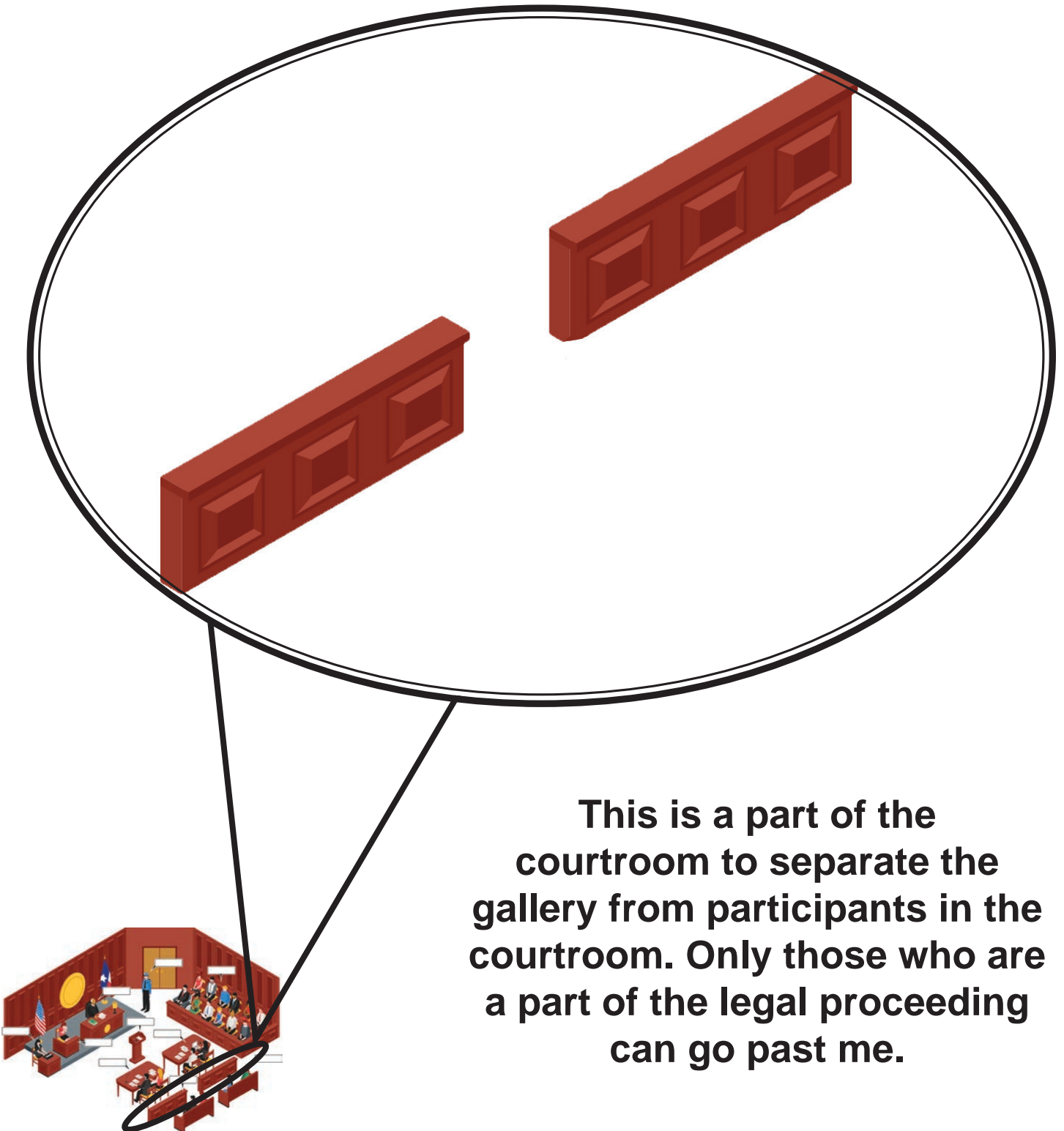
Learning Station #9



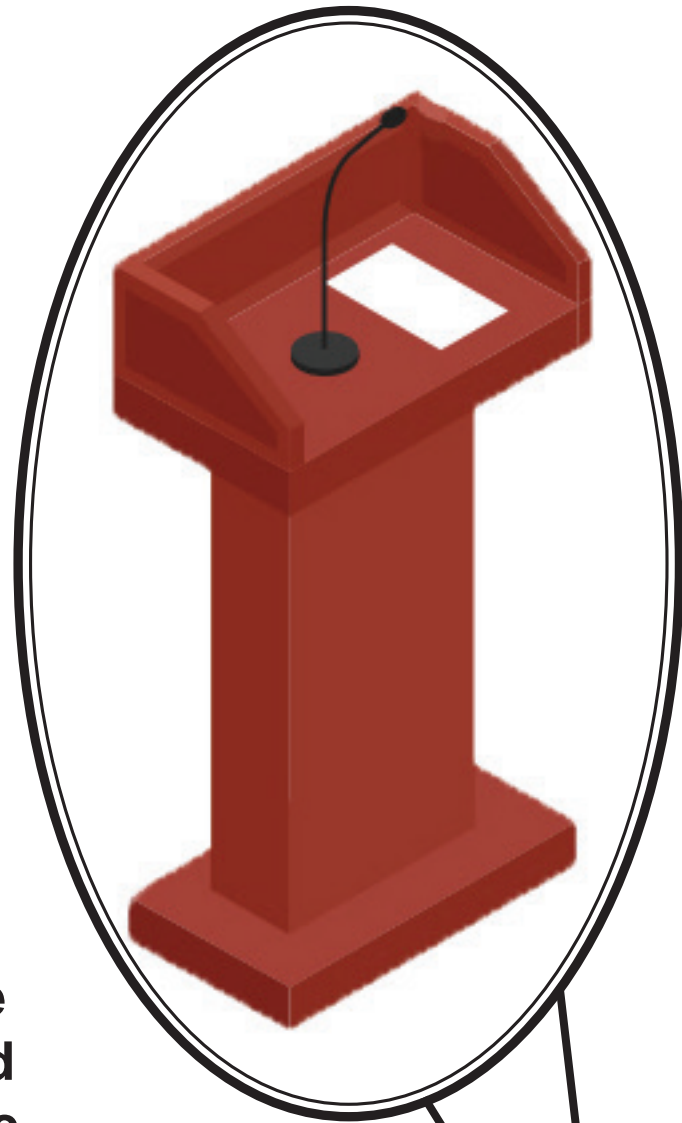
I sit in the gallery (audience). I may just be interested in watching the trial, or I may be a member of the press, reporting on the trial to the public.



Learning Station #10



Learning Station #11



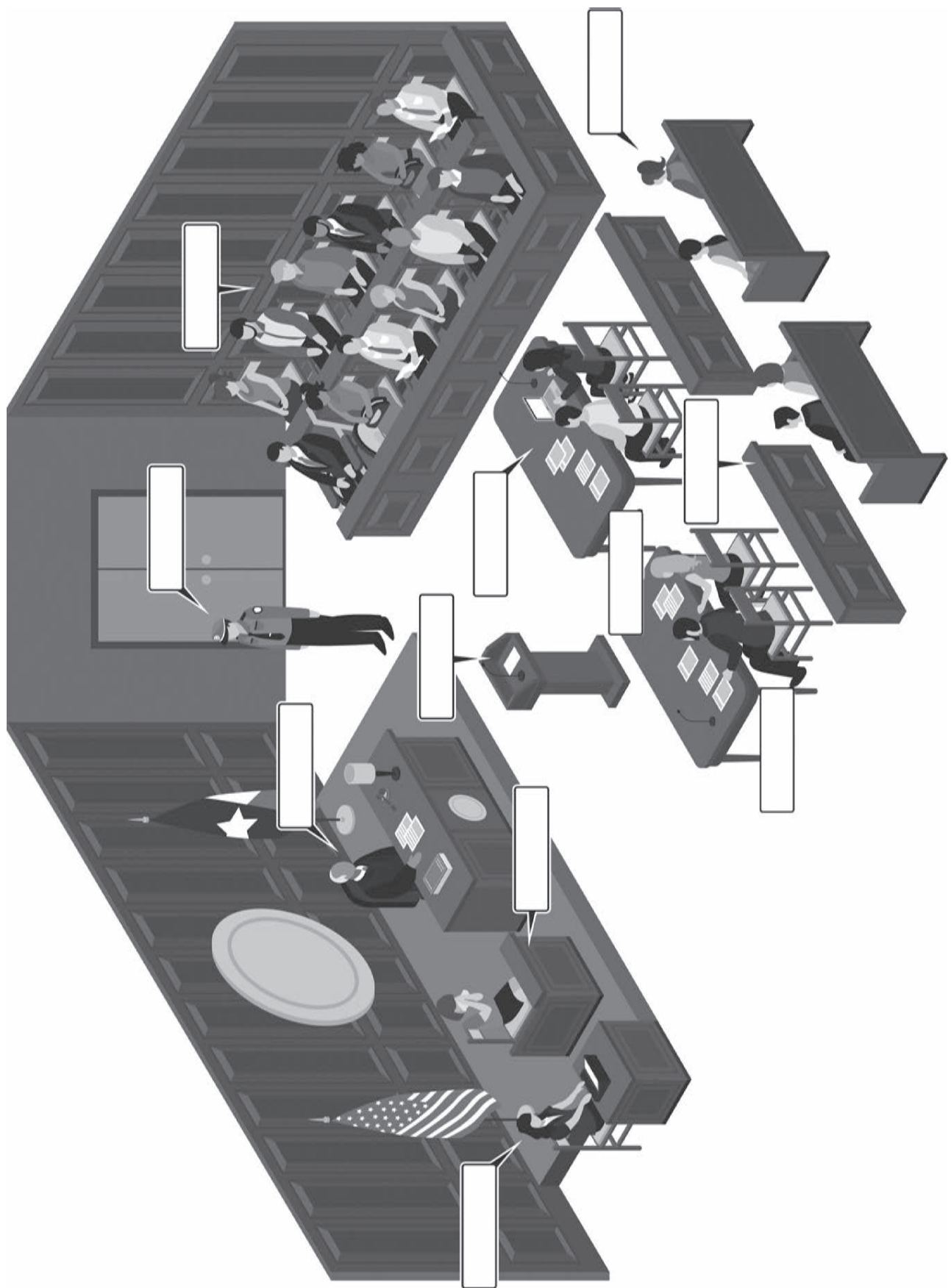
This is a part of the courtroom to where attorneys may stand while addressing the court. It often sits in the “well” of the courtroom (the area in front of the judge and jury.)



Courtroom Diagram: Characters in the Courtroom



Courtroom Diagram: Characters in the Courtroom





Answer Key

- | | |
|-------------------|---------------------|
| 1. Judge | 6. Witness |
| 2. Defendant | 7. Defense Attorney |
| 3. Court Reporter | 8. Jury |
| 4. Bailiff | 9. Observer |
| 5. Prosecutor | 10. Bar |
| | 11. Well/Podium |

Legal Terms for a Criminal Trial

Acquittal	Judicial branch
Affidavit	Juror
Bailiff	Misdemeanor
Bench trial	Motion
Burden of proof	Municipal courts
Charge to the jury	Not guilty
City ordinance	Objection
Class C Misdemeanor	Opening statement
Closing arguments	Overrule
Contempt of court	Perjury
Counsel	Prosecutor
Court clerk	Reasonable doubt
Crime	Rebuttal
Criminal case	Stipulated facts
Cross-examination	Subpoena
Defendant	Sustain
Defense attorney	Summons
Direct examination	Testimony
Evidence	Verdict
Felony	<i>Voir dire</i>
Judge	Witness

Definitions of Legal Terms in a Criminal Trial

Words Defined

Acquittal - A court decision of not guilty

Affidavit - A written statement made by a witness that is sworn to be true

Bailiff - The court official who maintains order in the courtroom

Bench trial - A trial conducted by a judge only; no jury

Beyond a reasonable doubt - The degree of proof required for a determination of guilt in a criminal trial

Burden of proof - The requirement to prove a disputed fact in court

Charge to the jury - Instructions to the jury by the judge

City ordinance - A law passed by a city, or county government that may be prosecuted as a crime

Class C misdemeanor - A crime punishable by fine only

Closing arguments - An attorney's last remarks to the jury, a summary of his or her case that calls the jury's attention to important testimony

Contempt of court - Willful disregard for orders made by the judge

Counsel - The legal representative of another; an attorney

Court clerk - Manages the court and handles paperwork

Crime - An act which the legislature has made unlawful by passing a statute declaring such acts to be illegal

Criminal case - A case in which someone is charged with having violated a criminal statute

Cross-examination - The questioning of a witness by the attorney representing the opposing side


Defendant - The person being charged with a crime

Defense attorney - The attorney representing the defendant

Direct examination - The questioning of a witness by the attorney who called him or her to testify

Evidence - Proof presented in court through witness testimony or exhibits

Felony - A crime for which a person can be sent to a state or federal prison; typically punishable by more than one year in prison



Judge - The person who decides questions of law, rules on objections, and instructs a jury at the close of a case

Judicial branch - The governmental branch that interprets law and resolves disputes

Juror - A citizen who serves on a jury which decides the outcome of a court case

Jury summons - An order to serve as a potential juror in court

Misdemeanor - A crime punishable by fine and/or up to one year in jail

Motion - Application in court made by a lawyer to obtain a rule in favor of his or her client

Municipal courts - Courts created by the Texas Legislature in each incorporated city of the state; courts that hear violations of city ordinances and Class C misdemeanors that occur within the city limits

Not guilty - Determination in a criminal case in favor of the defendant when not enough proof to find the defendant committed the crime has been presented

Objection - When an attorney for one side feels that something improper has occurred in the proceeding

Opening statement - A statement made by each side at the beginning of the trial, which gives a brief introduction of what each side intends to prove

Overrule - When the judge disagrees with an objection made by one of the attorneys in court

Perjury - Knowingly telling a lie in court after having sworn to tell the truth

Prosecutor - A lawyer who handles the criminal case on behalf of the State or city

Rebuttal - An additional argument given by the prosecution after the defense has presented its closing argument

Stipulated facts - Facts agreed upon by both parties before a trial begins

Subpoena - A court order to appear as a witness in a trial

Sustain - When the judge agrees with an objection that is made by one of the attorneys

Testimony - Evidence presented under oath by witnesses at a trial

Verdict - The decision made by a judge or jury as to the outcome of a trial

Voir dire - The process of selecting a jury; from a French phrase meaning “to see and to say”

Witness - A person who testifies in court

ROLLING WORDS

Learning Objectives

Students will:

1. Recognize basic vocabulary regarding municipal courts.
2. Work in groups collaborated to learn court vocabulary.

TEKS: SS 5.20A, 8.19C; US.29B, Gov. 7C, 13B, 20A

Materials Needed:

Puzzles for each group of students

Vocabulary

See Vocabulary Attachments

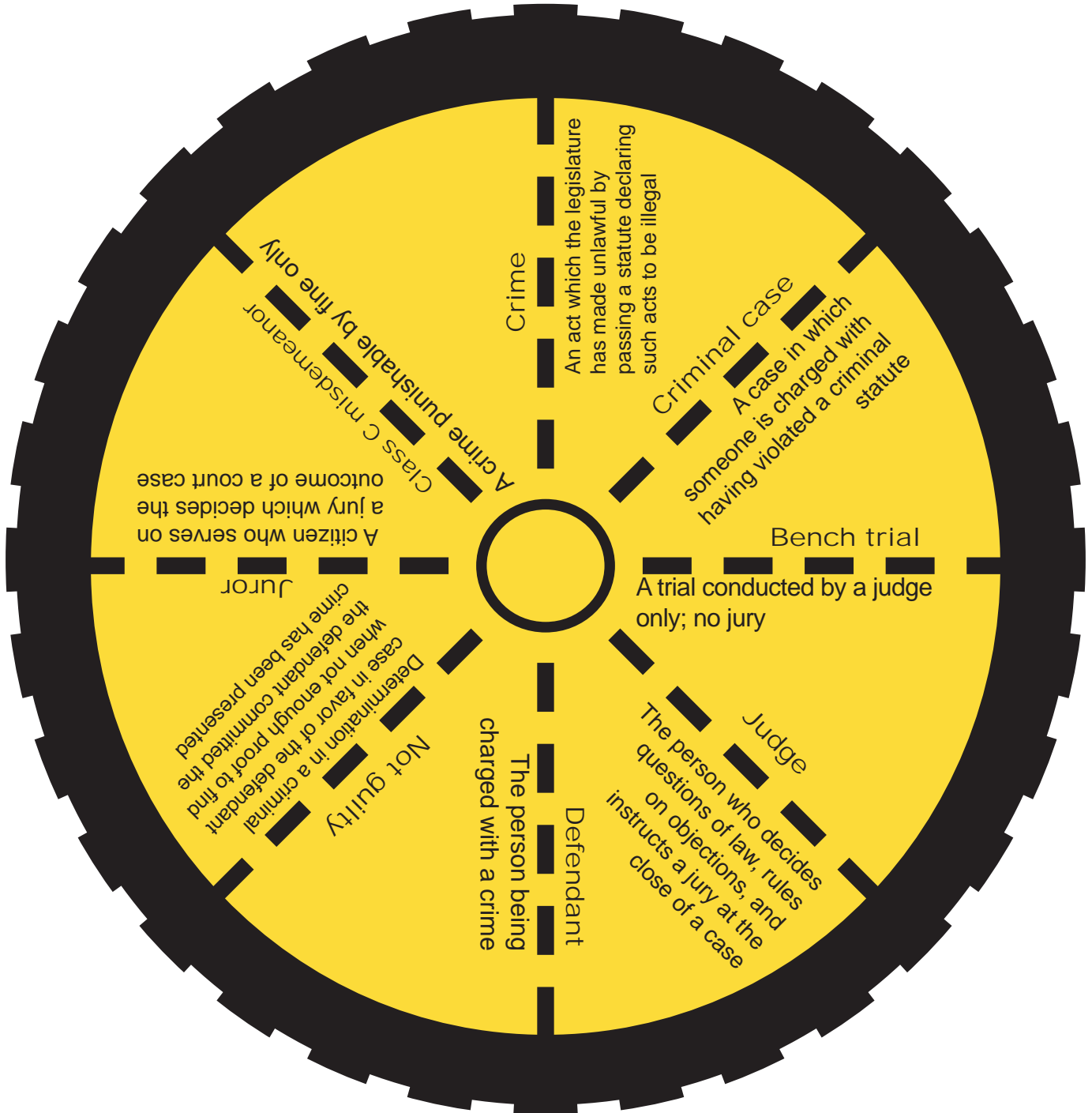
Teaching Strategy:

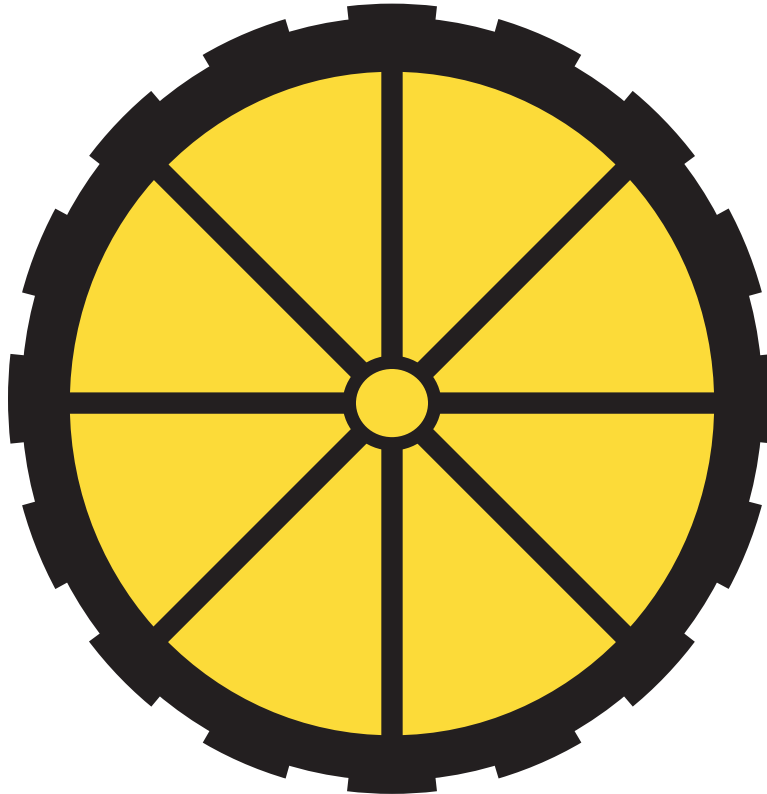
1. Before class, copy and laminate puzzle pieces of each Rolling Words puzzle, using a different color for each of the five puzzles. Cut puzzle pieces apart, and place each puzzle in a separate envelope. Write the puzzle number on the envelopes. Puzzles are progressively more difficult, with #1 being the easiest and #5 being the hardest. Make enough of each puzzle for groups of two or three have a puzzle of each level. ALL STUDENTS SHOULD START WITH PUZZLE #1. A teacher's key of each puzzle is included after each puzzle graphic.
2. Explain to students that the class is beginning a study of trial procedures, which will lead to a mock trial. In order to do mock trials, students must have a thorough knowledge of legal terms.
3. Give students the list of the Legal Terms and have them find definitions of each. Hold a class discussion to make sure students understand the terms.
4. Divide the class into groups of two or three students (pairs of students might work better in more advanced classes.)
5. Show students an image of the blank puzzle graphic (Attachment 3). Explain to students that each group will receive an envelope containing a puzzle, which should be in the shape of the graphic when it is completed. The puzzles contain vocabulary words and their definitions, which students should match. Explain that they must wait until all groups have received their envelopes before opening them if the teacher wants the groups to try to be the first to complete the puzzles correctly.
6. The teacher should check each puzzle for accuracy as groups complete them (see "Legal Terms, in a Criminal Trial"). Repeat the process until all five of the puzzles are completed.
7. As a class, go over any definitions with which groups had difficulties matching in each puzzle, and acknowledge the groups that correctly completed the puzzles in the fastest time.

Differentiation: Students can also use the vocabulary steering wheel (provided at the end of the lesson) to review a few words in depth. This strategy may be a good alternative for LEP or students who require differentiation.

Teacher's Key Puzzle #1

ROLLING WORDS





Crime - An act which the legislature has made unlawful by passing a statute declaring such acts to be illegal

Bench Trial - A trial conducted by a judge only; no jury

Criminal Case - A case in which someone is charged with having violated a criminal statute

Defendant - The person being charged with a crime

Judge - The person who decides questions of law, rules on objections, and instructs a jury at the close of a case

Juror - A citizen who serves on a jury which decides the outcome of a court case

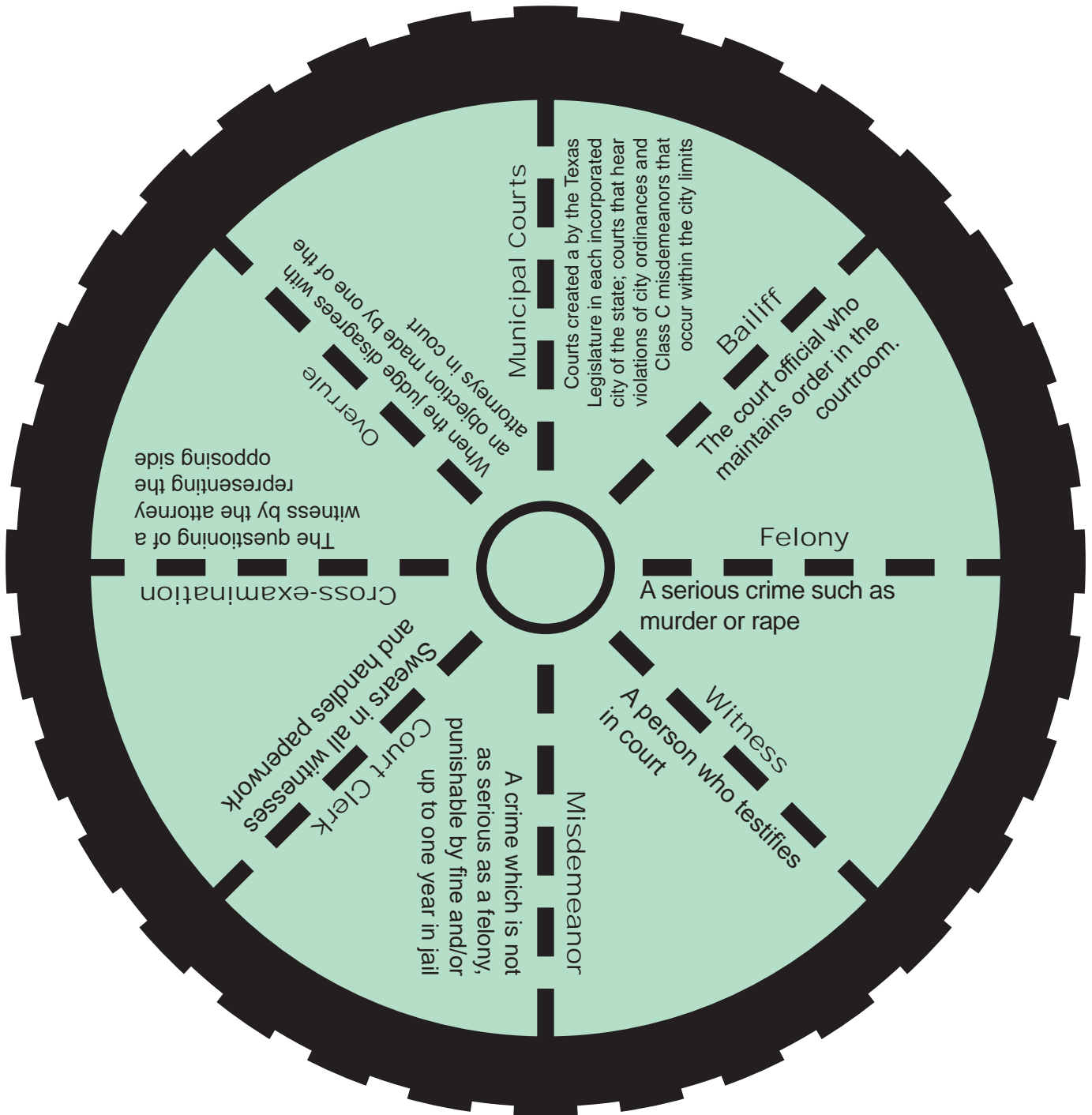
Class C Misdemeanor - A crime punishable by fine only

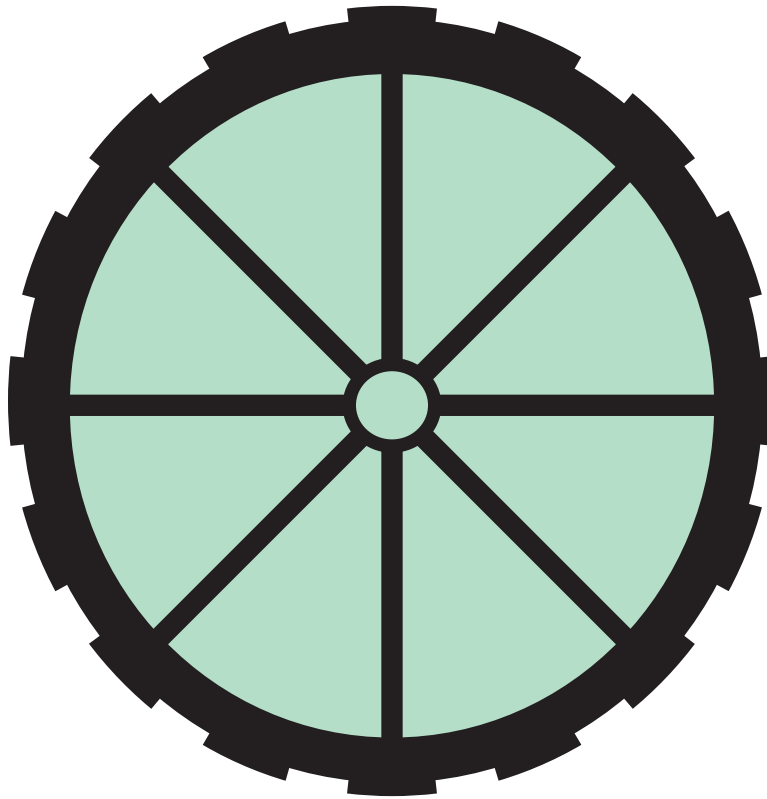
Not Guilty - Determination in a criminal case in favor of the defendant when not enough proof to find the defendant committed the crime has been presented



Teacher's Key Puzzle #2

ROLLING WORDS





Bailiff - The court official who maintains order in the courtroom

Court Clerk - Manages the court and handles paperwork

Cross-examination - The questioning of a witness by the attorney representing the opposing side

Felony - A crime for which a person can be sent to a state or federal prison; typically punishable by more than one year in prison

Misdemeanor - A crime punishable by fine and/or up to one year in jail

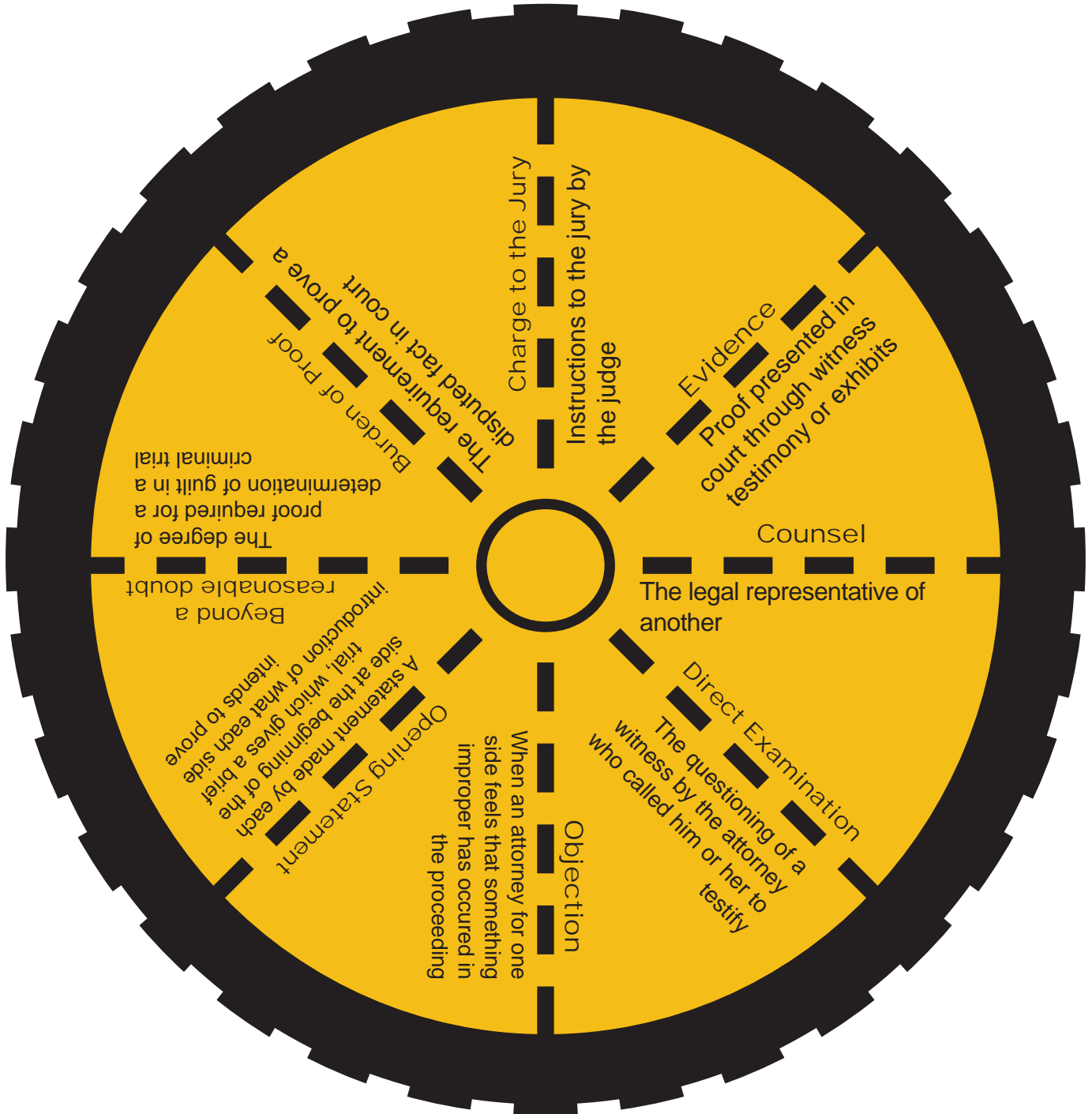
Municipal Courts - Courts created by the Texas Legislature in each incorporated city of the state; courts that hear violations of city ordinances and Class C misdemeanors that occur within the city limits

Overrule - When the judge disagrees with an objection made by one of the attorneys in court

Witness - A person who testifies in court

Teacher's Key Puzzle #3

ROLLING WORDS





Beyond a reasonable doubt - The degree of proof required for a determination of guilt in a criminal trial

Burden of Proof - The requirement to prove a disputed fact in court

Charge to the Jury - Instructions to the jury by the judge

Counsel - The legal representative of another; an attorney

Direct Examination - The questioning of a witness by the attorney who called him or her to testify

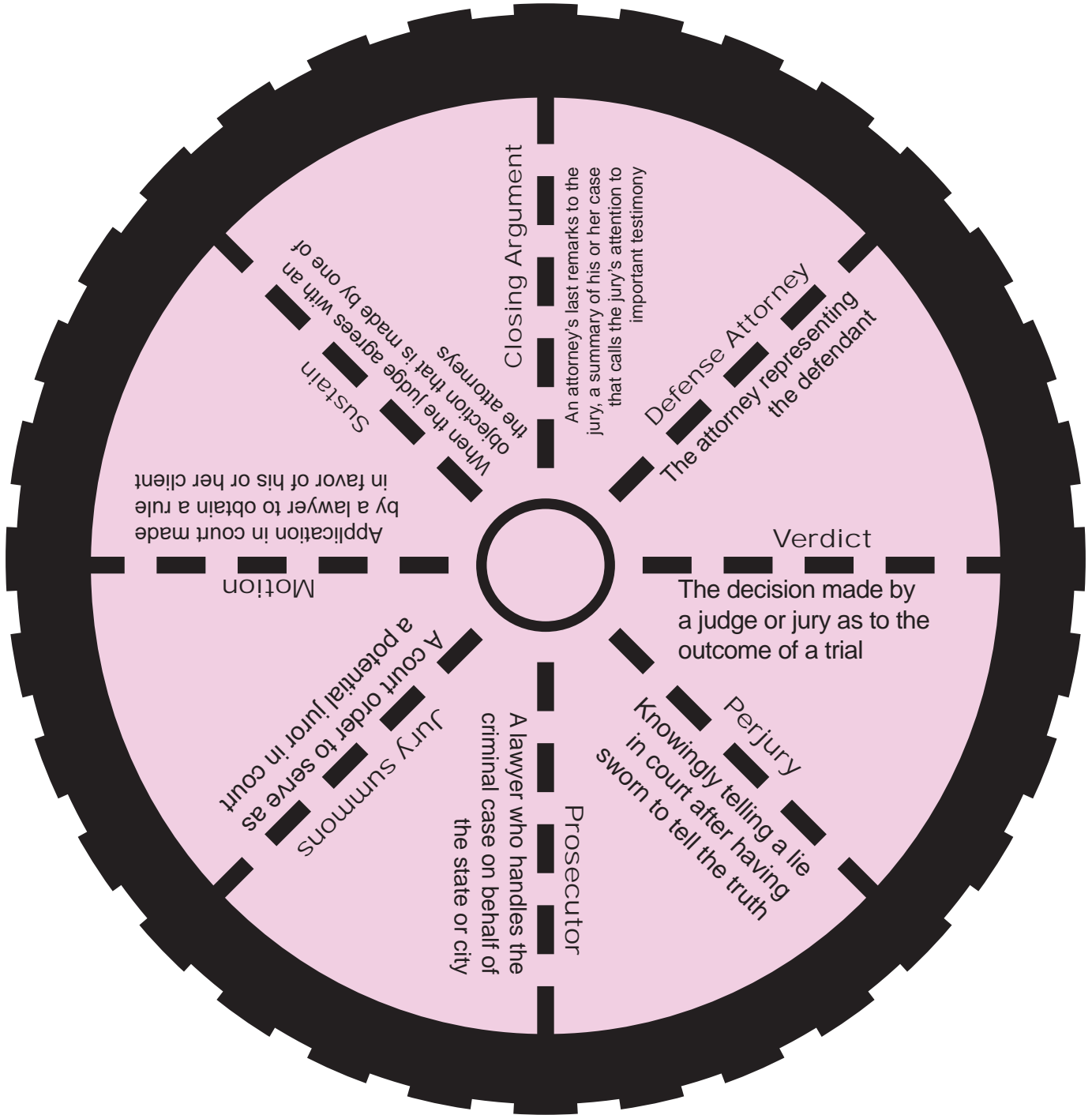
Evidence - Proof presented in court through witness testimony or exhibits

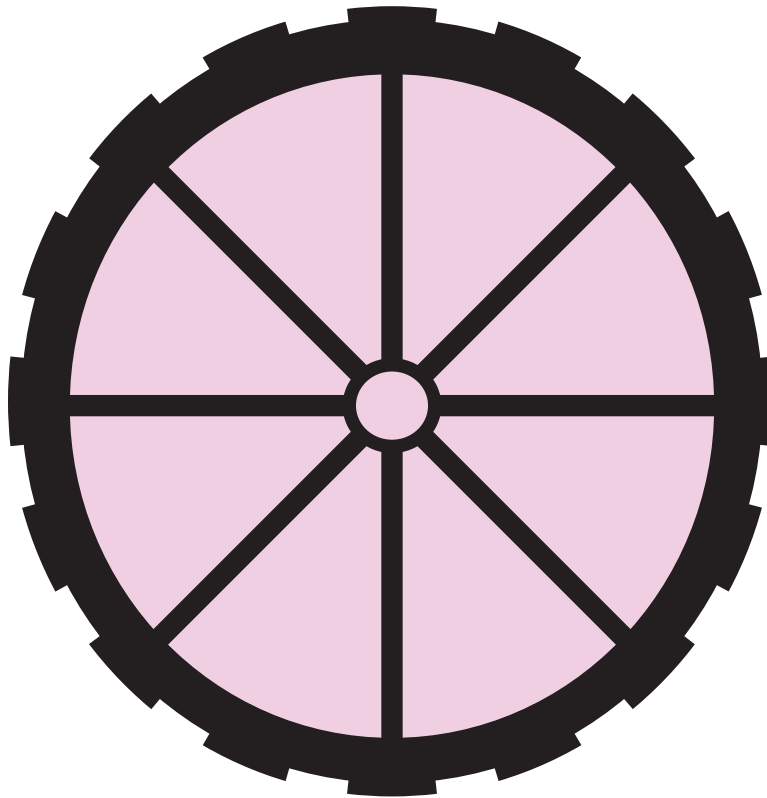
Objection - When an attorney for one side feels that something improper has occurred in the proceeding

Opening Statement - A statement made by both sides at the beginning of the trial, which gives a brief introduction of what each side intends to prove

Teacher's Key Puzzle #4

ROLLING WORDS





Jury summons - A court order to serve as a potential juror in court

Closing Arguments - An attorney's last remarks to the jury, a summary of his or her case that calls the jury's attention to important testimony

Defense Attorney - The attorney representing the defendant

Motion - Application in court made by a lawyer to obtain a rule in favor of his or her client

Perjury - Knowingly telling a lie in court after having sworn to tell the truth

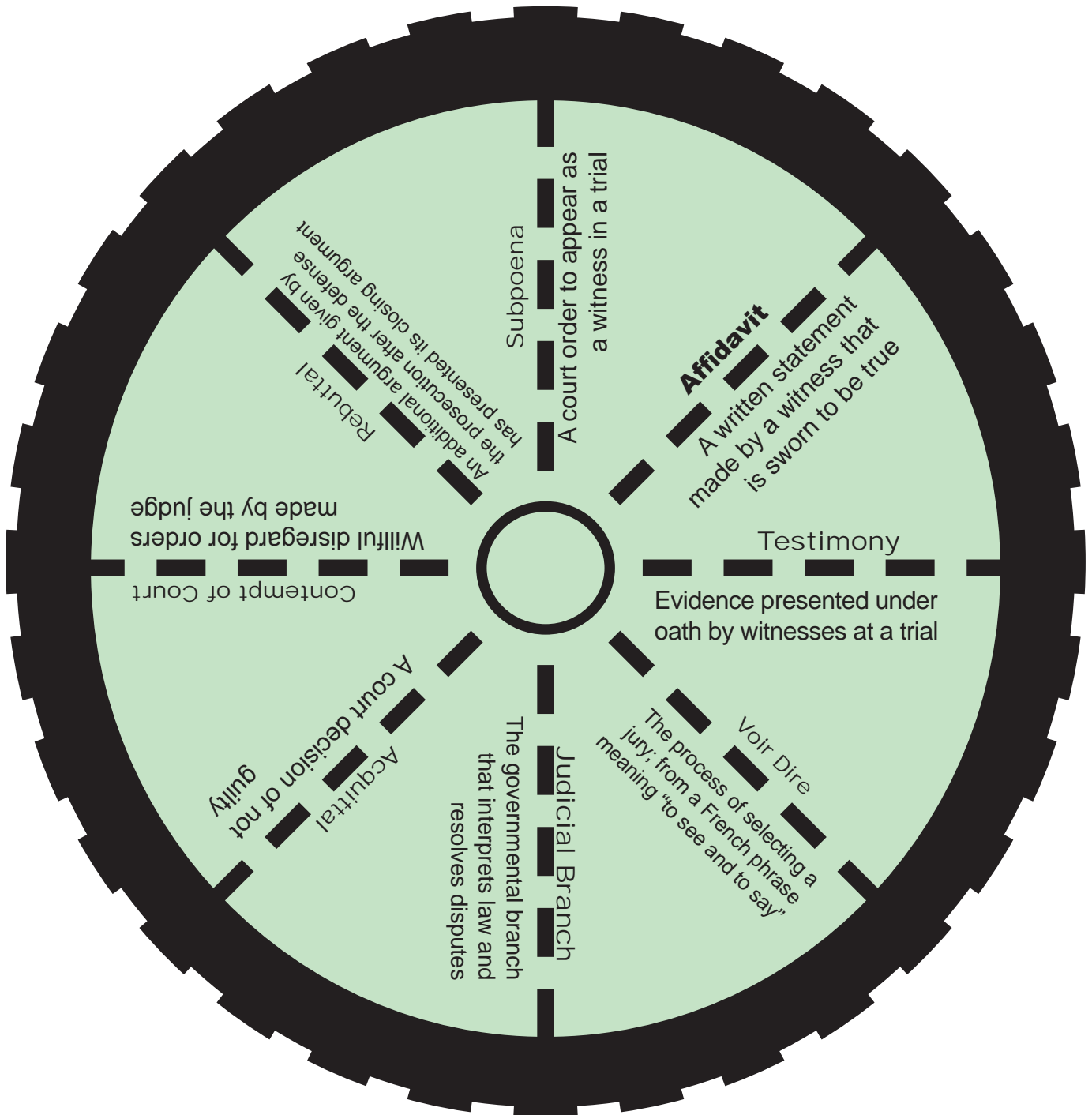
Prosecutor - A lawyer who handles the criminal case on behalf of the state or city

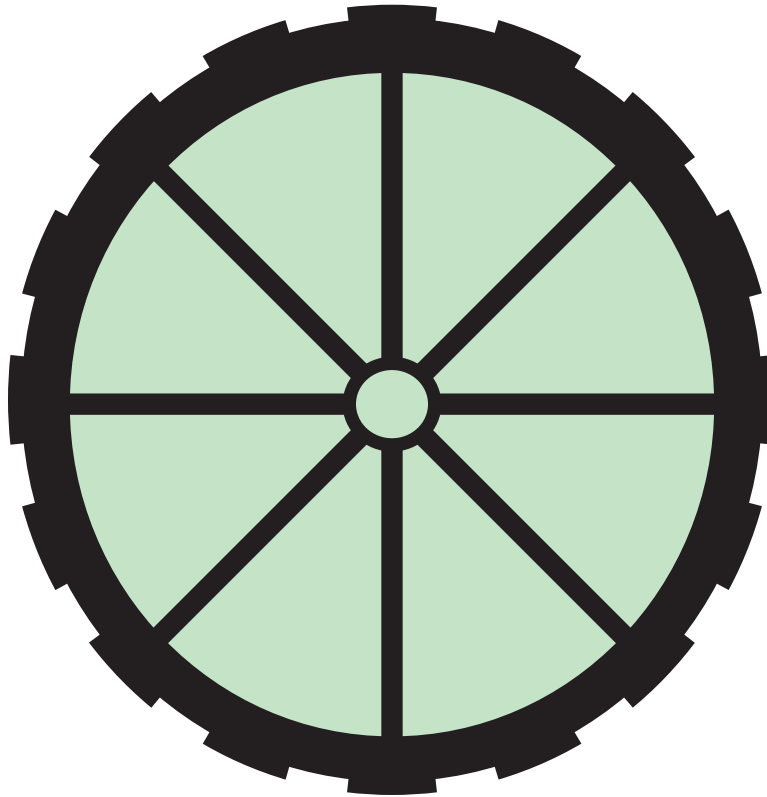
Sustain - When the judge agrees with an objection that is made by one of the attorneys

Verdict - The decision made by a judge or jury as to the outcome of a trial

Teacher's Key Puzzle #5

ROLLING WORDS





Acquittal - A court decision of not guilty

Affidavit - A written statement made by a witness that is sworn to be true

Contempt of Court - Willful disregard for orders made by the judge

Judicial Branch - The governmental branch that interprets law and resolves disputes

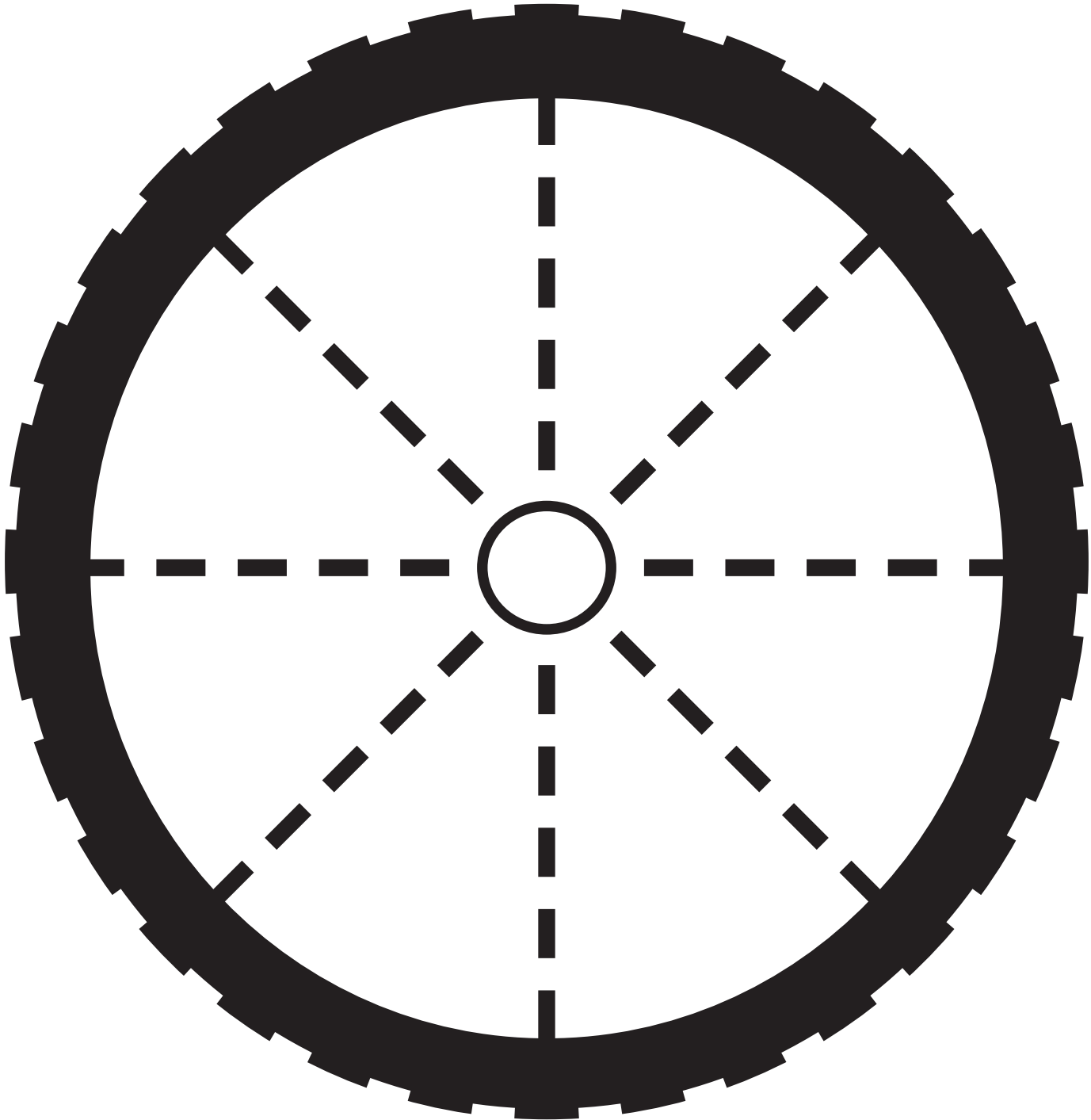
Rebuttal - An additional argument given by the prosecution after the defense has presented its closing argument

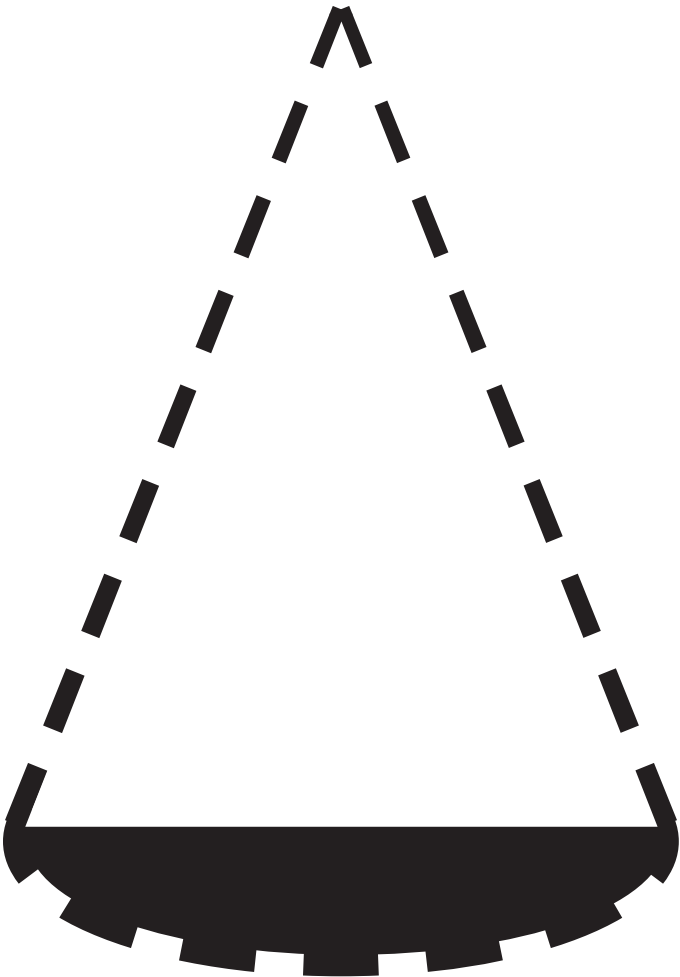
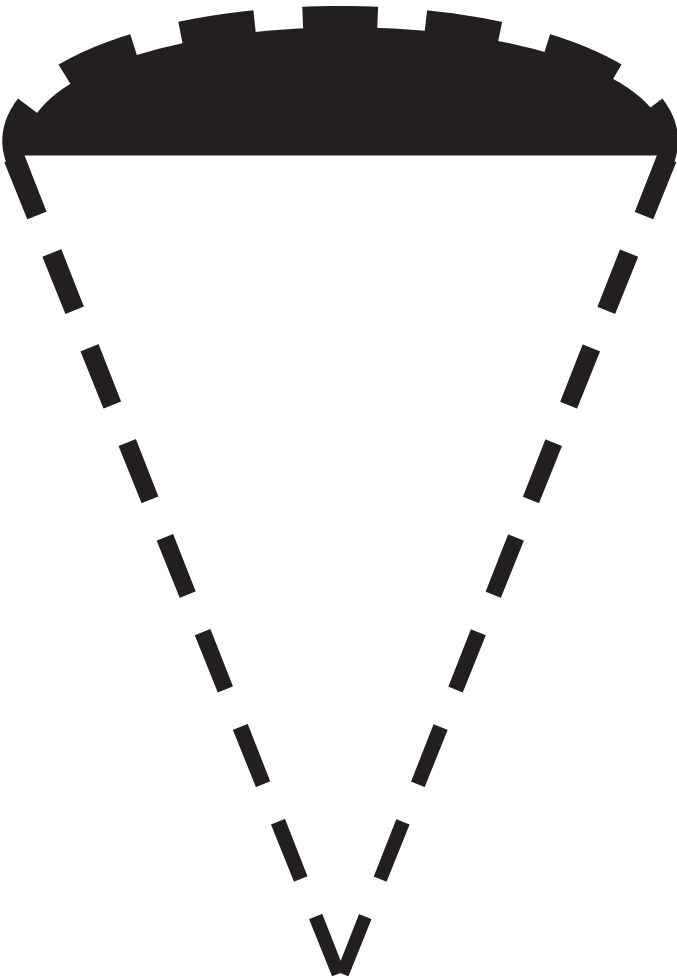
Subpoena - A court order to appear as a witness in a trial

Testimony - Evidence presented under oath by witnesses at a trial

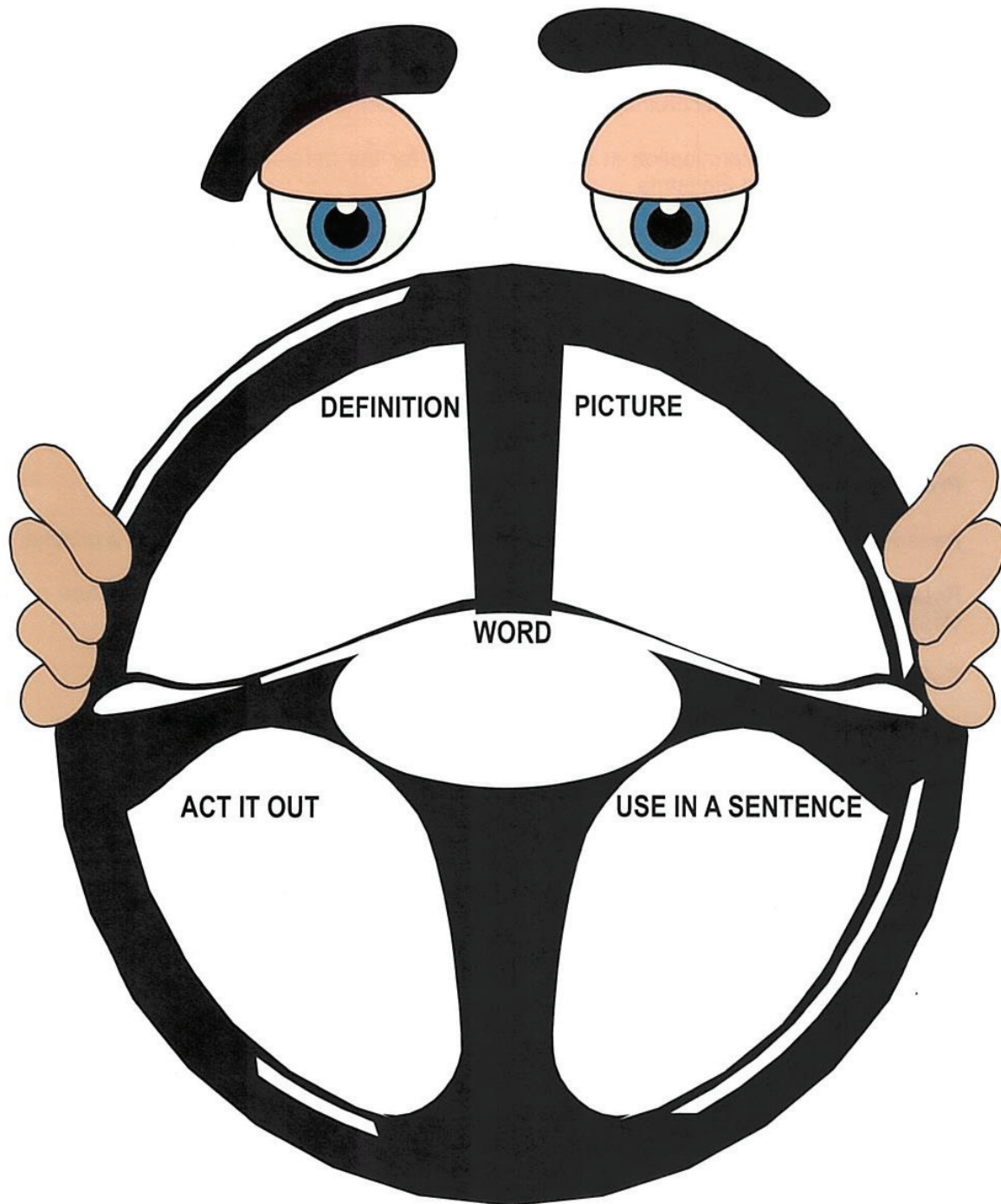
Voir Dire - The process of selecting a jury; from a French phrase meaning “to see and to say”

Attachment 3





Vocabulary Steering Wheel



LEGAL VOCABULARY WORD LOOP

Learning Objectives Students will:

1. Demonstrate understanding of law terminology.
2. Apply comprehension and listening skills by participating in a word loop activity.
3. Enhance critical thinking skills by creating visual representations of legal terminology

TEKS: SS 3.17C, E, 3.18, 4.21B, 4.22A,D; 5.20B, 5.25A,D; 8.19C

Materials Needed:

- A set of Law Vocabulary Word Loop Cards (attached)
- drawing paper
- crayons or markers

Vocabulary:

badgering	judge
bailiff	jury
bench	objection
closing argument	prosecuting attorney
court reporter	subpoena
cross-examination	sustain
defendant	testimony
defense attorney	verdict
direct examination	witness
evidence	witness stand
irrelevant	

Teaching Strategy:

NOTE: This activity should be used after students have been introduced to various legal terms

1. Give each student a "Law Vocabulary Word Loop Card." Appoint a student to start the activity and have him or her read the bottom part of the card that states, "Who has...." The student who has the answer to the question should respond by saying, "I have..." and then read the question at the bottom of his or her card. The strips are in the correct order on the handouts.
2. Students should continue reading and responding to the information on their cards until the person who started the activity answers the last question. (After students catch on the activity, they usually want to do it a second time.)
3. Following the completion of the Word Loop, give each student a piece of paper. Tell students that they are to create a visual representation of the "I have" legal vocabulary word that is listed on their "Legal Vocabulary Loop Card." Students should title their drawing with their assigned vocabulary word and be encouraged to use symbols to represent their vocabulary word.
4. Have students share their illustrations with the class and then bind the illustrations and create a Legal Vocabulary book for everyone to enjoy. Illustrations may also be mounted on the wall or used to create a bulletin board.



Extensions:

Have students create logic problems reflecting the content of the lesson. Students should complete the following steps:

- (1) Determine the solution to the logic problem.
- (2) Make a logic grid and begin writing the clues (Be sure to incorporate legal terminology in the clues.)
- (3) Mix up the clues and work the logic problem on a clean, new grid.
- (4) When the logic problem can be solved correctly, recopy it.

The teacher should make copies of the new logic problems for students in the class to solve.



LEGAL VOCABULARY WORD LOOP CARDS



I have “the defense attorney.”

Who has a court officer who is in charge of prisoners while in the courtroom and looks after jurors?



I have “the bailiff.”

Who has the person who is accused of doing something wrong?



I have “the defendant.”

Who has the group of people who hear a case and decide on the verdict?



I have “the jury.”

Who has a person who is called to testify in a court of law and promises to tell the truth?



LEGAL VOCABULARY WORD LOOP CARDS



I have “a witness.”

Who has the name of the seat in the courtroom where the judge sits during a trial?



I have “the bench.”

Who has the introduction of the facts of a case given by attorneys at the beginning of a trial?



I have “opening statements.”

Who has an objection to a question asked in court that has nothing to do with the case?



I have “irrelevant.”

Who has a court order requiring a person to appear in court to give testimony?



LEGAL VOCABULARY WORD LOOP CARDS



I have “a subpoena.”

Who has the person who records everything that is said during a trial?



I have “the court reporter.”

Who has the evidence given by witnesses under oath?



I have “testimony”

Who has the group of people who hear a case and decide on the verdict?



I have “the jury”

Who has proof that something is true, such as witnesses' statements and physical objects such as weapons, clothing, records, or documents?



LEGAL VOCABULARY WORD LOOP CARDS



I have “evidence.”

Who has the decision made by the jury at the end of a trial?



I have “the verdict.”

Who has the person (appointed or elected) who makes sure the trial is fair and keeps order in the courtroom?



I have “the judge.”

Who has the name of the lawyer who represents the State against the defendant in a criminal trial?



I have “the prosecuting attorney.”

Who has the final statements presented by the attorneys to the jury at the end of a trial?



LEGAL VOCABULARY WORD LOOP CARDS



I have “closing arguments.”

Who has an attorney’s opposition to a question asked by the opposing attorney or an answer given by a witness?



I have “an objection.”

Who has the questioning of a witness by the attorney who called the witness to testify?



I have “direct examination.”

Who has to approve or agree with an objection?



I have “sustain.”

Who has pestering or harassing witnesses in order to confuse, annoy, or wear them down?



LEGAL VOCABULARY WORD LOOP CARDS



I have “badgering.”

Who has the action of the judge when he or she disagrees with an objection?



I have “overrule.”

Who has the questioning of a witness by the opposing attorney?



I have “cross-examination.”

Who has lying under oath?



I have “perjury.”

Who has the lawyer who represents the defendant in a criminal case?



STEPS IN A CRIMINAL TRIAL

Learning Objectives

Students will:

1. Identify the steps in a trial.
2. Describe what is meant by burden of truth.

TEKS: SS 5.20A, 8.19C; Govt. 7C, 13B

Materials Needed:

- Five or six sets of “Steps in a Trial” footsteps (Handout 1) cut out
- “Steps in a Trial” (Transparency 2)

Vocabulary

bailiff	judge
cross-examination	opening statement
defendant	prosecuting attorney
defense attorney	rebuttal
direct examination	verdict
	witness

Teaching Strategy:

1. Have the class brainstorm the various steps in a trial. The teacher should record responses on the whiteboard or overhead.
2. Divide the class into groups of three or four students. Give each group an envelope containing a set of “Steps in a Trial” footsteps. Ask each group to arrange the strips in the order in which they think each event occurs during a trial in the courtroom.
3. Debrief the activity by reviewing the correct order of the steps and discussing or clarifying any questions about courtroom procedures. **IMPORTANT:** Point out that because our legal system assumes the defendant is not guilty until proven guilty in a court of law, the prosecution goes first because the “burden of proof” is always on the prosecution.
4. The correct “standard” steps in a trial is as follows (there are many things that could occur in addition to these baseline “standard” steps that have been omitted in this lesson):
 - 1) The bailiff calls the case.
 - 2) The judge enters the room and takes his or her seat (the bench).
 - A) Judge calls the case before the court
 - B) Prosecutor reads the charges aloud
 - C) Defendant pleads “not guilty”
 - 3) The prosecution’s attorney makes an opening statement.
 - 4) The defendant’s attorney makes an opening statement.
 - 5) The prosecution’s attorney questions witnesses that will help its side of the case (direct examination).

- 6) The defendant's attorney cross-examines witnesses for the prosecution.
- 7) The defendant's attorney questions witnesses that will help the defendant's side of the case (direct examination).
- 8) The prosecution's attorney cross-examines witnesses for the defense.
- 9) The prosecution's attorney gives closing argument.
- 10) The defendant's attorney gives closing argument.
- 11) The prosecution's attorney gives a rebuttal (optional).
- 12) The judge explains to the jury how they are to determine if the defendant is not guilty or guilty (jury instructions).
- 13) The jury decides the verdict.
- 14) The decision is announced in court.





STEPS IN A TRIAL (Key)



The correct order of the steps in a trial is as follows:

1. Bailiff/Clerk opens the court session.
2. Judge enters room and takes his or her seat (the bench).
3. Prosecuting attorney makes an opening statement.
4. Defense attorney makes an opening statement.
5. Prosecuting attorney questions witnesses that will help its side of the case (direct examination).
6. Defense attorney cross-examines witnesses for the prosecution.
7. Defense attorney questions witnesses who will help the defendant's side of the case (direct examination).
8. Prosecuting attorney cross-examines witness for the defense.
9. Prosecuting attorney gives closing argument.
10. Defense attorney gives closing argument
11. Prosecuting attorney gives a rebuttal (optional).
12. Judge explains to the jury how they are to determine if the defendant is guilty or not guilty.
13. The jury decides the verdict
14. The decision is announced in the court.





STEPS IN A CRIMINAL TRIAL



**Bailiff/
Clerk
opens
the court
session.**

**Judge
enters
room
and
takes his
or her
seat (the
bench).**





STEPS IN A CRIMINAL TRIAL



**Prosecuting
attorney
makes an
opening
statement.**

**Defense
attorney
makes an
opening
statement.**





STEPS IN A CRIMINAL TRIAL



**Prosecuting
attorney
questions
witnesses
that will help
its side of the
case (direct
examination).**

**Defense
attorney
cross-
examines
witnesses
for the
prosecution.**





STEPS IN A CRIMINAL TRIAL



Defense attorney questions witnesses who will help the defendant's side of the case (direct examination).

The prosecuting attorney cross-examines witnesses for the defense.





STEPS IN A CRIMINAL TRIAL



**Prosecuting
attorney
gives closing
argument.**

**Defense
attorney
gives
closing
argument.**





STEPS IN A CRIMINAL TRIAL



**Prosecuting
attorney
gives
rebuttal
(optional).**

**Judge
explains
to the
jury how
they are to
determine
if the
defendant
is guilty or
not guilty.**





STEPS IN A CRIMINAL TRIAL



**The
jury
decides the
verdict.**

**The
decision is
announced
in court.**





PREPARE FOR MOCK TRIAL

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BASIC MOCK TRIAL PROCEDURES

Learning Objectives

Students will:

1. Understand the basic procedures of mock trial including the concept of direct & cross examination questions, rules of evidence, how to impeach a witness, as well as how to utilize basic objection in a mock trial setting.

TEKS: SS 8.19C, 8.29B&C; 29B; Govt. 13B, 20A, Special Topics 2A-G

Materials Needed:

- *Basic Mock Trial Procedures* worksheets for each student in the classroom
- *Basic Mock Trial Objections Reference Guide* worksheet if desired
- Access to *Mock Trial Procedures* PowerPoint found at <https://tmcec.com/drsr/>

Vocabulary:

badgering	leading questions
beyond the scope	narrative response
counsel testifying	non-responsive
cross-examination	objection
defense	prosecution
direct examination	relevance
hearsay	rules of evidence
impeaching a witness	speculation
lack of firsthand	witness
knowledge	

Teaching Strategy

1. Slide 1: Engaging Focus (Copies of Slides for “A Basic Understanding of Mock Trial Procedures” begin on p. 66)
 - Tell students they will be learning the basics of how to conduct a mock trial.
 - Ask students to offer details of what they think they know about what happens in a courtroom:
 - What does it look like?
 - Who sits where?
 - What is the process for a courtroom procedure?
 - What are some things they might hear someone say?

OPTIONAL: Show video clip of “Worst Lawyer Ever” to remind students of what NOT to do in a courtroom: <https://youtu.be/reSS9WWHkd4> (3:24 min.)

2. Slide 2: Learning Objective
 - Explain to students the overall objective for the lesson: To understand the basic procedures of mock trial including the concept of direct & cross examination questions, rules of evidence; practice how to impeach a witness, as well as how to utilize basic objections.
 - Distribute copies of Basic Mock Trial Procedures worksheet for students to use to take notes

3. Slide 3: Direct & Cross-Examination

- Explain the difference between direct and cross examination questions.

OPTIONAL: Show video clip that highlights the difference between the two.

- Have students add a definition in their own words for direct and cross examination questions to their *Basic Mock Trial Procedures* worksheet.
- Working in pairs, small groups, or individually, have students read the examples for direct and cross examination questions on their worksheet. They should rewrite the questions provided into openended direct examination questions and do the same by writing more narrow cross examination questions than the ones provided.

4. Slide 4: Rules of Evidence

- Have students copy down the definition for the rules of evidence on their worksheet.
- Remind students that there are specific legal parameters set by law in regards to how to introduce evidence in a courtroom. If done improperly, evidence might be excluded or ruled inadmissible.

5. Slide 5: Steps for Introducing Evidence

- Explain to students how to introduce evidence in a courtroom.

OPTIONAL: Press the play button on the slide and have students view the hyperlink video that explains steps for introducing evidence.

- Have students write the 6 steps for introducing evidence on their notes.

The steps demonstrated in the video include:

1. Tender (show) the opposing counsel
2. Ask judge for permission to approach witness
3. Show exhibit to witness
4. Lay foundation / authenticate it
5. Offer exhibit into evidence
6. Ask a question about the evidence

6. Slide 6: Impeaching a Witness

- Explain to students that if a witness is on the stand and doesn't stay true to their affidavit, there are steps an attorney can take to force them to share the information in their affidavit for the court.
- Have students write down the four steps that are outlined on their *Impeaching a Witness* worksheet.

These include:

Confirm the lie – reiterate their inaccurate statement

1. Clue in on the affidavit – “Do you remember giving a sworn statement? Were you under oath when you gave it?”
2. Confront the witness – *Your Honor, permission to approach the witness? Do you recognize this document? Is this your sworn statement? Is that your signature?”*



3. Ask again – “*Let me ask you again ...*” (repeat your original question and allow the witness to answer correctly).

OPTIONAL: Press the play button on the slide and have students view the hyperlink video that explains how to impeach a witness.

- Have students take notes on their worksheet Have students practice these steps in pairs, small groups, or as a whole class.

7. Slides 7-19: Basic Mock Trial Procedures

- Explain to students that objections are used in a trial to keep each side honest with pulling out testimony from witnesses and making sure all parties are staying true to the rules of evidence. Explain that some of the objections are used more than others.
- Choose one of the options below to explain the various objections that are most often used in a mock trial:

OPTION 1: Press the play button on the slide and have students view the hyperlink video that explains various objections while taking notes over each objection.

OPTION 2: Use the PowerPoint slides 8-19 to explain the various objections at your own pace while students take notes.

OPTION 3: Hand out the Basic Mock Trial Objections Reference Guide worksheet for students to use to take notes. This can be done in pairs, small groups, or individually.

- Remind students that all objections are filtered through the judge, and not to opposing counsel. If opposing attorneys disagree with an objection, they can always ask the judge for the ability to respond. Once a judge does respond, their ruling is final.

8. Slide 20: Sample Mock Trial Times

- Mock Trial Competitions are timed. Teams are given an amount at the start of the trial and are able to distribute their minutes however they deem fit.
- Note to the Teacher: For ease in a classroom setting, it is suggested to break the time up for students. The times listed are merely suggestions and can be increased/decreased at will.

9. Slide 21: Prep for Your Case

- Now that your class understands the basic components of a Mock Trial, it's time to start analyzing and planning for your case.
- Distribute copies of the Mock Trial you intend to use (The DRSR *State of Texas v. Casey Bryant* Mock Trial is recommended, but not required).
- Read the background of the case and stipulated facts out-loud as a class. Allow students a chance to ask questions for clarification where needed.

OPTIONAL: Use the *Mock Trial Preparations* lesson plan to assist students with preparing their case.

Basic Mock Trial Procedures

DIRECT EXAMINATION

Direct Examination Definition:

Example:

What kind of car do you drive?

How many passengers were in your car when you were pulled over?

What was the speed limit on the street you were driving on the night of the crash?

Helpful Direct Examination Question Starters:

Explain...	What did you see...?
Why do you think...?	What happened next?
How did you react when...?	Give examples of...

Can you turn these questions into open-ended direct examination questions?

1. Isn't it true you hate fast cars?

2. You were speeding, weren't you?

3. You know better than to text and drive, don't you?

4. You forgot to wear your helmet when riding your bike on a busy street, correct?



Basic Mock Trial Procedures

CROSS-EXAMINATION

Cross-Examination Definition:

Example:

You drive a red sports car, isn't that correct?

Isn't it true that you had six passengers in your car the night of the crash?

The speed limit was 55 on the road you were driving, yes?

Helpful Cross-Examination Question Starters (Use these to rewrite the open-ended questions below):

Isn't it true...?	Can you confirm...?
Yes or no, you...	You have...
...correct?	You arrived home at...

1. What's your favorite car?

2. How fast is too fast for you?

3. Where was your phone while you were driving?

4. How did you make it to the event so quickly on the night of the crash?



Basic Mock Trial Procedures

INTRODUCING EVIDENCE & IMPEACHING A WITNESS

Definition for Rules of Evidence:

Steps to Follow for Introducing Evidence

1.	4.
2.	5.
3.	6.

Definition of Impeaching a Witness

Steps to impeaching a witness:

Confirm —
Clue —
Confront —
Ask Again —



Basic Mock Trial Procedures

BASIC MOCK TRIAL OBJECTIONS

What is the purpose of objections in a trial?

As you learn some of the basic objections used in a mock trial, take notes in the chart below. Hold on to these notes for future reference during your mock trial.

Leading the Witness	Beyond the Scope
Narrative Answer	Non-responsive
Hearsay	Lack of Firsthand Knowledge
Relevance	Counsel Testifying
Badgering the Witness	Asked and Answered
Opinion/Speculation	Additional Objections

Remember that all objections are filtered through the judge, not to opposing counsel. If you disagree with an objection, you can always ask the judge for permission to respond. However, once the judge makes a ruling, it is final.

Sustain = the judge agrees with your objection

Overruled = the judge disagrees with your objection



Basic Mock Trial Objections Reference Guide

Leading the witness – Lawyers CAN and SHOULD ask leading questions on Cross Examination ONLY. Leading questions are NOT allowed on direct examination.

Example: *“You were arrested for speeding?”*

“Objection, Your Honor, counsel is asking a leading question.”

Narrative answer – A narrative answer is one that goes on, and on, and on. A good rule of thumb is that the witness should be able to answer the question in one sentence.

Hearsay – When a witness repeats someone else’s words in court. You cannot repeat second-hand information in a court of law.

Example: *“Tom heard Gloria tell John that Sandy stole the money.”*

“Objection, Your Honor, hearsay.”

Relevance – Questions and answers must relate to the subject matter of the case.

For example, in a traffic accident case, the attorney asks, *“Mrs. Smith, how many times have you been married?”*

“Objection, Your Honor, this question holds no relevance to this case.”

Badgering the witness – Using a hostile tone of voice or asking the same question repeatedly.

“Objection, Your Honor, counsel is badgering the witness.”

Opinion or speculation – Only an expert witness can give opinions on information pertaining to their area of expertise (police officers, doctors, engineers, etc.)

Example: Lawyers can object if a witness says, *“I think that...or I believe that...”*

“Objection, Your Honor, the witness is stating an opinion.”

Beyond the Scope – Questions during cross examination can only deal with information brought up during direct questions. Same concept holds true for re-direct & re-cross.

“Your Honor, this question is beyond the scope of direct examination.”

Non-responsive – When a witness fails to answer a question properly.

Example: *“You arrived late, didn’t you?”* Witness replies, *“she served punch at the party.”*

“Objection, Your Honor, non-responsive.”

Lack of Firsthand Knowledge – A witness can only testify on matters they personally know.

Example: *“At what speed did the car lose control?”*

“Objection, Your Honor, lack of personal knowledge. The witness is a doctor and did not witness the crash.”

Counsel testifying – Attorney’s may not give testimony or make statements during questioning. All evidence must be developed in question-answer form.

“Ms. Griner, you didn’t state in your affidavit that June Hudson was going to her mother’s house with Steve instead of the zoo”

“Objection, Your Honor, counsel testifying.”

Asked and Answered – When an attorney asks the same, or similar question, more than once.

“Were you speeding that day? So you were going too Just down the road? And your speedometer read well above the posted speed limit sign, yes?”

“Objection, Your Honor, that question has been asked and answered.”

Basic Mock Trial Procedures

DIRECT EXAMINATION

(Answer Key)

Direct Examination Definition: *Definitions should be written in students' own words, but might include something like ... questioning of a witness by the party who called him or her, in a trial.*

Example:

What kind of car do you drive?

How many passengers were in your car when you were pulled over?

What was the speed limit on the street you were driving on the night of the crash?

Helpful Direct Examination Question Starters:

Explain...	What did you see...?
Why do you think...?	What happened next?
How did you react when...?	Give examples of...

Can you turn these questions into open-ended direct examination questions?

1. Isn't it true you hate fast cars?

Answers may vary. Example: What's your opinion of fast cars?

2. You were speeding, weren't you?

Answers may vary. Example: How fast were you driving?

3. You know better than to text and drive, don't you?

Answers may vary. Example: What have you been taught about texting and driving?

4. You forgot to wear your helmet when riding your bike on a busy street, correct?

Answers may vary. Example: What happened to your helmet when you were riding on the busy street?



Basic Mock Trial Procedures

CROSS-EXAMINATION

(Answer Key)

Cross-Examination Definition: *Definitions should be written in students' own words, but might include something like... asking questions of a witness called by the opposing side.*

Example:

You drive a red sports car, isn't that correct?

Isn't it true that you had six passengers in your car the night of the crash?

The speed limit was 55 on the road you were driving, yes?

Helpful Cross-Examination Question Starters:

Isn't it true...?	Can you confirm...?
Yes or no, you...	You have...
...correct?	You arrived home at...

1. What's your favorite car?

Answers may vary. Example: Aren't fast cars your favorite?

2. How fast is too fast for you?

Answers may vary. Example: You believe five miles over the speed limit is too fast for any driver, correct?

3. Where was your phone while you were driving?

Answers may vary. Example: You were texting and driving, weren't you?

4. How did you make it to the event so quickly on the night of the crash?

Answers may vary. Example: Isn't it true you made it to the party quickly on the night of the crash because you were speeding?



Basic Mock Trial Procedures

INTRODUCING EVIDENCE & IMPEACHING A WITNESS

(Answer Key)

Rules of Evidence: The legal parameters that must be followed to ensure evidence is admitted correctly and fairly in a court of law.

Steps to Follow for Introducing Evidence

1. Tender (show) to opposing counsel	4. Lay foundation/authenticate it
2. Ask judge for permission to approach witness	5. Offer exhibit into evidence
3. Show exhibit to witness	6. Ask a question about the evidence

Definition of Impeaching a Witness: **Challenging the credibility of a witness**

Steps to impeaching a witness:

Confirm — Reiterate the inaccurate statement.
Clue — “Do you remember giving a sworn statement? Were you under oath when you gave it? Your Honor, permission to approach the witness?”
Confront — “Do you recognize this? Is this your sworn statement? IS that your signature?”
Ask Again — “Let me ask you again ... ” (Ask your question again to allow the witness the chance to answer it correctly.)



Basic Mock Trial Procedures

BASIC MOCK TRIAL OBJECTIONS

(Answer Key)

What is the purpose of objections in a trial? *Answers may vary, but might include something like the below examples. This ensures both sides are adhering to the rules of evidence.*

As you learn some of the basic objections used in a mock trial, take notes in the chart below. Hold on to these notes for future reference during your mock trial.

Leading Questions (A question that suggests a specific answer)	Beyond the Scope (When something comes up that isn't in the packet AND alters the story)
Narration (When a witness goes on ... and on ... and on ...)	Non-Responsive (Avoiding a yes or no response when asked)
Hearsay (An out of court statement made by another party)	Lack of Firsthand Knowledge (Witnesses must have directly seen or heard what they are testifying about)
Relevance (Has nothing to do with the case)	Counsel Testifying (When an attorney offers too much info in their question)
Badgering the Witness (Overly intimidating a witness)	Asked and Answered (Asking the same question over and over)
Opinion/Speculation (Asking a witness to make a guess)	Additional Objections (Answer may vary)

Remember that all objections are filtered through the judge, not to opposing counsel. If you disagree with an objection, you can always ask the judge for permission to respond. However, once the judge makes a ruling, it is final.

Sustain = the judge agrees with your objection

Overruled = the judge disagrees with your objection



A BASIC UNDERSTANDING OF MOCK TRIAL PROCEDURES

PRESENTED BY DRSR



Slide 1: Engaging Focus

Tell students they will be learning the basics of how to conduct a mock trial.

Ask students to offer details of what they think they know about what happens in a courtroom: What does it look like? Who sits where? What is the process for a courtroom procedure? What are some things they might hear someone say, etc.

OPTIONAL: Show video clip of "Worst Lawyer Ever" to remind students of what NOT to do in a courtroom.

<https://youtu.be/reSS9WWHkd4>
(3:24 min.)

LEARNING OBJECTIVE:
TO UNDERSTAND THE BASIC COMPONENTS OF...

Direct & Cross Examination
Rules of Evidence
Impeachment
Objections


Slide 2: Learning Objective

Explain to students the overall objective for the lesson:

- Understand the basic procedures of mock trial including the concept of direct & cross-examination questions and rules of evidence
- Practice how to impeach a witness, as well as how to utilize basic objections.

Distribute copies of Basic Mock Trial Procedures worksheet for students to use to take notes.





Direct Examination

Open-Ended
Friendly
Your job is to help the witness tell THEIR story

Cross Examination

Close-Ended
Not so friendly
Your job is to challenge their story and convey YOUR version. Making sure the story that is told helps make your case.

SERIES OF QUESTIONS IN A TRIAL

Slide 3: Direct & Cross Examination

Explain the difference between direct and cross examination questions.

OPTIONAL: Show video clip that highlights the difference between the two.

Have students add a definition in their own words for direct and cross examination questions to their Basic Mock Trial Procedures worksheet.

Working in pairs, small groups, or individually, have students read the examples for direct and cross examination questions on their worksheet. Then rewrite the questions offered to demonstrate their understanding of both styles of questioning.

They should rewrite the questions provided into open-ended direct examination questions and do the same by writing more narrow cross-examination questions than the ones provided.

RULES OF EVIDENCE

Definition: legal parameters that must be followed to ensure evidence is admitted correctly and fairly in a court of law

These rules also apply to witness testimony

Slide 4: Rules of Evidence

Have students copy down the definition for the rules of evidence on their worksheet.

Remind students that there are specific legal parameters set by law in regards to how to introduce evidence in a courtroom. If done improperly, evidence might be excluded or ruled inadmissible.



INTRODUCING EVIDENCE



Use your notes to follow along with the video...

Slide 5: Steps for Introducing Evidence

Explain to students how to introduce evidence in a courtroom.

OPTIONAL: Press the play button on the slide and have students view the hyperlink video that explains steps for introducing evidence.

Have students write the 6 steps for introducing evidence on their notes. The steps demonstrated in the video include:

- Tender (show) to opposing counsel
- Ask judge for permission to approach witness
- Show exhibit to witness
- Lay foundation/authenticate it
- Offer exhibit into evidence
- Ask a question about the evidence

IMPEACHING A WITNESS



Challenging the credibility of a witness

Slide 6: Impeaching a Witness

Explain to students that if a witness is on the stand and doesn't stay true to their affidavit, there are steps an attorney can take to force them to share the information at a trial.

Have students write down a definition and the four steps outlined on their Impeaching a Witness worksheet.

These include:

1. Confirm the lie - reiterate the inaccurate statement
2. Clue in on the affidavit - "Do you remember giving a sworn statement? Were you under oath when you gave it?"

IMPEACHING A WITNESS



Challenging the credibility of a witness

CONTINUED

Slide 6: Continued

3. Confront the witness. "Your Honor, permission to approach the witness? Do you recognize this document? Is this your sworn statement? Is that your signature?" Ask again. "Let me ask you again..." (repeat your original question and
OPTIONAL: Press the play button on the slide and have students view the hyperlink video that explains how to impeach a witness.

Have students practice these steps in pairs, small groups, or as a whole class.

BASIC MOCK TRIAL OBJECTIONS



Slide 7: Basic Mock Trial Objections

Explain to students that objections are used in a trial to keep each side honest with pulling out testimony from witnesses and making sure all parties are staying true to the rules of evidence. Explain that some of the objections are used more than others.

Choose one of the options below to explain the various objections that are often used in a mock trial:

OPTION 1: Press the play button on the slide and have students view the hyperlink video that explains various objections while taking notes over each objection.

BASIC MOCK TRIAL OBJECTIONS



CONTINUED

Slide 7: Continued

OPTION 2: Use PowerPoint slides 8-19 to explain the various objections at your own pace while students take notes.

OPTION 3: Hand out the Basic Mock Trial Objections Reference Guide worksheet for students to use to take notes. This can be done in pairs, small groups, or individually.

Remind students that all objections are filtered through the judge, and not to opposing counsel. If opposing attorneys disagree with an objection, they can always ask the judge for the ability to respond. Once a judge rules on an objection, their ruling is final.

LEADING QUESTIONS

Lawyers CAN and SHOULD ask leading questions on Cross Examination ONLY. Leading questions are NOT allowed on direct examination.

For example:

"You were arrested for speeding, weren't you?"

"Objection, Your Honor, counsel is asking a leading question."

Slide 8: Leading Questions

As students start to better understand each objection, encourage them to copy down what is most helpful to them in their notes. They might want the definition, or the example, but encourage them to write the information using their own words.

Attorneys can respond to objections. Encourage students to consider possible responses for each objection. Possible Response: "Your Honor, please allow me some latitude to set the scene" or "Your Honor, I'll rephrase the question."



NARRATION

When the witness provides more information than the question calls for. A good rule of thumb is answers should be completed within a sentence.

For example:

"What did you do when you reached the front door?"

"I opened it and walked to the kitchen. I was afraid he was there. You know, he had been acting so strangely the day before..."

"Objection, Your Honor, narrative response."

Slide 9: Narration

Possible Response: "Your Honor, the witness is telling us a complete sequence of events."



HEARSAY

Asking a witness about a statement made by someone else. Generally, second hand information is inadmissible in court.

For example:

"Tom heard Gloria tell John that Sandy stole the money."

"Objection, Your Honor, hearsay."

Slide 10: Hearsay

There are numerous exceptions to the hearsay rule. For example, it is permitted when a witness is repeating a statement made by one of the parties in the case. For example: "Your Honor, since Gloria is the defendant in this case, the witness can testify as to statements he heard Gloria make."



RELEVANCE

Questions and answers must relate to the subject matter of the case.

For example:

In a traffic accident case: *"How many times were you married?"*

"Objection, Your Honor, this question is irrelevant to the case."

Slide 11: Relevance

Possible Response: "Your Honor, this line of questioning will show that the witness' first husband was killed in an automobile accident, and this fact has added to her pain and suffering in the case."

BADGERING THE WITNESS

Using a hostile tone of voice or asking the same question repeatedly.

For Example:

"It was YOU that told him what to do, ADMIT IT!"

"Objection, Your Honor, counsel is badgering the witness."

Slide 12: Badgering the Witness

Possible Response: "Your Honor, I'm merely trying get an accurate answer from the witness."



OPINION/ SPECULATION

Only an expert witness can give opinions on information pertaining to an area of expertise (police officers, doctors, engineers, ballistics experts, etc.)

For example:

"The doctor put my cast on wrong and that's why I have a limp."

"Objection, Your Honor, the witness is not a medical expert."

Slide 13: Opinion/Speculation

Exception: a lay person can give an opinion about something that is a common experience (or common knowledge). For example: "He seemed to be driving pretty fast for a residential street. Objection response: "You Honor, the ordinary person can judge if a car is speeding.

BEYOND THE SCOPE (OF DIRECT, CROSS, RE- DIRECT, RE- CROSS, OR MOCK TRIAL RULES)

Only items discussed during direct examination can be addressed on cross. Same holds true for re-direct and re-cross.

In a mock trial, if someone embellishes information too far from the story, it might change the case entirely. Use this objection to keep the agreed upon information intact.

Slide 14: Beyond the Scope

Possible Response: "Your Honor, the witness is trying to clarify information in order to answer the question."



NON-RESPONSIVE

When a witness fails to answer the question offered

For example:

"Were you late to work that day?"

Witness replies, *"Oh! That was the day it was raining."*

"Objection, Your Honor, non-responsive."

Slide 15: Non-responsive



LACK OF FIRSTHAND KNOWLEDGE

A witness can only testify on matters they personally know.

For example:

"What was the mood like at the party that night?"

"Objection, this witness was not at the party and thus does not have personal knowledge of the mood at the party."

Slide 16: Lack of First Hand Knowledge



COUNSEL TESTIFYING

Attorneys may not give testimony or make statements during questioning. All evidence must be developed in the form of a question.

For example:

"Your affidavit says that June was going to her mother's house. This is highly unlikely."

"Objection, Your Honor, counsel is testifying."

Slide 17: Counsel Testifying

ASKED AND ANSWERED

When an attorney asks the same, or similar question, over and over

For example:

"Were you speeding that day? So you were going too fast down the road? And your speedometer read well above the posted speed limit sign, yes?"

"Objection, Your Honor, asked and answered."

Slide 18: Asked and Answered

NOTE...

Not every objection needs a ruling from the bench... sometimes you can concede and restate the question or go a different direction.

Slide 19

SAMPLE MOCK TRIAL TIMES...

Plaintiff Opening	(5 min.)
Defense Opening	(5 min.)
Plaintiff's Direct	(5 min.)
Defense's Cross	(4 min.)
[Plaintiff's Re-Direct]	(3 min.)
[Defense's Re-Cross]	(2 min.)

----- (Prosecution Rests its Case) -----

Defense's Direct	(5 min.)
Plaintiff's Cross	(4 min.)
[Plaintiff's Re-Direct]	(3 min.)
[Defense's Re-Cross]	(2 min.)

----- (Defense Rests its Case) -----

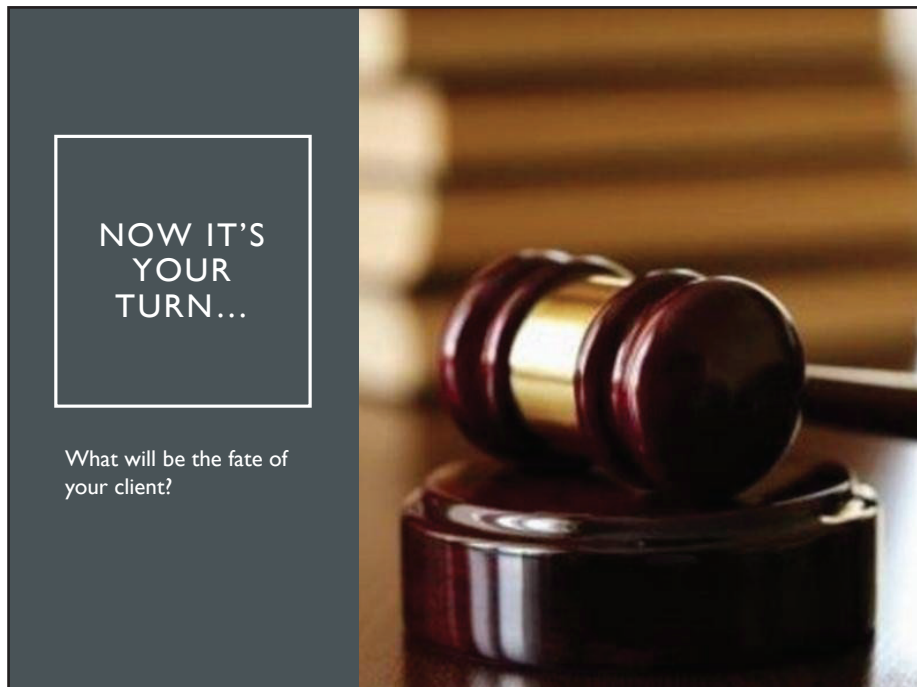
Plaintiff's Closing	(4 min.)
Defense's Closing	(5 min.)
[Plaintiff's Rebuttal]	(1 min.)



Slide 20: Sample Mock Trial Times

Mock Trial Competitions are timed. Teams are given an amount at the start of the trial and are able to distribute their minutes however they deem fit.

For ease in a classroom setting, it is suggested to break the time up for students. The times listed are merely suggestions and can be increased/decreased at will.



Slide 21: Prep for Your Case

Now that your class understands the basic components of a mock trial, it's time to start analyzing and planning for your case. (After reading about the four trials that are included in the guide, select the one you intend to use, and distribute copies to your class. A description of the four mock trials provided can be found the page titled--Choose a Mock Trial, which follows p. 93)

Read the background of the case and stipulated facts out-loud as a class. Allow students a chance to ask questions for clarification where needed.

OPTIONAL: Use the Mock Trial Preparations Lesson plan to assist students with preparing their case.

OBJECTION, YOUR HONOR!

Learning Objectives Students will:

1. Identify some of the basic rules of evidence used in a trial
2. Recognize violations of rules of evidence and make proper objections

TEKS: SS 5.20A, 8.19C; US. 29B; Govt. 7C, 13B, 20A

Materials Needed:

- One scenario for each pair of students

Vocabulary:

ambiguous	exaggeration
credible	negate
demeanor	prejudicial
evidence	relevance

Teaching Strategy:

1. Go over the Objections Outline with students and give them examples of questions that might be objectionable.
2. Make one copy of the “Scenarios” and cut it into strips. Pass out strips to students who volunteer. On each strip students will have “The Case,” “The Witness on the Stand,” and a question.
3. Display the objections in front of students, either using a PowerPoint slide of objections, or handouts.
4. Have the volunteer with strip #1 read “The Case,” “The Witness Stand,” and the question.
5. Other students will listen to the question being read. As soon as anyone determines the reason the question is objectionable, that student should stand and say, “Objection.” The teacher will then call on a student, asking, “On what grounds?” If the student is correct on the ground, the teacher will so indicate. If the student is incorrect, the teacher should call on another student, until the correct answer is given.
6. Discuss differences of opinion on the correct objections. Occasionally there might be a second objection that would be correct

Extension for Gifted/Talented & Advanced Placement: Pass out to students a short trial scenario. Have students, working in pairs or groups of three, make up 10 questions, some objectionable and some not objectionable. Then have groups exchange papers and determine which questions are objectionable and on what basis.

Answer Key

1. Assumes facts not in evidence
2. Improper character/relevance
3. Calls for an opinion by a non-expert
4. Lack of personal knowledge
5. Leading
6. Relevance
7. Improper character question
8. Call for a narrative answer
9. Assumes facts not in evidence
10. Relevance
11. Hearsay
12. Calls for an opinion by a non-expert/lack of personal knowledge
13. Leading
14. Calls for a narrative answer
15. Hearsay



Objections Outline

An attorney may object any time he or she feels the opposing attorneys have violated a rule of evidence. The attorney wishing to object should stand and do so at the time of the violation. When an objection is made, the judge may ask the reason for it. Then the judge will turn to the attorney who asked the question, and that attorney usually will have a chance to explain why the objection should not be accepted (sustained) by the judge. The judge will then decide whether a question or answer must be discarded because it has violated a rule of evidence (objection sustained), or whether to allow the question or answer to remain on the trial record (objection overruled).

Any time an objection is made by an attorney, the opposing attorney should also immediately stand and have an appropriate response if the judge asks for one.

Some commonly used objections include:

- **LACK OF PERSONAL KNOWLEDGE.** A witness may not testify on any matter of which the witness has no personal knowledge. Nor may an exhibit be offered into evidence without the necessary facts showing its relevance and background being established. **OBJECTION:** “The witness has no personal knowledge that would enable him or to her to answer this question.”
- **OPINION TESTIMONY BY NON-EXPERTS.** Witnesses who are not testifying as experts may give opinions which are based on what they saw or heard and are helpful in explaining their stories. However, other than matters that are commonly known (such as speed of a car or clumsiness of a person), witnesses should state only facts-not opinions.
- **ASSUMING FACTS NOT IN EVIDENCE.** An attorney shall not ask a question that assumes unproved facts. **EXAMPLE:** “When did you stop beating your spouse?” **OBJECTION:** “The question assumes facts not in evidence.”
- **QUESTIONS CALLING FOR A NARRATIVE ANSWER.** Questions should be asked so as to call for a specific answer and should not be too broad. **EXAMPLE:** “Tell us what you know about this case.” **OBJECTION:** “Counsel is calling for a narrative answer.”
- **HEARSAY.** Asking a witness about a statement made by someone else is hearsay and is not usually permitted. **EXAMPLE:** “Did the police officer say the defendant was speeding?” **OBJECTION:** “Counsel’s question is seeking a hearsay response.”
- **RELEVANCE OF EVIDENCE.** Only relevant testimony and evidence may be presented during a trial. This means that the only physical evidence and testimony allowed is that which tends to make a fact important to the case more or less probable than the fact would be without the evidence. **EXAMPLE:** The defense asks on cross-examination, “What is your job?” **OBJECTION:** “I object, Your Honor. The evidence (or testimony) is not relevant to the facts of this case.”

- **CHARACTER.** Evidence about the character of a party or witness (other than his or her propensity for truthfulness or untruthfulness) may not be introduced unless the person's character is at issue in the case. **EXAMPLE:** Have you ever received a speeding ticket? **OBJECTION.** "This question calls for improper character assumptions."
- **LEADING QUESTION.** A leading question is one that suggests to the witness under direct examination the answer desired by the questioner or suggests a "yes" or "no" answer. **EXAMPLE:** "Sergeant Jeans, you really couldn't see the defendant very well, could you?" **OBJECTION:** "Objection. Counsel is leading the witness." (NOTE: An attorney may ask leading questions when cross-examining the opponent's witnesses, and in fact, that is the desired form of cross-examination questions.)



1. THE CASE: A driver is disputing a ticket for running a red light.
THE WITNESS ON THE STAND: Direct examination of the policeman who issued the ticket
Question: *How badly was the driver injured?*



2. THE CASE: The editor of a prominent newspaper is being charged with speeding in a school zone.
THE WITNESS ON THE STAND: Cross-examination of the editor of the newspaper
Question: *You owe your ex-wife a lot of unpaid child support, don't you?*



3. THE CASE: A high school student is accused of negligent homicide when a young boy is hit by the student's car.
THE WITNESS ON THE STAND: Direct examination of a parent of the young boy
Question: *How fast do you think is safe to drive in the area of the crash?*



4. THE CASE: A woman is charged with driving recklessly while talking on her cell phone.
THE WITNESS ON THE STAND: Cross-examination of the defendant
Question: *How many crashes are caused every day by people talking on cell phones?*



5. THE CASE: The defendant is on trial for hitting a pedestrian who was crossing a street.
THE WITNESS ON THE STAND: Direct examination of the defendant
Question: *You weren't speeding, were you?*



6. THE CASE: A member of a successful rock band is accused of causing a crash while running from the paparazzi.
THE WITNESS ON THE STAND: Direct examination of the defendant
Question: *How much are you paid for each concert?*



7. THE CASE: A middle school student is in court for truancy.
THE WITNESS ON THE STAND: Cross-examination of the school principal
Question: *How often do you go to bars?*



8. THE CASE: A student is accused of shoplifting a pack of bubble gum.
THE WITNESS ON THE STAND: Direct examination of the manager of the store where the shoplifting occurred
Question: *Tell us about your career.*



9. THE CASE: A teenager is accused of drag racing.
THE WITNESS ON THE STAND: Direct examination of the defendant
Question: *What did your parents teach you about responsibility when driving your car?*



10. THE CASE: A driver is involved in a negligent automobile crash.
THE WITNESS ON THE STAND: Direct examination of the victim
Question: *Where were you two hours before you were hit by the car?*



11. THE CASE: A female student is on trial for assault after starting a fight in the hall at school.

THE WITNESS ON THE STAND: Cross-examination of the teacher who broke up the fight

Question: *The principal told you to keep the halls quiet at all costs, didn't she?*



12. THE CASE: A 13-year-old is accused of driving her father's car without a license.

THE WITNESS ON THE STAND: Direct examination of the defendant's mother

Question: *What do you think causes a child to do something like this?*



13. THE CASE: A young man is on trial for robbery of a case of Dr. Pepper from the gas station.

THE WITNESS ON THE STAND: Direct examination of the station manager

Question: *You saw the defendant at the gas station that day, didn't you?*



14. THE CASE: A father is on trial for allowing his young children to ride in the bed of his pickup.

THE WITNESS ON THE STAND: Direct examination of the police officer who issued the ticket

Question: *Tell us about the week when you issued this ticket.*



15. THE CASE: A negligence case is being tried as a result of a teenager being thrown from a speeding car and spraining his ankle.

THE WITNESS ON THE STAND: Direct examination of the father of the victim

Question: *What injuries did the doctor tell you your son incurred?*



MOCK TRIAL PREPARATIONS

Learning Objectives

Students will:

1. Prepare for a mock trial by signing up for a case, organizing the details for the case, and preparing their witness(es) for the case.

TEKS: SS 8.19C, 8.29B-C, E; Govt. 13B, 20A, Special Topics 2A-G

Materials Needed:

Copies of *Mock Trial Sign-Up Form*, *Analyzing the Case*, *Mock Trial Witness Storyline Planning Guide*, *Mock Trial Character Profile Planning Guide*, *Courtroom Subpoena*, *Jury Verdict*, and the *Mock Trial Observations* worksheets

Vocabulary

cross-examination	prosecution
defense	stipulated facts
direct examination	witness


Teaching Strategy:

The handouts listed below are to assist with analyzing your mock trial case. All items are OPTIONAL and intended to help students with the structure and preparation of a mock trial.

1. Pick a mock trial for your classroom (it is suggested to use these with State of Texas v. Casey Bryant mock trial, but is not a requirement for utilizing the materials offered in this lesson).
2. Read through the background of the case and stipulated facts as a class.
3. Mock Trial Sign-Up Form - Once students are comfortable with the details of the case, assign them a role using the *Mock Trial Sign-Up Form*.

NOTE: You can use as many or as few students as needed to meet the needs of your class. Attorneys can examine more than one witness, or a student can play more than one role. Other options include not utilizing a time keeper, or adding more timekeepers, or using or not using a jury. Play with the parts and make it fit your class.

4. Analyzing the Case Handout - After roles are assigned, it is suggested to separate the class into four (4) smaller groups to analyze the case. Use the Analyzing the Case, handout to keep track of items helpful, and hurtful, to the case. Recommended groups include:
 - A. Prosecuting Attorneys
 - B. Prosecution
 - C. Defense Attorneys
 - D. Witnesses for the Defense

- 
5. Mock Trial Witness Storyline Planning Guide Handout - Using the same groups mentioned in the *Analyzing the Case Handout* above, or as a whole class, use the *Mock Trial Witness Storyline Planning Guide* to have students mark what each witness adds to the story of the case. This handout is intended to help students understand how the witness stories fit together. In addition to that, it helps attorneys understand what elements to highlight, or minimize while a particular witness is on the stand.
 6. Mock Trial Character Profile Planning Guide Handout - While attorneys work on questions, as well as opening/closing statements, have witnesses complete the Mock Trial Character Profile Planning Guide. This will help them better understand elements of their character. If something important is missing in their sworn statement, encourage them to make it up. Remind students that the intention for a witness at a mock trial is to BECOME the witness, not to REPORT on a witness.

Suggestion for extension: Have students create a portrait, write a diary entry from their witness' point of view, or create a collage of their witness on the back of the page.

7. Mock Trial Subpoena Handout - Use this form to invite attendees to watch your mock trial in action if desired.
8. Jury Verdict Sheet - When the trial ends, pass out the Jury Verdict Sheet for students to write down their final decision for the trial and ultimately share with the class.
9. Mock Trial Observations Handout - When it's time for the trial, pass out the Mock Trial Observations form and have students fill it in during the trial to keep them engaged. This worksheet can also be used to assist with post trial conversations.

Mock Trial Sign-Up Form

_____ v. _____

Prosecuting Attorneys:

Defense Attorneys:

Opening Statement Made By:	Opening Statement Made By:
Direct Examination of Witness #1:	Cross-Examination of Witness #1
Direct Examination of Witness #2	Cross-Examination of Witness #2
Direct Examination of Witness #3	Cross-Examination of Witness #3
Direct Examination of Witness #4	Cross-Examination of Witness #4
Direct Examination of Witness #5	Cross-Examination of Witness #5
Direct Examination of Witness #6	Cross-Examination of Witness #6
Closing Statement Made By:	Closing Statement Made By:

Witness for the Prosecution:

Witness for the Defense:

Witness #1:	Witness #4:
Witness #2:	Witness #5:
Witness #3:	Witness #6:

Time Keeper for the Prosecution:

Time Keeper for the Defense:

--	--

Jury Members:





ANALYZING THE CASE

Facts that help the Prosecution

Facts that help the Defense



Mock Trial Witness Storyline Planning Guide

Witness #1	Witness #4
Witness #2	Witness #5
Witness #3	Witness #6



Mock Trial Character Profile Planning Guide

The Basics

Full Name	
Date of Birth	
Age	
Current Address	
Parents' Names	
Siblings' Names	

Appearance

Hair Color	
Eye Color	
Height	
Weight	
Features	
Identifying Marks	

Work & Personal

Occupation	
Salary	
Marital Status	
Significant Others	
Children	
Pets	

Personality

Happy, moody, etc.	
Idiosyncrasies	
Habits	
Ambitions	
Favorite Things	
Dislikes	



SUBPOENA

The State of _____

Department of _____

Division of _____

The State of Texas hereby issues this subpoena to

_____, who is hereby commanded to appear at

_____ (location) at _____ o'clock __.m. on the

_____ day of _____, 20____ for the case of _____ v. _____

Case No. _____

YOU SHALL RESPOND to this subpoena as directed unless excused by the party who requested issuance of the subpoena or by order of the arbitrator.

ORDERED this _____ day of _____, 20____.

SUBPOENA

The State of _____

Department of _____

Division of _____

The State of Texas hereby issues this subpoena to

_____, who is hereby commanded to appear at

_____ (location) at _____ o'clock __.m. on the

_____ day of _____, 20____ for the case of _____ v. _____

Case No. _____

YOU SHALL RESPOND to this subpoena as directed unless excused by the party who requested issuance of the subpoena or by order of the arbitrator.

ORDERED this _____ day of _____, 20____.



Jury Verdict Sheet

Case No. _____

v.

VERDICT OF THE JURY

We, the jury, find the defendant in the case of _____ v. _____,
(guilty / not guilty) of the crime of _____

Jury Verdict Sheet

Case No. _____

v.

VERDICT OF THE JURY

We, the jury, find the defendant in the case of _____ v. _____,
(guilty / not guilty) of the crime of _____



Mock Trial Observations

Student Name: _____ Date: _____ Class Period: _____

As you observe the mock trial case presented in class, make note of the strengths and weaknesses of each side. Then fill in the information requested below to help with your final judgment on the case.

Prosecution

Strengths:	Weaknesses:

Defense

Strengths:	Weaknesses:

Share three (3) objections either side missed during the trial. Explain the scenario, what objection should have been made, and why. If there were no objections missed, identify three that were accurately made and explain your reasoning.

1.
2.
3.

Which witness did an exceptional job and why? Which attorney was exceptional and why?

Witness —

Attorney —

Based on the information presented, how would you rule on this case and why? Be specific.





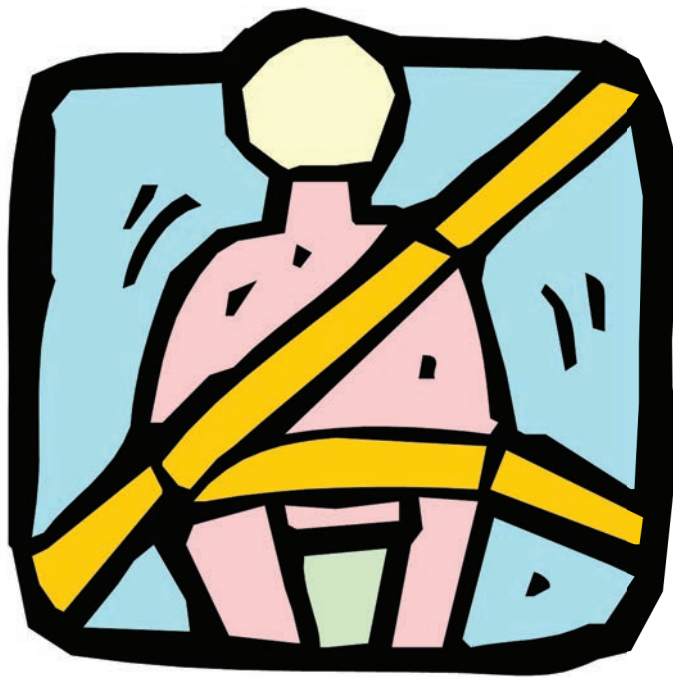
CHOOSE A MOCK TRIAL

<i>State of Texas v. Sam Smart</i> - Scripted Mock Trial.	95
<i>State of Texas v. Johnny Junior</i> - Scripted Mock Trial.	120
<i>State of Texas v. Johnny Junior</i> - Partially Scripted Mock Trial.	145
<i>State of Texas v. Casey Bryant</i> - Unscripted Mock Trial	153

There are four mock trials for use in the classroom. The first two (*State of Texas v. Sam Smart* and *State of Texas v. Johnny Junior*) are scripted and appropriate for lower grades or use as an introduction. The third trial uses the facts and witnesses from the *State of Texas v. Johnny Junior* again but this time in a partially scripted format. The final case, *State of Texas v. Casey Bryant*, is an unscripted mock trial which is recommended for use after students have a grasp of the mock trial procedures.

STATE OF TEXAS
V.
SAM SMART

A Scripted Mock Trial



STATE OF TEXAS v. Sam Smart

A Scripted Mock Trial

Learning Objectives

Students will:

1. Participate in a mock trial that focuses on safety belt.
2. Analyze the facts of the case for the prosecution and defense.
3. Identify the importance of obeying laws.
4. Describe consequences of breaking laws.
5. Recognize courtroom procedures, the responsibilities of various courtroom positions, and the purpose of the judicial system.
6. Apply critical thinking skills by drawing conclusions about the testimony of witnesses, courtroom objections, safety belt, safety laws, and determining the verdict in a criminal case.
7. Express thoughts through verbal communication.

TEKS: SS 3.11A, C; 3.17A, C; 3.18A; 4.21A, B, D; 4.22B; 5.20A, B, D; 5.25B; ELA & R 4.12; 5.12A, B; FA Theater 3.2B; 8.19B, 8.29B

Materials Needed:

- Copies of the “Analyzing the Case” found in the Mock Trial Preparations section in this guidebook
- Copies of the *State of Texas v. Sam Smart*
- highlighters

Vocabulary:


affirm	jurisdiction
ambiguous	jury
attorney	negligence
bailiff	non-responsive
clarify	object
cross-examine	opinion
decision	offense
defense	prosecution
deployed	relevant
disregard	restraint
evidence	testimony
harness	verdict
	violation

Teaching Strategy:

1. Distribute the mock trial *State of Texas v. Sam Smart* and have students read the “Facts of the Case.”
2. Have students analyze the strengths of the prosecution’s side of the case and defense’s side of the case.

OPTIONAL: Use the “Analyzing the Case” handout found in the Mock Trial Preparations section of this guidebook

3. Have students discuss the issue that is to be decided.

- 
4. Assign students to the various positions in the mock trial. Have everyone except the jurors read silently through the script, highlighting their parts. (Clarify any vocabulary words that are unclear and/or assist with pronunciation, if needed.) The teacher should have the members of the jury make a list of behaviors they think a juror should exhibit in order to assure that the defendant receives a fair trial.

For ideas about juror behaviors students may access “Jury Service in Texas” found at the Courts of Texas website <https://www.txcourts.gov/about-texas-courts/juror-information/jury-service-in-texas/>.

5. After the students have reviewed their parts, the room should be arranged as much like a courtroom as possible. There should be seats for the judge and bailiff at the front of the classroom as well as an empty seat to serve as the witness stand. (If possible have the judge sit behind a table or desk.) The jury should sit adjacent to the judge and bailiff. Have the prosecuting attorneys sit together facing the judge on the side of the room near the jury and the defense attorneys sit together facing the judge on the other side of the room (diagram included within this guidebook).
6. The following questions should be discussed with students at the appropriate time in the trial or may be used at the end of the trial for evaluation:

- After listening to the opening statement made by the prosecution, what do you think the prosecution is trying to prove?

Possible answer: The driver of a car is responsible for making sure that all passengers have fastened their safety belts (according to the Texas Transportation Code.)

- After listening to the opening statement made by the defense, what do you think the defense is saying happened?

Possible answer: Sam Smart made every effort to get the passengers in his car to fasten their safety belts so he would not have to pay a fine.

- What do you think are the key facts that you learned from the testimony of Ima Duncan?

Possible Answers: Sam asked the passengers to buckle up; Ima put her shoulder belt behind her; Sam didn't suggest Ima wear the shoulder belt correctly, etc.

- The defense objected to Ima's testimony several times, stating that her answer was not relevant, was unclear, or that she was expressing an opinion. What purpose do you think objections have in a trial?

Possible answer: Objections are used to make sure that a trial is fair and prevent improper questions/answers.

- Every witness may be cross-examined by the opposing side. What do you think is the purpose of cross-examination during a trial?

Possible answer: The purpose of cross-examination is to bring out evidence that will help your side and show the weaknesses of the opponent's witnesses.

- What do you think were the key facts that you learned from Officer Copperfield?

Possible answers: Location of crash, driving conditions, who was wearing a safety belt, etc.

- After listening to the prosecution, do you feel that they proved what they claimed they would prove in the opening statement?

Answers will vary.

- How do you think the testimony of Amandy Gentry and Cynthia Champion helped Sam's case? ... hurt Sam's case?

Answers will vary.

- What do you think were the key facts that you learned from the testimony of Sam Smart?

Possible answers: Asked passengers to buckle up, crash details, called 911, got a ticket from Officer Copperfield, took a driver's education course, heard the click of Ima's safety belt, never gotten a ticket before, never heard of this safety belt law.

- What did you learn about the purpose of the closing arguments of both the prosecution and defense? Which side do you feel had the strongest closing and why?

Answers will vary.

7. After the trial has been completed, debrief the activity by discussing the following questions:

- Why does Texas have a law regarding safety belt use?
- What are the consequences for breaking a safety belt law?
- Do you think that Sam Smart received a fair trial? Why or why not?
- Who has the most difficult position in the courtroom? Why?
- What did you think about participating in a mock trial? Explain.
- What new things did you learn by participating in the mock trial?

Extension for Gifted/Talented:

Students will read and analyze the Colorado Supreme Court case of *Carlson v. Ferris* (attached) and compare it to the case of *State v. Sam Smart*, explaining how they are alike and how they are different.





State of Texas v. Sam Smart

Facts of the Case:

Late on the rainy afternoon of November 22, 2____, Ima Duncan, age 14, was a front-seat passenger in a car driven by Sam Smart, age 18. Another passenger, Amanda Gentry, was in the back seat.

While driving along Lavender Lane, Sam saw a small dog dart out into the street directly in front of him. He immediately slammed on his brakes and swerved to miss the dog. Because of the wet road conditions, Sam lost control of the car and hit a nearby tree, causing the airbags to deploy.

The only injury that occurred was to Ima Duncan, who was wearing only her lap belt. She had put her shoulder belt behind her back in order to protect the decorative sequins on her T-shirt. Both Sam Smart and Amanda Gentry were wearing their safety belts correctly. Emergency personnel took Ima Duncan to a local hospital.

Police officer Eric Copperfield investigated the crash. Sam was ticketed for failure to ensure that all his passengers were safely secured in the safety belts.

Ima Duncan was treated for a dislocated shoulder caused by hitting the right front passenger door. She spent the next several months in physical therapy for her shoulder injury, ending her basketball season at her school and perhaps her dreams of playing college basketball.

Sam asked for a jury trial regarding his ticket. He felt it was unfair because he had told Ima to put on her safety belt, and he did not realize that she had put the shoulder belt behind her.

Issue: Is same Smart guilty of violating Section 545.413 of the Texas Transportation Code?





Roles in the Mock Trial

Judge

Bailiff

Prosecuting Attorney #1

Prosecuting Attorney #2

Prosecuting Attorney #3

Witness for the Prosecution—Ima Buckle, Injured Passenger

Witness for the Prosecution—Eric Copperfield, City of Harmony Police Officer

Witness for the Prosecution—Bob Buckle, State Trooper

Defense Attorney #1

Defense Attorney #2

Defense Attorney #3

Witness for the Defense—Amanda Gentry, Passenger

Witness for the Defense—Cynthia Champion, Harmony H.S. Driver Education Instructor

Defendant—Sam Smart

Juror #1

Juror #2

Juror #3

Juror #4

Juror #5

Juror #6



State of Texas v. Sam Smart

(BAILIFF STANDS)

Bailiff: All rise. (PAUSE) The Municipal Court of the city of Harmony is now in session. The Honorable **Judge** _____ presiding.

(JUDGE ENTERS THE ROOM AND TAKES SEAT)

Judge: Please be seated. The case of the State of Texas vs. Sam Smart is now ready for trial. Is the State ready?

(PROSECUTING ATTORNEY #1 STANDS)

Prosecuting Attorney #1: The prosecution is ready.

(PROSECUTING ATTORNEY #1 SITS)

Judge: Is the defendant ready?

(DEFENSE ATTORNEY #1 STANDS)

Defense Attorney #1: The defendant is ready.

(DEFENSE ATTORNEY #1 SITS)
(BAILIFF WALKS OVER TO THE JURY)

Bailiff: The jury will stand, raise your right hands, and be sworn in.

Each of you do solemnly swear that in the case of the State of Texas against Sam Smart, you will a true verdict render according to the law against the evidence (so help you God).

You may be seated

(BAILIFF RETURNS TO SEAT)

Judge: It's my understanding that the defendant has been notified of the charges, has plead "not guilty," and has waived the right to have the charges re-read.

Defense Attorney #1: That is correct



Judge: Sam Smart, how do you plead to such charges?

Sam Smart: Not guilty, Your Honor.

(JUDGE LOOKS AT THE PROSECUTION)

Does the prosecution have an opening statement?

(PROSECUTING ATTORNEY #1 STANDS)

Prosecuting Attorney #1: Yes, Your Honor. May it please the court. Your Honor and members of the jury, my name is _____, and I am one of the prosecutors representing the People of the city of Harmony in this action against Sam Smart. This case involves the carelessness of an automobile driver who failed to make sure all the passengers in his car were wearing safety belts, as required by Texas Transportation Code, Section 545.413. This carelessness led to the injury of Ima Duncan, one of the passengers riding with the defendant, when the car was involved in a crash. The defendant,

(POINTS TO DEFENDANT)

Sam Smart, did not abide by the Texas Occupant Restraint Laws that require a driver of a vehicle to make sure that all passengers under the age of 17 be secured by a safety belt. Ladies and gentlemen, after you have heard and seen the evidence brought before you, we are convinced you will agree that Sam Smart did indeed break the law and should be required to pay the maximum fine as allowed by law. Thank you.

(PROSECUTING ATTORNEY #1 SITS)

Judge: Thank you.

(JUDGE LOOKS AT THE DEFENSE)

Does the defense have an opening statement?

(PROSECUTING ATTORNEY #1 STANDS)

Defense Attorney #1: Yes, Your Honor. May it please the court. Your Honor and members of the jury, my name is _____, and I am one of the defense attorneys protecting Sam Smart's rights today. The evidence will show that Sam Smart reminded both passengers in the car to buckle their safety belts

before he began driving his vehicle. We will show that he took every precaution possible to avoid injury to himself and others. It was a rainy day, and he swerved to miss a small, defenseless dog when the animal darted into the street. But because Ms. Duncan had placed her shoulder harness behind her, she was injured. In fact, it is because of Mr. Smart's quick reaction that the dog was not killed and only one passenger was slightly injured. He should not be found guilty. Thank you.

(DEFENSE ATTORNEY #1 SITS)

Judge: Thank you. Will the prosecution please call its first witness.

(PROSECUTING ATTORNEY #2 STANDS)

Prosecuting Attorney #2: The State calls Ms. Ima Duncan.

*(IMA DUNCAN MOVES TO THE WITNESS STAND TO BE SWORN IN BY BAILIFF)
(BAILIFF APPROACHES THE WITNESS)*

Bailiff: Raise your right hand, please. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Ima Duncan: I do.

*(IMA DUNCAN SITS DOWN)
(BAILIFF RETURNS TO SEAT)*

Prosecuting Attorney #2: State your name and address for the court, please.

Ima Duncan: I am Ima Duncan, and I live at 465 Dribble Drive.

Prosecuting Attorney #2: Where were you on the afternoon of November 22, ____?

Ima Duncan: I was coming home from basketball practice with Sam Smart and my friend, Amanda Gentry.

Prosecuting Attorney #2: Did Sam ask you and Amanda to buckle your safety belts when you got in the car?

Ima Duncan: He said something like, "Buckle up, everybody," but I had on a sequined T-shirt, so I fastened my lap belt and put my shoulder belt behind me.



Prosecuting Attorney #2: Did Sam suggest that you put your safety belt on the correct way?

Ima Duncan: No, he didn't say anything about it.

Prosecuting Attorney #2: Did Amanda put on her safety belt?

Ima Duncan: I guess so.

Defense Attorney #1: I object, Your Honor. Unless the witness can answer with a definite yes or no, the witness lacks personal knowledge.

Judge: The objection is sustained.

Prosecuting Attorney #2: What happened after you got in the car?

Ima Duncan: We were almost home on Lavender Lane when a little dog ran right out in front of us. I screamed, and Sam slammed on the brakes.

Prosecuting Attorney #2: What happened when Sam slammed on the brakes?

Ima Duncan: The car went crazy.

Prosecuting Attorney #2: Please describe for the members of the jury what you mean by that.

Ima Duncan: The car swerved to the right, and we slammed into a tree.

Prosecuting Attorney #2: Did the air bags deploy?

Ima Duncan: Yes.

Prosecuting Attorney #2: How did you feel after the air bags deployed?

Ima Duncan: I felt shooting pains in my shoulder, and the air bag was suffocating me.

Prosecuting Attorney #2: Did you receive medical treatment?

Ima Duncan: Yes, Sam used his cell phone to call 911 and I was rushed to the hospital.



Prosecuting Attorney #2: What injuries did you sustain?

Ima Duncan: My shoulder was dislocated, and now I'm in physical therapy, and my basketball career is ruined.

(DEFENSE ATTORNEY #1 STANDS)

Defense Attorney #1: Objection, Your Honor. This is a narrative answer.

(DEFENSE ATTORNEY #1 SITS)

Judge: Sustained

(JUDGE LOOKS AT THE JURY)

Ladies and gentlemen of the Jury, please do not weigh as evidence what the witness just said.

Prosecuting Attorney #2: I have no further questions, Your Honor.

(PROSECUTING ATTORNEY #1 SITS)

Judge: Does the defense wish to cross-examine the witness?

(DEFENSE ATTORNEY #1 STANDS)

Defense Attorney #2: Yes, Your Honor. Ms. Duncan, you have testified that Sam suggested that you buckle your safety belt. Is that correct?

Ima Duncan: Yes, he mentioned it when we got in the car.

Defense Attorney #2: But you didn't fasten it correctly, did you?

Ima Duncan: Well, I fastened the lap belt.

Defense Attorney #2: But you put the shoulder belt behind you so you wouldn't mess up your fancy shirt, isn't that right?

Ima Duncan: Yes, but it was a brand-new shirt.

Defense Attorney #2: And now your shoulder is messed up, isn't it?

Ima Duncan: Yes.

Defense Attorney #2: So this could all have been avoided if you fastened your safety belt correctly, isn't that true?



Ima Duncan: The wreck was Sam's fault, not mine.

Prosecuting Attorney #1: Objection, Your Honor. The witness's answer was non-responsive to the question.

Judge: Objection sustained. Ms Duncan, please answer the question that was asked.

Defense Attorney #2: Isn't it true that your injuries could have been avoided if you had done as Sam asked and left your shoulder harness the way it should have been—in front of you instead of behind?

Ima Duncan: I don't know.

Defense Attorney #2: Your Honor, I have no further questions.

*(DEFENSE ATTORNEY #1 SITS)
(JUDGE LOOKS AT THE WITNESS)*

Judge: The witness is excused.

(JUDGE LOOKS AT THE PROSECUTION)

Does the prosecution have any further witnesses?

(PROSECUTING ATTORNEY #3 STANDS)

Prosecuting Attorney #3: The prosecution calls police officer Eric Copperfield to the stand.

*(OFFICER COPPERFIELD MOVES TO THE WITNESS STAND TO BE SWORN IN BY BAILIFF)
(BAILIFF APPROACHES THE WITNESS)*

Bailiff: Raise your right hand, please. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Officer Copperfield: I do.

(OFFICER COPPERFIELD SITS)

Prosecuting Attorney #3: Please state your name and occupation for the court.



Officer Copperfield: My name is Eric Copperfield, and I am a police officer for the Harmony Police Department.

Prosecuting Attorney #3: How long have you worked for the Harmony Police Department?

Officer Copperfield: This is my first year.

Prosecuting Attorney #3: Did you investigate a crash on the afternoon of November 22, 2____?

Officer Copperfield: Yes, I did. I received a call about a crash in the 700 block of Lavender Lane. When I arrived, I found that a 2019 Ford Explorer had hit a tree close to the street.

Prosecuting Attorney #3: Was anyone injured?

Officer Copperfield: One female passenger had a shoulder injury.

Prosecuting Attorney #3: What were the driving conditions at the time?

Officer Copperfield: The streets were wet because it had rained that day.

Prosecuting Attorney #3: Was everyone in the vehicle wearing a safety belt?

Officer Copperfield: The driver and the backseat passenger were wearing their safety belts; however, the passenger who sustained the injuries was only wearing her lap belt.

Prosecuting Attorney #3: What does Texas law say about safety belts?

Officer Copperfield: According to Texas Transportation Code Section 545.413: A person commits an offense if he or she allows a child younger than 17 to ride in a vehicle without requiring the child be secured by a safety belt.

Prosecuting Attorney #3: In your opinion, did the defendant, Sam Smart, violate this law?

Officer Copperfield: Yes, that's why I issued him a ticket.

Prosecuting Attorney #3: I have no further questions, Your Honor.

(PROSECUTING ATTORNEY #3 LOOKS AT THE DEFENSE)

Your witness.





(PROSECUTING ATTORNEY #3 SITS)
(DEFENSE ATTORNEY #3 STANDS)

- Defense Attorney #3:** Officer Copperfield, you testified that you issued a ticket because one of the passengers was not buckled up, when in fact she was, isn't that correct?
- Officer Copperfield:** Ms. Duncan was obviously not using the safety belt as it was designed to be used, since the shoulder belt was behind Ms. Duncan's back.
- Defense Attorney #3:** Wouldn't you agree that it was Ms. Duncan's fault that she was not wearing her safety belt correctly?
- Officer Copperfield:** The law states that it is the driver's responsibility to see that passengers are safely secured.
- Defense Attorney #3:** Isn't it true that you have given out more safety belt violation tickets in your rookie year than any other police officer in the history of the Harmony Police Department?
- Officer Copperfield:** I have no idea how many tickets I have given out. I just do my job and carry out my responsibilities to keep the public safe.
- Defense Attorney #3:** You are aware of the Rookie of the Year Award, aren't you?
- Officer Copperfield:** Yes, I am.
- Defense Attorney #3:** In your eagerness to write tickets and receive that award, you didn't really give Sam Smart a chance to explain his side of the story, did you?
- Officer Copperfield:** The law is the law, and it was Sam's responsibility to make sure Ms. Duncan's safety belt was fastened correctly.
- Defense Attorney #3:** I have no further questions, Your Honor

(DEFENSE ATTORNEY #3 SITS)
(JUDGE LOOKS AT THE WITNESS)

Judge: The witness is excused.

(JUDGE LOOKS AT THE PROSECUTION)

Judge: Does the prosecution have any further witnesses?



(PROSECUTING ATTORNEY #3 STANDS)

Prosecuting Attorney #1: The prosecution calls Trooper Bob Buckle to the stand.

*(BOB BUCKLE MOVES TO THE WITNESS STAND TO BE SWORN IN BY BAILIFF)
(BAILIFF APPROACHES THE WITNESS)*

Bailiff: Raise your right hand, please. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Bob Buckle: I do.

*(BOB BUCKLE SITS)
(BAILIFF RETURNS TO SEAT)*

Prosecuting Attorney #1: Please state your name and occupation for the court.

Bob Buckle: My name is Bob Buckle, and I am an officer with the Texas Department of Public Safety.

Prosecuting Attorney #1: How long have you been a state trooper?

Bob Buckle: 18 years.

Prosecuting Attorney #1: Tell the court your experience in investigating traffic crashes in which safety belts were not properly used.

Bob Buckle: I have investigated many crashes over the years. The ones I hate the most are the ones where injuries could have been prevented.

Prosecuting Attorney #1: Prevented in what way?

Bob Buckle: If people would just wear safety belts correctly, many injuries would be prevented.

Prosecuting Attorney #1: We all agree that safety belts should be used, but whose responsibility is it that all people in the car are buckled up correctly?

Bob Buckle: According to the law, it's the driver's responsibility if the passengers are under 17 years of age.





Prosecuting Attorney #1: Do you agree with that law?

Bob Buckle: Well, you know how teenagers are. They get busy talking and sometimes don't think about how important it is to fasten their safety belts, so I think it's a good idea for the driver to make sure.

Prosecuting Attorney #1: If have no further questions, Your Honor.

(PROSECUTING ATTORNEY #1 LOOKS AT THE DEFENSE)

Your witness

*(PROSECUTING ATTORNEY #1 SITS)
(DEFENSE ATTORNEY #1 STANDS)*

Defense Attorney #1: Trooper Buckle, did you investigate this crash?

Bob Buckle: No, I did not. This crash was not in my jurisdiction.

Defense Attorney #1: So you're really not familiar with Ms. Duncan's injury and what caused it, are you?

Bob Buckle: I participated in the "Click it or Ticket" campaign, funded by the Texas Department of Transportation, and our statistics show that since we began that campaign, an estimated 1200 fewer traffic fatalities and 28,000 fewer injuries have occurred in Texas as a result of increased safety belt use. I've investigated enough car crashes to be able to tell you just about what happened in any of them. And safety belts are important, I can guarantee that.

Defense Attorney #1: But you were not at the scene of this particular crash and have no direct knowledge concerning Sam Smart or the passengers in his car, correct?

Bob Buckle: That is correct.

Defense Attorney #1: I have no further questions, Your Honor.

*(DEFENSE ATTORNEY #1 SITS)
(JUDGE LOOKS AT THE WITNESS)*

Judge: The witness is excused

(JUDGE LOOKS AT THE PROSECUTION)

Judge: Does the prosecution have any further witnesses?

Prosecuting Attorney #1: No, Your Honor. The prosecution rests.

(JUDGE LOOKS AT THE WITNESS)

Judge: The defense may call its first witness

(DEFENSE ATTORNEY #3 STANDS)

Defense Attorney #3: The defense calls Amanda Gentry to the stand.

*(AMANDA GENTRY MOVES TO THE WITNESS STAND TO BE SWORN IN BY BAILIFF)
(BAILIFF APPROACHES THE WITNESS)*

Bailiff: Raise your right hand, please. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Amanda Gentry: I do.

*(AMANDA SITS)
(BAILIFF RETURNS TO SEAT)*

Defense Attorney #3: Please state your name and your relationship to this case for the court.

Amanda: I am Amanda Gentry. I was in the car when it crashed.

Defense Attorney #3: How do you know the defendant, Sam Smart?

Amanda: He is a neighbor and often gives me a ride home from school.

Defense Attorney #3: Is he a good and safe driver?

Amanda: Yes, my parents never object to me riding with him. He took a strict driver training course and is always very careful.

Defense Attorney #3: Did you hear him tell Ima and you to fasten your safety belts?

Amanda: Yes, as soon as we got settled in, he said, "Buckle up."

Defense Attorney #3: Did Ima fasten her belt?

Amanda: I heard the belt click when she fastened it.



Defense Attorney #3: I have no further questions, Your Honor. I pass the witness.

(DEFENSE ATTORNEY #3 SITS)

Judge: Does the prosecution wish to cross-examine this witness?

(PROSECUTING ATTORNEY #3 STANDS)

Prosecuting Attorney #3: Yes, Your Honor. Amanda, you say that Sam told you and Ima to buckle up, is that correct?

Amanda: Yes, when we first got in the car.

Prosecuting Attorney #3: But Sam didn't turn around and check to see if you had fastened your safety belt correctly, did he?

Amanda: No, but he knows I always buckle up.

Prosecuting Attorney #3: What about your friend, Ima? She doesn't always buckle up, does she?

Amanda: No, she doesn't. But that's her fault, not Sam's.

Prosecuting Attorney #3: I have no further questions, Your Honor.

(PROSECUTING ATTORNEY #3 SITS)(JUDGE LOOKS AT THE WITNESS)

Judge: The witness is excused

(JUDGE LOOKS AT THE DEFENSE)

Judge: Does the defense have any further witnesses?

(DEFENSE ATTORNEY #2 STANDS)

Defense Attorney #2: Yes, Your Honor. We'd like to call Cynthia Champion to the stand.

*(CYNTHIA CHAMPION MOVES TO THE WITNESS STAND TO BE SWORN IN BY BAILIFF)
(BAILIFF APPROACHES THE WITNESS)*

Bailiff: Raise your right hand, please. Do you swear to the tell the truth, the whole truth, and nothing but the truth?

Cynthia Champion: I do.



(CYNTHIA SITS)
(BAILIFF RETURNS TO SEAT)

Defense Attorney #2: Please state your name and occupation.

Cynthia: My name is Cindy Champion, and I am Harmony High School's driver education instructor.

Defense Attorney #2: Do you know the defendant, Sam Smart?

Cynthia: Yes. He took my driver education course when he was 16.

Defense Attorney #2: Was he a good student?

Cynthia: He was one of my most dependable students, always there on time. And he did an exceptional job behind the wheel.



Defense Attorney #2: How much behind-the-wheel instruction did Sam receive?

Cynthia: He received seven hours of in-car training.

Defense Attorney #2: From your observations, was Sam aware of the safety belt guidelines for the State of Texas?

Cynthia: Yes, he always fastened his safety belt and made sure everyone else in the car buckled up, including me! In fact, Sam's classmates nicknamed him "Safety Belt Sam" because he made such a big deal about fastening safety belts.

Defense Attorney #2: How did he do on the written examination?

Cynthia: He passed it with flying colors. I've rarely had a student do so well.

Defense Attorney #2: Wouldn't you agree that it was Ms. Duncan's fault that she was not wearing her safety belt correctly?

Cynthia: I know that Sam Smart is a very responsible driver and that if Ms. Duncan was not wearing her safety belt correctly, it was probably her fault.

Prosecuting Attorney #3: I object, Your Honor. The witness is not qualified to give an expert opinion on fault and is speculating.

Judge: Objection sustained. The jury will not weigh as evidence what the witness just said.

Defense Attorney #2: I have no further questions, Your Honor.

(DEFENSE ATTORNEY #2 SITS)

Judge: Prosecution, do you wish to cross-examine this witness?

(PROSECUTING ATTORNEY #2 STANDS)

Prosecuting Attorney #2: Yes, Your Honor. Ms. Champion, if Sam Smart did so well in your driver education course, you would think he'd know about the regulation stating that it's the driver's responsibility to make sure all his passengers are buckled up properly, wouldn't you?

Cynthia: He was an excellent student, and I am sure he knows that all passengers should fasten their safety belts. As I said earlier, I have seen him practice using his safety belt.

Prosecuting Attorney #2: But it is still the driver's responsibility, isn't it, Ms. Champion?

Cynthia: Yes.

Prosecuting Attorney #2: I have no further questions, Your Honor.

(PROSECUTING ATTORNEY #2 SITS)

(JUDGE LOOKS AT THE WITNESS)

Judge: The witness is excused. Does the defense have any further witnesses?)

(DEFENSE ATTORNEY #1 STANDS)

Defense Attorney #2: Your Honor, the defense calls the defendant, Sam Smart to the stand.

(SAM SMART MOVES TO THE WITNESS STAND TO BE SWORN IN BY BAILIFF)

(BAILIFF APPROACHES THE WITNESS)

Bailiff: Raise your right hand, please. Do you swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

Sam Smart: Yes.

Defense Attorney #1: Please state your name for the court.

Sam: I'm Sam Smart, and I go to Harmony High School.



Defense Attorney #1: Sam, tell us about what happened on the afternoon of Nov. 22, 2____.

Sam: I was giving Ima and Amanda a ride home from school. They live in my neighborhood, and they like to hang out at the gym to watch basketball practice.

Defense Attorney #1: What was the weather like that afternoon?

Sam: Cold and rainy, if I remember correctly.

Defense Attorney #1: Go on, please.

Sam: We all piled in the car. I reminded them to buckle up, and we took off for home.

Defense Attorney #1: What happened on the way home?

Sam: Just as we turned onto Lavender Lane, a little dog ran out right in front of the car. I slammed on my breaks, which caused the car to skid a little sideways, and we hit a tree. I didn't think we had hit it that hard, but the girls were screaming.

Defense Attorney #1: What did you do then?

Sam: I was worried about Ima and Amanda, so I checked on them as quickly as I could. Amanda was scared but didn't seem to be hurt, but Ima was complaining about her shoulder, which had hit the side door, I guess.

Defense Attorney #1: Then what happened?

Sam: Well, I couldn't tell how bad Ima was hurt, so I just called 911 on my cell phone. The EMS arrived a few minutes later. The police also showed up.

Defense Attorney #1: Was there concern about Ima when the ambulance arrived?

Sam: She seemed to be in pain, but neither the EMTs nor Officer Copperfield thought her injuries were that bad—certainly not life-threatening. I was worried about her shoulder.

Defense Attorney #1: Tell us about the ticket you got.

Sam: I couldn't believe that part. Officer Copperfield gave me a traffic ticket because Ima's safety belt was not fastened right. I heard the click of her safety belt when I told her to buckle up. I didn't notice that apparently she put the shoulder strap behind her back.

Defense Attorney #1: And Officer Copperfield said that it was your fault?

Sam: That's what he said. I never heard of that before.

Defense Attorney #1: Sam, did you do well in driver education class?

Sam: I sure did, but I never heard anything about that safety belt law in my driver education class.

Defense Attorney #1: Sam, have you ever gotten a traffic ticket before?

Sam: No, I haven't. My parents said they would take away my car if I ever got a traffic ticket.

Defense Attorney #1: Thank you Sam, I have no further questions.

(DEFENSE ATTORNEY #1 SITS)

Judge: Prosecution, do you wish to cross-examine this witness?

(PROSECUTING ATTORNEY #1 STANDS)

Prosecuting Attorney #1: Yes, Your Honor. Sam, it sounds like you think safety is an important issue, is that correct?

Sam: Yes, I do. That's why I try to drive as safely as possible.

Prosecuting Attorney #1: But on the afternoon in question, you were obviously driving too fast for the road conditions at the time, causing you to lose control of your car, slam into a tree, and injure one of your passengers. Isn't that so?

Sam: I wasn't going over the speed limit. I was traveling at a normal speed when that dog ran right out in front of me, and I had to stop real suddenly. I couldn't help it that the streets were wet.

Prosecuting Attorney #1: Sam, you know the importance that safety belts play in a crash, don't you?

Sam: Yes, Sir/Ma'am. I always wear my safety belt, and I ask my riders to wear theirs too.

Prosecuting Attorney #1: But on Nov. 22, 2___, you let Ima Duncan wear her lap belt but didn't insist she wear her shoulder belt. In your viewpoint, is that safe?

Sam: Well, I didn't think anything about it at the time. I heard the safety belt click, so I figured we were good to go.



Prosecuting Attorney #1: But as the driver of the car, especially when your passengers are underage, don't you think it's your responsibility to make sure that everyone is safe?

Sam: Yes, Sir/Ma'am, I do. That's why I told them to buckle up.

Prosecuting Attorney #1: So you agree with the law that states that the driver is responsible for the correct usage of the safety belt system in a car?

Sam: I think it's a good idea for drivers to watch out for their passengers, but I never knew I would get in trouble because Ima put her shoulder belt behind her back.

Prosecuting Attorney #1: No further questions, Your Honor.

(PROSECUTING ATTORNEY #1 SITS)

Judge: You may step down, Mr. Smart. Are there any more witnesses for the defense?

Defense Attorney #2: No, Your Honor. The defense rests.

Judge: Very well. Now we will hear closing arguments. Prosecution, you may go first


(PROSECUTING ATTORNEY #2 STANDS)

Prosecuting Attorney #2: Thank you, Your Honor. Ladies and gentlemen of the jury, you have heard evidence today that clearly shows that Sam Smart disregarded the law when he allowed Ima Duncan to ride as a passenger in the front seat of his car without her safety belt being fastened correctly. His carelessness and reckless driving was directly responsible for her injury, causing her a great deal of pain and suffering. Ignorance of the law is no defense. I'm sure you will agree that Sam should be held responsible for the safety belt violation and be required to pay a fine of \$200 plus court costs.

Judge: Defense, do you have a closing argument?

(DEFENSE ATTORNEY #2 STANDS)

Defense Attorney #2: Yes, Your Honor. Ladies and gentlemen of the jury, Sam Smart is obviously a good kid. You have heard testimony that he excels in school and is a responsible citizen of our community, often offering these girls a ride home when he could be hanging out with his friends. Don't we need more kids like Sam? Don't you wish Sam lived in your neighborhood? Ms. Duncan did



have her belt secured as required by law. She just decided to wear it improperly. Mr. Smart should not be held criminally responsible for Ms. Duncan's carelessness. He did everything he could to ensure that she was secured.

*(DEFENSE ATTORNEY #2 SITS)
(JUDGE LOOKS AT THE JURY)*

Judge:

Members of the jury, the defendant in this case is charged with violating the Texas Transportation Code Section 545.413, which states that a person commits an offense if they allow a child who is younger than 17 years of age to ride in a vehicle without requiring the child be secured by a safety belt. The fine range for this offense is \$100 to \$200. You have heard the evidence in this case. It is now your job to decide whether Sam Smart is guilty for Ima Duncan's failure to be properly restrained by her safety belt.

When making your decision, you should think carefully about what each witness said. Where witnesses disagree, you must decide which witness is reliable.

Please go with the bailiff to the jury room and make your decision. After you have reached a unanimous verdict, choose a presiding juror to report your verdict. The jury will then return to the courtroom to inform the court of the verdict.

*(BAILIFF LEADS THE JURY TO THE JURY ROOM)
(JURY FOLLOWS THE BAILIFF TO THE JURY ROOM)
(JURY RETURNS TO THE JURY BOX)*

Judge:

Members of the jury, have you reached a verdict?

Presiding Juror:

Yes, Your Honor.

Judge:

Please read the verdict.

Presiding Juror:

We find the defendant, Sam Smart, GUILTY/NOT GUILTY of violating Texas Transportation Section Code 545.413.

Judge:

Members of the jury, I want to thank you for being good citizens and taking time out of your busy day to serve on this jury. This court is now dismissed.

Colorado Supreme Court Opinions—December 1, 2003
No. 0SC395. *Carlson v. Ferris*.
Safety Belt Use Requirements—Statutory Interpretation
Failure to Mitigate by Nonuse of Safety Belts

Leslyn Carlson filed suit against Kimberley Ferris after the two were involved in an automobile crash. At the time of the crash, the driver's seat of Carlson's vehicle was equipped both with a shoulder belt and a separate lap belt. Carlson indicated that she was wearing the shoulder belt, but not the lap belt at the same time of the crash. In her defense, Ferris sought to show that Carlson was in violation of Section 42-4-237(2), 11 C.R.S. (2003) because she was wearing only one of the two available safety belts. The trial court found that Carlson was not in violation of Section 42-4-237(2) because she fastened at least one of the belts that had been installed at her seat. The Court of Appeals reversed the judgment of the trial court and held that the plain meaning of section 42-4-237(2) requires drivers to fasten all safety belts included within a motor vehicle's safety belt system.

The Colorado Supreme Court analyzed the plain meaning of section 42-4-237(2) and concluded that it requires that drivers and front seat passengers of automobiles that have been equipped with a lap and a shoulder belt according to federal motor vehicle safety standards must wear both the lap and shoulder belt in order to comply with the law. Unlike the Court of Appeals, the Colorado Supreme Court did not find that the plain language of Section 42-4-237(2) requires that a driver or a front seat passenger wear all belts included within a motor vehicle's safety belt system. Instead, the Colorado Supreme Court found that, consistent with federal motor vehicle safety standards, the distinct meanings of terms "safety belt system," "belt," and "safety belt" reflect the General Assembly's intent that the term "safety belt" refer to the belts that have been installed in a particular seat. Additionally, the Colorado Supreme Court found that use of the term "safety belt" signals the General Assembly's intent to require that drivers and front seat passengers of automobiles that have been equipped with a lap and a shoulder belt according to federal motor vehicle safety standards that mandate wearing both the lap and the shoulder belt.

In light of the Colorado Supreme Court's plain meaning interpretation of Section 42-4-237(2), the decision supported the judgment of the Court of Appeals.



STATE OF TEXAS ***V.*** ***Johnny Junior***

A Scripted Mock Trial



STATE OF TEXAS v. Junior

Learning Objectives: Students will:

1. Participate in a reading of a sample trial for driving under the influence.
2. Analyze witness testimony to identify bias and differentiate between fact and opinion.
3. Compare students' beliefs about trials with the script of a trial that follows the legal rules and procedures.
4. Draw conclusions about police procedures, trials, biases, and laws governing driving and traffic safety.

TEKS: SS 8.19D, 829B; US. 29B; Govt. 13A-B, 14C, 20A, Special Topics 2D, F

Materials needed:

- Copies of *State of Texas v. Junior*
- Stipulated Facts handout
- Discussion Questions
- Debriefing Questions
- Jury Verdict form found in Prepare for Mock Trial section of this guidebook

Vocabulary:

breathalyzer test	prosecution
burden	prosecutors
curfew	testimony
Non-responsive	witnesses
presiding	

Teaching Strategy:

1. Brainstorm with students what they know about a criminal trial that determines whether a person is guilty or not guilty of breaking a law of the State. Record these ideas on a PowerPoint slide or the board to verify or correct as the script is read.
2. Distribute "Stipulated Facts" handout to each student. Allow them time to read the case (or read it orally as a class). Then discuss their observations using the "Discussion Questions" handout.
3. Assign the various parts using the "Cast of Characters" handout.
4. Distribute copies of the scripted mock trial *State of Texas v. Junior* to students and begin reading the trial. Stop at the appropriate places to discuss validity of the students' answers to the debriefing questions.
5. Use the "Debriefing Questions" handout to have the students identify potential bias, the differences between fact and opinion, and key aspects of the procedure of a trial. Questions selected by the teacher can be used at the appropriate place in the trial or at the conclusion of the reading.
6. Ask students who read parts in the trial how many voted for the side they represented. Discuss courtroom bias and how they related to the parts they played. Ask why they think witnesses are not



allowed in the courtroom when other witnesses are the stand testifying.

7. At the conclusion of the trial, have the students who did not play a part in the trial vote as if they were acting as the jurors to determine if they feel the State has proved beyond a reasonable doubt the guilt of Johnny Junior. Discuss with the students that in a criminal trial all of the jurors have to be unanimous in their decision. Try to get the class to deliberate to a unanimous verdict.

OPTIONAL: Use the “Jury Verdict” form found in the Prepare for Mock Trial section of this guidebook.

8. As a final activity, have the students write a narrative in which they explain at least three conclusions they reached from participating in this lesson. They should choose from the following concepts: police procedures, trials, biases, and laws governing driving/traffic safety.



State of Texas v. Junior

STIPULATED FACTS

On April 20, 2____, Johnny Junior got a new red Mustang for his 18th birthday. To celebrate this birthday, he and his friend went cruising around town in the new car. While riding around, Johnny got a call on this cell phone from his brother, Neil. It seems that their grandfather had gone out of town for the weekend and had given the brothers permission to have a few friends over to his house at 3333 Party Avenue to celebrate Johnny's birthday. With the use of text messaging, within three hours about 30 people under the age of 21, including Johnny and his girlfriend, were at the grandfather's house. After a while, Johnny decided there were too many people at the house and that it was just a matter of time until the police came, so he left with his girlfriend, Susie Sweetie. In fact, a neighbor, Sam Sullivan, had already called the police and reported a loud party next door. Soon, more than 10 police officers arrived at the house. The officers issued tickets to those still present for disturbing the peace and minors in possession of alcohol. The house was littered with beer bottles and the liquor cabinet found empty.

As Johnny was driving away, he heard sirens and then saw a police car. The police in the car activated their sirens and lights, and Johnny pulled his car over. When the officer approached the car and asked to see Johnny's license and insurance, Johnny readily produced both documents.

The officer asked Johnny if he had just left the party, and when Johnny answered in the affirmative the officer instructed him to get out of the car. Johnny complied. The officer detected the odor of alcohol and then administered the field sobriety test. When the officer determined that he failed that test, Johnny then was informed that he was under arrest. When Johnny protested that he had not been drinking, the officer asked if Johnny would submit to a breath sample, which would determine his blood-alcohol level, and Johnny refused. Charges were for violating Sec. 106.041 of the Alcoholic Beverage Code, Driving Under the Influence of Alcohol by a Minor (DUI).



Discussion Questions

1. After reading the stipulated facts, what do you feel are the key facts of the case?

Possible Answers:

Johnny and his brother had a party at his grandfather's house on Johnny's 18th birthday.

A neighbor, Sam Sullivan, called the police to report a loud party next door.

Police found the house littered with beer bottles and an empty liquor cabinet.

Johnny Junior and girlfriend, Susie Sweetie, were stopped in Johnny's car near the house.

Johnny was arrested after the officer detected the smell of alcohol.

Johnny failed the field sobriety test and refused to submit a breath sample to determine blood-alcohol level.

2. What is the question that the jury will be asked to answer?

Possible Answer:

Whether or not Johnny Junior is guilty of Driving Under the Influence of Alcohol.

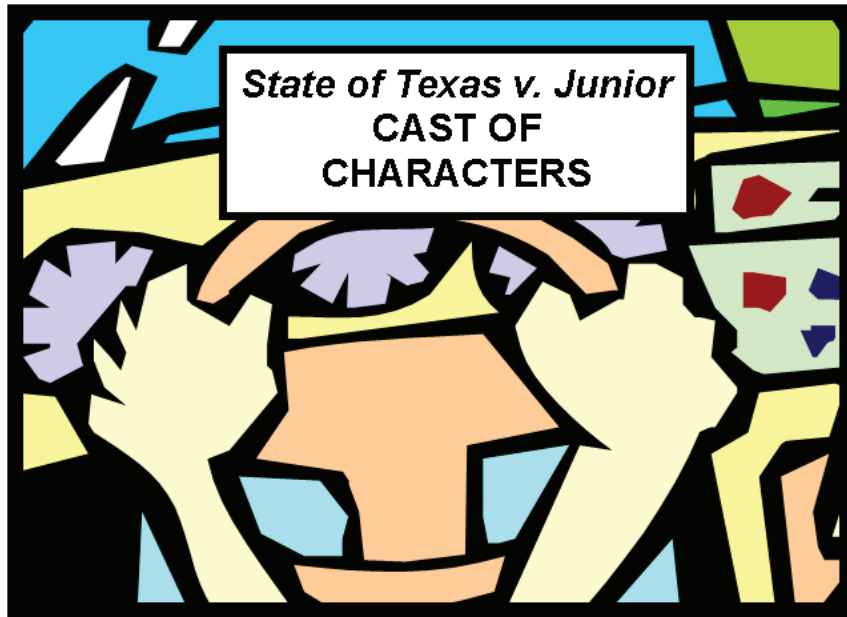
3. Who will be the witnesses for the prosecution?

Answer: *Officers Smith and Jones, Sam Sullivan*

4. Who will be the witnesses for the defense?

Answer: *Johnny Junior, Susie Sweetie, and Neil Junior*





Court Officers:

Clerk
Bailiff
Judge

Defense Team:

Defense Attorney #1
Defense Attorney #2
Defense Attorney #3

Prosecuting Team:

Prosecuting Attorney #1
Prosecuting Attorney #2
Prosecuting Attorney #3

Defense Witnesses:

Johnny Junior
Susie Sweetie
Neil Junior

Prosecution Witnesses:

Officer Jones
Officer Smith
Sam Sullivan

Members of the Jury

(One juror is the Presiding Juror)



State of Texas v. Johnny Junior

Bailiff: The court is now open and in session. The Honorable Judge _____ presiding. All persons having business before the court come to order. This is the case of The State of Texas v. Johnny Junior. It is now time to swear in the jury. The jury will please rise, raise your right hand and be sworn: "Each of you do solemnly swear that in the case of the State of Texas against Johnny Junior, you will a true verdict render according to the law against the evidence (so help you God.)"

Jury (as a whole): I do.

Judge: Does the prosecution have an opening statement?

Prosecuting Attorney #1: Yes, Your Honor.

May it please the court. Your Honor, opposing counsel, members of the jury. My name is _____, and I am one of the prosecutors representing the State in this action against Johnny Junior. Through the questioning of our six witnesses today, we will prove that the defendant, Johnny Junior, a minor, did drive an automobile while Under the Influence, a violation of Sec. 106.041 of the Alcoholic Beverage Code. As the prosecution, we carry the burden of proof in today's case. We will prove, beyond a reasonable doubt, that Johnny Junior is guilty of Driving under the Influence. You will hear testimony from the neighbor who called the complaint of a party at Mr. Junior's grandfather's house where alcohol was involved, as well as testimony from one of the officers who responded to the scene of the party. Additionally, you will hear from the officer who, after observing Mr. Juniors driving from the scene of the party, detained Mr. Junior. At the detention, the officer detected alcohol and determined that Mr. Junior was indeed Driving Under the Influence. At that point, he arrested Mr. Junior. Listen carefully to the witnesses for the details of the points I have made. When all is finished, I am sure that we will have fulfilled our burden and there will be no doubt as to the guilt of the defendant of Driving Under the Influence.

Judge: Does the defense have an opening statement?

Defense Attorney #1: Yes, thank you, Your Honor.

May it please the court, Your Honor, members of the jury. My name is _____, and I am one of the defense attorneys protecting Mr. Junior's innocence today. As you heard from the prosecution, we are here to talk about an incident that occurred on April 20, 2____. During the trial, you will hear how this fine young man, Mr. John Junior, was leaving his grandfather's house with his girlfriend, Susie Sweetie, when he was pulled over by a police cruiser. The testimony will show that Mr. Junior pulled over and was asked to take a breathalyzer test but refused because he had not been drinking and does not trust the accuracy of these tests. Through the testimony of the six witnesses, we are confident that you will see that the prosecution is unable to



fulfill its burden and because Mr. Junior did not consume any alcohol on April 20, 2____, you will find him not guilty of these unjust charges against him.

Judge: Will all witnesses to this case please stand and be sworn in.

(ALL WITNESSES STAND)

Bailiff: Please raise your right hand. Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth? Say, "I do," if you swear or affirm.

(ALL WITNESSES STAND)

Judge: Prosecution, please call your first witness.

Prosecuting Attorney #2: The State calls Officer Pete Jones.

(OFFICER JONES TAKES TO THE STAND)

Please introduce yourself to the court.

Officer Jones: My name is Pete Jones, and I am a police officer for the City of Harmony.

Prosecuting Attorney #2: What is your relationship to this case?

Officer Jones: I arrested the defendant Johnny Junior on April 20, 2____.

Prosecuting Attorney #2: Please describe what you were doing on the night of April 20, 2____ immediately before the incident involving Mr. Junior.

Officer Jones: I was on my regular patrol route in that area when I got a call from dispatch requesting the nearby patrol cars to 3333 Party Avenue to respond to a complaint by a next door neighbor, Mr. Sam Sullivan. Since I was only five blocks away, I responded that I was on my way.

Prosecuting Attorney #2: Did the dispatcher tell you anything else about the complaint?

Officer Jones: The dispatcher told me that a Mr. Sullivan had called in a complaint to the station reporting a loud party with underage drinking taking place.

Prosecuting Attorney #2: When you arrived at the scene, what did you observe?

Officer Jones: When I got to 3333 Party Avenue, I saw about 20 cars parked along the street, numerous teenagers in the front yard, and heard loud music coming from inside the house.

Defense Attorney #2: Objection, Your Honor. The witness is assuming facts not in evidence when he said the yard was full of teenagers. He doesn't know for sure how old they were.

Judge: Objection sustained. Jurors will not weigh his evidence that portion of the witness's answer.

Prosecuting Attorney #2: Were you alarmed by anything you observed upon arriving?

Officer Jones: Yes, I saw a red Mustang pulling away from the house at a rapid speed and swerving several times to avoid hitting the cars that were parked on the sides of the street.

Prosecuting Attorney #2: What action, if any, did you take after seeing the red Mustang?

Officer Jones: I saw other police cars arriving at the scene to take care of the party-goers, so I decided that I should stop the red Mustang that was leaving in case the driver had been drinking and was endangering himself and any passengers.

Prosecuting Attorney #2: Please describe how you proceeded to stop the Mustang.

Officer Jones: I put my siren and lights on and attempted to stop the car.

Prosecuting Attorney #2: Describe what happened as you attempted to stop the vehicle.

Officer Jones: I had to follow the car for about three blocks before the driver finally pulled over to the curb. The entire time, he continued at a speed of 30 miles in a residential area.

Prosecuting Attorney #2: What did you do after the car pulled over?

Officer Jones: I stopped and got out of my police cruiser. I approached the car and found a young man and woman in the car. I asked for his driver's license and insurance papers, which showed the driver was a Mr. Johnny Junior, age 18. The passenger volunteered that her name was Susie Sweetie.

Prosecuting Attorney #2: Did you ask Mr. Junior any additional questions?

Officer Jones: I asked Mr. Junior to get out of the car. When he did, I then asked him why he left the house on Party Ave. so quickly.

Prosecuting Attorney #2: What was his response?

Officer Jones: He said that he was taking Ms. Sweetie home.

Prosecuting Attorney #2: What else, if anything, did you observe?

Officer Jones: At that time, I detected the smell of alcohol on Mr. Junior's breath and administered the field sobriety test.

Prosecuting Attorney #2: What was the result of that test?

Officer Jones: I determined that he failed the test, so I told him he was under arrest for Driving Under the Influence of alcohol.

Prosecuting Attorney #2: Did Mr. Junior have a response to the arrest?

Officer Jones: He argued with me that he hadn't been drinking. At that time, I asked if he would be willing to take breathalyzer test to prove his assertion, and he declined.

Prosecuting Attorney #2: What did you do when he refused to take the test?

Officer Jones: I placed Mr. Junior under arrest for violating Sec. 106.041 of the Alcohol Beverage Code, Driving Under the Influence, and then called for a tow truck for his car. I took both Mr. Junior and Ms. Sweetie to the police station.

Prosecuting Attorney #2: Why did you take Ms. Sweetie to the police station?

Officer Jones: I wanted her to call her parents to come and get her. That would be much safer than leaving her at the scene, especially since the car was going to be towed.

Prosecuting Attorney #2: Did you suspect that Ms. Sweetie had been drinking?

Defense Attorney #2: Objection, Your Honor. The question of whether Ms. Sweetie had been drinking isn't relevant to the charges against Mr. Junior.

Prosecuting Attorney #2: Your Honor, Officer Jones was trying to explain the reason that he took Ms. Sweetie to the police station.

Judge: Objection overruled.

Prosecuting Attorney #2: Officer Jones, did you suspect that Ms. Sweetie had been drinking?

Officer Jones: I saw nothing to suspect that she had been drinking.

Prosecuting Attorney #2: What happened when you arrived with the two teenagers at the police station?

Officer Jones: I booked Mr. Junior and had Ms. Sweetie call her parents to come and get her to take her home.

Prosecuting Attorney #2: Under what charges did you book Mr. Junior at the station?

Officer Jones: Driving Under the Influence of Alcohol by a Minor, Sec. 106.041 of the Alcohol Beverage Code.

Prosecuting Attorney #2: Pass the witness.



Defense Attorney #2: Officer Jones, are you absolutely sure that Mr. Junior was speeding when he left the house on 3333 Party Ave.?

Officer Jones: All I can tell you is what I observed, which was Mr. Junior leaving at too rapid a speed for a residential area and then weaving back and forth to avoid cars parked on the sides of the street.

Defense Attorney #2: You don't know the exact speed Mr. Junior was traveling, do you?

Officer Jones: No, I don't know the exact speed.

Defense Attorney #2: But you previously testified that he was going about 30 mph, didn't you?

Officer Jones: Yes, that was my estimation.

Defense Attorney #2: And 30 is the normal speed for residential areas isn't it?

Officer Jones: I guess so, but not always.

Defense Attorney #2: You previously testified that you smelled alcohol, is this correct?

Officer Jones: Yes.

Defense Attorney #2: But you cannot be sure whether you smelled it on his breath or on his clothes, isn't that right?

Officer Jones: All I know is I smelled alcohol.

Defense Attorney #2: No further questions.

(OFFICER JONES LEAVES THE WITNESS STAND) (JUDGE DISMISSES?)

Prosecuting Attorney #3: The prosecution calls Officer Larry Smith.

(OFFICER SMITH TAKES TO THE STAND)

Please introduce yourself to the jury.

Officer Smith: My name is Officer Larry Smith, and I am a police officer for the City of Harmony.

Prosecuting Attorney #3: What is your relationship to this case?

Officer Smith: I was one of the officers who responded to the call at 3333 Party Ave. on the evening of April 20, 2____.

Prosecuting Attorney #3: What was the nature of the call?

Officer Smith: A next door neighbor called and reported a loud party of teenagers with no adults there and alcohol present.



Prosecuting Attorney #3: What did you observe when you arrived?

Officer Smith: I found about 20 teenagers in the living room of the house and no adults present.

Prosecuting Attorney #3: Did you speak with any of the teenagers?

Officer Smith: Yes, I talked with Neil Junior who told me this was his grandfather's house and that they had permission to have a birthday party there for his younger brother.

Prosecuting Attorney #3: Was there alcohol present at the scene?

Officer Smith: The house was littered with beer bottles and several empty liquor bottles. The other officers and I immediately began to issue tickets and took all the teens to the station for them to call their parents to come and pick them up.

Prosecuting Attorney #3: What was the nature of the tickets you issued?

Officer Smith: Minors in possession of alcohol.

Prosecuting Attorney #3: Pass the witness.

Defense Attorney #3: Officer Smith, did you see the defendant, Johnny Junior, at the location?

Officer Smith: No, he had left in a big hurry with his girlfriend before we raided the house.

Defense Attorney #3: So let me be sure I understand. You do not know why Johnny Junior left the party, correct?

Officer Smith: No, I don't.

Defense Attorney #3: And you also do not know if Mr. Junior had been drinking while at this party, do you?

Officer Smith: No, I guess I don't.

Defense Attorney #3: No further questions.

(OFFICER SMITH LEAVES THE WITNESS STAND) (JUDGE DISMISSES)

Prosecuting Attorney #1: We would like to call Sam Sullivan.

(SAM SULLIVAN TAKES TO THE STAND)

Please introduce yourself to the jury.

Sam Sullivan: My name is Sam Sullivan, and I am a retired insurance salesman.

Prosecuting Attorney #1: What is your relationship to this case?

Sam Sullivan: I live next door to Johnny Junior's granddad at 3333 Party Ave. and have known these boys all their lives.

Prosecuting Attorney #1: Please describe what happened on the night of April 20, 2____.

Sam Sullivan: I knew that Tom Junior, Johnny's granddad, was out of town. All of a sudden I heard a lot of noise. I looked out and saw a bunch of cars, lights on in the house, and heard loud music. I decided I had better go check and see what was going on.

Prosecuting Attorney #1: What did you discover?

Sam Sullivan: When I knocked on the door, Johnny opened the door and I noticed that he had a beer bottle in his hand. I saw lots of kids in the living room. I warned Johnny that things looked like they were getting out of hand. I told him he knew his grandfather wouldn't approve.

Prosecuting Attorney #1: What was Johnny's response?

Sam Sullivan: He told me it was okay.

Prosecuting Attorney #1: What happened next?

Sam Sullivan: Nothing changed, so at midnight, I called the police. I didn't want anyone to leave and get in a crash.

Defense Attorney #1: Objection, Your Honor. Witness is assuming facts not in evidence. He has no idea that there would be any crashes.

Judge: Objection overruled. The witness is explaining his reason for calling the police.

Prosecuting Attorney #1: Why did you call the police, Mr. Sullivan?

Sam Sullivan: I was afraid of what might happen if one of the kids decided to drink and drive.

Prosecuting Attorney #1: Pass the witness.

Defense Attorney #1: Mr. Sullivan, did you know for certain that the boys didn't have permission to have a birthday party at their grandfather's house.

Sam Sullivan: No, I guess I didn't.

Defense Attorney #1: When you saw Johnny on April 20, 2____ with the beer bottle, you never saw him drink from it, did you?



Sam Sullivan: No, I didn't see him take a drink.

Defense Attorney #1: So you do not know if Johnny had anything to drink on April 20, 2____, do you?

Sam Sullivan: No, I guess not.

Defense Attorney #1: No further questions.

(MR. SULLIVAN LEAVES THE WITNESS STAND) (JUDGE DISMISSES?)

Prosecuting Attorney #1: The prosecution rests at this time.

Judge: Does the defense wish to call its first witness?

Defense Attorney #2: Yes, Your Honor. The defense calls Johnny Junior.

(JOHNNY JUNIOR TAKES TO THE STAND)

Please introduce yourself to the court.

Johnny Junior: My name is Johnny Junior, and I am 18 years old. I am a senior at Harmony High School.

Defense Attorney #2: Johnny, do you recall this past April 20, 2____?

Johnny Junior: Yes, I remember because that was my 18th birthday.

Defense Attorney #2: Is there any other reason you remember that day?

Johnny Junior: Unfortunately, I remember that day because I was pulled over by a police officer and taken to jail.

Defense Attorney #2: Let's back up. What, if anything, did you get for your birthday?

Prosecution Attorney #2: Objection, Your Honor. Mr. Junior's birthday presents are irrelevant.

Judge: Objection overruled, but the defense needs to show how this is relevant quickly.

Defense Attorney #2: Johnny, what gifts, if any, did you receive?

Johnny Junior: My parents gave me a new car—a red Mustang.

Defense Attorney #2: What did you do when you got the car?

Johnny Junior: I picked up my friend, Joe Jock, and we went cruising.

Defense Attorney #2: Did anything happen while you and Joe were driving around?



Johnny Junior: My brother, Neil, called my cell phone and said our granddad was out of town but had given us permission to have a few friends over to his house to celebrate my birthday. So we sent a few text messages and headed over there.

Defense Attorney #2: Can you tell the court how many people showed up for the party?

Johnny Junior: Way more than we expected. In fact, there were so many kids there that my girlfriend, Susie, and I decided to leave before something happened.

Defense Attorney #2: So did you leave?

Johnny Junior: Yes.

Defense Attorney #2: What, if anything, did you observe as you were driving away?

Johnny Junior: I saw flashing lights of a police car when we were driving away from the house.

Defense Attorney #2: What was your response to the police car?

Johnny Junior: I pulled over and waited for the policeman to come up to the car, just like we were taught in drivers ed classes.

Defense Attorney #2: Did the officer approach you?

Johnny Junior: The police officer came up to my window and asked for my license and papers; then he asked me to step out of the car, which I did.

Defense Attorney #2: Why did he ask you to step out of the car?

Prosecuting Attorney #2: Objection, Your Honor. The defendant cannot know why the police officer asked him to step out of the car.

Judge: Objections sustained. Defense, please rephrase your question.

Defense Attorney #2: Johnny, do you know why the police officer asked you step out of the car?

Johnny Junior: He told me he wanted to give me a breath test to see if I had been drinking.

Defense Attorney #2: Did you take the test?

Johnny Junior: No, I have heard that they are not reliable when given away from the police department, so I refused to take it.

Defense Attorney #2: Had you had anything to drink?

Johnny Junior: Absolutely not!

Defense Attorney #2: Can you think of any reason the police officer might have thought you were drinking?

Johnny Junior: Well, as I was leaving the party one of the kids who was drinking stumbled and spilled some beer on me.

Defense Attorney #2: Johnny, had you had any alcohol to drink?

Johnny Junior: No, I had not.

Defense Attorney #2: I pass the witness.

Prosecuting Attorney #2: May I call you Johnny?

Johnny Junior: Of course.

Prosecuting Attorney #2: There were several teenagers at the party on your birthday, weren't there?

Johnny Junior: Yes.

Prosecuting Attorney #2: In fact, there were at least 30 people at the party, isn't that correct, Johnny?

Johnny Junior: That's pretty close, I think.

Prosecuting Attorney #2: And some of them were drinking, weren't they?

Johnny Junior: Some people were drinking, but I don't know how old the ones were who were drinking.

Prosecuting Attorney #2: This was your birthday party, wasn't it?

Johnny Junior: Yes.

Prosecuting Attorney #2: And these were your friends who were there, correct?

Johnny Junior: Actually, I didn't know all of them. When word got around that we were having a party, some people showed up that I didn't even know!

Prosecuting Attorney #2: And the people who showed up at this party got so wild that your girlfriend asked you to take her home, didn't she?

Johnny Junior: Susie did ask me to take her home.

Prosecuting Attorney #2: The party got so loud that the police were called, isn't that right?





Johnny Junior: I don't know why the police came, but as Susie and I drove away a police car drove up and stopped me.

Prosecuting Attorney #2: And the policeman asked you to take a breathalyzer test because he smelled alcohol on you, isn't that correct?

Defense Attorney #2: Objection. Your Honor. This witness can't testify as to what the officer smelled.

Judge: Overruled. If he doesn't know, he can say so.

Johnny Junior: I don't know what he smelled. He might have smelled the beer that someone accidentally spilled on me, though.

Prosecuting Attorney #2: You admit that you smelled like beer?

Johnny Junior: I might have *smelled* like beer, but I wasn't drinking it.

Prosecuting Attorney #2: Objection, Your Honor. The witness is Non-responsive to the question I asked.

Judge: Objection sustained.

(JUDGE TURNS TO THE WITNESS)

Just answer the questions you are asked.

Johnny Junior: Yes, Your Honor.

Prosecuting Attorney #2: So Johnny, you admit that the policeman might have smelled beer on you?

Johnny Junior: Yes.

Prosecuting Attorney #2: No further questions.



(JOHNNY JUNIOR LEAVES THE WITNESS STAND) (JUDGE DISMISSES?)

Defense Attorney #1: The defense calls Susie Sweetie.

(SUSIE SWEET TAKES THE WITNESS STAND)

Defense Attorney #1: What is your name?

Susie Sweetie: My name is Susie Sweetie.

Defense Attorney #1: You are Johnny's girlfriend, aren't you?



Prosecuting Attorney #1: Objection, leading the witness.

Judge: Sustained.

(JUDGE TURNS TO THE DEFENSE ATTORNEY)

Rephrase your question.

Defense Attorney #1: Do you know Johnny Junior?

Susie Sweetie: Yes, he is my boyfriend.

Defense Attorney #1: Susie, do you recall April 20 of last year?

Susie Sweetie: Yes, that was Johnny's 18th birthday.

Defense Attorney #1: Were you with Johnny that day?

Susie Sweetie: Not until that evening. Johnny called me and told me he had gotten a new car for his birthday and that some kids were going over to his granddad's house

Defense Attorney #1: Did you go to Johnny's party?

Susie Sweetie: Yes, Johnny picked me up in his new car and we went to the party together.

Defense Attorney #1: Tell the court what you observed when you and Johnny got to the party.

Susie Sweetie: There were already a lot of people there. Before we knew it, there must have been about 30 people in the house, and some were drinking beer.

Defense Attorney #1: Did you stay at the party?

Susie Sweetie: Well, I didn't want to get into trouble with my parents, so I asked Johnny to take me home. Johnny agreed to do that.

Defense Attorney #1: Did anything happen when you left the party?

Susie Sweetie: Yes, I saw a police car behind us with lights flashing, so Johnny pulled over.

Defense Attorney #1: What did the police officer do?

Susie Sweetie: He placed Johnny under arrest for Driving Under the Influence and took us to the police station.

Defense Attorney #1: Susie, were you or Johnny drinking?



Susie Sweetie: I certainly was not, and I never saw Johnny drinking either.

Defense Attorney #1: I pass the witness.

Prosecuting Attorney #1: You testified under direct that you never saw Johnny drinking, isn't that correct?

Susie Sweetie: That is correct. I never saw him drinking.

Prosecuting Attorney #1: But you weren't with him the entire time you two were at the party, were you?

Susie Sweetie: I guess we might not have been together every minute we were there.

Prosecuting Attorney #1: You do not know if Johnny had something to drink while he wasn't with you, do you?

Susie Sweetie: All I know is that I wouldn't have let Johnny drive me home if he had been drinking.

Prosecuting Attorney #1: There was drinking going on at the party, wasn't there?

Susie Sweetie: Yes, that's why I asked Johnny to take me home.

Prosecuting Attorney #1: No further questions.

(SUSIE SWEETIE LEAVES THE WITNESS STAND) (JUDGE DISMISSES)

Defense Attorney #3: The defense calls Neil Junior.

(NEIL JUNIOR TAKES THE WITNESS STAND)

Please introduce yourself to the jury.

Neil Junior: My name is Neil Junior, and I'm Johnny's older brother.

Defense Attorney #3: Do you recall the night of April 20 last year?

Neil Junior: Yeah, that's my little bro's birthday.

Defense Attorney #3: Did you see or talk to Johnny that day?

Neil Junior: Yes, I called and told him our granddad was out of town and had said that we could have a birthday party that night at his house.

Defense Attorney #3: What was Johnny's response?

Neil Junior: He said he'd get in touch with some of his friends and see me later at Granddad's house.



Defense Attorney #3: Approximately how many people came to the party?

Neil Junior: There were over 30 people there.

Defense Attorney #3: Was any alcohol served?

Neil Junior: We didn't provide it, but somebody else brought some beer.

Defense Attorney #3: Did you see Johnny drinking?

Neil Junior: No, I never saw Johnny drinking beer.

Defense Attorney #3: Pass the witness.

Prosecuting Attorney #3: The party got pretty loud, didn't it?

Neil Junior: Not particularly.

Prosecuting Attorney #3: It actually got so loud that a neighbor came over to complain, didn't he?

Neil Junior: A neighbor did come over.

Prosecuting Attorney #3: What did he say?

Neil Junior: That we'd better calm it down.

Prosecuting Attorney #3: Then the police came, didn't they?

Neil Junior: Yes.

Prosecuting Attorney #3: Was Johnny still at the party when the police came?

Neil Junior: No, he had already left to take Susie home.

Prosecuting Attorney #3: He left to take Susie home because the party had gotten so loud, isn't that correct?

Neil Junior: I don't know why he took her home—maybe it was her curfew.

Prosecuting Attorney #3: You were in the courtroom when your brother testified, weren't you?

Neil Junior: Yes.

Prosecuting Attorney #3: And you did hear him state that Ms. Sweetie asked your brother to take her home because the party was getting too loud, isn't that right?

Neil Junior: I guess so, yes.



Prosecuting Attorney #3: And the police came because the party got pretty wild?

Neil Junior: I don't know why the police came.

Prosecuting Attorney #3: When the police arrived, they issued tickets for minors having alcohol, didn't they?

Neil Junior: Yes.

Prosecuting Attorney #3: No further questions.

(NEIL JUNIOR LEAVES THE WITNESS STAND) (JUDGE DISMISSES)

Defense Attorney #3: The defense rests.

Judge: Does the prosecution have a closing statement?

Prosecuting Attorney #3: Yes, Your Honor.

Judge: Please proceed.

Prosecuting Attorney #3: Members of the jury, you have heard a lot of testimony today that proves that Johnny Junior was Driving Under the Influence when he was arrested on April 20, 2____. When Officer Jones took the stand today, he told you that he smelled alcohol when he pulled Mr. Junior over. A trained official in sobriety tests, Officer Jones told you that Mr. Junior clearly failed the field sobriety test and refused to take a breathalyzer. Officer Smith took the stand and explained how he had to issue numerous tickets to the teenagers at the party because of all the beer at the house, and Sam Sullivan told you he even saw he defendant with a beer in his hand. The defense also called three witnesses. Mr. Junior himself confirmed that he smelled like beer; Ms. Sweetie told you she couldn't be sure that Johnny did not drink anything, and his own brother told you that there was definitely alcohol at the party. Officer Jones pulled Mr. Junior over that night because he was driving too fast and weaving in between parked cars. It's time to make sure that never happens again—convict Mr. Junior for Driving Under the Influence, a violation of Sec. 106.041 of the Alcohol Beverage Code.


Judge: Does the defense have a closing statement?

Defense Attorney #3: Yes, Your Honor. May I proceed?

Judge: Yes.

Defense Attorney #3: Members of the jury, you heard testimony from six witnesses today. It was the prosecution's job to prove to you, through the testimony of these witnesses, that Johnny Junior was under the influence of alcohol when





arrested on April 20, 2____, and they have failed to do so. Officer Jones couldn't distinguish if he smelled alcohol on Johnny's clothes or his breath, and Officer Smith never even saw Johnny at the party. When Mr. Sullivan took the stand, he also confirmed that he never saw Johnny take a drink. When we called our witnesses, you learned the truth. Johnny told you that someone at the party spilled beer on his clothes and that he and his girlfriend decided to leave before things got out of hand. Ms. Sweetie also told you that Johnny acted responsibly, and she never once saw him take a drink of beer. When Neil Junior took the stand, you heard once again that Johnny did not drink anything at the party on April 20, 2____. He was simply trying to take his girlfriend home. Since the prosecution has failed to fulfill its burden of proof, you must acquit Johnny Junior and declare him not guilty of his unjust charge against him.

Judge: Does the prosecution have a rebuttal?


Prosecuting Attorney #3: Yes, Your Honor.

Judge: You may proceed.

Prosecuting Attorney #3: Members of the jury, we have fulfilled our burden of proof today. We proved, through the testimony of all six witnesses, that there was alcohol at the party, Mr. Junior was seen with a beer in his hand and drove erratically when trying to leave. You must convict Mr. Junior of the charges before him today.

Judge: Members of the jury, the defendant in this case is charged with a criminal offense. Under our legal system, a person is innocent until proven guilty beyond a reasonable doubt. This means that the state must place before you enough evidence to convince you, to the satisfaction of your good sense, that such a crime was committed by the person on trial. The defendant before this court is charged with the crime of Driving Under the Influence of Alcohol. This crime, according to the statutes of this state, is defined as a minor who operates a motor vehicle in a public place while having any detectable amount of alcohol in the minor's system. This is a Class C misdemeanor, punishable by a maximum fine of \$500.

In all criminal cases, the burden of proof is on the State. The defendant is presumed to be not guilty unless his guilt is established by legal evidence beyond a reasonable doubt. If you have a reasonable doubt of the defendant's guilt, you will acquit him and announce your verdict is "not guilty." When making your decision, you should think carefully about what each witness said. Where witnesses disagree, you must decide which witness is reliable.



You should now consider all the evidence. Now retire and choose a presiding juror. When you have reached a unanimous decision, the presiding juror should notify me and return the verdict.

(BAILIFF GIVES VERDICT FORM TO JURY)

(THE JURY RETURNS WITH A VERDICT)

Judge:

Members of the jury, have you arrived at a verdict?

Presiding Juror:

Yes, Your Honor.

(PRESIDING JUROR READS DECISION OF JURY)



DEBRIEFING QUESTIONS:

1. Why do you think the prosecution goes first in a criminal trial?

Possible answer:

The prosecution has the burden of proving beyond a reasonable doubt that the person on trial has committed the crime. The defense only has to cast doubt on what the prosecution asserts.

2. After listening to the opening statements of the prosecution, what do you think the prosecution was trying to prove?

Possible answer:

Students should be able to list key facts such as:

- The police officer believed that Johnny had been drinking because
 - He detected the smell of alcohol and
 - He failed the field sobriety test.

3. After listening to the opening statements of the defense, what do you think the defense alleged happened?

Possible answer:

Johnny did not consume any alcohol, and he refused to take the portable breath test because he was afraid they were unreliable.

4. What are the key facts you learned from Officer Jones's testimony?

Possible answers:

Students should be able to list some of the following:

- location of the party
- loud party at the address
- large number of cars



STATE OF TEXAS ***V.*** ***Johnny Junior***

A Partially Scripted Mock Trial



State of Texas v. Junior

STIPULATED FACTS

On April 20, 2____, Johnny Junior got a new red Mustang for his 18th birthday. To celebrate this birthday, he and his friend went cruising around town in the new car. While riding around, Johnny got a call on this cell phone from his brother, Neil. It seemed that their grandfather had gone out of town for the weekend and had given the brothers permission to have a few friends over to his house at 3333 Party Avenue to celebrate Johnny's birthday. With the use of text messaging, within three hours, about 30 people under the age of 21, including Johnny and his girlfriend, were at the grandfather's house. After a while, Johnny decided there were too many people at the house and that it was just a matter of time until the police came, so he left with his girlfriend, Susie Sweetie. In fact, a neighbor, Sam Sullivan, had already called the police and reported a loud party next door. Soon, more than ten police officers arrived at the house. The officers issued tickets to those still present for disturbing the peace and minors in possession of alcohol. The house was littered with beer bottles and the liquor cabinet was found empty.

As Johnny was driving away, he heard sirens and then saw a police car. The police in the car activated their sirens and lights, and Johnny pulled his car over. When the officer approached the car and asked to see Johnny's license and insurance, Johnny readily produced both documents.

The officer asked Johnny if he had just left the party. When Johnny answered in the affirmative the officer instructed him to get out of the car. Johnny complied. The officer detected the odor of alcohol and then administered a field sobriety test. When the officer determined that he failed that test, Johnny then was informed that he was under arrest. When Johnny protested that he had not been drinking, the officer asked if Johnny would submit to a breath sample, which would determine his blood-alcohol level, and Johnny refused. Charges were for violating Sec. 106.014 of the Alcoholic Beverage Code, Driving Under the Influence of Alcohol by a Minor (DUI).





WITNESSES FOR THE PROSECUTION

Sam Sullivan—Neighbor

I am the next door neighbor of Johnny Junior's grandfather. I have known the boys since they were born. One the night of April 20, 2 ___ I was watching television when I heard quite a commotion. Knowing that Mr. Junior was out of town, I when outside to find out what was going on. I saw lots of lights on next door and loud music coming from my neighbor's house, so I went to the door and knocked. I was surprised when Johnny opened the door with a beer in his hand. I could see quite a few kids in the house, so I told Johnny that he had better calm things down before I had to call the police. He knew that Johnny's grandfather would not approve of a party going on, especially with liquor and no adults. When the party didn't calm down, I called the police at midnight.

Officer Jones—Police Officer

On the night of April 20, 2 ___ I received a radio dispatch to investigate a loud party on 3333 Party Avenue. A neighbor had called in a complaint indicating that kids were having a party at his next door neighbor's house, who was out of town. The caller said he was afraid that alcohol was involved. As I approached the house, I saw a red Mustang with two young people leaving the scene at a rapid speed and weaving back and forth. Since other officers were on the way to break up the party, I followed the car and put my siren and lights on to stop the car. When I approached the car, I found a young man and woman in the car. I asked the driver for his license and insurance papers. Upon checking the records and questioning the car occupants, I found the driver was Johnny Junior and his passenger was a Ms. Susie Sweetie. When I detected the smell of alcohol, I administered a field sobriety test, which I determined he failed. I asked if Mr. Junior would take a breathalyzer test to determine his blood alcohol level. When he refused, I arrested Mr. Junior and took him to jail for violating Sec. 106.041 of the Alcoholic Beverage Code. Ms. Sweetie was also taken in and the car was towed to impound.

Officer Smith—Police Officer

On the night of April 20, 2 ___ I responded to a call investigating a loud party on 3333 Party Avenue. A neighbor had called in a complaint indicating that underage kids were having a party next door. He reported that he had seen underage kids drinking beer when he went to the house to investigate, since his neighbor was out of town. When I arrived along with other officers, we found about 20 teenagers in the living room of the house. One of the teens, Neil Junior, indicated that the house was owned by his grandfather, who was out of town. He said that his grandfather had given him permission to have a birthday party for his brother who had just left the party. The house was littered with beer bottles and empty liquor bottles. We issued tickets for minors in possession to all the teens at the house and took them to the station to call their parents.

WITNESSES FOR THE DEFENSE

Johnny Junior—Defendant

On April 20, 2 ___ I turned 18 and my parents surprised me with a new red Mustang. I picked up a friend and went driving around. My brother, Neil, called and said that we ought to have a party at our Granddad's house. He said Granddad was out of town but had told Neil we could have a few friends over to celebrate my birthday. We began to text a couple of friends and then went to the store to buy some food for the party. Everything was going fine until more people than I expected began to show up. Before I realized it, there were over 30 people in the house and someone had brought beer. Granddad's next door neighbor came to the door and told us we had better stop the party before he had to call the police. My girlfriend, Susie, wasn't too happy with that, so I agreed that I would take her home. We hoped my brother Neil would get the party under control. Just as we were leaving, someone tried to give me a beer and told me to celebrate my birthday. Then he accidentally spilled the beer on me. Susie really wanted to leave, so we did. As we left, I turned the corner and saw that police were arriving. I was really glad that we had left when I saw a policeman's lights behind me. I pulled over and waited for the officer to come up to the car. I gave him my license and papers, and he asked me to step out of the car. I couldn't believe it when I was placed under arrest for Driving Under the Influence and taken to jail. He said he smelled the odor of alcohol on my breath and I had failed his observation test. I refused to submit to the breath test because I was scared it wouldn't be accurate. He even took Susie to the jail and had her call her parents to come pick her up.

Susie Sweetie—Girlfriend of Johnny Junior

I am Johnny Junior's girlfriend. Johnny called me the afternoon of his birthday and told me that some kids were going over to his Granddad's house to celebrate his birthday. Johnny picked me up in his new car, which was quite a surprise. When we got to his Granddad's house, we found quite a few people already there. It seemed that Johnny had contacted people, his brother had invited others, and I guess they then invited others. Before we knew it there were over 30 people at the house and someone had brought beer. When the next door neighbor came to complain, I decided that we should leave because I didn't want to get in trouble. Johnny understood and agreed to take me home. As we were leaving, we saw police cars arriving at the house. Both of us were so glad we left, but then we saw a police car behind us with his lights on. Before I knew it, Johnny was under arrest for Driving Under the Influence. I never saw Johnny actually drinking at the party. I wouldn't have agreed to let him drive me home if I had.

Neil Junior—Brother of Johnny

I am the older brother of Johnny. One April 20, 2 ___ I called my brother to tell him that our Granddad had agreed we could have a birthday party for him at Granddad's house since he was going to be out of town. We both agreed to get in touch with some friends and meet at the house for the party. Before we knew it, there were over 30 people at Granddad's. Somebody brought beer. I never saw Johnny drinking at the party. However, others at the party did drink beer. Before long, the next door neighbor knocked on the door and told us we had better calm it down. Before we knew it, the police were there raiding the party. Johnny had left to take his girlfriend home before the police came. I was quite surprised when I found out that he had been arrested for Driving Under the Influence as he left the party.



State of Texas v. Johnny Junior Courtroom Script

Bailiff: The court is now open and in session. The Honorable Judge _____ presiding.
All persons having business before the court come to order. This is the case
of The State of Texas v. Johnny Junior.

It is now time to swear in the jury. The jury will please rise, raise your right
hand and be sworn: "Each of you do solemnly swear that in the case of the
State of Texas against Johnny Junior, you will a true verdict render according
to the law against the evidence (so help you God.)"

Jury: *(As a whole)* I do.

Judge: Does the prosecution have an opening statement?

Prosecution: Yes, Your Honor. *(Prosecutor should give opening statement.)*

Judge: Does the defense have an opening statement?

Defense: Yes, Your Honor. *(Give opening statement.)*

Judge: Will the State please call its first witness?

Bailiff: Do you swear to tell the truth and nothing but the truth?

Witness: I do.

Judge: The prosecution may examine the witness.

Prosecution: *(Asks the witness questions. If the other attorney objects to any question,
questioning should stop until the judge rules. The judge will say
"Sustained" if they agree with the objection or "Overruled" if they
disagree.)*

Judge: Any further questions from the prosecution?

Prosecution: No, Your Honor. I pass the witness.

Judge: Does the defense wish to cross-examine the witness?

Defense: Yes, Your Honor. *(Asks the witness questions. If the other attorney objects
to any question, questioning should stop until the judge rules. The judge
will say "Sustained" if they agree with the objection or "Overruled" if they
disagree.)*

Judge: Next witness

(This continues with each witness for the prosecution being called, one at a time, sworn in by the bailiff, questioned and cross-examined in the manner previously stated.)

Judge: First witness for the defense.

(Witnesses for the defense should be called, one at a time, sworn in by the bailiff, questioned by the defense attorney and cross-examined by the prosecutor, as previously stated.)

Judge: Does the prosecution have a closing statement?

Prosecution: Yes, Your Honor. *(Give closing statement.)*

Judge: Does the defense have a closing statement?

Defense Attorney #3: Yes, Your Honor. *(Give closing statement.)*

Prosecuting Attorney #3: Yes, Your Honor.

Judge: You may proceed.

Judge: Members of the jury, the defendant in this case is charged with a criminal offense. Under our legal system, a person is innocent until proven guilty beyond a reasonable doubt. This means that the state must place before you enough evidence to convince you, to the satisfaction of your good sense, that such a crime was committed by the person on trial. The defendant before this court is charged with the crime of Driving Under the Influence of Alcohol. This crime, according to the statutes of this state, is defined as a minor who operates a motor vehicle in a public place while having any detectable amount of alcohol in the minor's system. This is a Class C misdemeanor, punishable by a maximum fine of \$500.

In all criminal cases, the burden of proof is on the State. The defendant is presumed to be not guilty unless his guilt is established by legal evidence beyond a reasonable doubt. If you have a reasonable doubt of the defendant's guilt, you will acquit him and announce your verdict is "not guilty." When making your decision, you should think carefully about what each witness said. Where witnesses disagree, you must decide which witness is reliable.

You should now consider all the evidence. Now retire and choose a presiding juror. When you have reached a unanimous decision, the presiding juror should notify me and return the verdict.

Bailiff: *(GIVES VERDICT FORM TO JURY)*



Judge: *(After the jury has returned with a verdict.)* Members of the jury, have you arrived at a verdict?

Presiding Juror: Yes, Your Honor. *(Read the decision of the jury.)*





MOCK TRIAL REFLECTIONS

Directions: Answer the following questions on a SEPARATE piece of paper in well-developed paragraphs. Use specific examples from the trial to support your answers.

MEMBERS OF THE JURY SHOULD ANSWER THE FOLLOWING QUESTIONS:

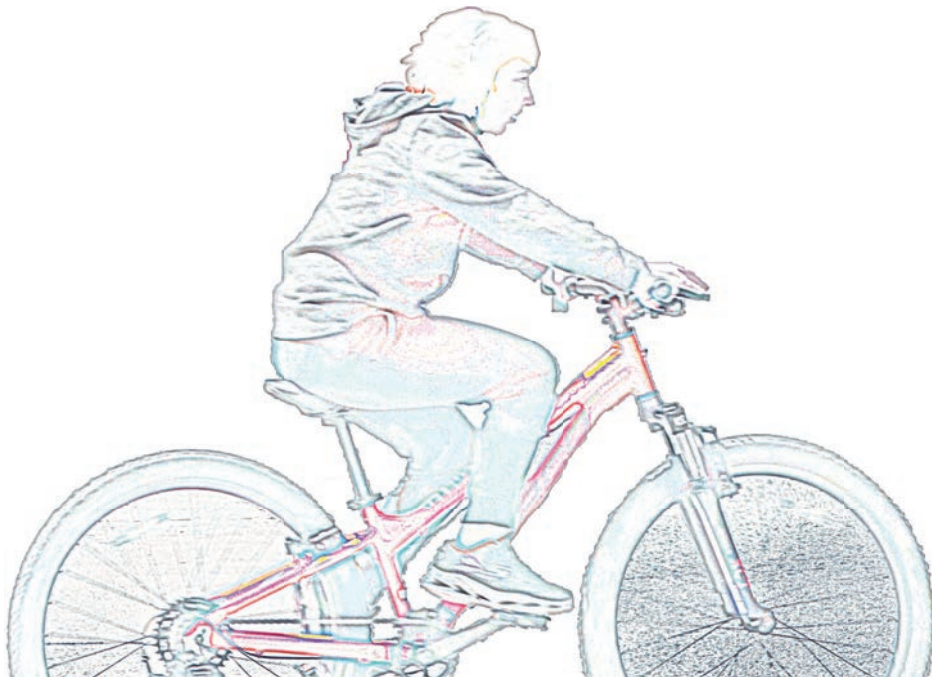
1. With what crime was the defendant charged? Describe how the prosecution said the crime for which the defendant was charged occurred.
2. On a scale of 1-5 (with 5 being the highest), how well did the prosecution prove its case? What were their major arguments?
3. On a scale of 1-5 (with 5 being the highest), how well did the defense prove its case? Defend your answer. What were their major arguments?
4. If you had been an attorney for either side, how and why would you have changed the strategy or arguments used?
5. What is one concrete legal principle you learned about serving on a jury?

WITNESSES AND ATTORNEYS SHOULD ANSWER THE FOLLOWING QUESTIONS:

1. What was the decision of the jury? Do you agree or disagree with the verdict? Defend your opinion.
2. In your judgment, did the defendant get a fair trial? Why do you believe this? If not, why not?
3. Describe at least one item of court proceeding or rules of evidence you learned by participating in a mock trial as a witness or attorney.
4. Explain one strength you see in the trial process as we use it in the United States. Explain one weakness.
5. Evaluate your performance in the trial on a scale of 1-5 (with 5 being the highest). Defend your ranking explaining one area you did well and one area you would like to improve.

STATE OF TEXAS
V.
Casey Bryant

Unscripted Mock Trial





STATE OF TEXAS v. Casey Bryant

Mock Trial



Background of the case:

The Highland Creek subdivision of Anytown, Texas is a quiet neighborhood with friendly families. During Spring Break of 2020, the weather was nice and children enjoyed playing outside. On March 18 of that week, at 2:38 p.m., Casey Bryant (age 18) left her home in the Highland Creek subdivision and traveled north by car on Creekview Lane. As Casey approached the bend in the road, Henry Wallen (age 8) rode his bicycle out of the driveway of his home and into Creekview Lane, at which time Casey's car struck Henry and he was thrown from the bicycle. Henry, who was not wearing a helmet, suffered serious head trauma as a result of the crash. Casey stopped to render aid and called 911. Paramedics arrived on the scene six minutes later and transported Henry to the hospital. He spent three days in the intensive care unit (ICU) while they waited for answers regarding the extent of the injuries. Henry was released from the hospital five days later having suffered a concussion that took over two months to fully recover from along with two broken femurs that required months of physical therapy in order to regain the ability to walk again.

The Charge:

The prosecution charges Casey Bryant with two criminal offenses:

Charge 1 - Deadly Conduct (Texas Penal Code §22.05(a) A person commits an offense if he recklessly engages in conduct that places another in imminent danger of serious bodily injury.

Charge 2 - Texting while Driving (Texas Transportation Code §545.4251(b) An operator commits an offense if the operator uses a portable wireless communication device to read, write, or send an electronic message while operating a motor vehicle unless the vehicle is stopped.

Evidence:

For the purpose of this mock trial, only the following physical evidence may be introduced at trial:

Map of Highland Creek Subdivision

Photographs of the location of the crash

Screen shot of Casey's text messages around the time of the crash





Stipulated Facts:

Weather was not a factor in the crash.

Casey Bryant had one prior conviction for distracted driving.

Henry's injuries were the direct result of the crash. He suffered a concussion and two broken femurs. He spent three days in the ICU and five days in the hospital. No prior medical conditions were a factor and he received appropriate medical care.

Henry was not wearing a helmet.

The speed limit on Creekview Lane was 30 miles per hour and there were no stop signs on Creekview Lane.

Prosecution Witnesses:

Alex Wallen - Parent of the victim

Henry Wallen Detective Lane Frommer - Crash Investigator

Dr. Denny Manuel - Psychologist

Defense Witnesses:

Casey Bryant - Defendant

Peyton Odell - Friend of the Defendant

Cory Keen - Government and U.S. History Teacher



Alex Wallen - Witness Statement

My name is Alex Wallen, I am 37 years old, and I live at 6214 Creekview Lane in the Highland Creek subdivision. We moved into the neighborhood five years ago because it was such a nice, quiet area. I have twin eight year old sons named Henry and Cole. There were a lot of families with young kids on our street and our boys never had to go far to find someone to play with. That spring break the weather was beautiful and the kids roamed the neighborhood, sometimes going for walks and little adventures along the creek or they'd play hide and seek around the houses with their buddies.

On the afternoon of March 18th, 2020 Henry and Cole were riding their bikes in our driveway and I was watching them from the porch. We have a circular driveway, the kind that makes a "U" shape and is long enough to fit several cars. The boys would ride in a loop, riding through the driveway and going a short distance into the street and coming back around, making a circle. Whenever they were riding like this, I always put out a little orange cone about three feet into the street so the boys wouldn't go too far into the road. They'd just ride a little way out, but never go past the cone. Plus, I figured the cone would help give drivers a heads up that children were playing in the area.

That afternoon I had the cone out there, but it didn't slow the car that struck Henry down one bit. The car came flying around the bend in the road just as Henry rolled into the street. I felt like everything went into slow motion at that moment. I will never forget the sound of the impact and seeing my boy thrown across the pavement. He looked like a rag doll. I ran to him, screaming, and immediately I could see his head was bleeding. I screamed for Cole or for anybody to call 911. I just kept screaming for help. At some point I saw Casey there who was shaking and crying on the phone with the 911 operator. I didn't realize that Casey was the one who had been driving the car until the police informed me later.

Henry was transported to the nearest hospital where he spent three days in the ICU, and then was transferred to the hospital wing for an additional five days. We weren't sure if he was going to make it. He suffered a concussion and broke both his femurs. It took at least two months before he was able to handle a full work load in school and many months after that before he was able to walk properly.

Casey Bryant babysat for Henry and Cole a couple of times and did a great job with them. I believe Casey never meant to hurt anyone, but I am having trouble forgiving what happened on that fateful day.



Detective Lane Frommer - Witness Statement

My name is Detective Lane Frommer and I have worked for the Anytown Police Department for 14 years. I have a Bachelor's Degree in Criminal Justice from Morrell College and a Master's in Criminal Justice Administration from Hawkhurst University. I am the lead detective in our department and I have conducted 27 motor vehicle crash investigations. Three of those involved bicyclists struck by a motor vehicle.

This particular crash took place on March 18th, 2020. Upon arriving at the scene, my first task was to analyze the location of the car, the bicycle, and the tire marks on the pavement. I was able to determine the location where the cyclist landed by the large amount of blood that was still present. My first impression of the scene was that the car was likely traveling approximately 30-35 miles per hour and did not brake before impact.

I confirmed this when I interviewed the driver, Casey Bryant, later that evening. The defendant claims to have been driving the speed limit and stated that visibility around that bend in the road "was not the greatest." Casey said there was no time to react once Henry rode into the street, but also admitted there may have been distractions that slowed one's reaction time. When asked what would have caused this distraction, the defendant stated, "I don't know. I can't believe this is happening." Since one in five car crashes involve distracted driving, I asked the driver if her phone was in use while behind the wheel. The driver stated that she sent one text while sitting at the stop sign, but not used after that, except to call 911. Casey showed me a screen of text messages and consented to my taking a "screenshot" of what was shown to me. There was no further consent offered for a full investigation of the phone and its use. At that point Casey stated, "I'm sorry but I don't think I should answer any more questions until I see a lawyer."

At that point, we secured a warrant to get her phone records from First Choice Telecom and discovered that the texting timeline didn't quite add up. Casey appeared to have sent and received several text messages after leaving the house and driving the short distance between home and the location of the crash site. We attempted to question the defendant again after we obtained the phone records, but the defendant declined (under the advice of counsel). Even without Casey's cooperation, we were able to determine that multiple text messages, to multiple phone numbers, were sent and received from the defendant's phone during the time she would have been driving. Casey's driving record also indicated that Casey had one previous conviction for distracted driving six months prior to the crash.



Dr. Denny Manuel - Witness Statement

My name is Denny Manuel and I am a Doctor of Psychology. I attended Central University for my undergraduate degree in psychology and University of American Psychology for my Ph.D., specializing in adolescent addictions. My work has been published in numerous scholarly journals, including *Adolescent Psychology Today*. Most recently, I gained national attention for my work regarding cell phone addiction in teens and adolescents.

This research has shown a startling increase in nomophobia among young adults and teens. Nomophobia is the unnatural attachment to one's cell phone and fear of being out of cellular contact. Symptoms include persistent checking for calls, texts, or any notifications, such as those associated with social media accounts, and high anxiety when one's phone is not in sight. Teens, in particular, are at a heightened risk for nomophobia because their prefrontal cortex is still developing. This is the area of the brain that is responsible for sound judgment, instinctive behavior, and impulsivity.

I have not personally interviewed the defendant in this case. I was asked by the state to review the case documents, and provide my professional opinion on the matter. After reviewing all of the evidence, it is clear to me that Casey Bryant suffers from nomophobia. The cell phone records alone demonstrate that Casey is constantly in contact with her cell phone, which is the number one symptom of nomophobia. This addiction causes distraction and a lack of awareness of one's surroundings, which can be catastrophic while driving.



Casey Bryant - Witness Statement

My name is Casey Bryant and I am 18 years old. I'm a senior at Reedwater High School where I'm on the honor roll and captain of the swim team. I live at 3408 Ambers Road in the Highland Creek subdivision. It's a great neighborhood and everybody seems to know each other. I began babysitting on weekends for several of my neighbors last year after I took a class to get certified in infant and child CPR. I've watched Henry and Cole Wallen three times and they are the sweetest boys. I will never forgive myself for what happened to Henry.

On March 18, 2020, I left my house at 2:38 p.m. to meet my friend, Peyton, for a 3:00 p.m. movie. I was parked in front of my house facing west. I got in my car and drove just a couple of houses down the street to where Ambers Road meets Creekview Lane. I stopped at that stop sign and while I was stopped there, I texted Peyton to say I was on my way. Then I put my phone down on my lap and took a right on Creekview Lane. As I approached the bend in the road, I lifted my foot off the gas pedal and kind of hovered it over the brake like you do when you are coasting to slow down a bit. And then Henry came out of nowhere and there was no time to hit the brake. Everything happened so fast. Before I knew it, I had hit him. I slammed on the brakes and got out of the car and I could see the parent, Alex Wallen, running to Henry. I was frozen for a second and just shuddered at the screaming. The parent was screaming like I've never heard anyone scream before; screaming for Henry and screaming for somebody to call 911.

At that point I snapped out of my shock and tried to help. I ran back to my car and found my cell phone on the floorboard where it must have landed after the impact. I called 911 and told them to come quick and I tried to calm Cole down because he was crying, too. We were both shaking and crying but I just kept answering the 911 operator's questions and tried to stay calm. I just kept thinking: "This can't be happening."



Peyton Odell - Witness Statement

My name is Peyton Odell, I am 17 years old, and I'm a junior at Reedwater High School in Anytown, Texas. I have known Casey Bryant for the last three years, ever since I was a freshman and Casey was a sophomore. When I started on the Junior Varsity swim team my freshman year, Casey was on Varsity and has always been one of the best swimmers on the team. Casey was chosen to be team Captain this year, not just for talent and swimming ability, but also for Casey's ability to make everyone feel like a valuable part of the team.

A lot of the swim team members hang out together even when we're not at practice. Some of the team had travel plans for Spring Break but a few of us were still in town that week. On the day of the crash, Casey and I decided to meet at the movies. I got there first and Casey appeared to be running a little late, so I went ahead and got the tickets for us. But Casey never showed up.

When Casey told me about the crash later that night, we were both distraught. Casey was freaking out thinking Henry wouldn't survive. Casey said a police officer asked about whether texting and driving played a factor in the crash, and Casey swore that it did not. I know Casey is a careful driver and I will swear my life on that. I tried to be reassuring and said that it was an accident and that, if anything, it's my fault for texting when I knew Casey was in the car. I know Casey wouldn't text me back while driving.

That corner is dangerous for any driver. Those kids shouldn't have been riding in the street to begin with and they couldn't have picked a worse place to do it. Anyone could have hit Henry coming around that bend in the road. They weren't even wearing helmets! Now, Casey is in trouble and might lose any chance at a scholarship offer. It could've happened to anyone.





Cory Keen - Witness Statement

My name is Cory Keen and I teach U.S. History and Government at Reedwater High School. I have a bachelor's degree in secondary education and a master's degree in U.S. History. I've taught numerous social studies classes throughout my 17 years at Reedwater. Casey Bryant was in my U.S. History class last year and is currently enrolled in my Government class this year.

I have seen numerous students come and go through the years. Casey stands out as a highly responsible, caring, motivated, and extremely intelligent individual. Casey is a leader both inside the classroom and out, on whom I can always depend to set a good example. Last year, one of the freshmen was being harassed online by his classmates and Casey reported it to the Assistant Principal immediately. Due to that quick action, we were able to punish the offenders and get help for the victim.

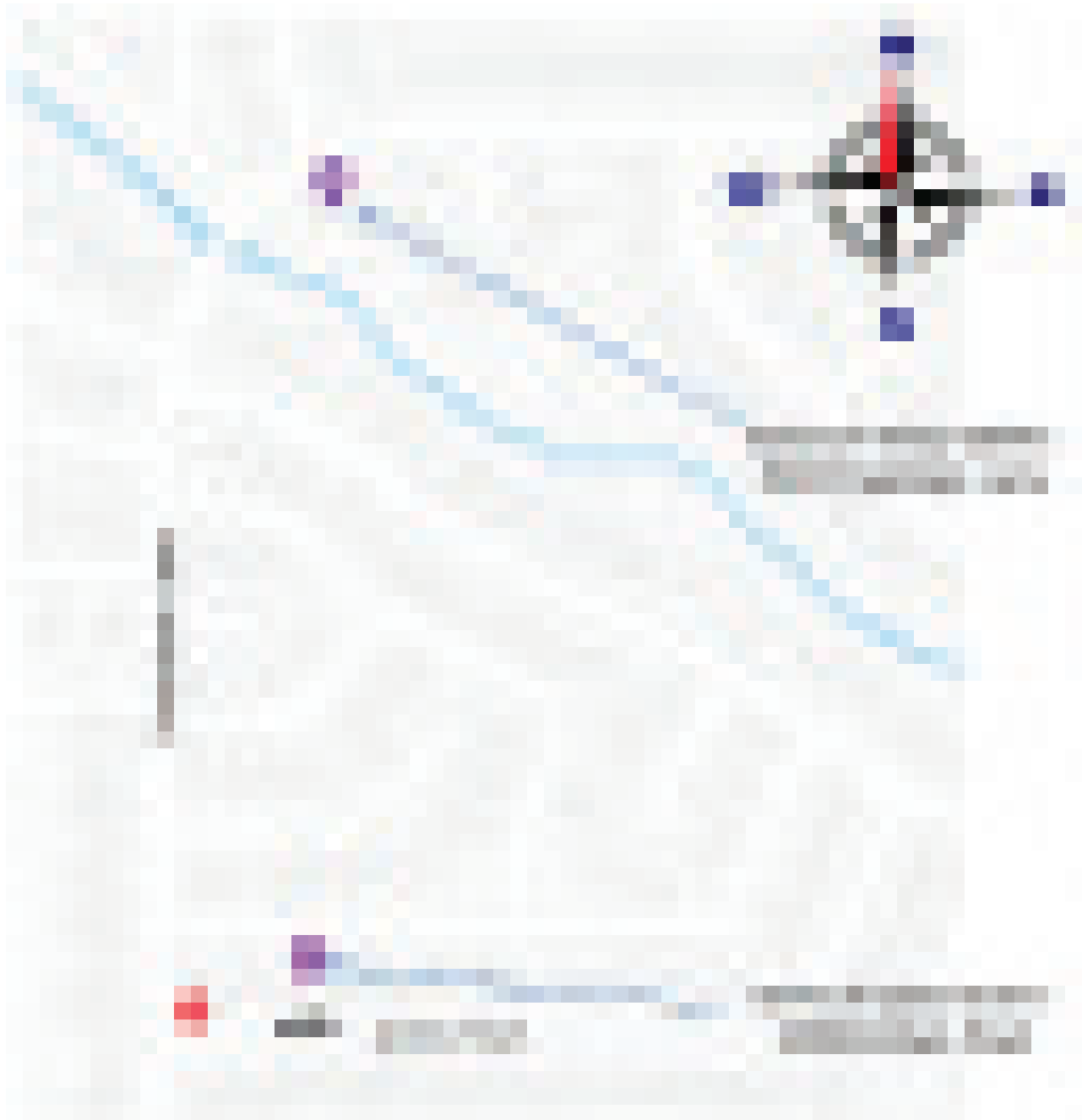
In my class, Casey never misses an assignment, always turns homework in on time, and maintains an "A" average. In fact, Casey has never scored below a 93 on any of my assessments. This student is always willing to tutor classmates prior to a test and is quick to organize study groups which benefit everyone involved. People are quick to ask Casey for help when they need it and I was not surprised when Casey was nominated captain of the swim team.

As a high school teacher, cell phone use is a hot topic. Our school policy states: "Reedwater High School allows the use of electronic communication devices by students at specified times. Unless given permission by staff personnel, cell phones should be off and out of sight in the classroom." In my classroom, students know that I strictly follow this guideline. If I see a student using their cell phone in my classroom, I confiscate it immediately. While I have had to enforce this consequence for some students, it has never been a distraction for Casey. Anytime my students need access to technology, we have laptops in the classroom for their use.

It came to my attention that Casey was involved in the car crash in the Highland Creek Subdivision that occurred on March 18th and is being accused of texting while driving. I can't think of a student less likely to act so irresponsibly. Casey is a rule follower and, in my opinion, would never use a phone while driving nor harm another individual. I have such confidence in this student's character that I would trust Casey with my own child's life.



Map of Highland Creek Subdivision

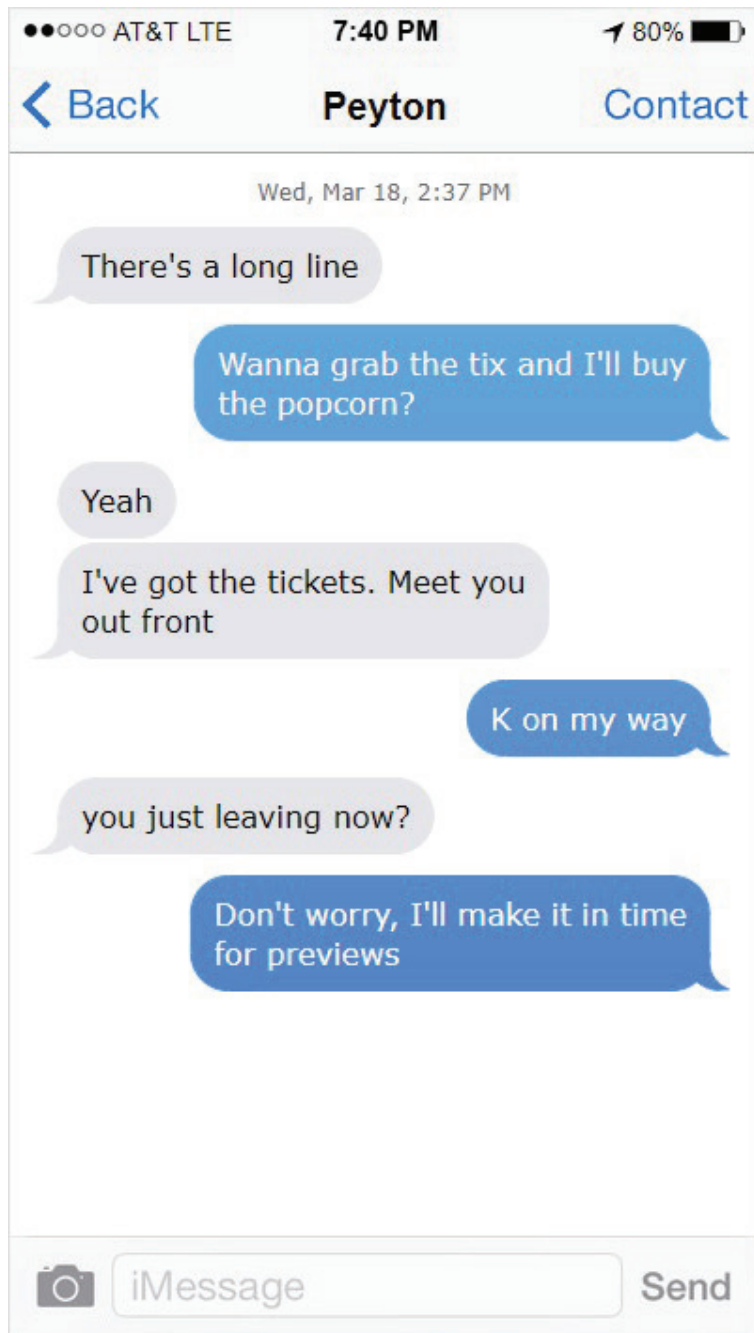




Location of Henry Wallen’s home with circular driveway in front, facing Creekview Lane.







State v. Bryant Sign-Up Form

Prosecuting Attorneys:

Defense Attorneys:

Opening Statement Made By:	Opening Statement Made By:
Direct Examination of Alex Wallen:	Cross-Examination of Alex Wallen:
Direct Examination of Detective Lane Frommer:	Cross-Examination of Detective Lane Frommer:
Direct Examination of Dr. Denny Manuel:	Cross-Examination of Dr. Denny Manuel:
Cross-Examination of Casey Bryant:	Direct Examination of Casey Bryant:
Cross-Examination of Peyton Odell:	Direct Examination of Peyton Odell:
Cross-Examination of Cory Keen:	Direct Examination of Cory Keen:
Closing Statement Made By:	Closing Statement Made By:

Witness for the Prosecution:

Witness for the Defense:

Alex Wallen:	Casey Bryant:
Detective Lane Frommer:	Peyton Odell:
Dr. Denny Manuel:	Cory Keen:

Time Keeper for the Prosecution:

Time Keeper for the Defense:

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Jury Members:



[illegible]

[illegible]

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