



RIVING



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Mock Trial



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 most Texas communities driving is the primary means of transportation. School-age children anxiously await their first drivers' license or the freedom to ride their bicycle without parental supervision. Traffic safety issues are pertinent to young people in your social studies or language arts classes because they provide a foundation for understanding rights and responsibilities as students learn about the proper operation of bicycles, scooters, ATVs, and motor vehicles in Texas. Students can apply their existing knowledge of common rules and laws relating to traffic, enhancing the practical benefit of a civics lesson.

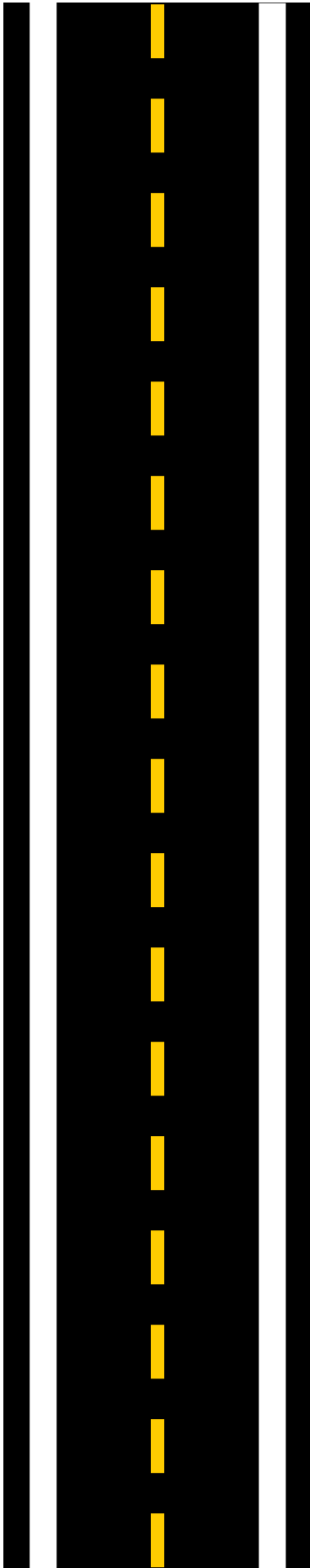
Traffic safety is real — not abstract or distanced. We hope that you will build upon your students' natural interest and curiosity surrounding driving to teach key concepts related to responsible citizenship and the structure of government: separation of powers and legal authority, while simultaneously decreasing each student's chance of becoming injured.

We encourage you to use guest speakers from the judiciary as a resource to assist in teaching these mock trials. Judges, lawyers, and court support personnel, as well as those working in law enforcement, can answer many of the questions that may 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 role to play in the mock trial, or let him or her serve as a director, giving tips to make the mock trial more authentic. If you have trouble identifying local resource persons, please email us at TMCEC and we will assist you (tmcec@tmcec.com).

These mock trials are supported by a variety of materials that are available online at www.drsr.info. For example, the Information Sheets online contain up-to-date statistics and information that the students may use to strengthen the cases in the mock trials. The "For More Information" section contains references to internet sites with additional information. Please check the TMCEC website for the most recent information: www.drsr.info. We will continually revise our materials to bring you the most current materials available. We hope that you will modify these materials for the appropriate reading level of your students — most are available both as Word documents and .pdf files on our website.

Our appreciation is also expressed to the Texas Department of Transportation, the Texas Court of Criminal Appeals, and the Texas Regional Education Service Centers for providing the funding and resources to make this program possible.

Good luck in your classrooms in the upcoming year!



LEVEL ONE



Driving on the Right Side of the Road

LEVEL ONE

Characters in the Courtroom Level One-4

Legal Vocabulary Word Loop Level One-18

State of Texas v. Sam Smart Level One-26

*Note these resources are for educational purposes and are based generally on laws and procedures in Texas. For the purposes of this exercise procedures have been modified for the appropriate age group.

CHARACTERS IN THE COURTROOM

Learning Objectives: Students will

1. State 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 3.17C, 4.21B, 5.24B

Materials Needed: Duplicated and laminated copies of the “Characters in the Courtroom” Learning Stations (#1 - #9) attachment, copies of the “Who’s Who in the Courtroom Identification Sheet” attachment for each student in the class.

Vocabulary: bailiff, court reporter, defendant, defense attorney, judge, juror, prosecuting 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 “Who’s Who in the Courtroom Identification Sheet.” Explain to students that there are learning stations on the walls of the classroom. Each learning station states the characteristics of one of the positions of a character in the courtroom. Using the information at 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 “Who’s Who in the Courtroom Identification Sheet.” Students may work in pairs, or work independently.
5. After students have visited each station, debrief the activity by discussing the correct answers and the importance of each courtroom character.
6. 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.)

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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 “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.

LEGAL TERMS

Acquittal

Affidavit

Bailiff

Bench trial

Burden of proof

Charge to the jury

City ordinance

Class C misdemeanor

Closing arguments

Contempt of court:

Counsel

Court clerk

Crime

Criminal case

Cross-examination

Defendant

Defense attorney

Direct examination

Evidence

Felony

Judge

Judicial branch

Juror

Misdemeanor

Motion

Municipal courts

Not guilty

Objection

Opening statement

Overrule

Perjury

Prosecutor

Reasonable doubt

Rebuttal

Subpoena

Sustain

Summons

Testimony

Verdict

Voir dire

Witness

LEGAL TERMS

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

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 all future such acts to be illegal

Criminal case—A case in which someone is charged in court 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 in court

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

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 that hear violations of city ordinances and Class C misdemeanors that occur within the city limits

Not guilty—The determination in a criminal case for the defendant; not enough proof to find the defendant committed the crime

Objection—When an attorney for one side feels the other attorney has violated a rule of evidence

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

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

Reasonable doubt—The degree of proof required for a determination of guilt in a criminal trial

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

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

Summons—An order to serve as a potential juror in court

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

Learning Station #1



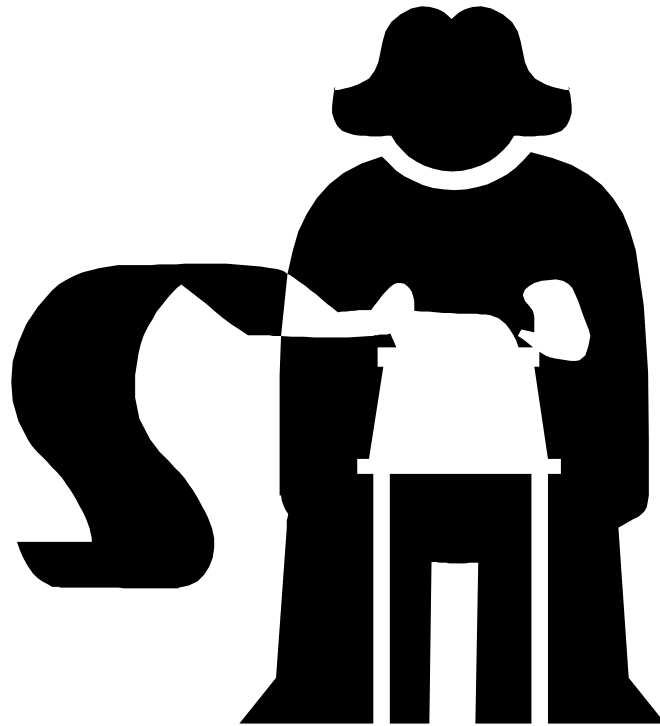
I make sure that the trial is fair and that everyone has a chance to present his or her side of the case. I sometimes have to rap my gavel to keep order in the court.

Learning Station #2

**I am the person who is
accused of doing
something wrong in a
criminal case.**



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 if they agree 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 trial. It is my job to convince the jury that the defendant is guilty of breaking the law.

Learning Station #6



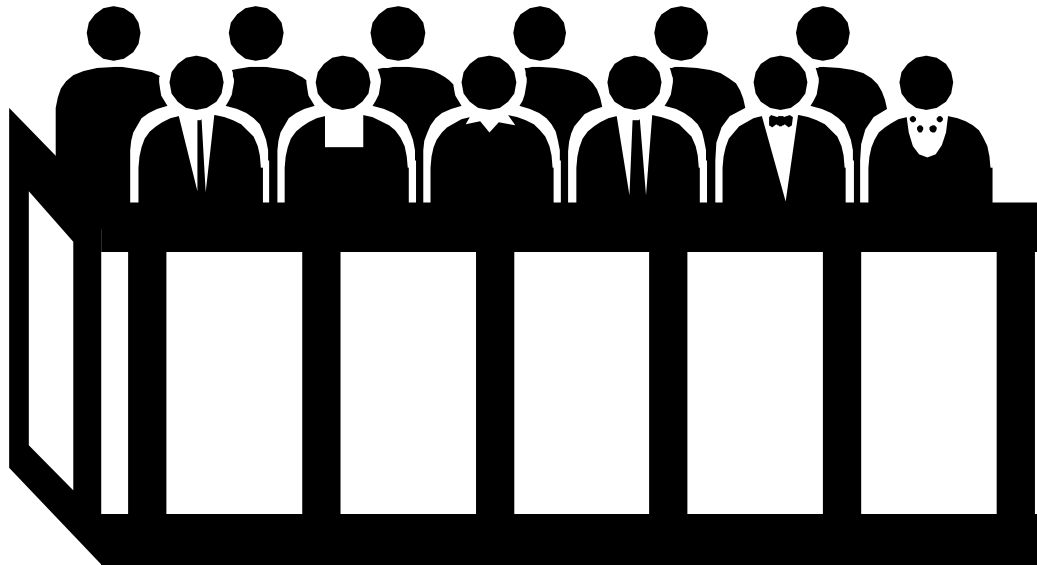
I have been asked to testify in court about what I know, have seen, and/or have heard concerning the facts of the case. I take an oath and promise to tell the truth.

Learning Station #7



I am hired to help people with their legal problems. 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.



WHO'S WHO IN THE COURTROOM IDENTIFICATION SHEET

Directions: Write the number of the Learning Station beside the name of the person that the information describes.

Bailiff _____

Court Reporter _____

Defendant _____

Defense Attorney _____

Judge _____

Juror _____

Prosecuting Attorney _____

Witness _____

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, 5.24B, 5.25A,D

Materials Needed: A set of Law Vocabulary Word Loop Cards (attached), drawing paper, crayons or markers

Vocabulary: badgering, bailiff, bench, closing argument, court reporter, cross-examination, defendant, defense attorney, direct examination, evidence, irrelevant, judge, jury, objection, opening statement, overrule, perjury, prosecuting attorney, subpoena, sustain, testimony, verdict, witness, witness stand

Teaching Strategy:


1. Note: This activity should be used after students have been introduced to various legal terms.
2. 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.
3. 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 to the activity, they usually want to do it a second time.)
4. 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 Word Loop Card.” Students should title their drawing with their assigned vocabulary word and be encouraged to use symbols to represent their vocabulary word.
5. 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 be used to create a bulletin board.



Extension for Gifted/Talented: 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; and (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 place where witnesses sit when they testify in court?




I have “the witness stand.”

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?



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, 5.24A,B,D, 5.25B; ELA & R 4.12, 5.12A,B; FA Theater 3.2B

Materials Needed: Copies of the “Analyzing the Case” attachment or an overhead transparency of the attachment, copies of the attached scripted mock trial *State of Texas v. Sam Smart*, highlighters

Vocabulary: affirm, ambiguous, attorney, bailiff, clarify, cross-examine, decision, defense, deployed, disregard, evidence, harness, jurisdiction, jury, negligence, nonresponsive, object, opinion, offense, prosecution, relevant, restraint, testimony, 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. Give students copies of the “Analyzing the Case” attachment or use an overhead transparency of the attachment and have students list the strengths of the prosecution’s side of the case and the strengths of the defense’s side of the case.
3. Have the 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.

- 
5. After 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 on Level One-28.)
 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, Texas Transportation Code, etc.

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

Possible answers: Answers will vary.

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

Possible answers: 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?


Possible answers: 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 case of *Carlson v. Ferris* (attached) and compare it to the case of *State of Texas v. Sam Smart*, explaining how they are alike and how they are different.

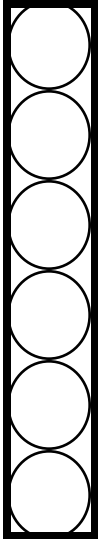
Judge

 Judge's Bench	Witness Stand
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Bailiff

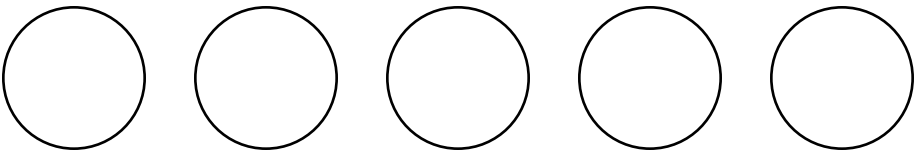
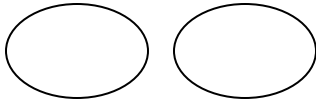
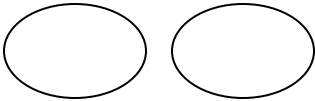
Court Reporter

Jury Box



Defense's Table

Prosecution's
or
Plaintiff's Table



AUDIENCE



ANALYZING THE CASE

**Facts that help the Prosecution
(State of Texas)**

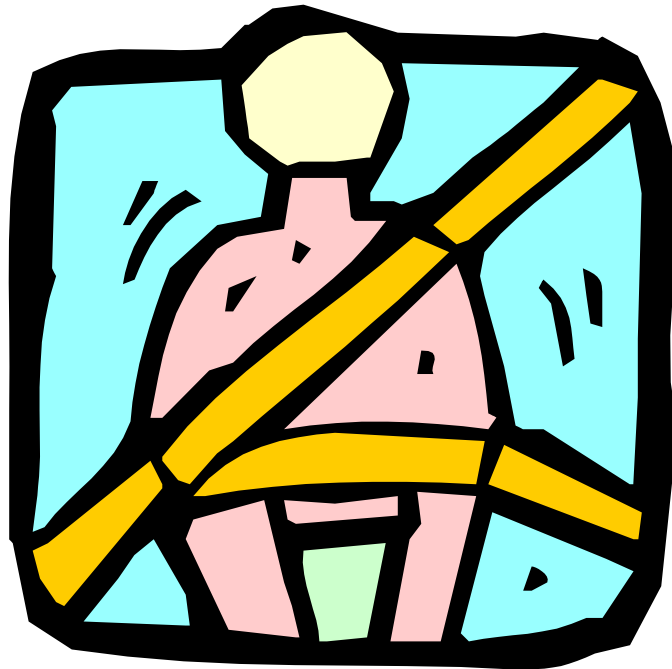
**Facts that help the Defense
(Sam Smart)**

STATE OF TEXAS

v.

SAM SMART

A Scripted Mock Trial





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 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 hopes of improving to the point 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 back.

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





Positions in the Mock Trial

Judge

Bailiff

Defendant—Sam Smart

Witnesses for the Defense—Amanda Gentry, Passenger

Witness for the Defense—Cynthia Champion, Coach/Instructor

Witnesses for the Prosecution—Ima Duncan, Passenger

Witness for the Prosecution—Eric Copperfield, Police Officer

Witness for the Prosecution—Bob Buckle, State Trooper

Prosecuting Attorney #1

Prosecuting Attorney #2

Prosecuting Attorney #3

Defense Attorney #1

Defense Attorney #2

Defense Attorney #3

Juror #1

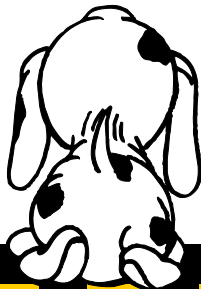
Juror #2

Juror #3

Juror #4

Juror #5

Juror #6





State of Texas v. Sam Smart

Bailiff: (STAND) All rise. (PAUSE) The Municipal Court of the City of Harmony is now in session. The Honorable Judge _____presiding.

Judge: (ENTER THE ROOM AND TAKE YOUR SEAT) 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: (STAND) The prosecution is ready. (SIT DOWN)

Judge: Is the defendant ready?

Defense Attorney #1: (STAND) The defendant is ready. (SIT DOWN)

Judge: The bailiff will swear in the jury.

Bailiff: (WALK OVER TO THE JURY) 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. (RETURN TO YOUR 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: (LOOK AT THE PROSECUTION) Does the prosecution have an opening statement?



Prosecuting Attorney #1: (STAND) 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 safely safety belted, as required by Texas Transportation Code, Section 545.412. This carelessness led to the injury of Ima Duncan, one of the passengers riding with the defendant, when his car was involved in a crash. The defendant, (POINT TO THE 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 Gentleman, 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. (SIT DOWN)


Judge: Thank you. (LOOK AT THE DEFENSE) Does the defense have an opening statement?

Defense Attorney #1: (STAND) 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 required to pay this fine. Thank you. (SIT DOWN)

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

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

Ima Duncan: (MOVE TO THE WITNESS STAND AND BE SWORN IN BY BAILIFF)



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

Ima Duncan: I do. (SIT DOWN)

Bailiff: (RETURN TO YOUR 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, 2____?

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 breaks?

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, I am now in physical therapy, and my basketball career is ruined.

Defense Attorney #1: (STAND) Objection, Your Honor. The witness is being non-responsive. (SIT DOWN)

Judge: Sustained. (LOOK AT THE JURY) Ladies and Gentleman of the Jury, please do not weigh as evidence what the witness just said.

Prosecuting Attorney #2: I have no further questions, Your Honor. (SIT DOWN)

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



Defense Attorney #2: (STAND) 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. (SIT DOWN)

Judge: (LOOK AT THE WITNESS) The witness is excused. (LOOK AT THE PROSECUTION) Does the prosecution have any further witnesses?

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

Officer Copperfield: (MOVE TO THE WITNESS STAND AND BE SWORN IN BY BAILIFF)

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

Officer Copperfield: I do. (SIT DOWN)

Bailiff: (RETURN TO YOUR SEAT)



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?

Officers 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 2004 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 expert 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. (LOOK AT THE DEFENSE) Your witness. (SIT DOWN)

Defense Attorney #3: (STAND) 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. (SIT DOWN)

Judge: (LOOK AT THE WITNESS) The witness is excused. (LOOK AT THE PROSECUTION) Does the prosecution have any further witnesses?

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

Bob Buckle: (MOVE TO THE WITNESS STAND AND BE SWORN IN BY BAILIFF)

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

Bob Buckle: I do. (SIT DOWN)

Bailiff: (RETURN TO YOUR SEAT)

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

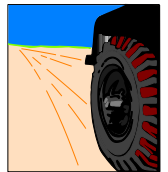
Bob Buckle: My name is Bob Buckle, and I am an officer with the Texas Department of Public Safety.


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 crash's 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: I have no further questions, Your Honor. (LOOK AT THE DEFENSE) Your witness. (SIT DOWN)

Defense Attorney #1: (STAND) 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 1,200 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. (SIT DOWN)

Judge: (LOOK AT THE WITNESS) The witness is excused. (LOOK AT THE PROSECUTION) Does the prosecution have any further witnesses?

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

Judge: (LOOK AT DEFENSE) The defense may call its first witness.

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

Amanda Gentry: (MOVE TO THE WITNESS STAND AND BE SWORN IN BY BAILIFF)

Bailiff: (APPROACH THE WITNESS) 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?

Amanda Gentry: I do. (SIT DOWN)

Bailiff: (RETURN TO YOUR SEAT)

Defense Attorney #3: Please state your name for the court.

Amanda Gentry: I am Amanda Gentry.

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

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

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

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

Defense Attorney #3: Did Ima fasten her belt?



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

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

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

Prosecuting Attorney #3: (STAND) 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. (SIT DOWN)

Judge: (LOOK AT THE WITNESS) The witness is excused. (LOOK AT THE PROSECUTION) Does the defense have any further witnesses?

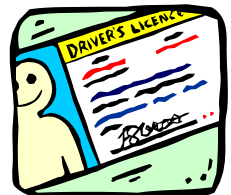
Defense Attorney #2: (STAND) Yes, Your Honor, we'd like to call Cynthia Champion to the stand.


Bailiff: (APPROACH THE WITNESS) 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?

Cynthia Champion: I do.

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

Cynthia Champion: My name is Cindy Champion, and I am the Harmony High School basketball coach and a driver education instructor.





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

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

Defense Attorney #2: Was he a good student?

Cynthia Champion: 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 Champion: 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 Champion: 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 Champion: 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 Champion: 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. (SIT DOWN)





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

Prosecuting Attorney #2: (STAND) 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 bucked up properly, wouldn't you?

Cynthia Champion: 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: But it is still the driver's responsibility, isn't it, Ms. Champion?

Cynthia Champion: Yes.

Prosecuting Attorney #2: I have no further questions, Your Honor. (SIT DOWN)

Judge: (LOOK AT THE WITNESS) The witness is excused. Does the defense have any further witnesses?

Defense Attorney #1: (STAND) Your Honor, the defense calls the defendant, Sam Smart, to the stand.

Sam Smart: (MOVE TO THE WITNESS STAND AND BE SWORN IN BY BAILIFF)

Bailiff: (APPROACH THE WITNESS) 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: 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 brakes, 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. (SIT DOWN)

Judge: Are there any cross-examine questions for this witness?

Prosecuting Attorney #1: (STAND) 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. (SIT DOWN)

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: (STAND) 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 the fine of \$200 plus court costs. (SIT DOWN)



Judge:

Defense, do you have a closing argument?

Defense Attorney #2:

(STAND) 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? Yet, he is being held responsible for some obscure safety belt law. Did any of you know about that law? I seriously doubt it. How can you hold this fine young man responsible for knowing something that most people are not aware of? I'm sure you will agree, members of the jury, that Sam Smart should not be fined because Ima Duncan should have known how to wear a safety belt. She should not have put the shoulder belt behind her. If anyone should pay a fine, it should be Ima Duncan. Thank you. (SIT DOWN)

Judge:

(LOOK AT THE JURY) 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:

(LEAD THE JURY TO THE JURY ROOM)

Jury:

(FOLLOW THE BAILFF TO THE JURY ROOM)





Jury: (RETURN TO THE JURY BOX)

Judge: Members of the jury, have you reached a verdict?

Presiding Juror: Yes, Your Honor.

Judge: Please read the verdict.

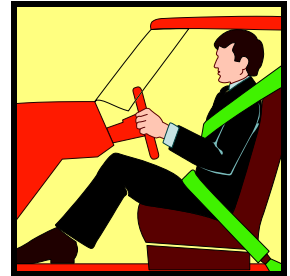
Presiding Juror: We find the defendant, Sam Smart, **GUILTY/NOT GUILTY** of violating Texas Transportation Section Code 545.413.

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. 02SC395. *Carlson v. Ferris. Safety Belt Use Requirements—Statutory Interpretation -*

Failure to Mitigate by Nonuse of Safety Belt.

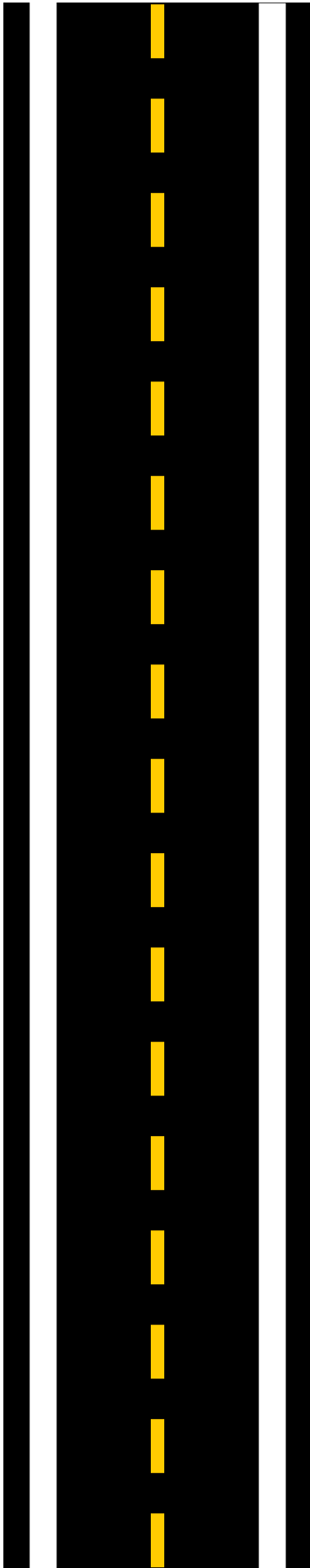


Leslyn Carlson filed suit against Kimberley Ferris after the two were involved in an automobile crash. At the time of the crash, the driver's seat of Carlson's vehicle was equipped both with a shoulder belt and a separate lap belt. Carlson indicated that she was wearing the shoulder belt, but not the lap belt, at the 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 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 the shoulder belt in order to comply with the law. Unlike the Court of Appeals, the 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 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 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 wear both the lap and the shoulder belt.

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

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LEVELTWO



Driving on the Right Side of the Road

LEVEL TWO

Get a Grip on Court Vocabulary Level Two-3

Steps in a Criminal Trial Level Two-9

State of Texas v. Junior Level Two-19

*Note these resources are for educational purposes and are based generally on laws and procedures in Texas. For the purposes of this exercise procedures have been modified for the appropriate age group.

GET A GRIP ON COURT VOCABULARY

Learning Objectives: Students will

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


TEKS: SS 6.21C, 7.22A, 8.29B, 8.30A; W. Hist. 30A; Govt. 13E, 21.A; Special Topics 3B

Materials Needed: Handout of steering wheel

Vocabulary: See Attachment 1

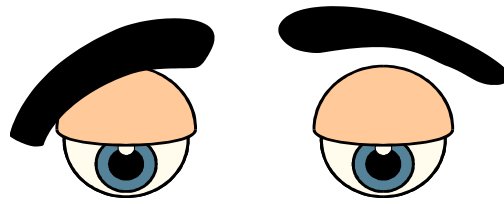
Teaching Strategy:

1. Explain to students that they will be participating in a lesson on basic courtroom vocabulary.
2. Give students the list of the vocabulary words on Attachment 1.
3. Give each student the steering wheel handout/diagram (Attachment 2).
3. Divide the class into groups of four to six.
4. Explain to the students how to properly fill in each wheel.
 - A. Show students a transparency of the blank wheel graphic (Attachment 2).
 - B. Student groups should organize themselves into circles.
 - C. Explain to students that each will receive a steering wheel with a vocabulary word.
 - D. Student should look up the words in their books or a dictionary and write the definition in the part of the wheel that says "definition."
 - E. Then students will pass their wheels to the student to their left.
 - F. Student will now look at the definition of the word that has been handed to them and use that word in a meaningful sentence. That student will put that sentence in the part of the wheel marked "Use in a sentence." Stress to the students that the sentence must convey the contextual meaning of the vocabulary word.
 - G. Then students will pass the wheel to the student to their left.
 - H. This student will draw a picture that represents that word in the section of the wheel marked "draw a picture." This picture does not need to be an actual representation but can also be an icon for this word.
 - I. The students then pass the wheel to the student to their left.

- 
- J. This student will now look at the word, the definition, the picture or icon of the word, and will act the word out, such as using sign language (ASL). An example of this would be the word “crime” represented by the forearms crossed in front of the student in the shape of an “X.” Be on the lookout for inappropriate gestures. Students should draw or write a description of the acted out word in the part of the wheel marked “act it out.”
 - K. Each student in the group should now teach his or her group the signal for the word. The group should be ready to share its wheel with the entire class.
 - L. Student groups will now present their wheels to the class, with the definition, the word used in a meaningful sentence, the pictorial representation of the word, and the sign language that represents the word.
5. The teacher should check each definition and sentence for accuracy as groups complete them (see “Legal Terms,” Attachment 1).

As a class, go over any definitions with which groups had difficulties and award small prizes (such as peppermints) to the group that has the most creative sign language for their terms.

NOTE: The teacher could use one wheel each day as an anticipatory set for the next day’s presentation of words/terms.



LEGAL TERMS

Acquittal

Affidavit

Bailiff

Bench trial

Burden of proof

Charge to the jury

City ordinance

Class C misdemeanor

Closing arguments

Contempt of court:

Counsel

Court clerk

Crime

Criminal case

Cross-examination

Defendant

Defense attorney

Direct examination

Evidence

Felony

Judge

Judicial branch

Juror

Misdemeanor

Motion

Municipal courts

Not guilty

Objection

Opening statement

Overrule

Perjury

Prosecutor

Reasonable doubt

Rebuttal

Subpoena

Sustain

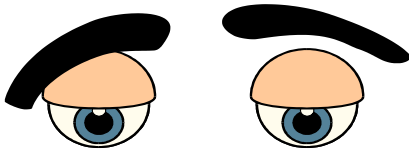
Summons

Testimony

Verdict

Voir dire

Witness



LEGAL TERMS 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

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 all future such acts to be illegal

Criminal case—A case in which someone is charged in court 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 in court

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

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 that hear violations of city ordinances and Class C misdemeanors that occur within the city limits

Not guilty—The determination in a criminal case for the defendant; not enough proof to find the defendant committed the crime

Objection—When an attorney for one side feels the other attorney has violated a rule of evidence

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

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

Reasonable doubt—The degree of proof required for a determination of guilt in a criminal trial

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

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

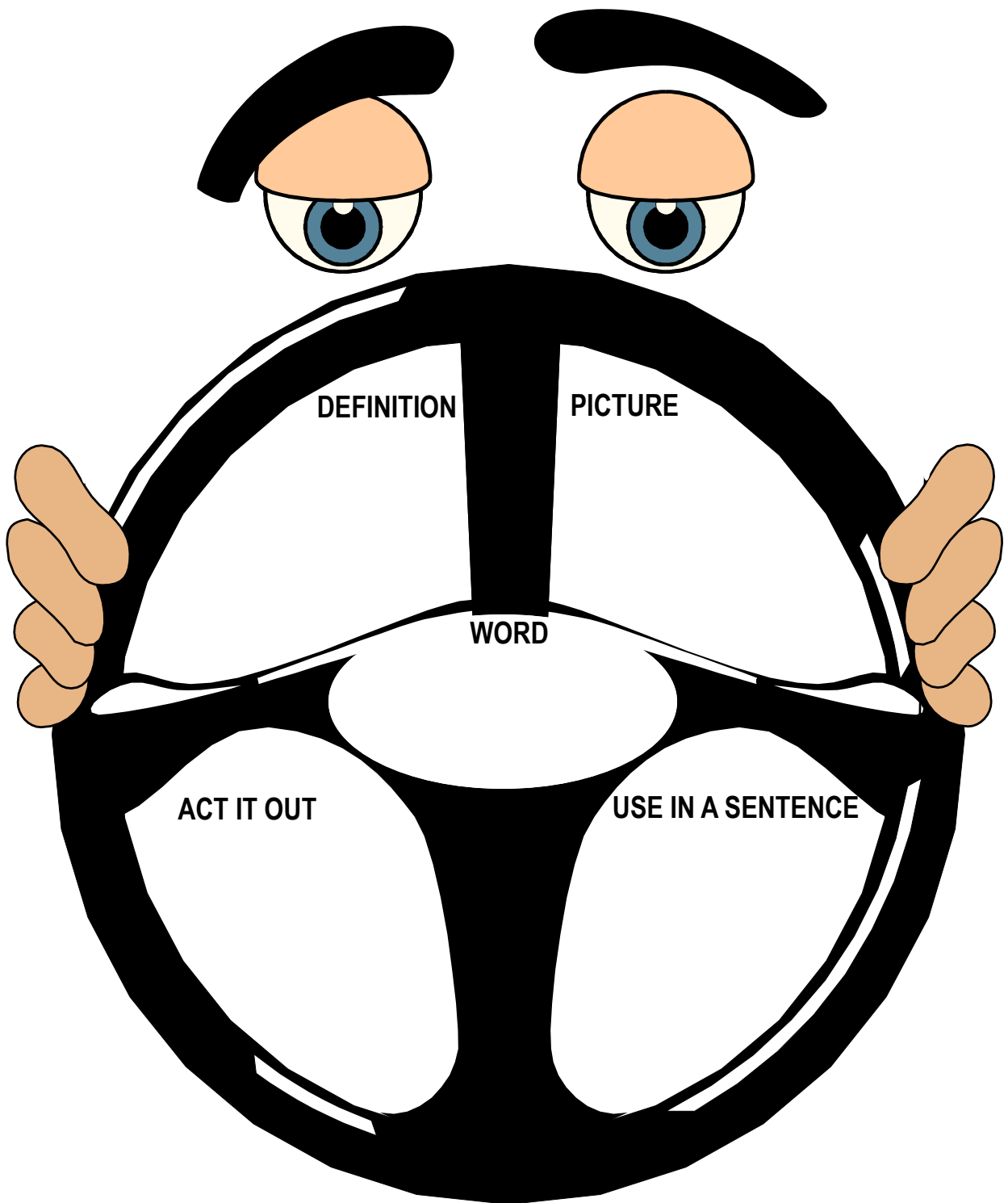
Summons—An order to serve as a potential juror in court

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



STEPS IN A CRIMINAL TRIAL

Learning Objectives: Students will

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

TEKS: ELA & R 3.8A, 4.13A, 5.13A, 7.12, 8.12; Govt. 1F, 8C

Materials Needed: Five or six sets of “Steps in a Trial” footsteps (Handout 1) cut out, “Steps in a Trial” (Transparency 2).


Vocabulary: prosecuting, opening statement, defense attorney, direct examination, cross-examination, defendant, rebuttal

Vocabulary:

1. Opening Statement—the attorneys from both sides introduce themselves, inform the jury about the facts, issues and evidence of the case, and ask for the verdict they want.
2. Direct Examination—the questioning of witness by the attorney who called the witness to testify.
3. Cross-Examination—when the opposing attorneys question witnesses.
4. Closing Argument—the attorneys from both sides speak to the jury, emphasizing the strengths of their case and try to persuade them that they have proven their side of the case.
5. Rebuttal—an additional argument given by the prosecution after the defense has presented its closing argument.
6. Verdict—the decision made by a judge or jury during a criminal trial.

Teaching Strategy:

1. Have the class brainstorm the various steps in a trial. The teacher should record responses on the chalkboard 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 (Attachment 1). 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 order of the steps in a trial is as follows:
 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

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 court.

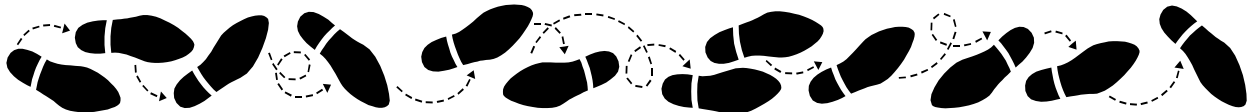


STEPS IN A TRIAL



Bailiff/Clerk
opens the
court session.

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



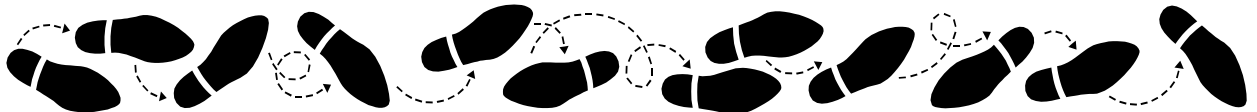


STEPS IN A TRIAL



Prosecuting attorney makes an opening statement.

Defense attorney makes an opening statement.



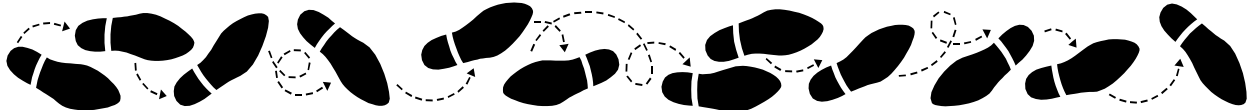


STEPS IN A TRIAL



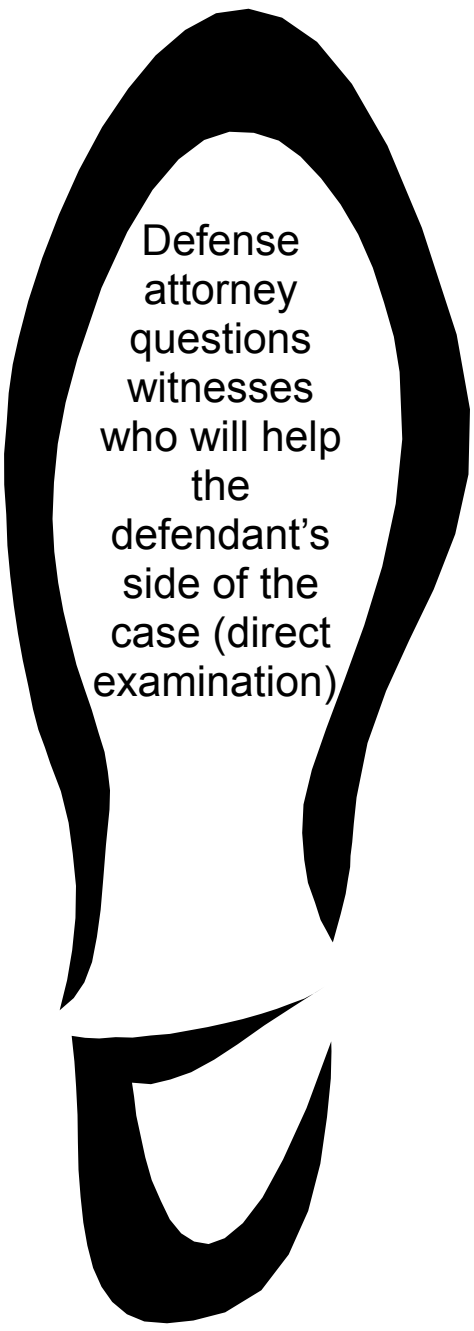
Prosecuting attorney questions witnesses that will help its side of the case (direct examination).

Defense attorney cross-examines witnesses for the prosecution.

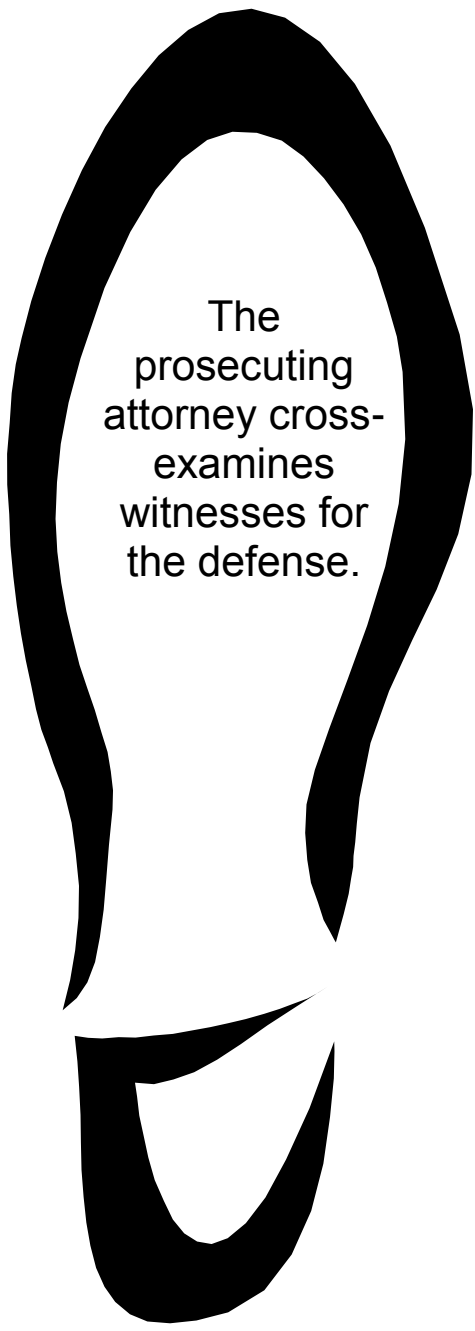




STEPS IN A TRIAL



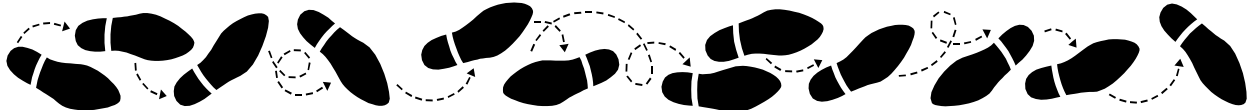
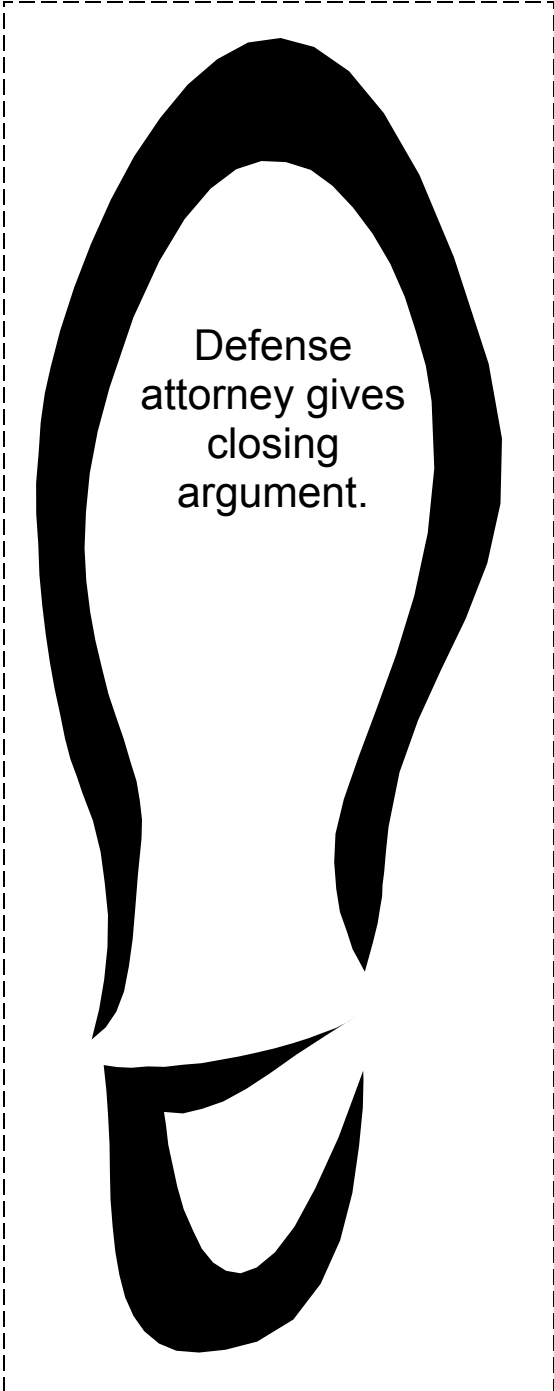
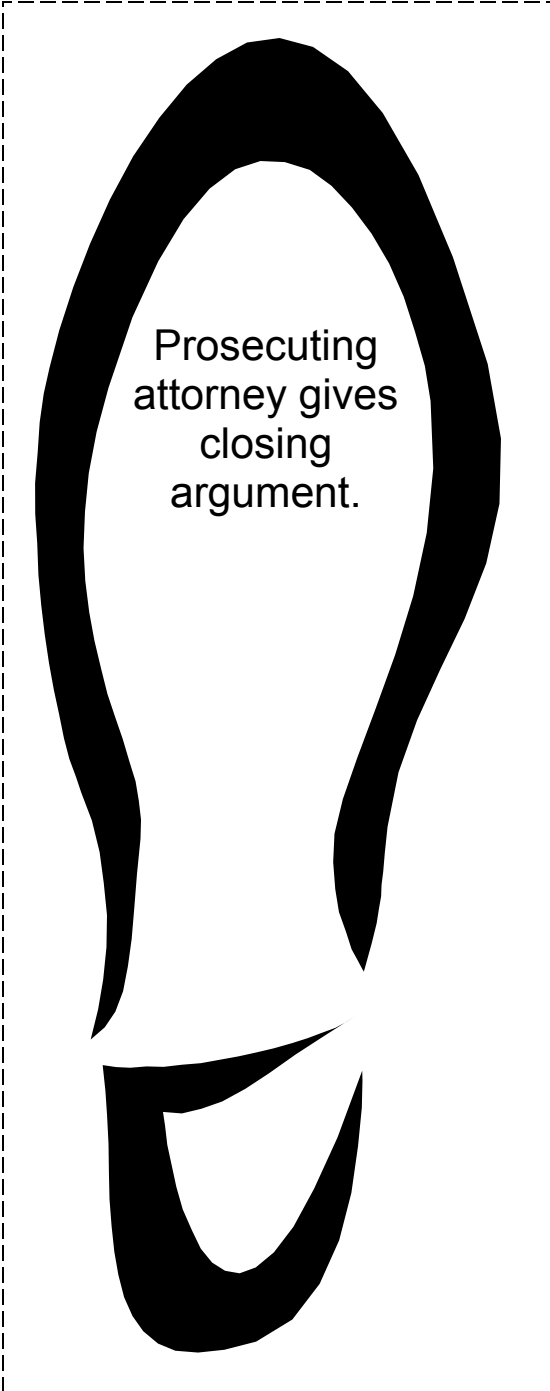
Defense attorney questions witnesses who will help the defendant's side of the case (direct examination)



The prosecuting attorney cross-examines witnesses for the defense.



STEPS IN A TRIAL



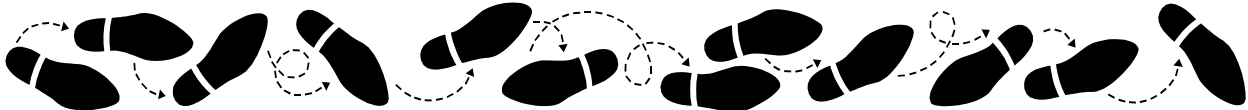


STEPS IN A TRIAL



Prosecuting attorney gives a rebuttal. (optional)

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



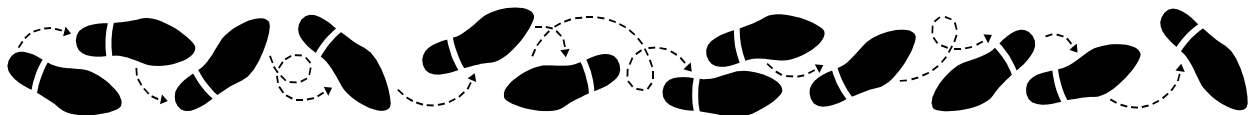


STEPS IN A TRIAL



The jury
decides the
verdict.

The decision is
announced in
court.



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, 8.29B,F; US Hist. 23A, 29B,F; Govt. 13A,B,E, 14C, 20.A; Special Topics 2D,F

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

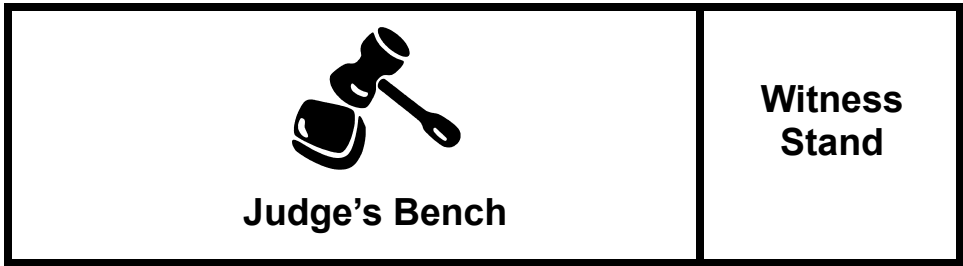
Vocabulary: presiding, prosecutors, witnesses, prosecution, testimony, burden, breathalyzer test, nonresponsive, curfew

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.

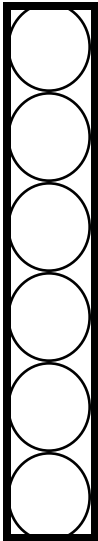
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6. Ask students who read parts in the trial how many voted for the side they represented. Discuss courtroom bias and how they related to the parts they played. Ask why they think witnesses are not allowed in the courtroom when other witnesses are on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

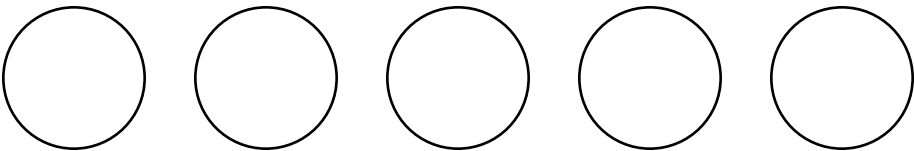
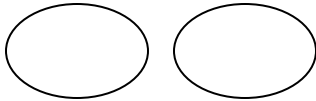
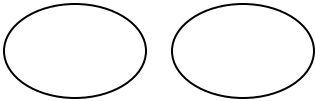
Court Reporter



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.

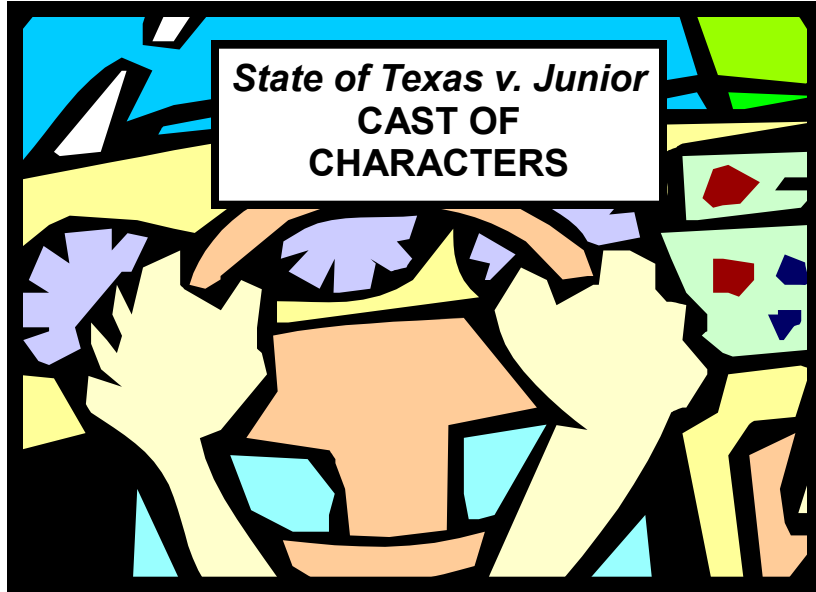
3. Who will be the witnesses for the prosecution?

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:

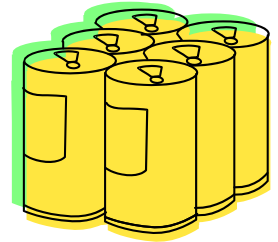
What was the nature of the ticket you issued?

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.

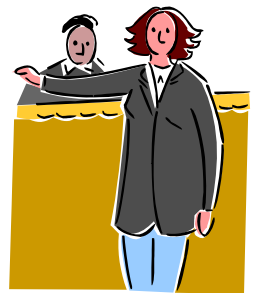
Defense Attorney #2: Is there any other reason you remember that day?

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.”

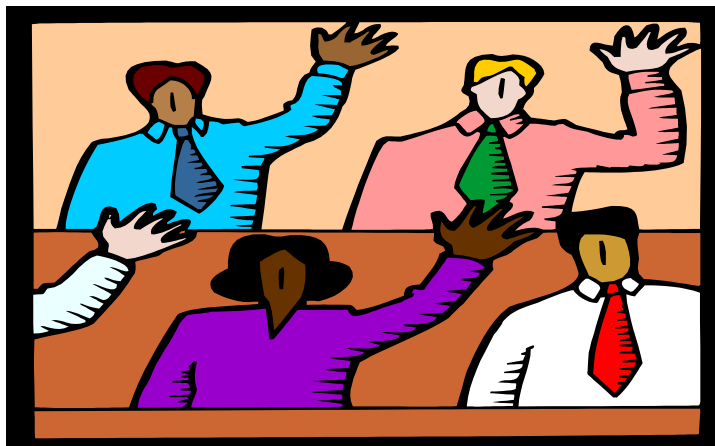
When making your decision, you should think carefully about what each witness said. Where witnesses disagree, you must decide which witness is reliable.

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.

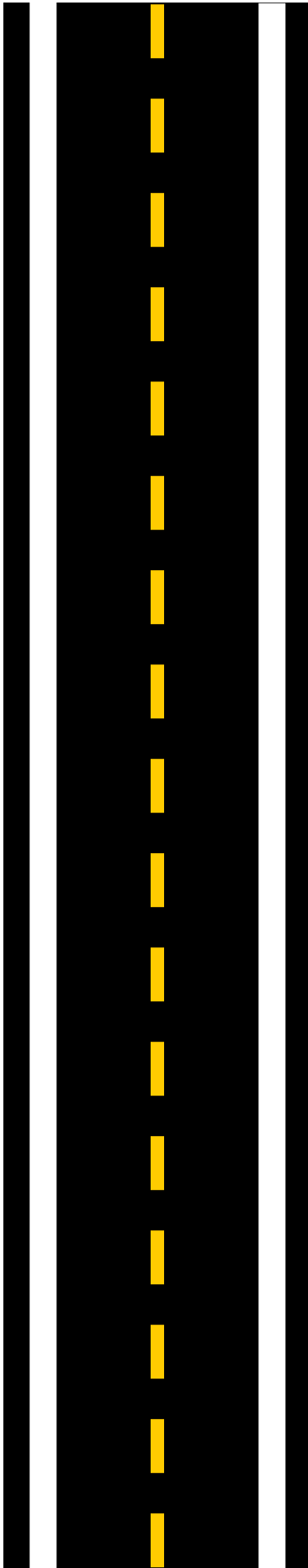
Presiding Juror

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



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LEVEL THREE



Driving on the Right Side of the Road

LEVEL THREE

Rolling Words Level Three-3

Objection Your Honor Level Three-35

State of Texas v. Junior Level Three-42

*Note these resources are for educational purposes and are based generally on laws and procedures in Texas. For the purposes of this exercise procedures have been modified for the appropriate age group.

ROLLING WORDS

Learning Objectives: Students will

1. Recognize basic legal vocabulary regarding municipal courts.
2. Work collaboratively in groups to solve a word puzzle.

TEKS: SS 6.21C, 7.22A, 8.29B, 8.30A; W. Hist. 30.A; Govt. 13E, 21A; Special Topics 3.B

Materials Needed: Puzzles for each group of students

Vocabulary: See Attachment 1

Teaching Strategy:

1. 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.
2. Give students the list of the vocabulary words on Attachment 1 and have them find definitions of each. Hold a class discussion to make sure students understand the terms.
3. Before class, copy and laminate puzzle pieces (Attachment 5), 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 envelopes. Puzzles are progressively more difficult, with #1 being the easiest and #5 the hardest. Make enough of each puzzle for groups of two or three to each have a puzzle of each level. ALL STUDENTS SHOULD START WITH PUZZLE #1. A teacher's key of each puzzle is included as Attachment 4.
3. Divide the class into groups of three students (pairs of students might work better in more advanced classes).
4. Show students a transparency 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. Explain that they must wait until all groups have received their envelopes before opening them. The puzzles contain vocabulary words and their definitions, which students should match.
5. The teacher should check each puzzle for accuracy as groups complete them (see "Legal Terms," Attachment 1).
6. As a class, go over any definitions with which groups had difficulties and award small prizes (such as peppermints) to the group that correctly completes the puzzles in the fastest time.

LEGAL TERMS

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

Subpoena

Cross-examination

Sustain

Defendant

Summons

Defense attorney

Testimony

Direct examination

Verdict

Evidence

Voir dire

Felony

Witness

Judge

LEGAL TERMS Words Defined

Acquittal—A court decision that a person is found 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, brings the jurors in and out of the jury room, seats the jurors in the jury box, and calls the court to order at the beginning of the proceedings

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

Burden of proof—A requirement to prove a disputed fact in court

Charge to the jury—Instructions given to the jury by the judge

City ordinance—A law passed by a city 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, offering a summary of the strengths of his or her case by calling the jury's attention to testimony and persuasive evidence

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 State or federal legislature has made unlawful by passing a statute declaring all future such acts to be illegal

Criminal case—A case in which someone is charged in court 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 in a criminal case



Defense attorney—The attorney representing the defendant

Direct examination—The questioning of witnesses by the attorney who called them 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, including ruling on objections presented by either side during a trial and instructing a jury at the close of a case; in a bench trial, the “trier of fact” who listens equally to both sides and sometimes decides the outcome of a court case

Judicial branch—The branch of State and federal government that interprets the law and resolves legal disputes

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

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 ruling in favor of his or her client

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

Not guilty—The determination in a criminal case for the defendant; not enough proof to find the defendant committed the crime

Objection—When an attorney for one side feels the other attorney has violated a rule of evidence


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

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

Reasonable doubt—The degree of certainty required for a valid determination of the guilt of a criminal defendant



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

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

Summons—An order to serve as a potential juror in court

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

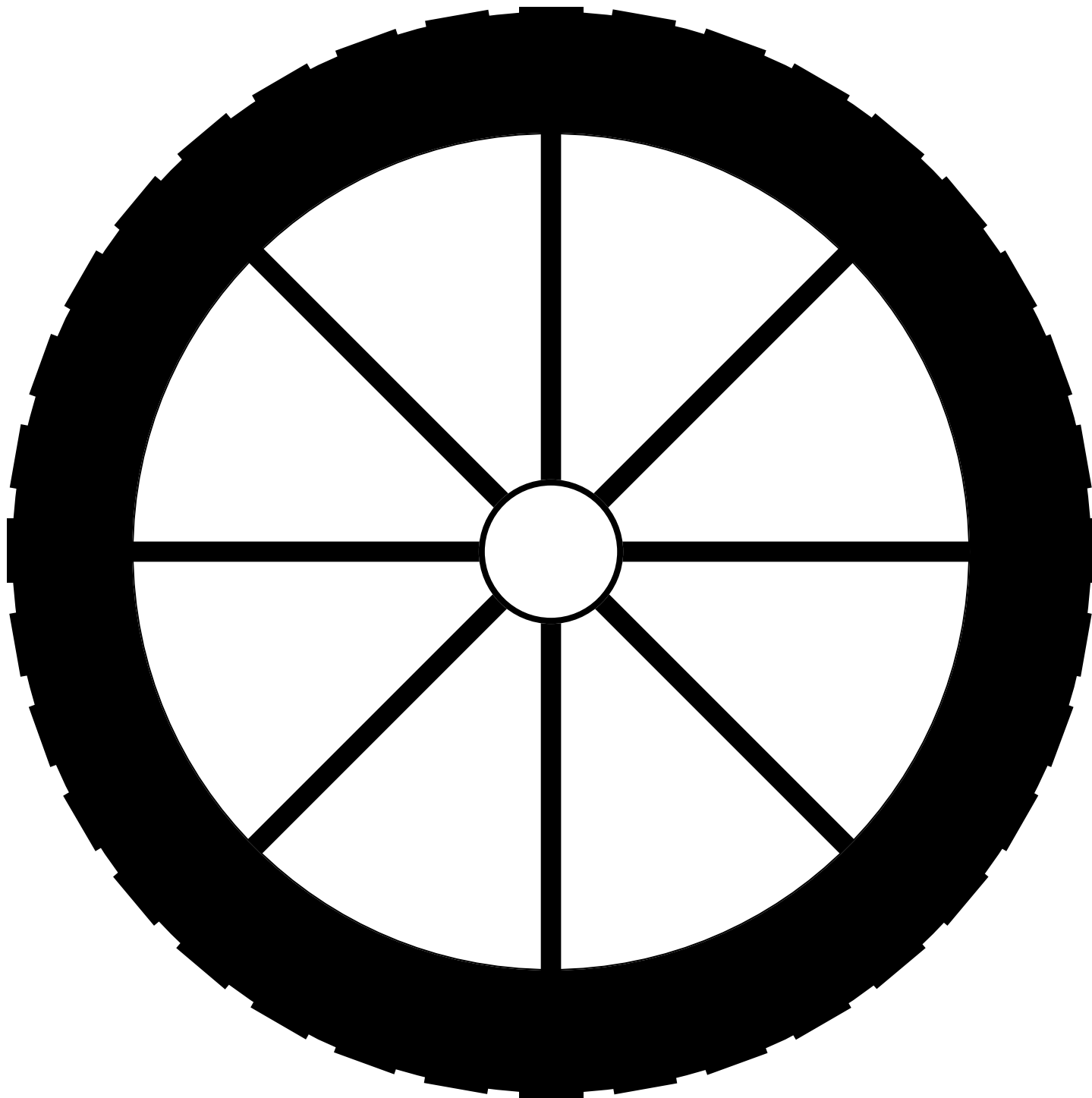
Voir dire—The process of selecting a jury; from a French phrase meaning “to see and to say”

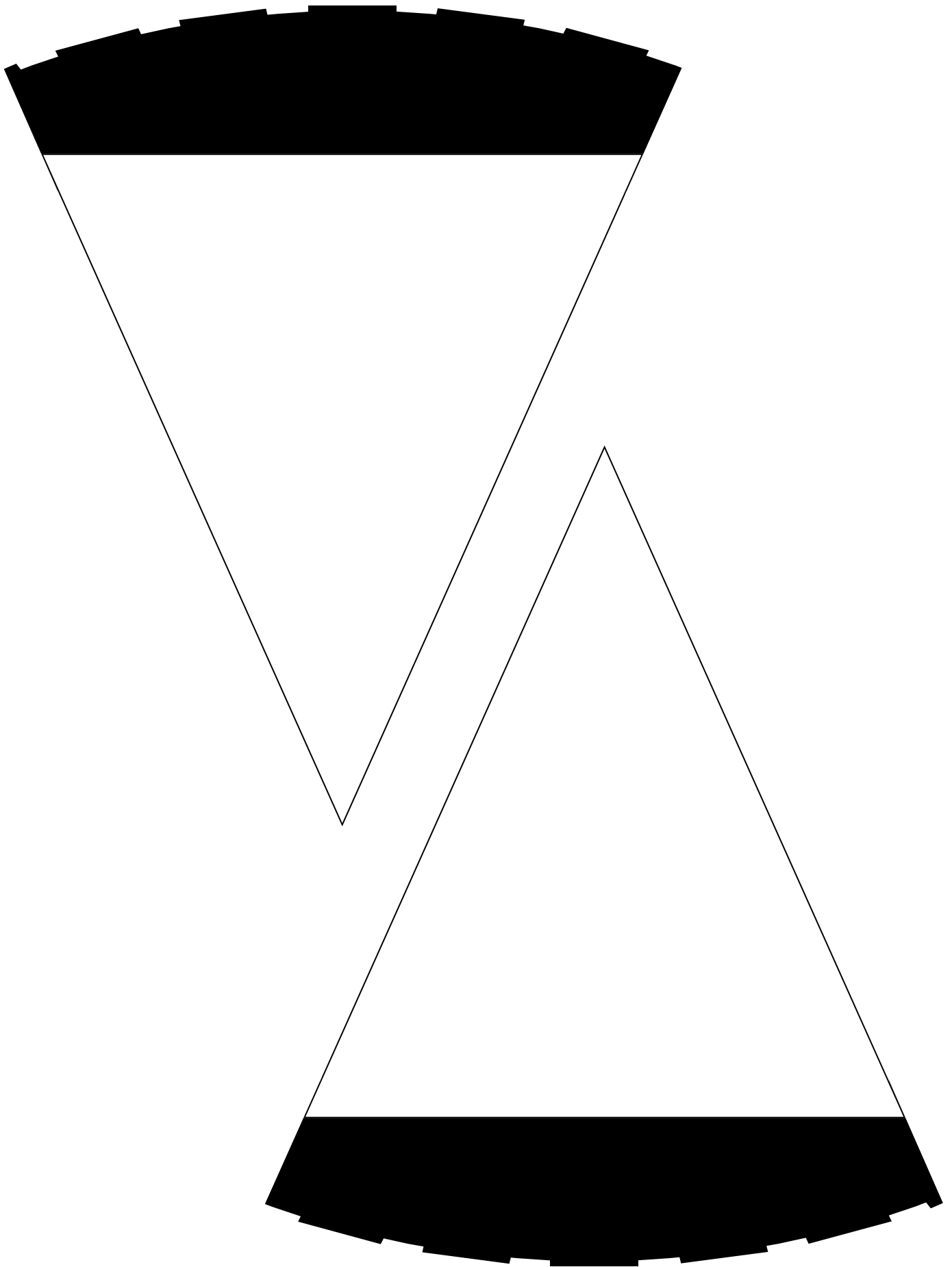
Witness—A person who testifies in court

NOTE: The teacher could use one puzzle each day as an anticipatory set for five days or could do all five in the same class period.



ROLLING WORDS

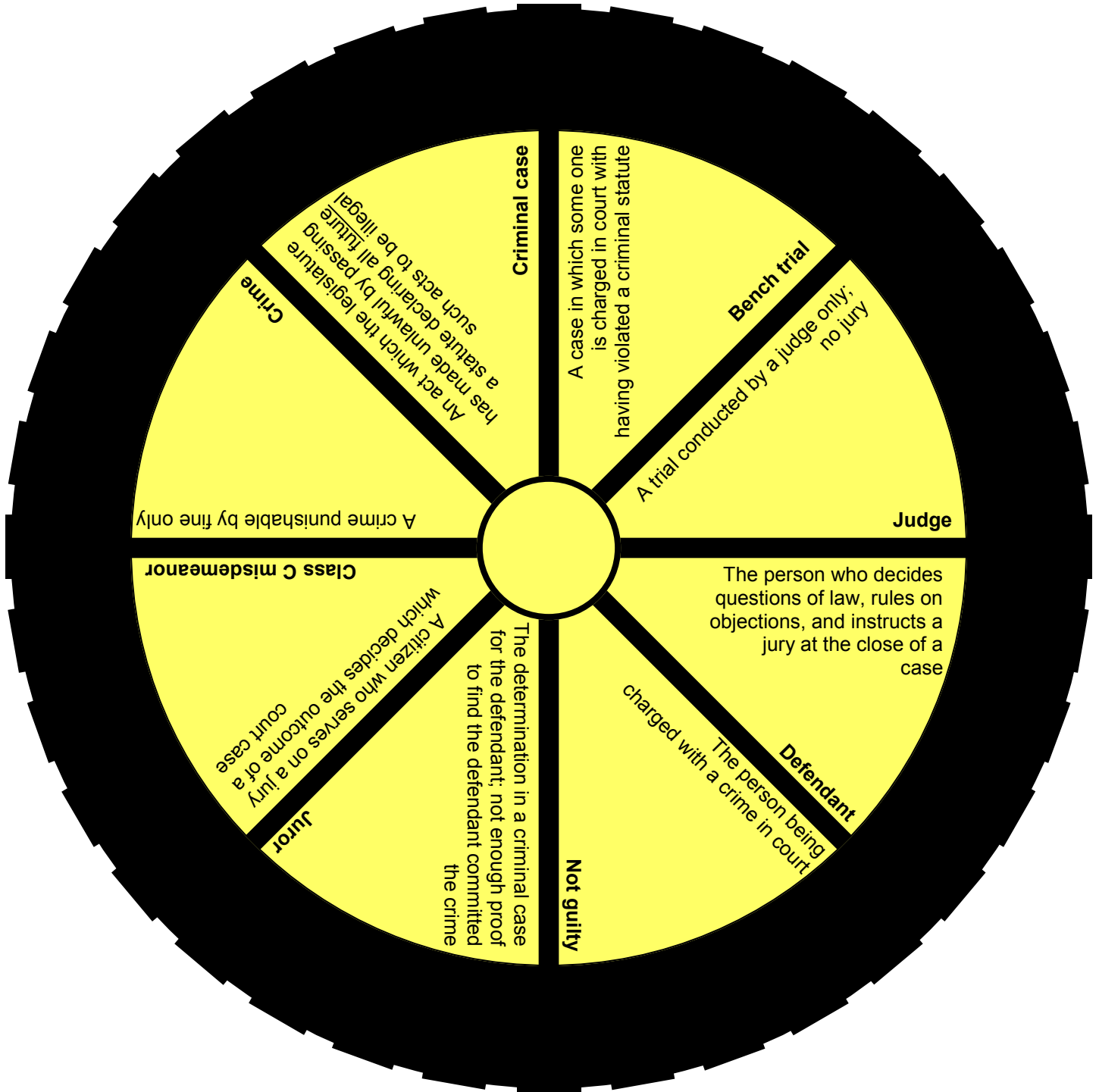




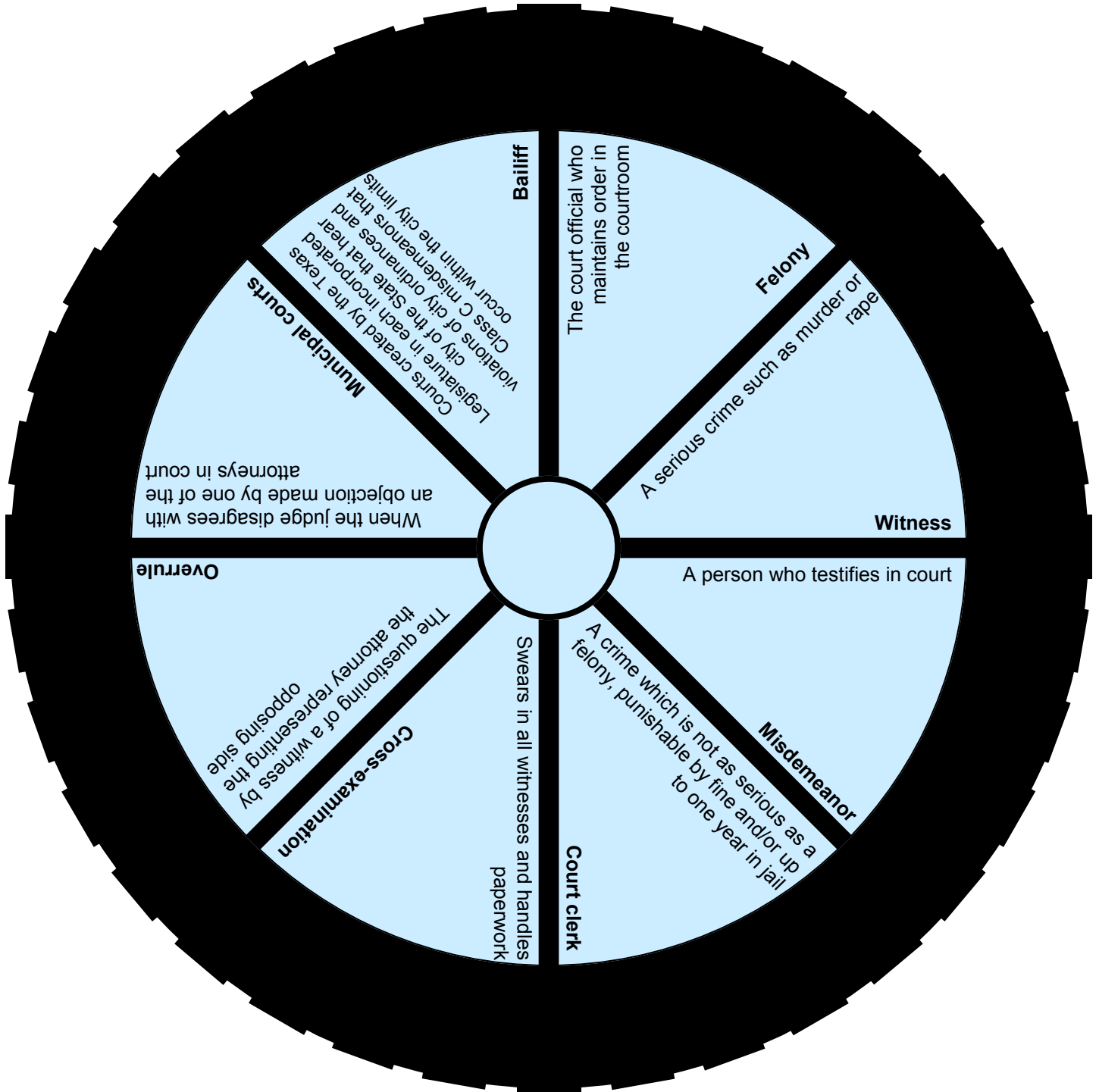
LEVEL THREE-9

Teacher's Key Puzzle #1

ROLLING WORDS



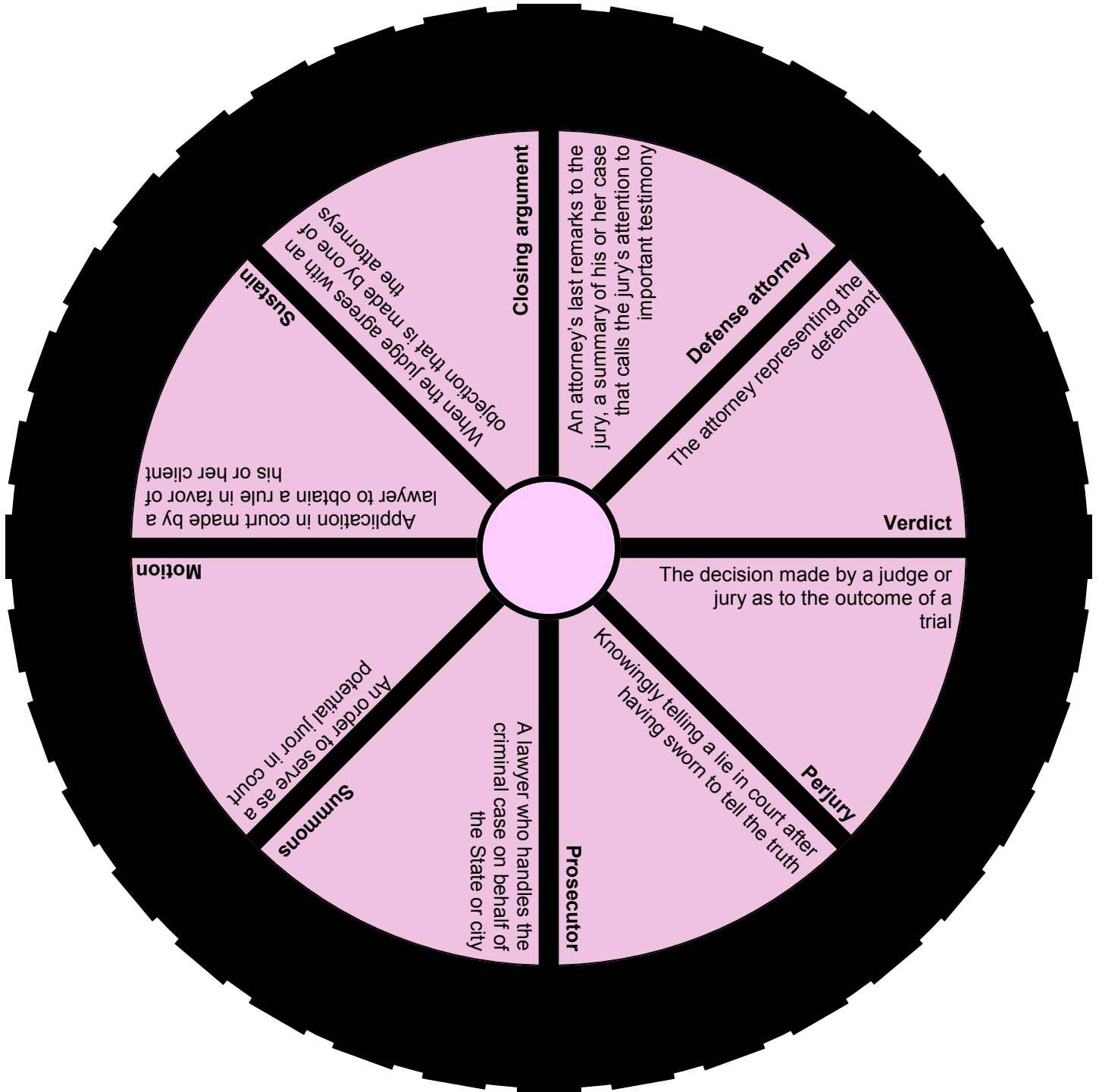
Teacher's Key Puzzle #2 ROLLING WORDS



Teacher's Key Puzzle #3 ROLLING WORDS

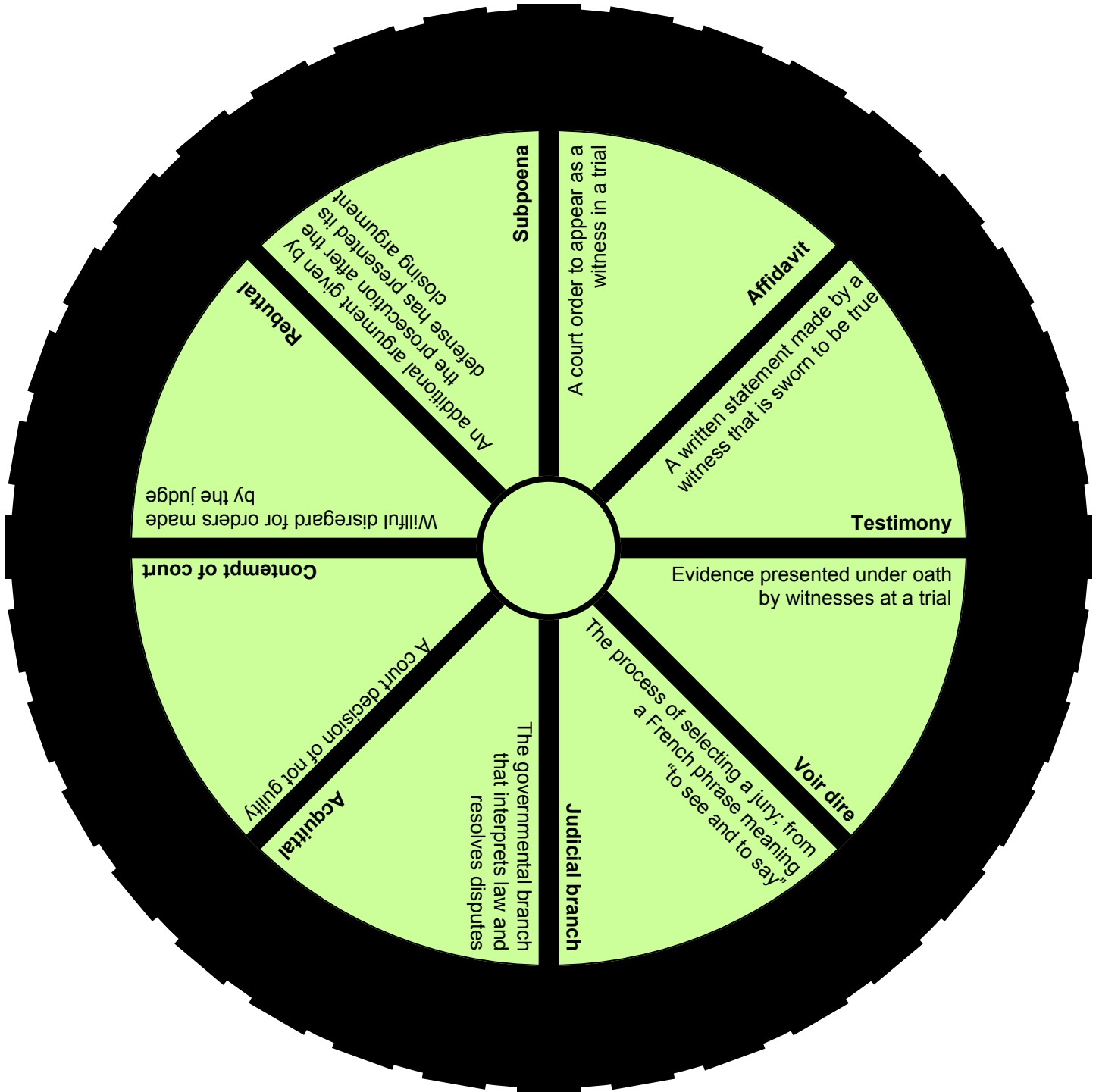


Teacher's Key Puzzle #4 ROLLING WORDS

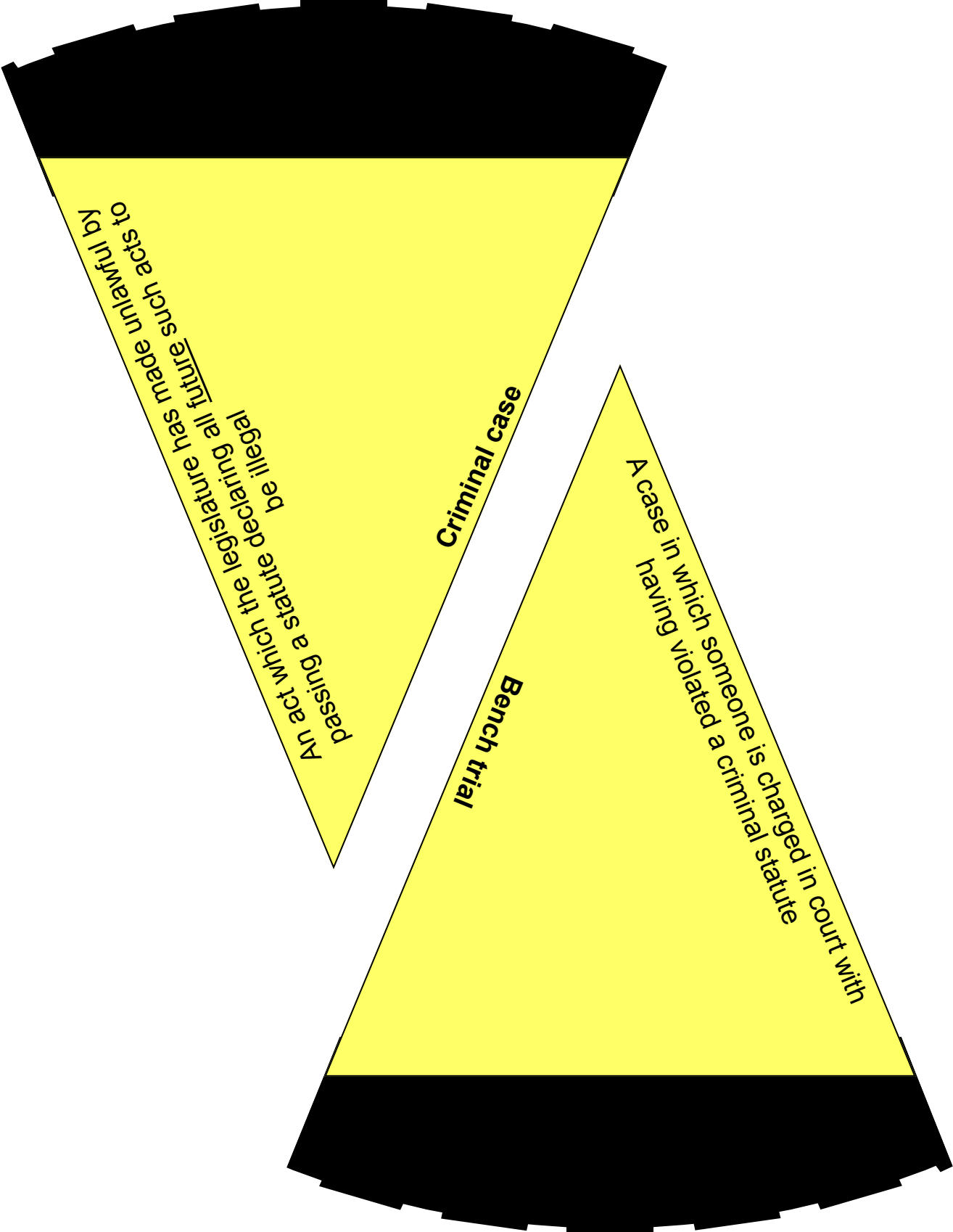


Teacher's Key Puzzle #5

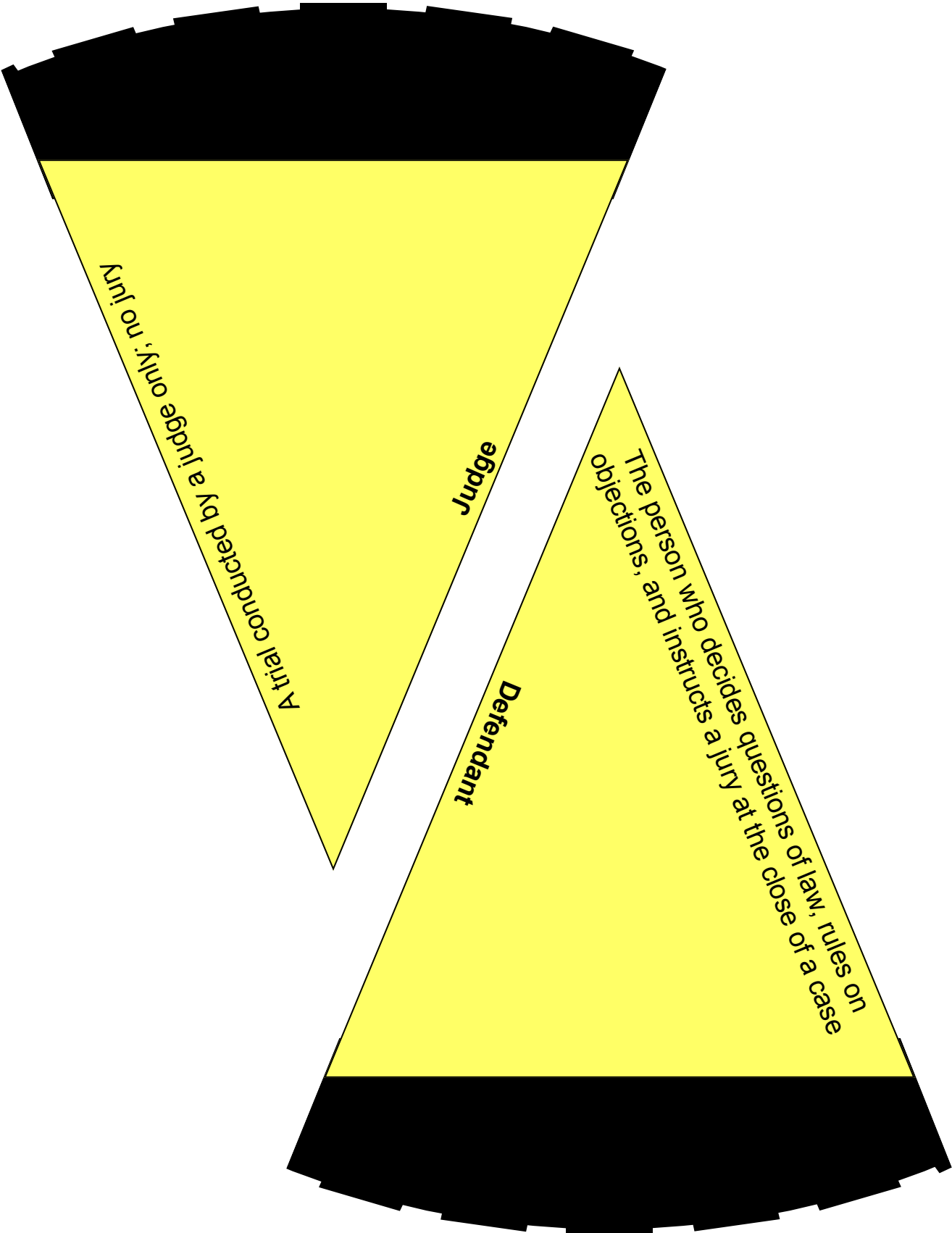
ROLLING WORDS



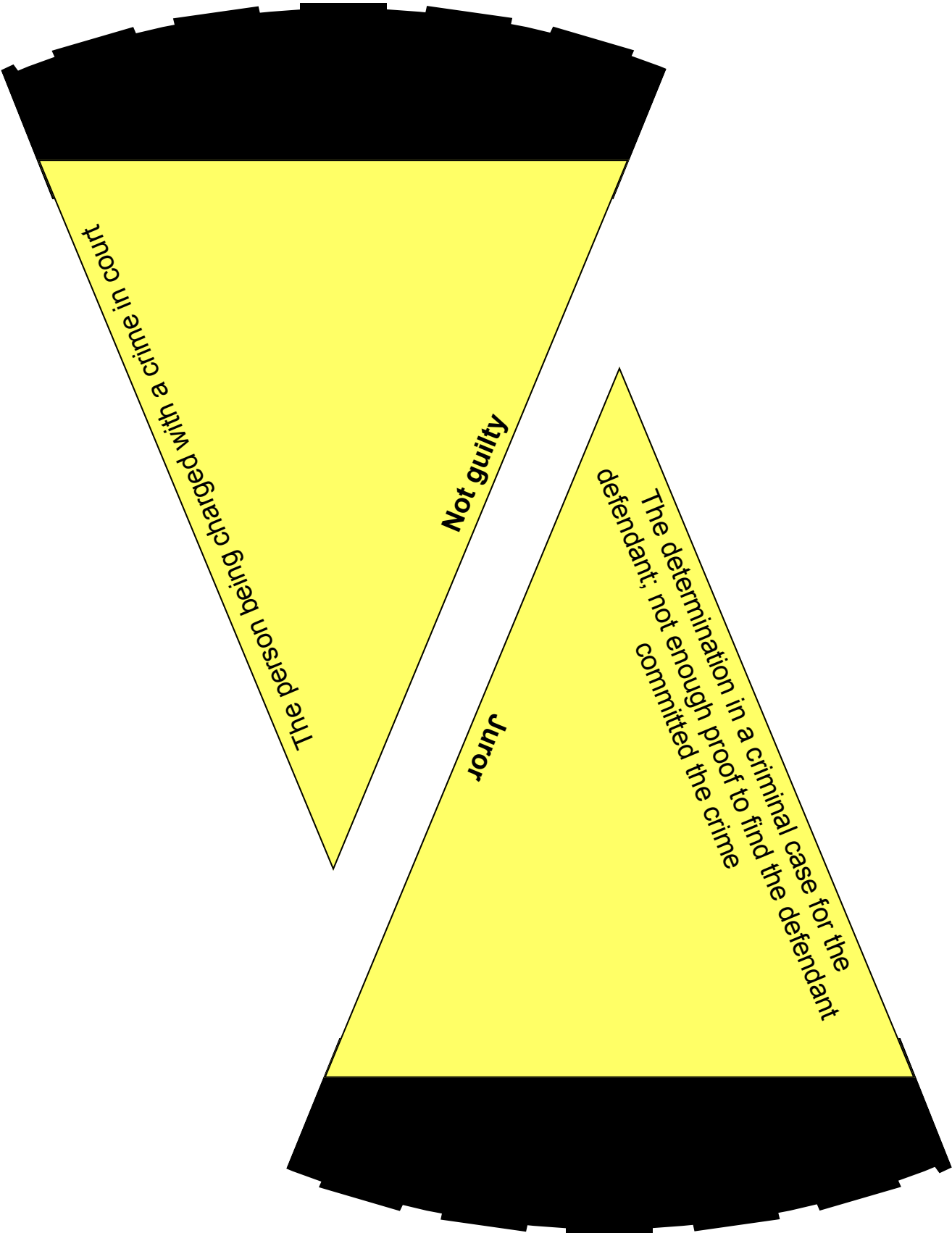
**ROLLING WORDS
Puzzle #1-1**



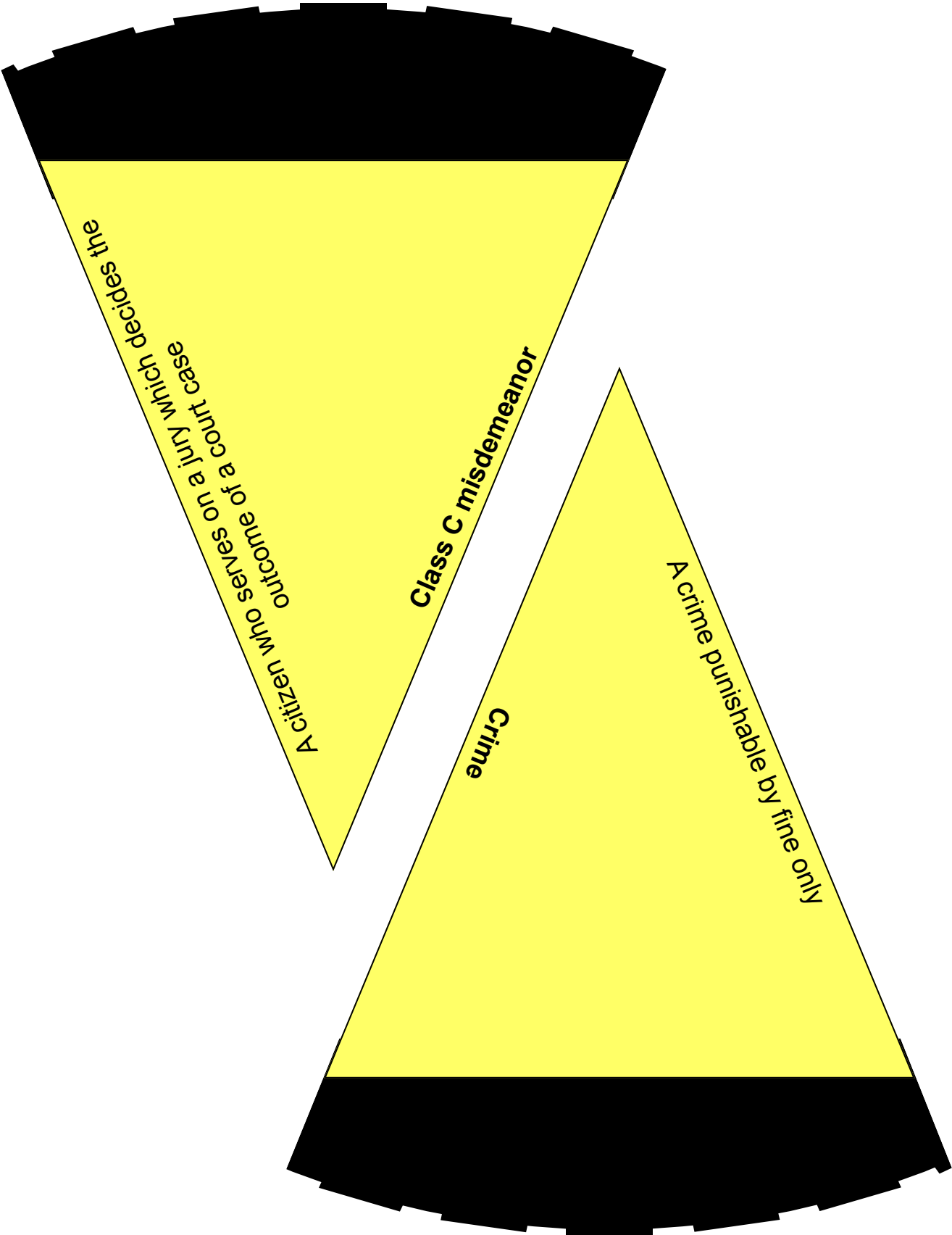
**ROLLING WORDS
Puzzle #1-2**



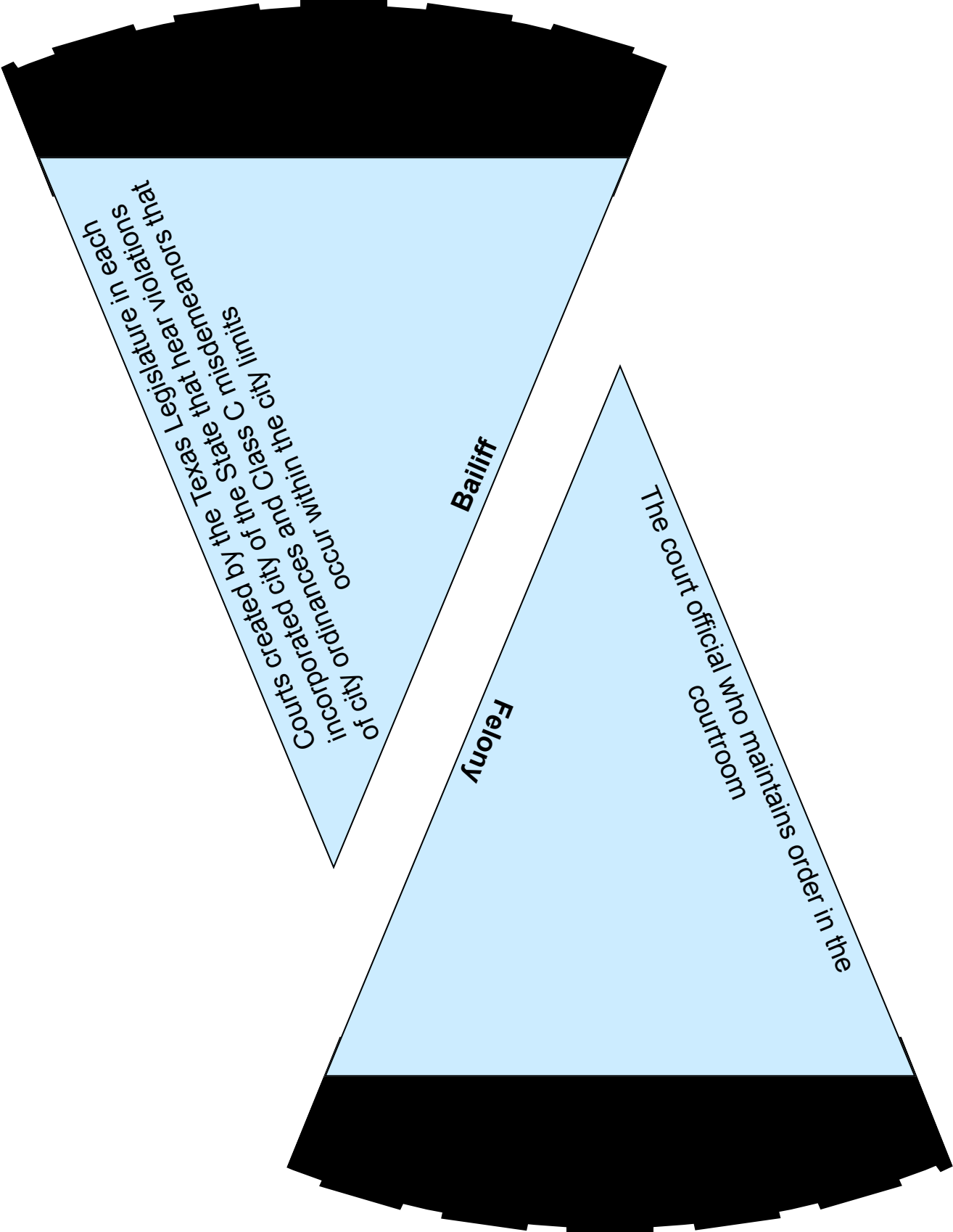
**ROLLING WORDS
Puzzle #1-3**



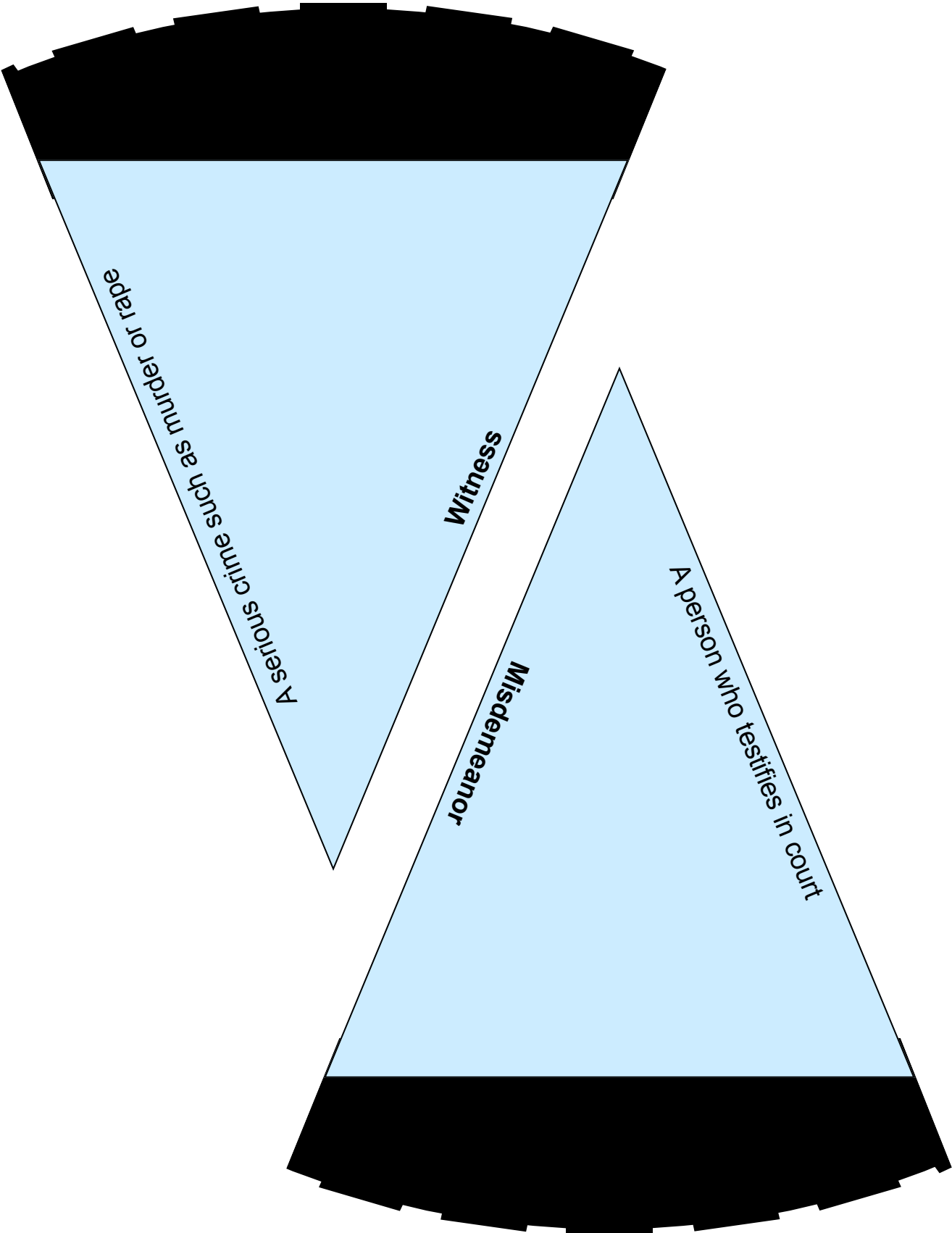
**ROLLING WORDS
Puzzle #1-4**



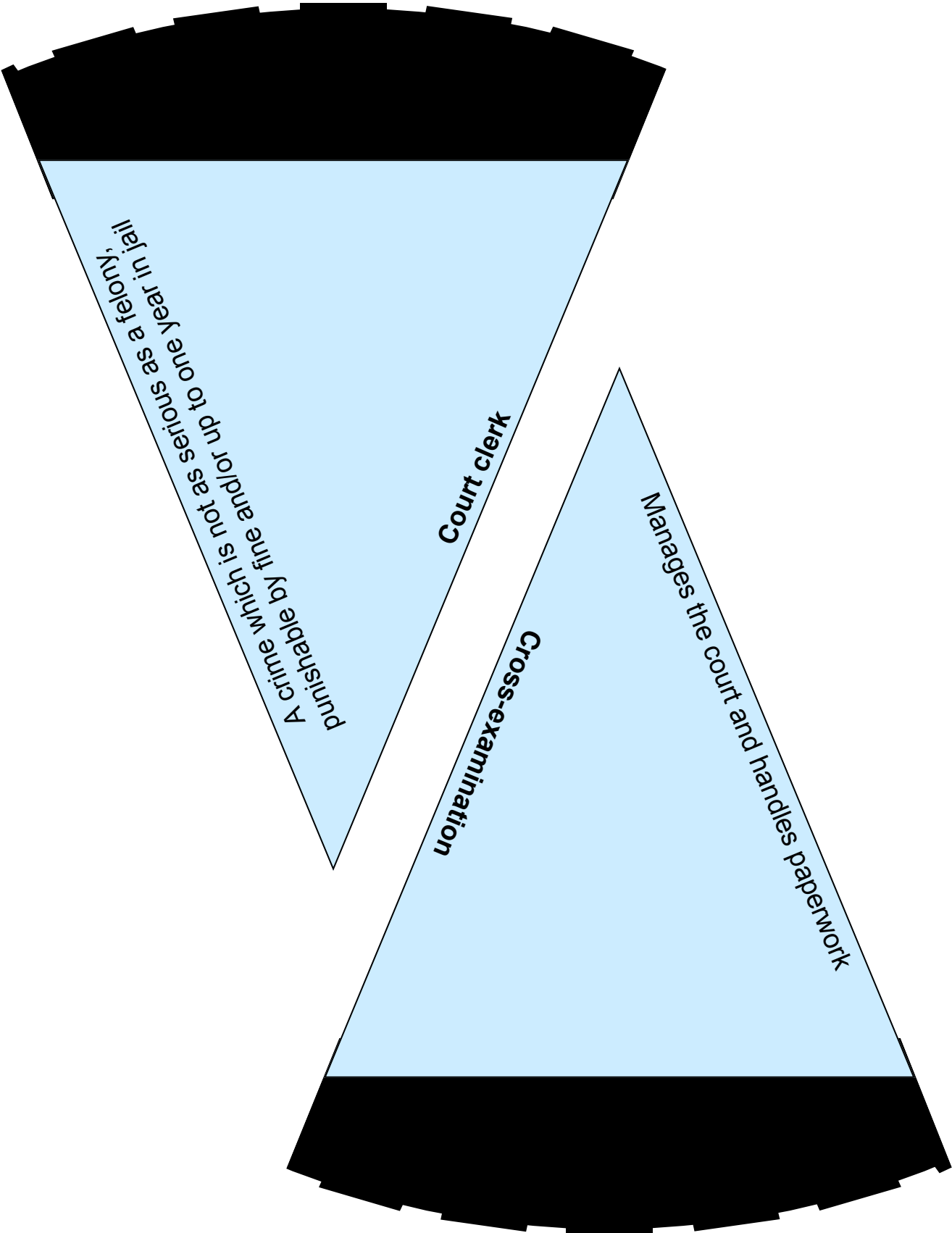
**ROLLING WORDS
Puzzle #2-1**



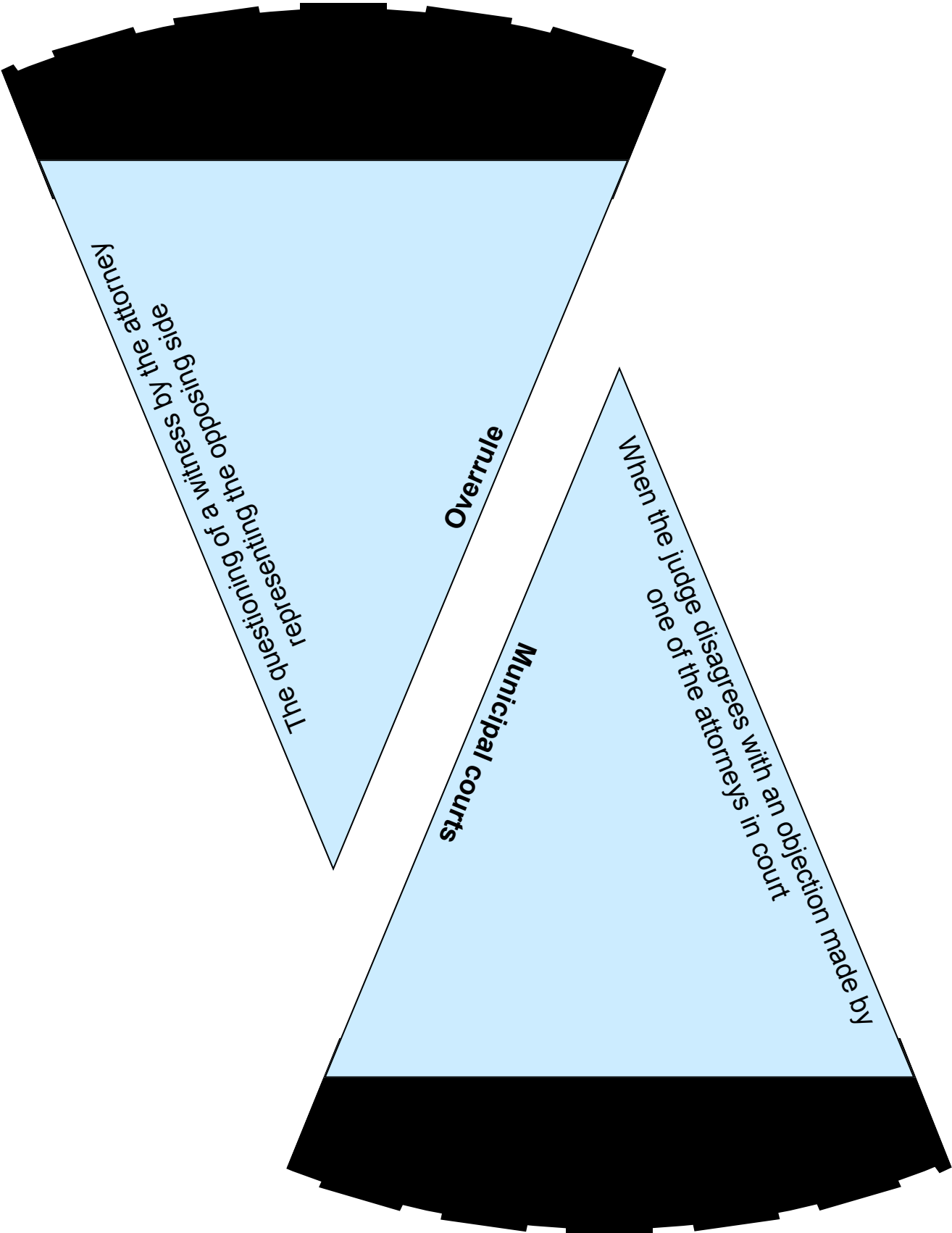
**ROLLING WORDS
Puzzle #2-2**



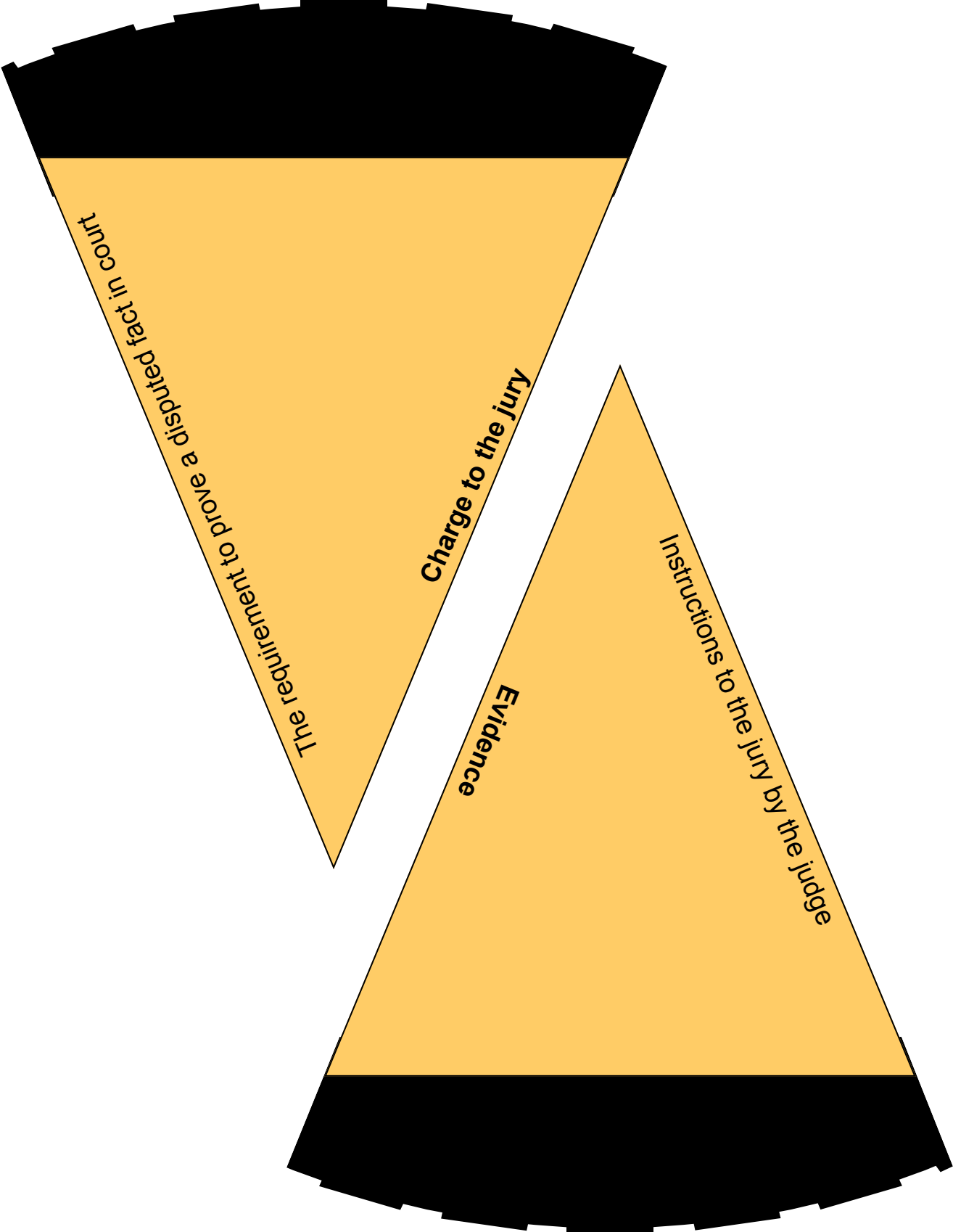
**ROLLING WORDS
Puzzle #2-3**



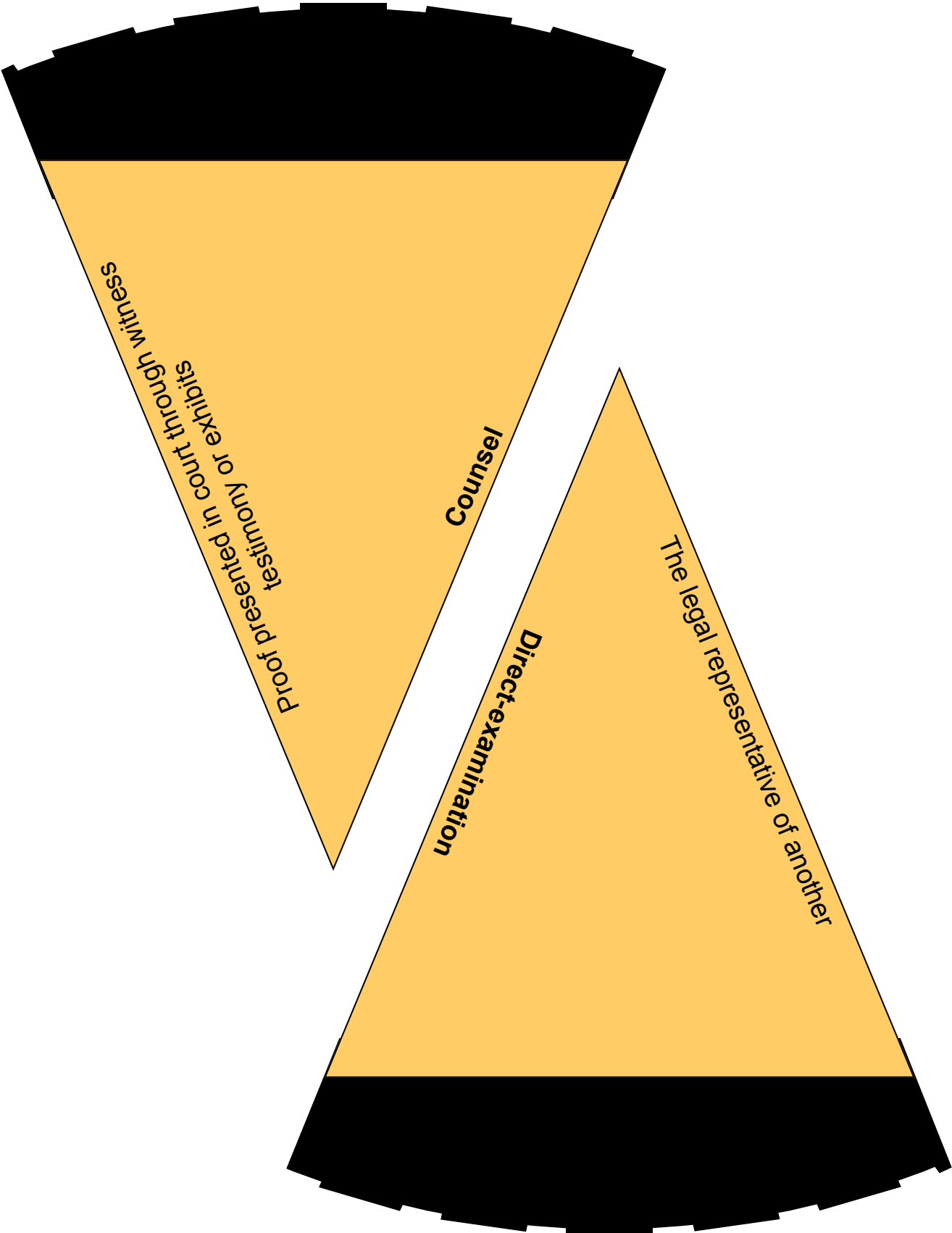
**ROLLING WORDS
Puzzle #2-4**



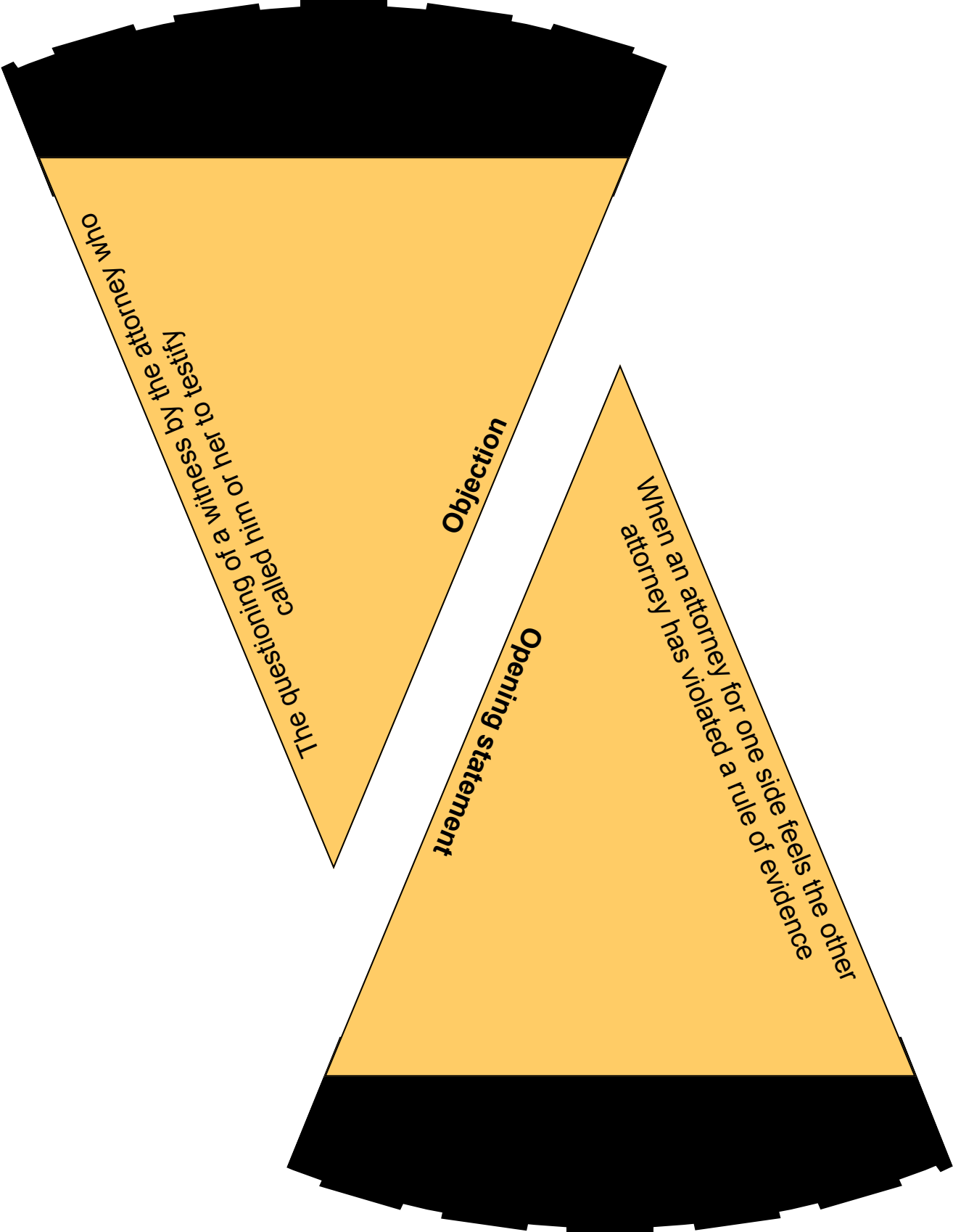
**ROLLING WORDS
Puzzle #3-1**



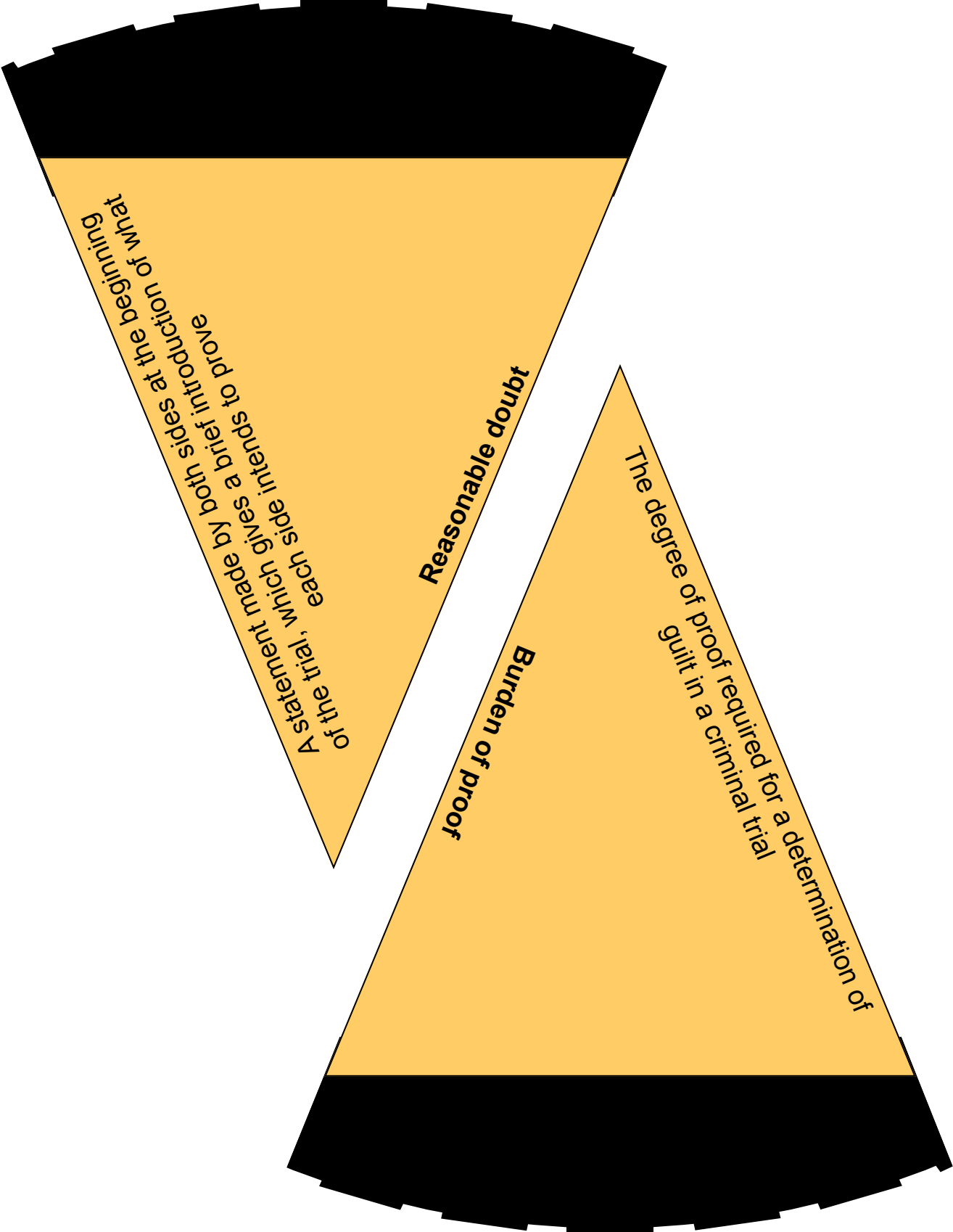
**ROLLING WORDS
Puzzle #3-2**



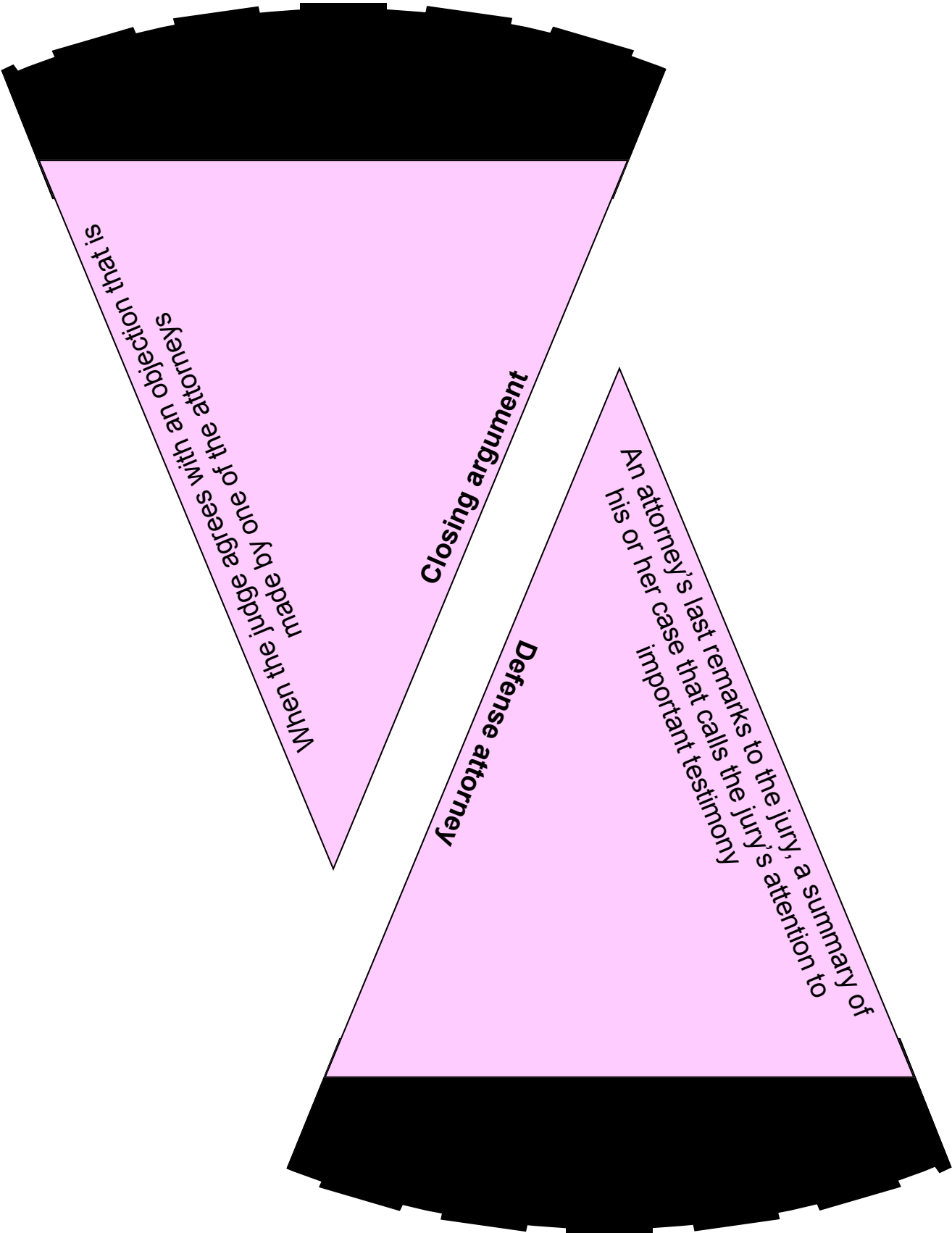
**ROLLING WORDS
Puzzle #3-3**



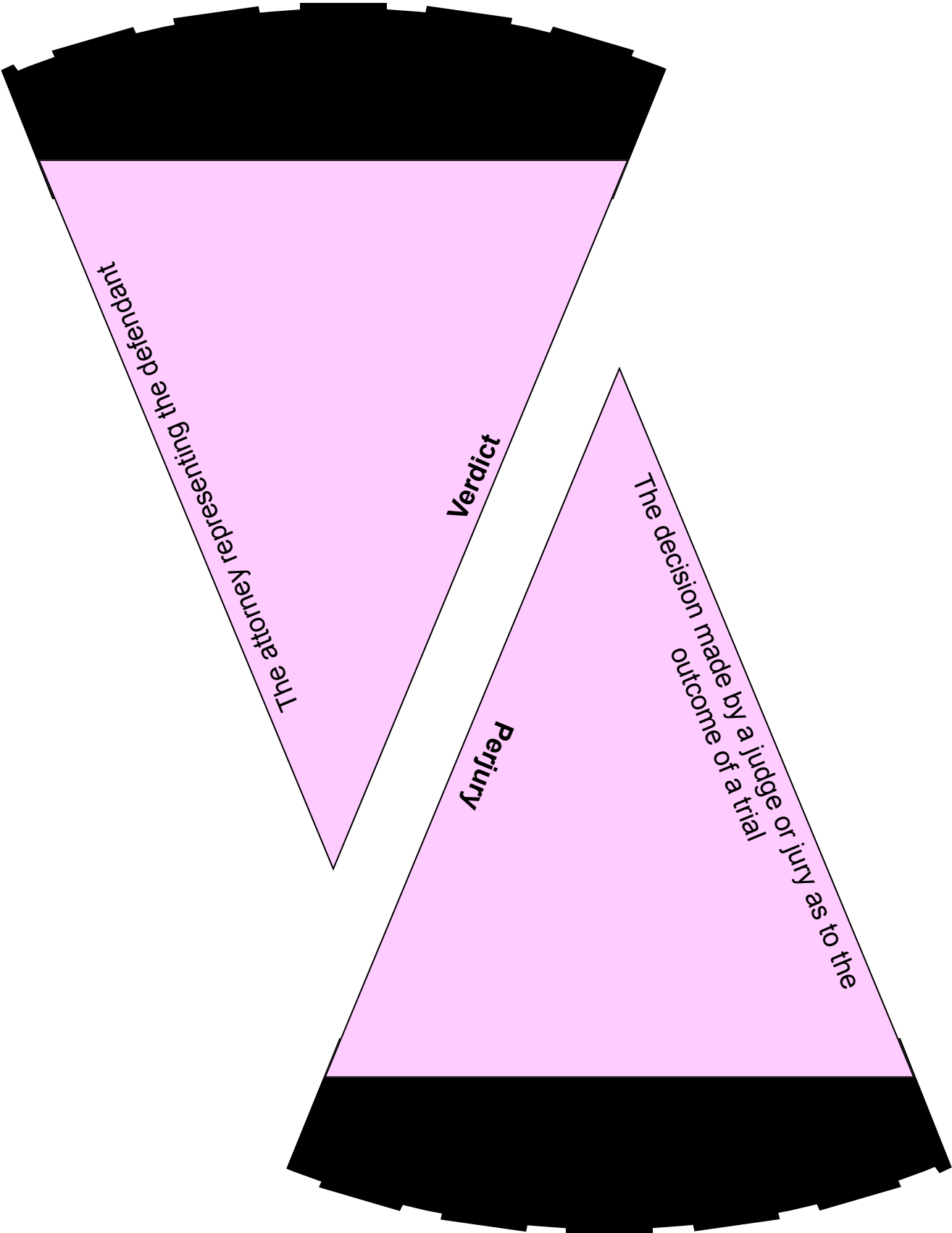
**ROLLING WORDS
Puzzle #3-4**



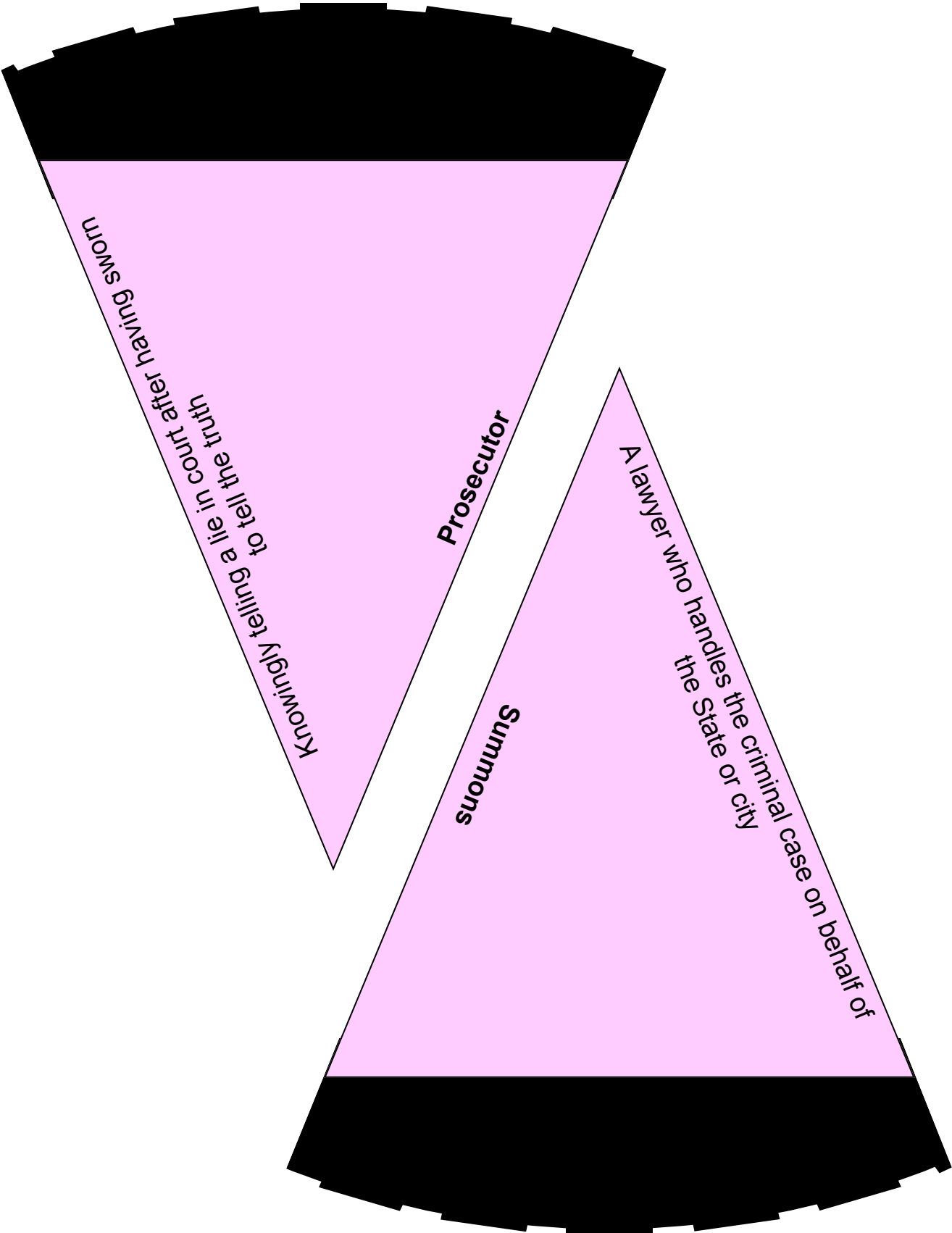
**ROLLING WORDS
Puzzle #4-1**



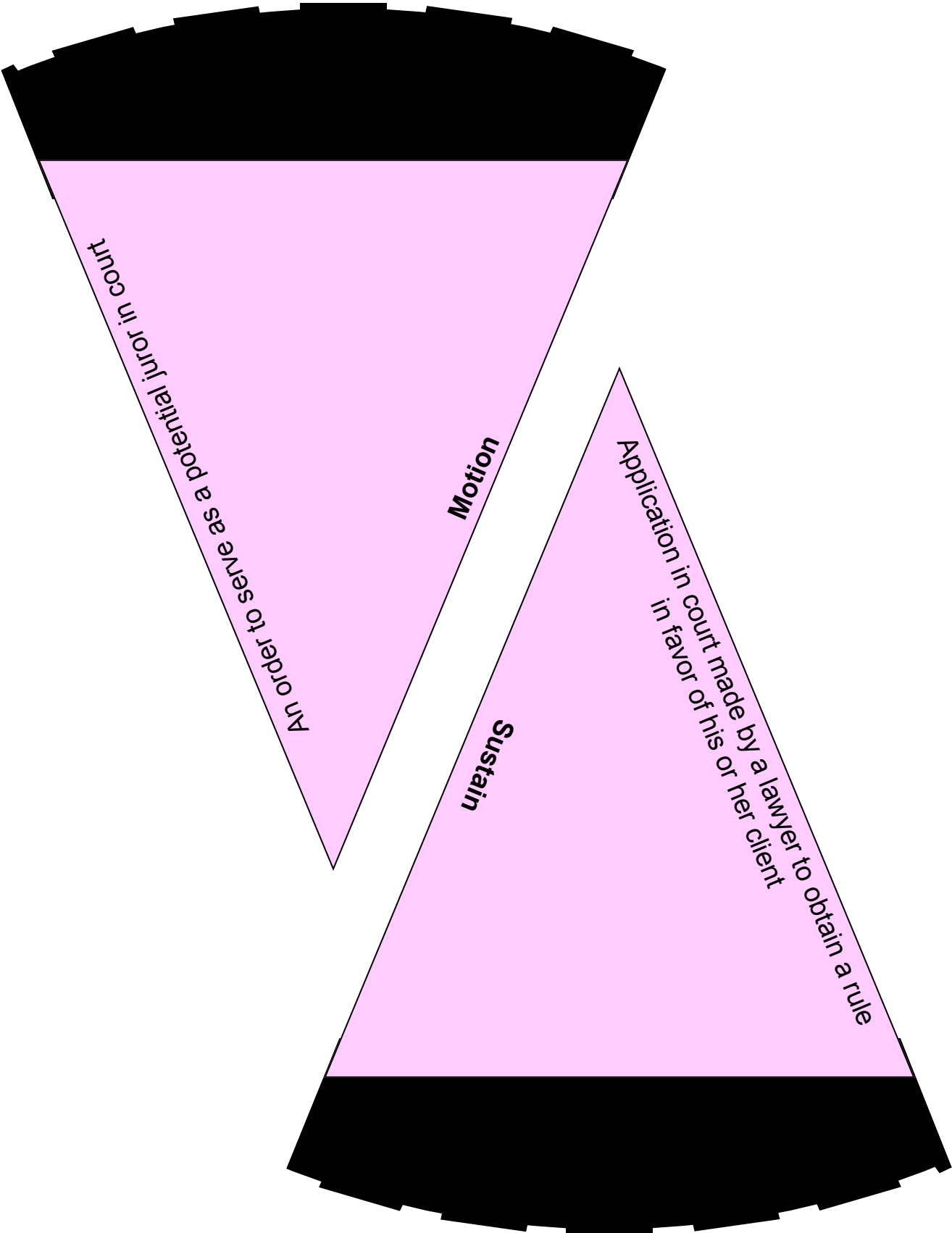
ROLLING WORDS
Puzzle #4-2



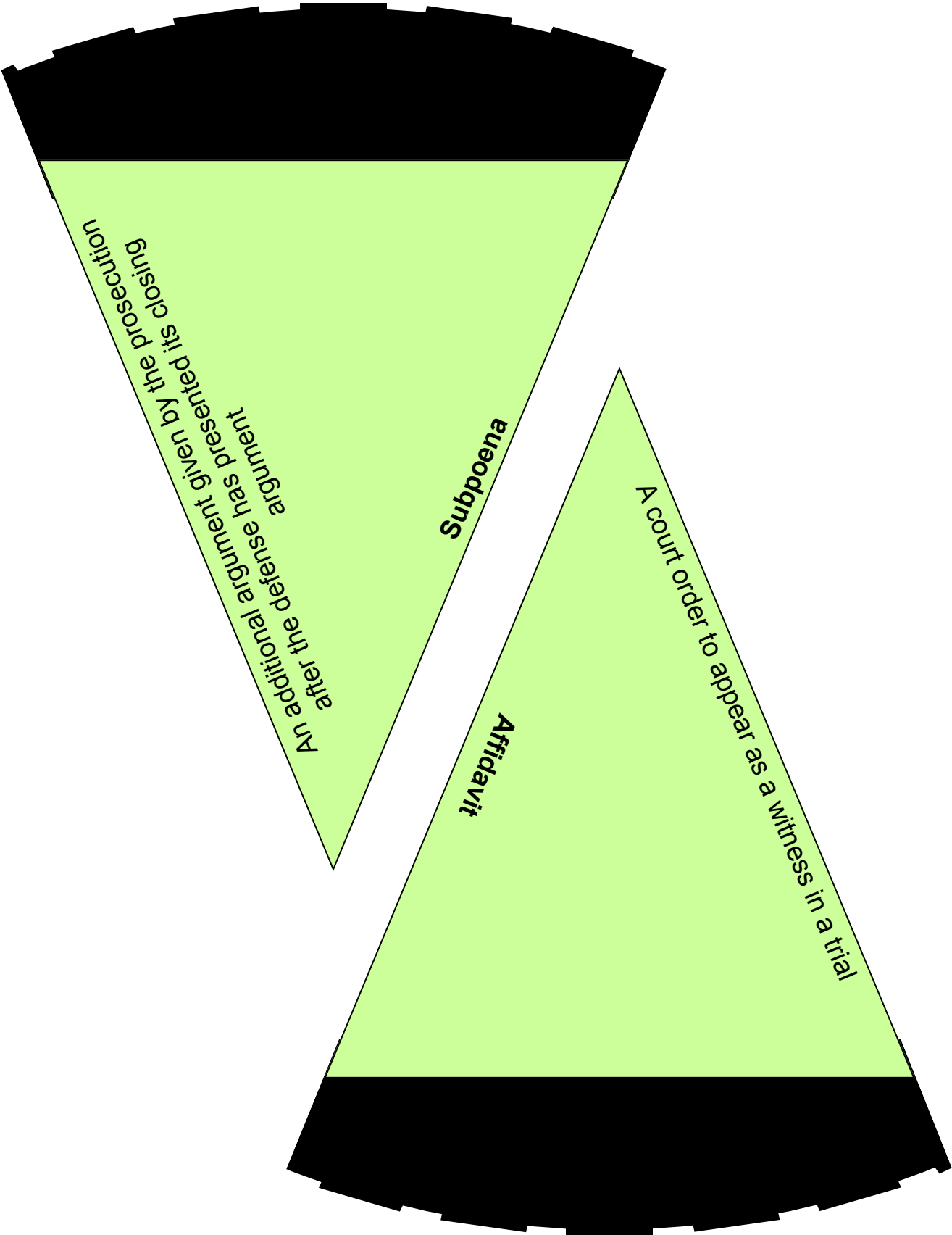
**ROLLING WORDS
Puzzle #4-3**



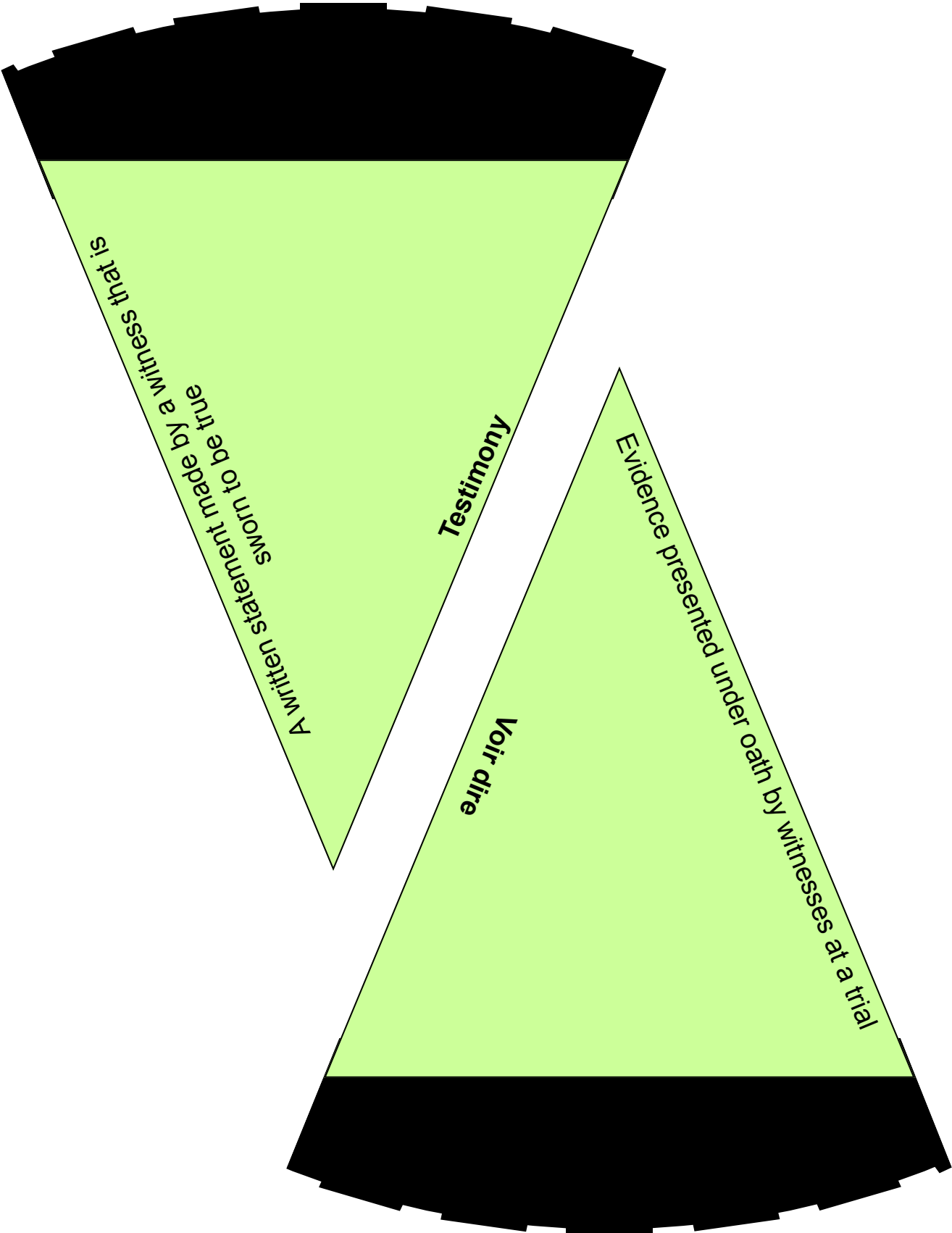
**ROLLING WORDS
Puzzle #4-4**



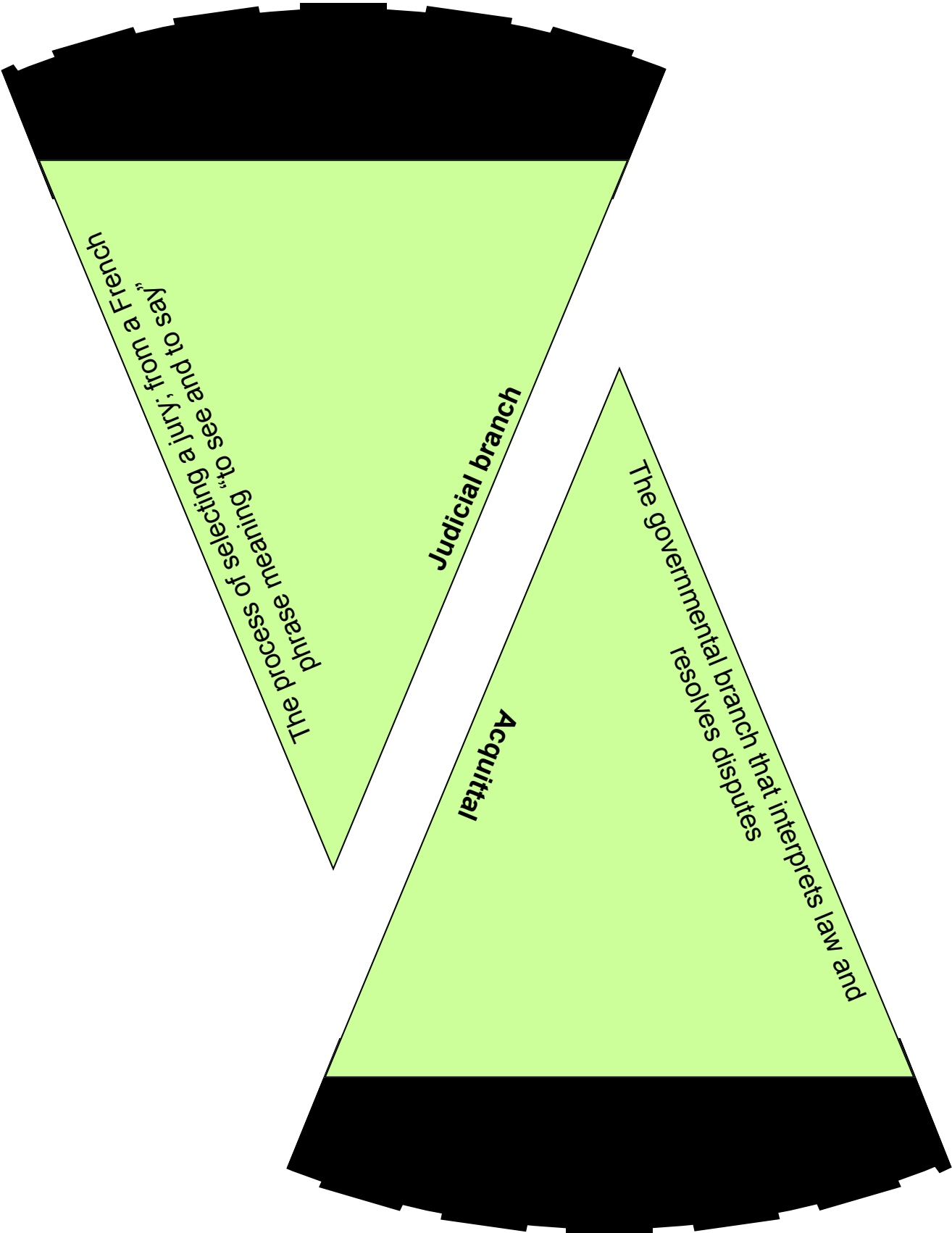
**ROLLING WORDS
Puzzle #5-1**



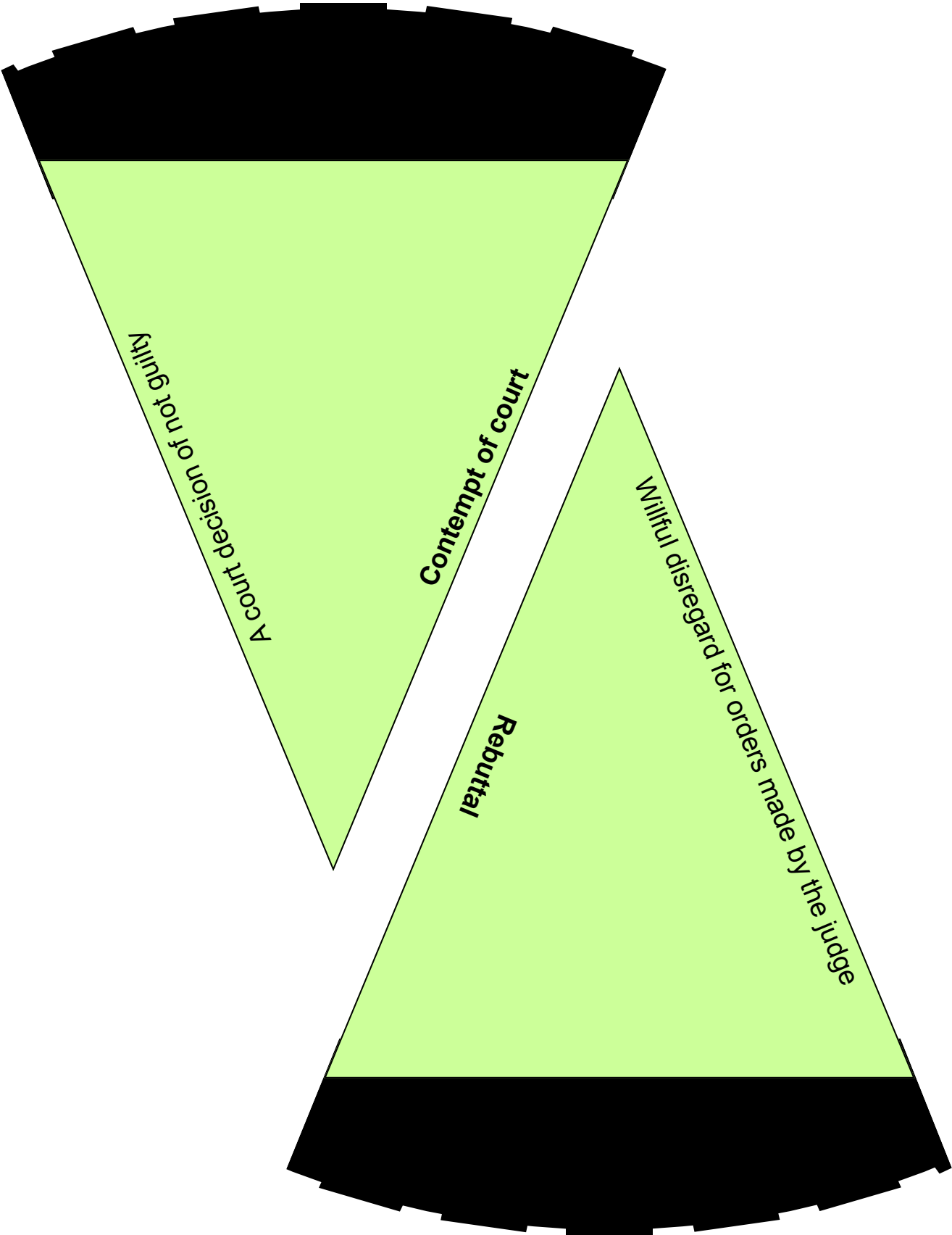
**ROLLING WORDS
Puzzle #5-2**



**ROLLING WORDS
Puzzle #5-3**



**ROLLING WORDS
Puzzle #5-4**



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 8.19D, 8.29B,F; US Hist. 23.A, 29B,F; Govt. 13A,B,E, 14C, 20.A; Special Topics 2D,F

Materials Needed: One scenario for each pair of students

Vocabulary: prejudicial, demeanor, exaggeration, credible, negate, evidence, ambiguous, relevance

Teaching Strategy:

1. Go over Attachment 1 with students and give them examples of questions that might be objectionable.
2. Make one copy of the "Scenarios," Attachment 2, 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 transparency, a PowerPoint slide of the objections, or handouts.
4. Have the volunteer with strip #1 to read "The Case," "The Witness on the 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 ground?" 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.



Answers are:

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. Calls 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:

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 character 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.)

OBJECTION, YOUR HONOR! SCENARIOS

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 crash's 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 an 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?*



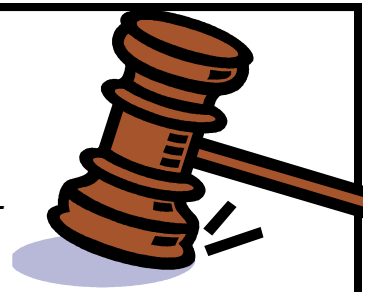
8. THE CASE: A shoplifting case of a pack of bubblegum against an elementary school student.
THE WITNESS ON THE STAND: Direct examination of the manager of the store where the shoplifting occurred.

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 negligence case involving an 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: An assault case against a female student who allegedly started 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 robbery at a gas station of a six-pack of Dr. Pepper.
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 about a young man who was thrown from a speeding car and sprained 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?*



STATE OF TEXAS v. JUNIOR

Learning Objectives: Students will



1. Participate in a mock trial;
2. Analyze witness statements and other evidence to identify bias and differentiate between fact and opinion.

TEKS: SS 8.19D, 8.29B,F; US Hist. 23A, 29B,F; Govt. 13A,B,E, 14C, 20A; Special Topics 2D,F

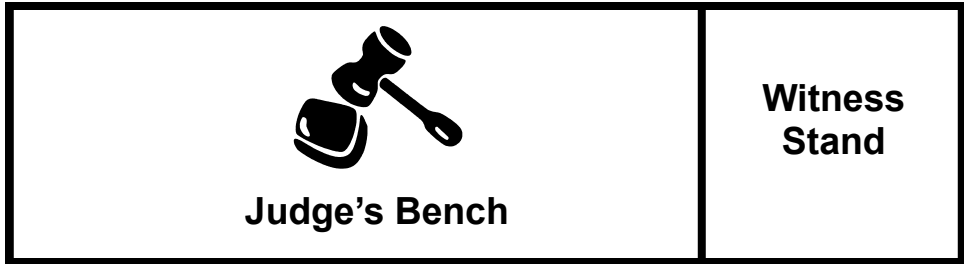
Materials Needed: Copies of *State of Texas v. Junior*

Teaching Strategy:

1. Distribute copies of “Information for Participants,” (Attachment 1) to the class members. Allow enough time for students to read the packet, then pass out copies of the “Brief of a Mock Trial,” (Attachment 2). Assist students in filling in the facts and question sections (a teacher answer key is included).
2. Assign or allow students to choose roles as the judge, defense attorneys, defendant, prosecuting attorneys, bailiff, clerk, reporter, and the six witnesses. Have the students write these names on the “Brief of Mock Trial.” The rest of the class will be the jury.
3. Have attorneys meet in a group with their witnesses. Pass out the appropriate witness sheets (Attachments 3 & 4) so the witnesses can become familiar with their parts and the attorneys can start planning the questions they will ask during the trial (attorneys will need copies of all witness statements). The witness sheets are as brief as possible in order that students will not be burdened with additional reading. It is usually NOT a good idea to allow students to add additional information to the trial.
4. Distribute copies of the “Courtroom Script,” (Attachment 5) so that students can become familiar with the sequence of the trial. (see diagram)
5. While the attorneys are meeting with their witnesses, give the appropriate role playing sheets to the court reporter and bailiff and answer any questions these students may have.
6. Arrange the room as a municipal court.
7. Proceed with the trial following the “Courtroom Script.” The following steps will help the trial move smoothly:
 - a) The bailiff calls the court to order and swears in the jury by saying, “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) Say I do.”
 - b) The judge asks the prosecutor to make his or her opening statement.

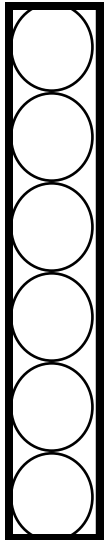
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- c) The prosecutor reads the complaint (given on the following page). He or she then describes the case to the jury and gives them a summary of the facts. Statements should end with the fact that the State will prove the defendant guilty of the crime for which he or she is charged.
 - d) The judge asks the defense to make his or her opening statement.
 - e) The defense attorney gives an opening statement.
 - f) The judge asks the prosecution to call its first witness.
 - g) The bailiff swears in the witness by saying, "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) Say I do."
 - h) The prosecutor examines the witness.
 - i) The defense attorney cross-examines the witness.
 - j) Steps "f" through "i" are repeated for subsequent prosecution witnesses.
 - k) The judge asks the defense to call its first witness.
 - l) Steps "g" through "j" are followed for each defense witness, with the defense attorney doing the direct examination first, followed by cross examination by the prosecutor.
 - m) The judge asks the prosecution for a closing statement.
 - n) The judge asks the defense attorney for a closing statement.
 - o) The judge asks the prosecution if they have a rebuttal closing.
 - p) The judge reads his or her charge to the jury (given in the "Courtroom Script").
 - q) The jury pretends to leave the courtroom but actually stays in the room so other students will be able to observe their deliberations. The jury chooses a presiding juror and discusses the case. When a verdict is reached, it is written for the judge on Attachment 6.
 - r) The judge calls the court back to order and asks the jury for the verdict. He or she then reads the jury's verdict orally.
 - s) If the verdict is guilty, the judge will explain that the second, or punishment, phase of the trial will now begin. (The teacher may choose to omit this phase of the trial.)
 - t) If the verdict is not guilty, the judge states that the defendant is free to go.
8. Debrief the mock trial by discussing the following questions:
 - a) Were the questions asked by the lawyers relevant?
 - b) Were there any questions to which the opposing lawyer should have voiced objections?
 - c) Do you think the jury made the correct decision? Why or why not?
 9. For a more formal evaluation, have the students complete the "Mock Trial Reflections," Attachment 7.
- 

Judge



Bailiff

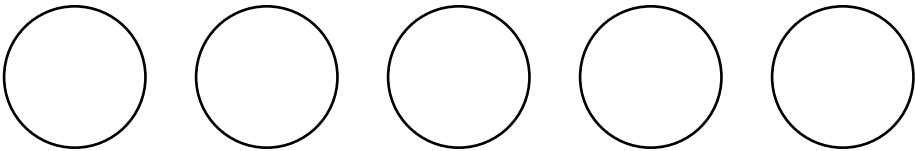
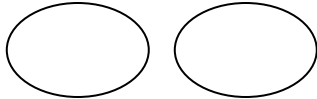
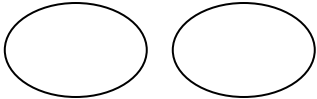
Court Reporter



Jury Box

Defense's Table

Prosecution's or Plaintiff's Table



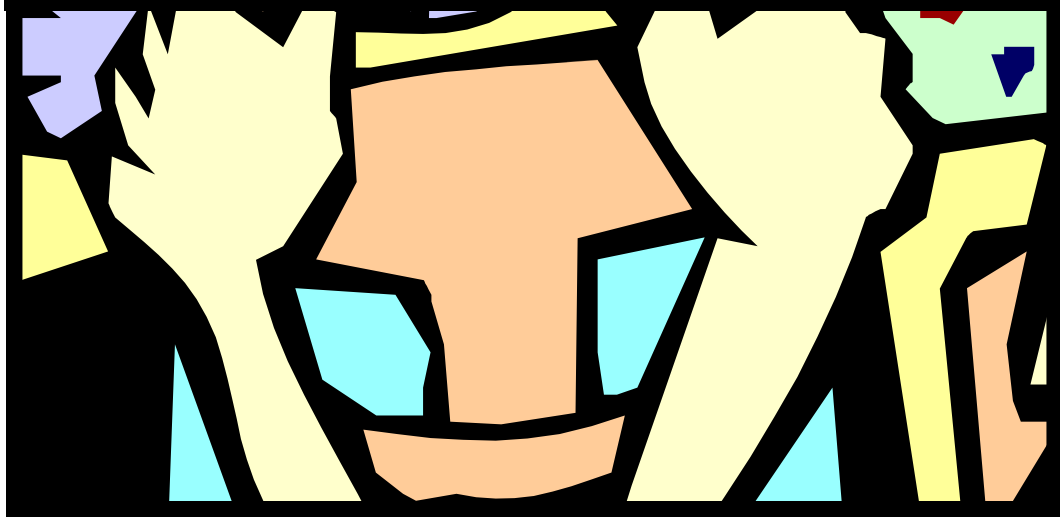
AUDIENCE

STATE OF TEXAS

v.

JUNIOR

A Guided Mock Trial



**STATE OF TEXAS v. JUNIOR
INFORMATION FOR PARTICIPANTS**

(For the bailiff)

USED TO SWEAR IN THE JURY:

“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) Say I do.”

USED TO SWEAR IN EACH WITNESS:

“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.”



(For all students except jurors)


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, in other words, Driving Under the Influence of Alcohol (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.



(For the prosecuting attorneys)

OPENING STATEMENT:

Describe the case and a summary of the facts to the jury; say you plan to prove Johnny Junior is guilty of Driving Under the Influence.

EXAMINE WITNESSES:


What is your name?
What do you do for a living?
Where do you live?
What is your relation to the defendant?
Ask other questions to build your case.

OBJECTIONS:

When the other attorney questions a witness, you may say, "I object on the grounds that: (1) the question assumes facts not in evidence; (2) the question is irrelevant to the issue in this case; (3) the question calls for an opinion by a non-expert; (4) the attorney is leading the witness; (5) this witness lacks personal knowledge in order to answer the question; (6) the question calls for a narrative answer; or (7) the question calls for a hearsay answer."

CLOSING STATEMENT:

Summarize the points you have made during the trial; try to tear down the other side's evidence; say that you have shown that Johnny Junior is guilty of Driving Under the Influence, which is a Class C Misdemeanor.



(For the defense attorneys)

OPENING STATEMENT:

Describe the case and a summary of the facts to the jury; say the State will be unable to prove that Johnny Junior is guilty of the crime charged.

EXAMINE WITNESSES:

What is your name?
What do you do for a living?
Where do you live?
What is your relation to the defendant?
Ask other questions to build your case.

OBJECTIONS:

When the other attorney questions a witness, you may say, "I object on the grounds that: (1) the question assumes facts not in evidence; (2) the question is not relevant to the issue in this case; (3) the question calls for an opinion by a non-expert; (4) the attorney is leading the witness; (5) the witness lacks personal knowledge in order to answer the question; (6) the question calls for a narrative answer; or (7) the question calls for a hearsay answer."

CLOSING STATEMENT:

Summarize the points you have made; try to tear down the other side; say the prosecution has failed to prove that Johnny Junior is guilty of Driving Under the Influence and therefore the jury must find him not guilty.



WITNESSES FOR THE DEFENSE:

1. _____ 3. _____

2. _____

JUDGE: _____

BAILIFF: _____

CLERK: _____

DECISION: _____

SENTENCE: _____



**BRIEF OF A MOCK TRIAL
(Teacher Key)**

State of Texas v. Johnny Junior

FACTS:

- 1. Johnny and his brother had a party at his grandfather’s house on Johnny’s 18th birthday.
- 2. A neighbor, Sam Sullivan, called police reporting a loud party next door.
- 3. Police found the house littered with beer bottles and an empty liquor cabinet.
- 4. Johnny Junior and passenger Susie Sweetie were stopped in Johnny’s car near the house.
- 5. 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.


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

PROSECUTOR AND ASSISTANTS:

WITNESSES FOR THE PROSECUTION:

- 1. *Officer Jones* : _____
- 2. *Sam Sullivan* : _____
- 3. *Officer Smith*: _____





DEFENDANT: *Johnny Junior*

DEFENSE ATTORNEY AND ASSISTANTS:

WITNESSES FOR THE DEFENSE:

1. *Johnny Junior (defendant):* _____
2. *Susie Sweetie:* _____
3. *Neil Junior:* _____

JUDGE: _____

BAILIFF: _____

CLERK: _____

DECISION: _____

SENTENCE: _____

WITNESSES FOR THE PROSECUTIONSam 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, as 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 the pound.

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 the girlfriend of Johnny Junior. 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 seems 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.

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 whole 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 he or she agrees with the objection or "Overruled" if he or she disagrees.)
- 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 he or she agrees with the objection or "Overruled" if he or she disagrees.)



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: Yes, Your Honor. (Give closing statement.)

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. 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.

In all criminal cases, the burden of proof is on the State. The defendant is presumed to be innocent until 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 say by your verdict "not guilty."

When making your decision, you should look carefully at 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 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

State of Texas
v.
Junior

X
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

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

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.

MOCK TRIAL TEKS CORRELATIONS

Level One

ACTIVITY	TEKS
Characters in the Courtroom	SS 3.17C; 4.21B; 5.24B
Legal Vocabulary Word Loop	SS 3.17C,E; 3.18; 4.21B; 4.22A,D; 5.24B; 5.25A,D
<i>State of Texas v. Sam Smart</i>	SS 3.11A,C; 3.17A,C; 3.18A; 4.21A,B,D; 4.22B; 5.20A; 5.24A, B, D; 5.25B; ELA & R 4.12; 5.12A,B; FA Theatre 3.2B

Level Two

ACTIVITY	TEKS
Get a Grip on Court Vocabulary	SS 6.21C; 7.22A; 8.29B; 8.30A; W. Hist. 30A; Govt. 13E; 21A; Special Topics 3B
Steps in a Criminal Trial	ELA & R 3.8A; 4.13A; 5.13A; 7.12; 8.12; Govt. 1F; 8C
<i>State of Texas v. Junior</i>	SS 8.19D; 8.29B,F; US Hist. 23A; 29B,F; Govt. 13A,B,E; 14C; 20A; Special Topics 2D, F

Level Three

ACTIVITY	TEKS
Rolling Words	SS 6.21C; 7.22A; 8.29B; 8.30A; W. Hist. 30A; Govt. 13E; 21A; Special Topics 3B
Objection Your Honor	SS 8.19D; 8.29B,F; US Hist. 23A; 29B,F; Govt. 13A,B,E; 14C; 20A; Special Topics 2D, F
<i>State of Texas v. Junior</i>	SS 8.19D; 8.29B,F; US Hist. 23A; 29B,F; Govt. 13A,B,E; 14C; 20A; Special Topics 2D, F

EVALUATION

Thank you for taking time to give us feedback on the *Driving on the Right Side of the Road* mock trials.

Please circle your answers

Which mock trial level did you mostly use with your students?

Level One Level Two Level Three

Did you use any other DRSR lessons with your students?

Yes No

If yes, what lesson(s) did you use? Please list the titles of the lessons.

On a scale of 1 (lowest) to 5 (highest), please circle the number reflecting your answer on the following:

Content of the mock trials	1.....2.....3.....4.....5
“Characters in the Courtroom”	1.....2.....3.....4.....5
“Legal Vocabulary Word Loop”	1.....2.....3.....4.....5
<i>State of Texas v. Sam Smart</i>	1.....2.....3.....4.....5
“Get a Grip on Court Vocabulary”	1.....2.....3.....4.....5
“Steps in a Criminal Trial”	1.....2.....3.....4.....5
<i>State of Texas v. Junior (Level 2)</i>	1.....2.....3.....4.....5
“Rolling Words”	1.....2.....3.....4.....5
“Objection Your Honor”	1.....2.....3.....4.....5
<i>State of Texas v. Junior (Level 3)</i>	1.....2.....3.....4.....5
Lesson plan format and graphics	1.....2.....3.....4.....5

What lesson(s) was(were) the favorite of your students? Please write the title(s) below:

What lesson(s) was(were) the least favorite of your students? Please write the title(s) below:

Did you invite a resource person in to talk about traffic safety laws? _____

Please describe whether the experience was successful and why or why not. _____

If you did not invite a resource person, why not? _____

Comments: _____

Mail or fax this form to: TxDOT Traffic Safety Grant Administrator
Texas Municipal Courts Education Center
2210 Hancock Drive
Austin, TX 78756
(512) 320-8274 * (800) 252-3718 * (512) 435-6118 Fax

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About Driving on the Right Side of the Road

This publication is a part of the Driving on the Right Side of the Road (DRSR) program, developed by the Law-Related Education Department of the State Bar of Texas, Law Focused Education, Inc., and the Texas Municipal Courts Education Center with funding from the Texas Court of Criminal Appeals and the Texas Department of Transportation. These organizations are very concerned about traffic safety in Texas communities. Motor vehicle crashes are the leading cause of death for 15-20 year olds. Younger children are often hurt if they do not sit in a booster seat, wear their safety belt, do not obey traffic signals, or fail to wear protective equipment when bicycling or rollerblading. The purpose of the DRSR program is to offer a preventive educational program to encourage responsible decision-making when it comes to obeying traffic laws and to following safe practices.

The DRSR program has created a series of lessons for social studies classes at the elementary and secondary levels on citizenship education and traffic safety. The program is aligned with the TEKS (Texas Essential Knowledge and Skills), which all students are tested on in Texas public schools.

The lessons use interactive strategies and computer based learning to teach traffic safety while studying city, state, and national government, the three branches of government, and the responsibilities of citizenship. Elementary lessons also use traffic safety content to teach language arts and math skills.

Information sheets provide teachers with background information about traffic laws and municipal court. It is recommended that teachers contact local municipal judges, court support personnel, and city prosecutors and ask them to serve as resource persons in the classroom. Resource persons can bring the lessons alive by providing real life or hypothetical examples, accurate descriptions of what the law requires, and serve as positive role models for students.

We thank you for using these materials in your classrooms.

For More Information:

www.drsrc.info

www.texaslre.org

www.tmcec.com

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

