

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: 7th– 14A; 15B; 20B; 20D&E; 22A, 23A, 8th– 8.19C, 29 B, D, E; 30A&C, US-28B, E; 29B, Government– Govt 12F; 13B, 19A, 20A, 20B; Special Problem– 2D&F, 3B

Materials Needed: Copies of *State of Texas v. Junior* script and Attachments 1-6 for each student

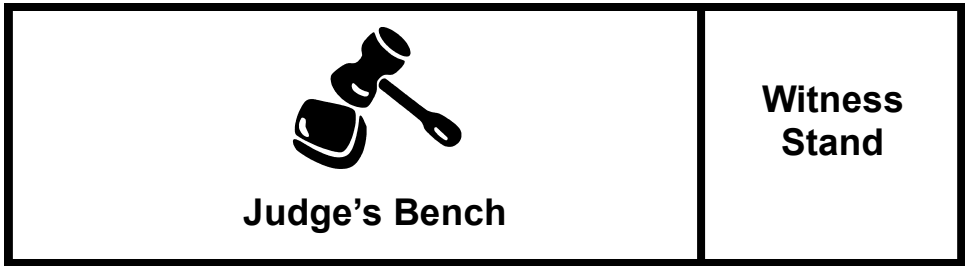
Vocabulary: presiding, prosecutors, witnesses, prosecution, testimony, burden, breathalyzer test, nonresponsive, curfew

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 transparency or board to verify or correct as the script is read.
2. Distribute the “Stipulated Facts” (Attachment 1) to each student. Allow them time to read the case (or read it orally as a class) and then discuss their answers to the Discussion Questions, Attachment 2.
3. Assign the various parts using the “Cast of Characters”, Attachment 3.
4. Distribute copies of the Scripted Mock Trial (Attachment 4) to students and begin reading the trial. Stop at the appropriate places to discuss the validity of the students' answers to the debriefing questions.
5. Use the Debriefing Questions (Attachment 6) 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. However, it is necessary to have the students answer question #13 individually before moving to step six, which will simulate a jury deliberation.

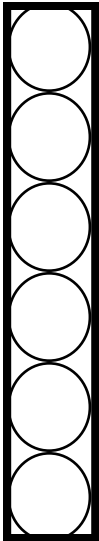
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6. Ask students who read parts in the trial how many voted for the side they represented. Discuss courtroom bias and how they related to the parts they played. Ask why they think witnesses are not allowed in the courtroom when other witnesses are on 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. They should use Attachment 5 to record their verdict.
 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.

Judge



Bailiff

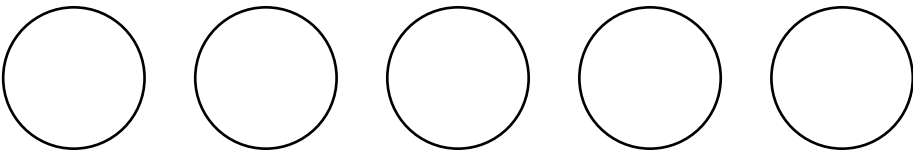
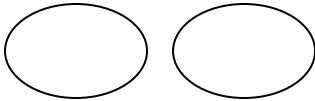
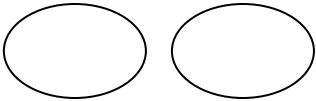
Court Reporter



Jury Box

Defense's Table

Prosecution's or Plaintiff's Table



AUDIENCE

State of Texas v. Junior
STIPULATED FACTS:

On April 20, 2____ Johnny Junior got a new red Mustang for his 18th birthday. To celebrate his birthday, he and his friend went cruising around town in the new car. While riding around, Johnny got a call on his 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.

As he was driving away, Johnny heard sirens and then saw a police car. The police in the car activated siren 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).

After Johnny had left the party with Susie, a neighbor, Sam Sullivan, 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.



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 police reporting 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.

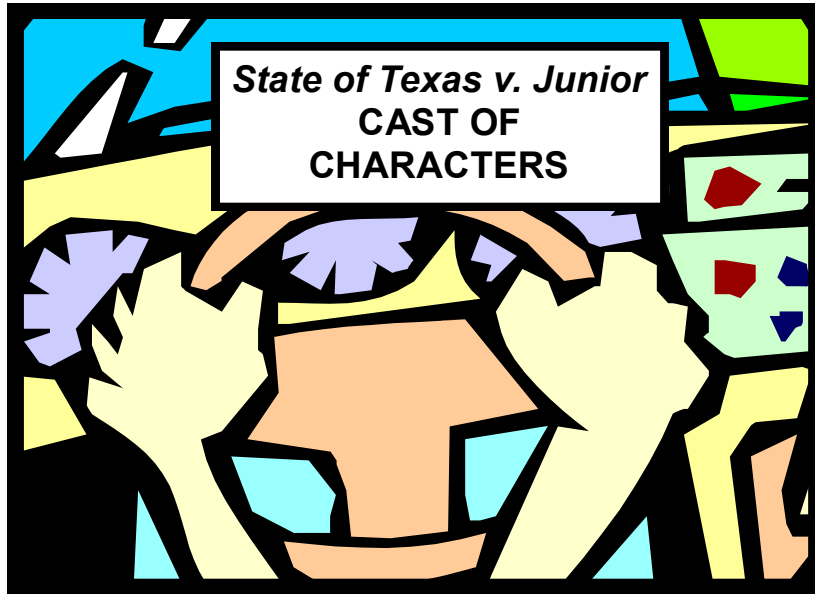
3. Who will be the witnesses for the prosecution?

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

Prosecution 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. Junior
SCRIPTED MOCK TRIAL

Attachment 4

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*.

Bailiff: 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.

Prosecuting Attorney #1: 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 willfully drive an automobile while Under the Influence, a violation of Sec. 106.041 of the Alcohol 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 in the complaint of a party at Mr. Junior 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. Junior's driving from the scene of the party, detained Mr. Junior. At that 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.

Defense Attorney #1: 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. Johnny 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 breath 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 so swear or affirm.

(All witnesses should say "I do.")

Judge: Prosecution, please call your first witness.

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

Prosecuting Attorney #2: 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, _____ 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 go 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 as 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 partygoers, 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 a field sobriety test.

Prosecuting Attorney #2: What was the result of the 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 a 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 violation 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.)

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

(Officer Smith takes the stand.)

Prosecuting Attorney #3: 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.

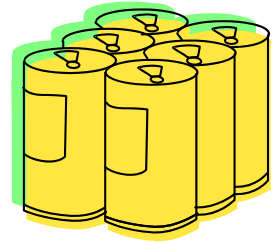
Prosecuting Attorney #3: Was there alcohol present at the scene?

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 ticket 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.)

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

Prosecuting Attorney #1: 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, _____.

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 Junior 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.)

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 the stand.)



Defense Attorney #2: Please introduce yourself to the court.

Johnny Junior: My name is Johnny Junior, and I am 18 years old. I am a senior at All American 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: Objection sustained. Defense, please rephrase your question.

Defense Attorney #2: Johnny, do you know why the police officer asked you to 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 breath 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.

Defense 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 nonresponsive to the question I asked.

Judge:

Objection sustained. (Turning 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 returns to his seat.)

Defense Attorney #1: The defense calls Ms. Susie Sweetie.

(Susie Sweetie takes the stand.)

Defense Attorney #1: What is your name?

Susie Sweetie: My name is Susie Sweetie.

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

Prosecuting Attorney #1: Objection, leading the witness.

Judge: Sustained. (Turning 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.)

Defense Attorney #3: The defense calls Neil Junior.

(Neil Junior goes to the witness stand and is seated.)

Defense Attorney #3: 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 #1: 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.)

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 found at the house, and Sam Sullivan told you he even saw the 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 this 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 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 \$500.



In all criminal cases, the burden of proof is on the State. The defendant is presumed to be not guilty until his guilt is established by legal evidence beyond a reasonable doubt. In case you have a reasonable doubt of the defendant’s guilt, you will acquit him and say by your verdict “not guilty.”

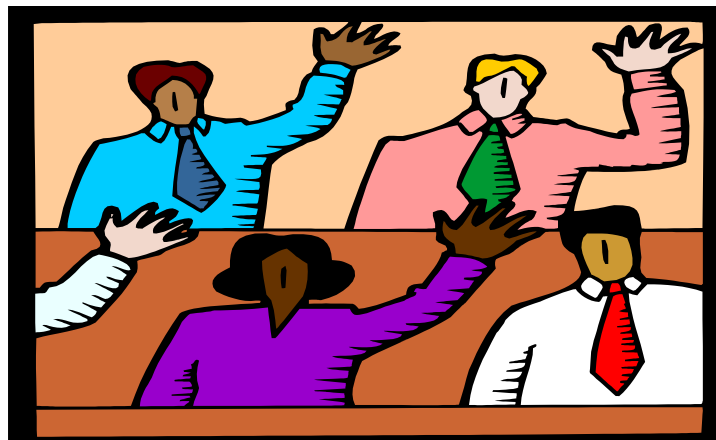
When making your decision, you should think carefully about what each witness said. Where witnesses disagree, you must decide which witness is reliable.

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 forms 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.)



JURY VERDICT SHEET

No. 10840

The State of Texas
v.
Junior

X
X

In the Municipal Court
The City of Harmony

VERDICT OF THE JURY:

We, the jury, find the defendant not guilty.

Presiding Juror

No. 10840

The State of Texas
v.
Junior

X
X
X

In the Municipal Court
The City of Harmony

VERDICT OF THE JURY:

We, the jury, find beyond a reasonable doubt that the defendant is guilty of the offense of driving under the influence.

Presiding Juror

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 on Johnny.
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 tests because he was afraid they were unreliable.
4. What are the key facts you learned from Officer Jones' 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, and a

