



A Jury Service Project of the
Young Lawyers Division
of the
Iowa State Bar Association

Curriculum Guide

*A Lawyer Would Be Happy to Volunteer in
Your Classroom to Implement this Program.*

- (1) Please call (515) 243-3179 or 1-800-457-3729. Ask for the name and contact information of the chairperson of the Young Lawyers Division Law-Related Education Committee.
- (2) Then call the chairperson of the Young Lawyers Division Law-Related Education Committee. That person will locate an attorney in your area who will come to your classroom to implement this program.



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WITH A SPECIAL THANKS FOR
GENEROUS FUNDING PROVIDED BY
The Iowa Academy of Trial Lawyers

ADDITIONAL SUPPORT
AND/OR FUNDING PROVIDED BY:

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The Committee gratefully acknowledges the Association of Trial Lawyers of America and the National Institute for Citizen Education in the Law, who provided the model, guidance, and curriculum upon which the original TYLA project was based. Also, special acknowledgment and thanks to Brian Fagan, Emily Hughes, Meredith Rich-Chappell, and Tim Semelroth, whose expertise and creativity made this project possible.

For more information about implementing this project in your classroom, please call (515) 243-3179 or 1-800-457-3729 and ask for the name of the chairperson of the Young Lawyers Division Law-Related Education Committee.

WE THE JURY: A Service Project
of the Young Lawyers Division (YLD)
of the Iowa State Bar Association

“I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its constitution.”

THOMAS JEFFERSON

For over two hundred years, Americans have revered the Bill of Rights and the vital jury process it guarantees. Nowhere is the American concept of justice “of the people, by the people, and for the people” better embodied than in the jury box.

Thomas Jefferson called the jury process the best of all possible safeguards for the person, property and reputation of every citizen. It was, in fact, the verdict of courageous jurors that established the right to a free press in America, as well as countless other rights and privileges that most Americans now take for granted. Jurors keep law in the United States close to the people, preserving a guarantee of freedom and democracy that many in the world are still struggling to achieve.

Many of your students will some day serve on juries. Indeed, voting and jury service are the two principal ways American citizens directly participate in the democratic process. Through the jury process students will, in time, reflect the collective conscience of their communities, contributing to what the late United States Supreme Court Justice Benjamin Cardozo called “the rough and ready tests supplied by their experience of life” to reach decisions that are just and fair. In contrast to other countries, where judges alone often decide issues, American’s jurors help balance the scales of justice.

The right to trial by jury is a fundamental principle of the American legal system, guaranteed and secured first and foremost by the Sixth and Seventh Amendments to the United States Constitution and the Ninth Amendment to the Iowa Constitution. It preserves a right rooted deeply in history that allows Americans to have their cases, both civil and criminal, heard not by government officials but by peers within their community. Jurors have an opportunity to provide a great service, but they also have an awesome responsibility. Jurors must cull the facts from diverse testimony and apply the law to them. The more your students understand their role as potential jurors before they are called to jury service, the better they will be able to fulfill their responsibilities when that day arrives.

We the Jury is designed to bring this proud American heritage directly to the classroom.

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LEARNING OBJECTIVES

The students will:

1. Learn about the evolution of the jury system and how the right to trial by jury was guaranteed to all American citizens in the Bill of Rights to the United States Constitution.
2. Understand and appreciate the role that American citizens play in the judicial system by participating in the jury process.
3. Learn about the voir dire process of selecting a jury.
4. Understand the order of a typical trial and the jury's role in the proceedings.
5. Gain insight into how juries reach verdicts by viewing an interactive mock trial video and participating in the deliberation process.
6. Become more willing and better prepared to serve on juries.

MATERIALS NEEDED

The curriculum guide (which contains ten handouts to photocopy and distribute to your students), a project video, and a TV and video recorder to play the video.

VIDEO CONTENTS

1. Project Introduction: Jury Service in the United States and Iowa (*approx. length 8 minutes*)
2. Mock criminal trial: *State of Iowa v. Tyler Dillon* (*approx. length 30 minutes*)
3. Mock civil trial: *Roy Phillips v. Billy's Pub* (*approx. length 40 minutes*)

BEFORE THE PROGRAM

- I. **One week to several days before the program is planned:** distribute to your students Handout 1 (“The Jury in the United States and Iowa”), Handout 2 (take-home quiz), and/or Handout 4 (the word find exercises).
- Tell the students to complete the quiz and/or word finds and return them on the date of the program.
 - Inform the students that they should read the materials and complete the quiz to prepare them to participate as jurors in an upcoming mock trial.
- II. **Select either the criminal or civil mock trial for presentation to the class.**

Note: This must be done before the first day of the program because the questions asked during the mock voir dire will depend on your selection.

The criminal trial video segment runs approximately 30 minutes. The civil trial video segment runs approximately 40 minutes. Whichever mock trial you present to your class is left to your discretion and may depend on the amount of time you have available—the criminal trial requires at least a 45-minute class period and the civil trial requires at least a 60-minute class period. The criminal trial segment is first on the videotape, immediately after the project introduction, so if you choose to present the civil trial, you must fast-forward the videotape past the criminal trial after showing the introduction.

- III. **One class day before the program is conducted:** distribute a mock jury summons and questionnaire to each student (Handout 3), which you may customize with each student’s name and other personal information called for by the handout if you have students portray themselves during the interactive jury selection. Alternatively, you may assign each student to one of the mock juror profiles.
- If you choose to assign each student to one of the mock juror profiles, copy the mock juror profiles provided in the curriculum guide, then cut each identity into an individual slip and distribute different slips containing the identity information to the student playing that individual identity. The profiles will give each student a distinct adult identity for the mock voir dire session, so the students will need an opportunity to study their profile before the next class session to enhance the interactive experience of the mock voir dire.

DAY ONE

Note: Volunteer attorney(s) may participate in Day One of the program, or, if you choose, you may conduct the entire program without assistance or participation by volunteer attorneys. If you need any assistance in locating a volunteer attorney in your area, please call the Iowa State Bar Association office at (515) 243-3179 or 1-800-457-3729 and ask for the name and contact information of the Chairperson of the YLD Law-Related Education Committee.

1. Collect the completed quizzes and/or word finds at the beginning of the class session.
2. Play the introduction of the *We the Jury* program video, which presents a general introduction to the program and recaps some of the information contained in Handout 1. After this portion of the video concludes, stop the video and either you and/or any volunteer attorney(s) may conduct a brief (no more than 15 minute) discussion regarding the history of the jury in the United States and Iowa, based on the materials in Handout 1 and the additional information provided in the “Background for Teachers” section entitled “The Jury From Medieval Times to the 21st Century.”

3. The instructor and/or volunteer attorney(s) will then conduct a mock voir dire, as explained in more detail in the section entitled “Background for Teachers: Sample Voir Dire Questions.” Before beginning the questioning, direct the students to rise and raise their right hands to take the oath of prospective jurors contained in Handout 5. Ask questions of every student to make the session as interactive as possible (suggested length of session: 20 minutes). After the question and answer portion of the voir dire, the instructor, any attorney(s) and students should discuss (for the remaining class time) which jurors would, in an actual trial, be struck from the jury pool.
4. During the final few minutes of the class, announce that all the students will serve on independent juries of equal size (or one jury, if there are fewer than twelve students in the class) for a trial to be conducted the next day or next class period.
5. To assist the students in understanding the “proceedings” during the mock trial, distribute “Frequently Asked Questions” (Handout 6) and “The Steps of the Jury Trial” (Handout 7) before class adjourns. Also call the students’ attention to the “Jury Handbook” within Handout 1, which is an example of a pamphlet jurors receive when they are called to jury duty.

DAY TWO

Note: There is no need for volunteer attorney participation on Day Two of the program.

1. Divide the class into two equal groups, each of which will serve as a jury on the same case. Ask the two juries to go to separate parts of the classroom to observe the trial. Advise the juries that at the conclusion of the trial, they will be expected to deliberate independently from one another.
2. Start the program video at the beginning of one of the two mock trial segments. Each trial begins with the “judge” asking the jury to rise for the oath. Students should rise and raise their rights hands, and after the judge reads the oath, state: “I will.”
3. Before deliberations begin, hand each jury a copy of the written jury instructions, entitled “Jury Instructions and Verdict Forms,” found at Handouts 8 (for the criminal trial) and 9 (for the civil trial).
4. To save time, you may appoint a foreperson for each jury rather than allowing the juries to select their own. Inform the juries that they have no more than 15 minutes to reach “legal” verdicts (or to decide that they cannot do so).
5. When all the juries have completed their deliberations, call them to order and restart the videotape. Each mock trial will conclude with the “judge” requesting and receiving each verdict and thanking the juries for their work.
6. Use any remaining time for questions and general discussion. Focus attention on the key factors in each jury’s decision and whether those factors differed. If the juries reached different verdicts, the class should discuss why that happened. Ask students to explain their votes and the reasons for those votes.
7. Finally, please have all applicable program evaluations (student/teacher/attorney) filled out and provide them to your attorney volunteer or mail them to the Iowa State Bar Association at the address provided below.

Iowa State Bar Association
 Young Lawyers Division
 Law-Related Education Committee – We the Jury Program
 521 East Locust St., Fl. 3rd
 Des Moines, Iowa 50309-1939



Materials to Review
Before Day One

THE JURY – FROM MEDIEVAL TIMES TO THE 21ST CENTURY

The United States jury system derives from English history. Before there were juries, there were three general methods of “trial” in England. The first, the wager of law, simply required the accused person to take an oath, swearing to a fact. In those days, a person’s oath carried great weight. In fact, the word “jury” derives from the word “jurare”, which means to swear or take an oath. Those with good reputations who were accused of a crime had only to swear that they were innocent to be acquitted.

If others swore against the accused, however—in effect challenging the truth of the accused’s oath—a **compurgation** was necessary. The accused had to bring in 11 supporters called **compurgators**, making 12 people in all who would be willing to take an oath on behalf of the accused. The **compurgators** did not swear that what the accused said was true. They served more as character witnesses, swearing that the accused was considered a credible person. If the accused was found guilty, the compurgators might also be punished because they were then implicated in the defendant’s guilt.

An accused who was a repeat offender, or who was unable to find enough compurgators willing to swear to good character, would be subjected to **trial by ordeal**, some sort of physical test, the results of which were deemed to indicate guilty or innocence. Unfortunately, the trials were usually designed so that, in proving innocence, the physical ordeal often resulted in bodily harm or even death to the accused.

For instance, in a **trial by hot water**, a ring might be suspended by a string in a caldron of boiling water, either wrist deep or elbow deep, depending on the severity of the crime. The accused was first “cleansed” by prayer and fasting and then was instructed to reach into the boiling water to grab the ring. If the accused’s hand and arm were burned, that was considered a sign of guilt. If not burned, the obvious miracle was treated as a sign of innocence.

Other types of trials by ordeal included the **trial by cold water**, later used in the Salem witch trials, in which the accused was bound and placed in a body of water. The accused who sank was adjudged “pure” enough to have been accepted by the previously-sanctified water, whereas those who floated were considered polluted by sin and adjudged guilty. Another cruel trial by ordeal was the **trial by fire**, in which the accused was subjected to hot coals or white-hot iron, and only the failure to be burned would result in a judgment of innocence.

One common aspect of all of the trials by ordeal, of course, was that the outcome were determined by chance or placed the accused in a situation in which it was impossible ultimately to survive. Most such trials also had a religious context and were conducted by clergymen or other church officials. There were no juries in such trials; in cases in which juries were used, often citizens did not want to be chosen for “jury duty” as compurgators because they faced the possibility of punishment for “incorrect” verdicts. Likewise, when kings controlled the courts, jurors were often punished if they decided a case against the king. Such “incorrect” jurors might have their property seized, face imprisonment, or be separated from their families as punishment for not “properly” fulfilling their duties as jurors.

Only after trial by ordeal was abolished did trial by jury fully develop. Trial by jury was first instituted in civil cases, since trials by ordeal were used primarily to resolve common crimes or offenses against the king, the state or the church. In those early civil juries, corrupt rulers sometimes “planted” witnesses or jurors to manipulate the outcomes of trials. To guard against this, the church began to support the principle that jurors should have no interest in the case at issue. With the church’s influence, the court began to insist on the impartiality of jurors. The separation of the roles of witness and juror, and the desire for protection against royal manipulation, combined to bring about the system of trial with an impartial and unbiased jury.

Other developments in the conduct of trials further changed the nature of the jury. For instance, when attorneys began to bring in witnesses to corroborate facts in a case, it was no longer necessary for the jurors to know the accused. Witnesses began to testify before both the judge and the jury, not just before the judge. Since both the judge and the jury were to hear the facts, it became more important for all persons to be at the same place, hear the same facts, and base their decision solely upon the information presented in open court, rather than having some persons on the jury who knew more about the case than others. Gradually, juries came to decide only questions of fact, while judges ruled on questions of law.

By the time the colonists settled in America, the right to trial by jury was considered essential. Attempts by British rulers to deny the colonists that right met with strong resistance. The importance and value the Founders placed on this right was clearly manifested in the Declaration of Independence, and in the Sixth and Seventh Amendments to the United States Constitution. Today the jury is a mainstay of America's legal system and an essential ingredient of the freedoms we enjoy.

THE JURY IN THE UNITED STATES

The extent to which trial by jury is utilized in both civil and criminal cases is unique to America. Other English-speaking countries have jury trials for criminal cases and some civil lawsuits, but the guarantee of a jury trial in the United States extends to a broader range of cases than in any other nation.

The right to trial by jury was considered so fundamental in America—it was listed as a ground for independence in the Declaration of Independence—that it was included in the Constitution. The Sixth Amendment guarantees the right to defendants being prosecuted for allegedly committing crimes. The Seventh Amendment preserves the right in civil cases where one person or corporation brings a lawsuit against another and asks the jury to determine whose rights should be enforced.

JURY TRIALS IN CRIMINAL CASES

Sixth Amendment to the United States Constitution

In all criminal prosecutions, the accused shall enjoy the right to a speedy and **public trial, by an impartial jury** of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses in his favor, and to have the assistance of counsel for his defense.

Although the Sixth Amendment guarantees a defendant the right to a trial by jury in criminal cases, the defendant may opt to be tried before a judge only. The Sixth Amendment further requires that the jury be selected in the state and area in which the crime was committed, but it is sometimes necessary to balance this requirement with the requirement of an impartial jury. If the defendant believes that publicity about his case might have influenced the jury pool, he may ask that the trial be moved to another location where potential jurors will have heard less about the case. This is called a request for a **change of venue**.

JURY TRIALS IN CIVIL CASES

Seventh Amendment to the United States Constitution

In Suits at common law, where the value in controversy shall exceed twenty dollars, the **right of trial by jury shall be preserved**, and no fact tried by a jury shall be otherwise reexamined in any Court of the United States, then according to the rules of the common law.

Juries are also a critical component of civil trials. The Seventh Amendment preserves trial by jury in civil cases, and sets some basic premises to be followed. With some procedural variations, all states provide civil jury trials upon demand by any part to a lawsuit.

While a defendant's right to trial by jury is absolute in criminal trials, civil trials may be conducted without a jury in some cases. The United States Supreme Court has held that the right to trial by jury in civil cases is "preserved" in federal courts only in the kinds of cases that were available in 1791. Therefore, a jury does not decide cases in **equity**, in which the court is requested to enter a special order to force the opposing party to act in a certain way or to forbid some action. (For example, the court may be asked to issue a restraining order against the sale of property. Such an action does not take place before a jury.)

Finally the Seventh Amendment commands respect for the decision a jury makes. The requirement encourages parties to bring disputes to an end. As such, other courts cannot second-guess the jury's interpretation of the facts. A jury verdict can be **reversed** only if there is a significant error of law, such as an improper jury instruction or misinterpretation of a statute, or a procedural error such as improper admission of evidence.

Trial by jury is a critical guarantee. It is also a fundamental part of being a United States citizen. Each of us has a strong interest in ensuring that our right to a trial by jury is preserved and protected. To this end, the jury system gives the average citizen an opportunity to participate in the democratic process and to preserve our freedom.

This civic responsibility includes the individual duty to ensure that the process is free from deceit and discrimination in every aspect of the trial in which the jury is involved, from voir dire, to trial, to deliberation, to verdict, and in some states (although not Iowa), to sentencing. The system was developed to involve the public actively. Complaints about the integrity of our courts reflect upon the public as well. People who ignore their call to jury service, however, are not in a position to complain about the integrity of the courts or the results of particular jury trials.

VOIR DIRE – SELECTING THE JURY

In Iowa, potential jurors, compiled from lists of registered voters and licensed drivers, are **summoned** for jury duty within each county. A jury **summons** is a legal document requiring a person to report to the court at a particular time and place. It is an important document that requires careful reading and timely response.

Jurors serve for a specified time frame. While smaller counties may require jurors to report to court every day for one or two weeks, the more common practice is to require jurors to serve only for **“one day or one trial.”** This practice spreads jury service among more persons and lessens the time period and burden for those who are selected to serve on juries.

Voir dire — the process of selecting the jury — is critical to the jury's impact on the case. The attorneys, the judge, or some combination question the jurors in open court. The purpose is to determine (to the greatest extent possible within any time limits) impartiality, bias or prejudice, and objectivity.

Of course, the parties each want a jury that would be most likely to decide in their favor. Each tries to identify those individuals who would be beneficial to the other party, then tries to remove as many of them as possible through the use of two types of **challenges**, also called **strikes**.

The first is a **challenge for cause**, made when there is a valid reason for excluding someone from service on a particular jury. The person, for example, may know one of the parties; or may have some experience or belief that makes it impossible, by the juror's own admission, to be fair; or may not have been truthful in answering a question. A prospective juror who lies can be charged with perjury, since voir dire hearings are official proceedings which occur under oath and of which a record is kept.

The second type of challenge is a **peremptory** challenge, used by an attorney to remove a potential juror without a stated reason. Both sides are given a certain number of peremptory challenges, and use them to eliminate persons who may be detrimental to their own cases. In this process of elimination, the goal is to select the most neutral jury possible.

Although attorneys have great latitude in the use of peremptory challenges, there are some strict limitations on their use. Personal characteristics may be a legitimate reason to challenge a potential juror; race, gender or ethnic background, however, are never allowed to play a role in the decision to strike a juror. Such characteristics are never relevant, according to the United States Supreme Court, and can never be used as a reason to exercise a peremptory challenge.

The Jury in the United States and Iowa

INTRODUCTION AND BACKGROUND

The jury system in the United States is a key component of our democracy and our freedom. Juries are composed of average citizens who actively participate in deciding the outcome of legal disputes brought to trial.

Today, people who make up the jury are chosen at random from the community. After hearing evidence presented during the trial, they deliberate in secret and reach their decision, called a verdict, which the jury then presents to the judge and which generally brings an end to the trial and to the underlying dispute. The jurors then return to their regular jobs and daily lives.

As Americans, each of us has the right, guaranteed by the Constitution, to have most of our civil disputes and any criminal charge against us tried by a jury of our fellow citizens. Based on the democratic belief that a community's collective wisdom is the best judge of the actions of others in the community, juries represent the most open kind of democratic government. Only a government that trusts the people's judgment can support an impartial jury system like ours.

THE EVOLUTION OF THE JURY

"Justice" was not always as fair as it is today. Indeed, early attempts at criminal justice, in particular, were often cruel. As far back as 1000 B.C., ancient societies, and later the church, conducted "trial by ordeal." Hot irons, boiling water and dunking the accused in cold water were used to determine guilt or innocence. Sometimes, simply surviving the ordeal was considered "proof" that the accused was guilty.

Today's jury system actually has its origins in ancient Greece where, in about 400 B.C., governors of Athens asked males over 30 to listen to the arguments of alleged wrongdoers. As Aristotle explained it, these men were counseled to apply their understanding of "general justice," not to interpret the law. Huge juries of hundreds of volunteers would listen to evidence from both sides and reach a verdict. The Greeks believe that jury trials were the best way to ensure that the community's sense of justice—not just the beliefs or leanings of one person—would prevail. In Europe in the Middle Ages, the Greek system was adapted slightly, as juries were composed of neighborhood witnesses who passed judgment on the accused based on what they personally knew about him or her.

In 1215, a handful of English barons threatened to kill King John unless he signed the Magna Carta. This famous document contained one of the first written expressions of the right to a trial by one's peers. Eventually, the earliest English colonists brought the concept of the jury with them to America. British attempts to deny colonists the right to trial by jury provided the Founders with yet another reason for seeking independence. The Declaration of Independence, in fact, condemned King George "[for depriving (the American colonists)] in many cases, of the benefits of Trial by Jury," and listed that injustice among the Founders' grounds for seeking independence.

After independence was won, the Founders reaffirmed the right to an impartial jury of fellow citizens in the Sixth and Seventh Amendments to the United States Constitution:

- VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witness in his favor, and to have the assistance of counsel in his defense.

- VII. In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any Court of United States, then according to the rules of the common law.

The fact that two of the ten amendments to the Constitution representing the Bill of Rights dealt with the right to a jury demonstrates the importance of the jury to America's democratic system of government.

HISTORY OF THE JURY TRIAL IN IOWA

Trial by jury is also well-established in Iowa history. On July 13, 1787, Congress passed the North West Ordinance, which provided the right to trial by jury to the area that would become the Territory of Iowa. On May 20, 1834, when the area which is now the state of Iowa was part of the Territory of Michigan, the first trial for murder was held under the branches of a large elm tree in Dubuque. Bystanders selected a prosecutor, and the defendant chose his attorney from the people present. The defendant chose jurors from the same group of people. Three or four witnesses testified, and the jury deliberated for an hour before finding the defendant guilty and sentencing him to death by hanging.

The right to trial by jury was included in the constitution of the Territory of Iowa, which voters approved in 1846. Iowa was admitted to the United States on December 28, 1846, and the territory constitution became the first state constitution. Iowa voters adopted a new constitution in 1857, which remains in effect today. Article I, section 9 of the Iowa Bill of Rights states that "The right of trial by jury shall remain inviolate."

Nearly sixty years later the Nineteenth Amendment to the United States Constitution gave women in all states the right to vote. In Iowa, a person could serve as a juror only if he could vote, or as the Iowa Code put it, was a "qualified elector." In 1921, the Iowa Supreme Court ruled that because the Nineteenth Amendment made women qualified electors—they could vote—women also had the right and the duty to serve as jurors at trials.

PUTTING THE JURY TOGETHER—VOIR DIRE

Adult U.S. citizens representing all races, religions, occupations and ethnic backgrounds can become jurors, and more than five million Americans are called for jury duty every year. In Iowa, prospective jurors are selected by combining the lists of licensed drivers and registered voters. In some states, jurors can volunteer for service, but this practice is not followed in Iowa. Those selected receive a summons—an official demand—to report for jury duty on a specific date.

When they arrive at the courthouse, citizens report to a central location from which they are divided into smaller "jury panels" and sent to individual courtrooms where jury trials are scheduled to begin. The jury panel is always larger than the number of persons needed for the final jury. For example, in certain criminal trials, 32 or more potential jurors will be sent to a court, while only twelve are chosen for the jury. After the prospective jurors are led into the courtroom, they are given an oath, requiring each member to tell the truth, and are then questioned by lawyers (and sometimes the judge). This process is called *voir dire*, a French phrase that means "to speak the truth."

The *voir dire* process helps the judge and attorneys to choose jurors who have not prejudged the facts of the case and who are as fair and impartial as possible, to ensure a just trial. It is important that jurors not know the lawyers or each other. It is also important that they not have strong opinions about the issue—or premature views about how a case should be decided. If a juror demonstrates one of these criteria, then one of the lawyers may *challenge the juror for cause*, and the judge will usually allow the juror to be removed (or excused) from service on the jury.

Additionally, each side in a case has the right to challenge a certain number of jurors without giving any reason. These are called *peremptory challenges*. A lawyer may exercise her right to a peremptory challenge if she believes that a prospective juror has had some experience, such as a similar lawsuit, that makes it less likely that the juror could be fair in the case to be tried that day. Or the juror might indicate some race or class prejudice or some social or business connection that, while not necessarily allowing a challenge for cause, might yet be a good reason for excusing a

juror. The United States Supreme Court has held, however, that under no circumstances may the race, gender or ethnic background of a prospective juror play a part in a lawyer's decision to exercise a peremptory challenge.

In Iowa, each side is given four peremptory challenges in a misdemeanor trial, four in a civil trial, six in a felony trial, and ten in a class A felony trial, such a first-degree murder or first-degree kidnapping.

For at least 800 years, since the time of England's Henry II, the number of jurors selected to complete a jury has tended to be twelve. In recent years, however, the size of juries has been reduced to six, eight or ten in some states. In Iowa, only six people serve on simple misdemeanor juries and only eight people serve on civil juries. After the final trial jury is selected, prospective jurors who were not selected are either sent to another courtroom, where the voir dire process begins again in a different case, or are allowed to return to their homes or jobs with the thanks of the court, the attorneys and the parties.

THE TRIAL

Once the jury is selected, the judge explains the jury process. After that, the lawyers present the case. There are generally two lawyers involved in the trial—one for each side—but in more complex cases, there might be many more lawyers participating. The lawyers bring in witnesses and present evidence—through those witnesses and through documents—so that the jury can determine the facts and what they mean. The judge presides over the trial, ensuring that it proceeds properly and fairly, and sometimes stopping the action to preserve fairness.

After the lawyers have presented their entire case, the judge instructs the jury on its obligations and on the factual issues that the jury is required to decide. The jury then goes to a separate room in the courthouse to deliberate, that is, to discuss the issues before them and to reach a decision. After carefully considering the evidence presented during the trial, the jury reaches its verdict.

In most criminal cases, jury verdicts must be unanimous. Unanimous verdicts may not be required in civil cases; many states, including Iowa, allow verdicts of fewer jurors to stand in some circumstances. If the required number of jurors cannot agree on a verdict, the judge declares a mistrial, which means that the case, unless it is withdrawn, must be tried again.

CONCLUSION

Jurors are the "collective conscience" of our communities. The jury system calls upon the sound judgment and character of our neighbors, friends and relatives to decide what is truth and what is fair compensation for those who have been wronged. Juries bring the courts to the people. America's juries truly represent democracies at work.

When you are summoned to jury service, answer the call. It is your civic duty. It is your chance to participate directly in our democracy. It is your chance to serve your country and to preserve our freedom.

The right to serve on a jury is not absolute. All jurors must be "qualified" to serve. Persons who are not United States citizens, who are under eighteen years of age, who cannot read or write English, or who have been convicted of a felony may not serve as jurors. Other persons may be exempt from jury service, including full-time students and senior citizens over the age of 70. Finally, employers are not required to pay employees while serving on a jury; a person cannot be terminated, however, for fulfilling the duty of jury service.

(insert photocopy of jury handbook page 1 of 5)

(insert photocopy of jury handbook page 2 of 5)

(insert photocopy of jury handbook page 3 of 5)

(insert photocopy of jury handbook page 4 of 5)

(insert photocopy of jury handbook page 5 of 5)

*Quiz*THE JURY IN THE UNITED STATES AND IOWA

1. What occurs when the required number of jurors cannot agree on a verdict in a case?
2. What is the process called when the jury retires to the jury room to discuss the issues before them, apply the law to the facts, and reach a decision?
3. What does an Iowa citizen receive notifying them that they are to report for jury duty on a specific date?
4. Which Amendment to the United States Constitution guarantees the right to an impartial jury in criminal cases?
5. Which Amendment to the United States Constitution guarantees the right to an impartial jury in civil cases?
6. What famous document contained one of the first written expressions of the right to a trial by one's peers?
7. What is the term for a jury's decision?
8. In what year were Iowa women first allowed to serve on juries?
9. What is the French phrase that has come to mean "jury selection"?
10. Potential jurors may be challenged if they demonstrate that they have strong opinions about the issues or premature views about how a case should be decided. What is this challenge called?
11. Potential jurors may be struck from the jury for any legitimate reason by an attorney during the jury selection process. What is this challenge called?
12. In Iowa, the Secretary of State compiles a list of prospective jurors by combining what two lists?
13. What are three criteria that automatically exclude a potential juror from jury service?
14. Why is it important to serve on a jury?
15. What is the goal of the jury selection process?

Quiz Answer Sheet

1. The judge declares a mistrial.
2. Jury deliberation.
3. Summons.
4. Amendment VI.
5. Amendment VII.
6. The Magna Carta.
7. Verdict.
8. 1921.
9. Voir Dire.
10. Challenge for cause.
11. Peremptory challenge.
12. Licensed drivers and registered voters.
13. (1) Under the age of 18; (2) a felony conviction; (3) not a U.S. citizen; etc.
14. To fulfill a civic duty, to preserve democracy, to participate in the democratic system, to ensure justice, etc.
15. To select an impartial jury.

COPY AND CUT EACH INDIVIDUAL IDENTITY TO DISTRIBUTE TO STUDENTS

You Might Put Individual Slips in Two Hats (Men's and Women's) and Have Students Choose Randomly

MALE JURY PANELISTS

- (M) 71 years old, widower, white; retired civil service; 3 children (2 males, 1 female); World War II veteran shot in the line of duty; conservative Methodist with no tolerance for drug use; plaintiff's attorney/prosecutor prepared will; military police in WWII
- (M) 62 year old, widower, Hispanic; high school mathematics teacher; defendant's attorney's law partner represented wife's estate in will proceedings (probate); 2 children (1 male, 1 female); son was involved in car accident
- (M) 46 year old, divorced African-American; 3 children (1 male, 2 female); disabled due to on-the-job back injury (construction work); made civil claim against employer for worker's compensation; receives disability from Social Security Administration; reliant on pain medication for injury; sued by ex-wife for late child support
- (M) 48 year old, married, white; 1 child (male); self-employed as private investigator; spouse is dental assistant; nephew killed in car accident; former police officer with little tolerance for law breakers rodeo bull rider in younger years (gored by bull at age 18)
- (M) 28 year old, divorced, white; 1 child (male) salesman for X-Rays R Us; recovering drug abuser; attends Narcotics Anonymous meetings; ex-wife was involved in car accident
- (M) 56 year old, married, Asian; no children; self-employed as chef/caterer; spouse is nutritionist for nursing home; injured in car accidents; once sued a client for balance of catering fees for wedding reception
- (M) 55 year old, widower, white; 1 child (male); self-employed as farmer; partially disabled due to tractor accident; wife died only recently; quit school to work farm at age of 14; now works farm with son; enjoys watching wrestling on television
- (M) 50 year old, single, African-American; no children; Baptist postal worker; enjoys watching television; very patriotic; retired Marine
- (M) 52 year old, divorced, white; 3 children (1 male, 2 female); self-employed as attorney; conservative Democrat; atheist; daughter involved in car accident
- (M) 36 year old, widower, white; attorney in law firm; wife died of cancer; 1 child (male); Jewish
- (M) 40 year old, single, African-American; no children; emergency room doctor; liberal Protestant
- (M) 19 year old, single, white; freshman college student; has driving-under-the-influence charge pending (accident involved); relative is peace officer; Baptist

(M) 22 year old, single, white; employed at grain elevator; relative is a peace officer; had accident en route to work once; high school diploma; Lutheran

(M) 44 year old, married, white; police officer for school district; 2 children (1 male, 1 female); spouse is teacher for same school district; was shot in the line of duty; witness to a murder; Lutheran

(M) 24 year old, married, Hispanic; no children; graduate student; spouse is cashier at gas station; belongs to Church of Christ; once broke arm due to fall from horse

(M) 37 year old, married, Asian-American; Episcopal; no children; technician for cable company; wife was involved in car accident; conservative; brother is peace officer; spouse is attorney; knee injured playing football; also injured in auto accident

(M) 39 year old, single, Hispanic; no children; Catholic priest; witness to a suicide; compassionate

(M) 36 year old, married, African-American; captain in U.S. Army; conservative Catholic; patriotic; intends to retire from military service; 4 children (2 male, 2 female); relative is sheriff's deputy

(M) 32 year old, married, African-American; 1 child (male); employed as a painter by Sherwin Williams; Democrat; Methodist

(M) 30 year old, single, Asian; no children; hair stylist; once beaten by white supremacists; testified against his attackers (they were convicted); uncle was police officer in Vietnam

FEMALE JURY PANELISTS

(F) 58 years old, married, white; 3 children (all male); unemployed wife of attorney; breast cancer patient; smokes marijuana for medicinal purposes (to relieve nausea caused by chemotherapy)

(F) 64 year old, widow, African-American; no children; employed as waitress for last 3 years; Baptist; brother is police officer; husband died leaving many medical bills and no insurance money

(F) 59 year old, divorced, white; 2 children (1 male, 1 female); x-ray technician at hospital; defendant's attorney's law partner represented here in her divorce; son is a police officer; deeply religious member of Church of Christ; recently returned to school

(F) 35 year old, married, Hispanic; 1 child (female); husband is police officer; brother was involved in car accident; Episcopal; prosecuting attorney with District Attorney's office; was falsely accused and prosecuted (later acquitted) on charges of driving under the influence of alcohol

(F) 49 year old, married, African-American; 2 children (1 male, 1 female); secretary at a local college; Presbyterian whose son was injured on the job (assembly line); husband employed with phone company as lineman

(F) 53 year old, divorced, Asian; 1 child (female); computer programmer for Dell Computers; college degree in computer science

-
- (F) 51 year old, widow, Hispanic; 6 children (3 male, 3 female); Catholic; employed as waitress at Village Inn; son was perpetrator in gang shooting
-
- (F) 49 year old, married, Arab; 2 children (both female); works in family-owned jewelry store; liberal Hindu
-
- (F) 27 year old, married, white; self-employed as fiction writer; converted to Judaism; 1 child (female); fairly famous
-
- (F) 46 year old, divorced, white; 3 children (all male); Executive Director of Nutrition for local school district; had back surgery; son injured knee playing football; Methodist
-
- (F) 41 year old, single, white; 1 child (female); employed as nurse at hospital; raped while in nursing school (was witness against rapist, who was convicted); sued roofer for failing to work after being paid (small claims court); Catholic; brother is peace officer
-
- (F) 24 year old, single, Asian; 1 child (female); junior college student; works part-time cleaning houses; brother was shot in drive-by shooting
-
- (F) 39 year old, divorced, white; Lutheran; 2 children (both male); self-employed as caterer; ex-husband was abusive to children
-
- (F) 38 year old, married, African-American; 2 children (both female); legal assistant; husband is county commissioner; mother died of cancer; relative is peace officer
-
- (F) 28 year old, single, Iranian; self-employed as dentist; relative is peace officer; well-off professional; Muslim
-
- (F) 57 year old, married, white; 4 children (3 male, 1 female); homemaker; husband is investment advisor with Merrill Lynch; son was arrested for possession of marijuana many years ago; once rear-ended by college student—sore, but no major injuries; non-practicing Catholic; father was police officer (killed in the line of duty)
-
- (F) 33 year old, widow, African-American; 1 child (male); employed as emergency room nurse; husband was killed in car accident involving drunk driver—she and son were injured
-
- (F) 31 year old, married, white; 3 children (1 male, 2 female); homemaker; husband is architect; injured neck in auto accident; driving under the influence/possession of marijuana at age 24; now an upright Methodist; son in prison for drug possession
-
- (F) 28 year old, single, white; no children; employed as bartender; raped at age 20; hostile towards men
-
- (F) 18 year old, single, Hispanic; community college student; works part-time as checker at Wal-Mart; two older sisters; devout Baptist; father is college professor; mother died in car accident two years ago
-

SUMMONS INFORMATION

You are hereby notified of your selection for jury duty. It is your obligation to report as instructed. The right of every citizen to a trial by jury is one of the most important American liberties guaranteed by the Constitution. Such community service should be regarded as both a privilege and a duty. The law provides that a person who fails to appear for jury duty without providing good cause may be required to appear and show cause why they should not be held in contempt of court.

Please complete the questionnaire and return it within 7 days. You must keep the top portion of the summons. Requests to be excused due to mental or physical disabilities must be accompanied by a health care provider's note. You will be notified by mail if you are excused from jury service. Please **DO NOT** call the officer concerning an excuse. ALL requests to be excused from jury duty must be in writing.

Ten days before the assigned session begins you will receive more information concerning jury service.

If you require the assistance of auxiliary aids or services to participate in court because of disability, immediately call your district ADA coordinator. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

Clerk of District Court

(hard copy of one page jury questionnaire to be inserted here)

The two word finds on the following page are activities to be used in addition to or as an alternative to the quiz. The word finds should be distributed to students to complete after they have read "The Jury in the United States and Iowa." The students should bring the completed word finds to Day One of the program in case the volunteer attorney(s) and/or teacher wants to refer to them as part of the short discussion.

Solutions to the word finds are below.

A Constitutional Right Solution

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
1	T	H	E	S	I	X	T	H	A	M	E	N	U	D	L
2	M	E	N	T	G	U	A	R	A	N	L	N	T	E	A
3	S	E	S	T	H	E	J	U	R	A	I	Y	R	I	N
4	D	N	N	O	I	T	U	T	I	T	S	N	O	C	I
5	E	C	O	M	M	I	T	T	E	D	G	A	I	N	M
6	F	E	H	I	T	T	R	D	O	D	M	L	F	S	I
7	E	G	T	E	T	A	F	E	N	E	B	L	S	E	R
8	N	N	D	R	P	U	A	N	N	U	U	E	P	T	C
9	D	A	E	M	I	T	C	D	P	E	S	U	E	A	B
10	A	H	I	M	E	A	M	E	N	I	N	N	E	T	G
11	N	C	Y	P	I	E	L	C	S	H	R	E	D	S	O
12	T	S	E	R	N	R	E	P	C	O	T	V	Y	U	T
13	E	D	F	T	U	D	C	O	O	R	R	X	A	L	L
14	E	G	E	D	L	J	Y	C	O	O	M	P	I	M	I
15	T	T	I	N	G	C	R	I	M	E	L	S	F	S	M

- | | |
|--------------|--------------------------------|
| | <i>(Over, Down, Direction)</i> |
| AMENDMENT | (12, 5, SW) |
| CHANGE | (2, 11, N) |
| COMMITTED | (2, 5, E) |
| CONSTITUTION | (14, 4, W) |
| CRIME | (7, 13, NW) |
| CRIMINAL | (15, 8, N) |
| DEFENDANT | (1, 4, S) |
| IMPARTIAL | (3, 10, NE) |
| INFLUENCED | (15, 4, SW) |
| JURY | (6, 14, NW) |
| POOL | (8, 12, SE) |
| PROSECUTIONS | (12, 14, NW) |
| PUBLIC | (9, 9, NE) |
| SIXTH | (14, 15, NW) |
| SPEEDY | (13, 7, S) |
| STATES | (14, 11, N) |
| TRIAL | (3, 7, SE) |
| UNITED | (13, 1, SW) |
| VENUE | (12, 12, N) |

All Rise Solution

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
1	Y	P	V	O	T	E	R	S	Y	L	J	J	L	U	R
2	L	S	O	S	E	R	T	A	U	V	I	I	C		
3	E	A	R	T	U	I	S	Y	N	N	R	O	V	U	I
4	D	V	I	E	E	I	R	R	U	I	O	I	I	G	O
5	D	E	O	R	V	N	T	S	O	M	R	P	C	E	W
6	E	H	R	I	T	O	T	S	C	I	S	E	T	R	A
7	G	Y	O	E	R	A	R	I	U	R	R	R	D	I	U
8	R	T	Y	A	T	N	D	T	A	C	Y	J	J	D	O
9	A	U	R	E	T	S	I	L	N	L	E	U	N	E	V
10	H	E	S	N	E	C	I	L	P	O	R	R	R	W	R
11	C	I	V	S	E	I	L	G	I	Y	C	Y	E	I	L
12	R	E	E	X	A	M	I	N	E	D	E	D	T	T	G
13	E	U	B	P	Y	R	A	T	E	R	C	E	S	H	J
14	N	R	S	Q	L	C	A	D	R	L	F	V	A	Z	N
15	E	W	O	F	C	I	M	O	X	M	S	Y	M	Q	U

- | | |
|-------------|--------------------------------|
| | <i>(Over, Down, Direction)</i> |
| CHARGED | (1, 11, N) |
| CIVIL | (13, 5, N) |
| CONTROVERSY | (11, 11, NW) |
| COUNTY | (9, 6, N) |
| CRIMINAL | (10, 8, N) |
| DIRE | (14, 8, N) |
| IOWA | (15, 3, S) |
| JURORS | (11, 1, S) |
| JURY | (12, 8, S) |
| LICENSE | (8, 10, W) |
| LIES | (7, 11, W) |
| LIST | (8, 11, W) |
| MASTER | (13, 15, N) |
| PERJURY | (12, 5, S) |
| POTENTIAL | (2, 1, SE) |
| REEXAMINED | (1, 12, E) |
| REGISTERED | (10, 13, NW) |
| SECRETARY | (13, 13, W) |
| STATE | (8, 5, SW) |
| SUITS | (4, 2, SE) |
| TRIAL | (5, 6, NW) |
| VENUE | (15, 9, W) |
| VOIR | (2, 4, SE) |
| VOTERS | (3, 1, E) |
| WITH | (14, 10, S) |

A CONSTITUTIONAL RIGHT

ALL RISE

T H E S I X T H A M E N U D L
M E N T G U A R A N L N T E A
S E S T H E J U R A I Y R I N
D N N O I T U T I T S N O C I
E C O M M I T T E D G A I N M
F E H I T T R D O D M L F S I
E G T E T A F E N E B L S E R
N N D R P U A N N U U E P T C
D A E M I T C D P E S U E A B
A H I M E A M E N I N N E T G
N C Y P I E L C S H R E D S O
T S E R N R E P C O T V Y U T
E D F T U D C O O R R X A L L
E G E D L J Y C O O M P I M I
T T I N G C R I M E L S F S M

Y P V O T E R S Y L J J L U R
L S O S Y S E R T A U V I I C
E A R T U I S Y N N R O V U I
D V I E E I R R U I O I I G O
D E O R V N T S O M R P C E W
E H R I T O T S C I S E T R A
G Y O E R A R I U R R R D I U
R T Y A T N D T A C Y J J D O
A U R E T S I L N L E U N E V
H E S N E C I L P O R R R W R
C I V S E I L G I Y C Y E I L
R E E X A M I N E D E D T T G
E U B P Y R A T E R C E S H J
N R S Q L C A D R L F V A Z N
E W O F C I M O X M S Y M Q U

AMENDMENT
CHANGE
COMMITTED
CONSTITUTION
CRIME
CRIMINAL
DEFENDANT
IMPARTIAL
INFLUENCED
JURY
POOL
PROSECUTIONS
PUBLIC
SIXTH
SPEEDY
STATES
TRIAL
UNITED
VENUE

CHARGED
CIVIL
CONTROVERSY
COUNTY
CRIMINAL
DIRE
IOWA
JURORS
JURY
LICENSE
LIES
LIST
MASTER
PERJURY
POTENTIAL
REEXAMINED
REGISTERED
SECRETARY
STATE
SUITS
TRIAL
VENUE
VOIR
VOTERS



Materials for Day One

PROJECT ACTIVITY

A mock voir dire will be conducted on the first day of the program. Up to two volunteer attorneys may participate to add to the authenticity of the activity; the teacher, however, may play the role of an attorney, or may appoint two students from the class to play the role of attorneys while the teacher acts as the judge. The Young Lawyers Division of the Iowa Bar Association will make every effort to make volunteer attorneys available to every teacher who requests them as the project is implemented.

Before class, use scissors to cut the mock jury panelist identities into individual strips so that each student in your class can receive a separate fake identity for the mock voir dire. Distribute a different jury panelist identity slip to each student at the end of the class session before the program is to be presented. Explain to your students that they are to pretend that they have the background and demographic characteristics of the person on their identity slip, and that they are to answer voir dire questions—and even analyze the facts from the mock trial—as they imagine the person on their identity slip would answer those questions and see the trial.

When everyone is present, thank the student jurors for participating. Then explain that the students will be questioned by attorney(s) representing the parties to select the jury panel for a particular case.

Ask the students to stand and raise their right hands to take the prospective jurors' oath. Read the oath contained in Handout 5. Remind the students that potential jurors are sworn to tell the truth and are subject to possible punishment for perjury if they do not, but that, for purposes of this activity, it is understood that they may have to make up some facts that are not contained in their "fake identity" information.

Tell the student jurors to occupy all the seats along the front row of the classroom and likewise in all subsequent rows, so that the entire front portion of the classroom is filled. If there are not enough jurors to fill the back row, then the students that will sit in that row should be seated beginning on the far left seat. (This is how the jurors would be seated in a courtroom during jury duty). Assign numbers to the jurors beginning with Juror Number 1 on the far left seat of the front row and increasing in number to the right. When all jurors on the front row are assigned numbers, the next number is assigned to the juror on the far left seat of the second row, and so on.

Next, introduce the attorneys for the plaintiff and the defense. Direct the attorneys to proceed with voir dire questioning. The plaintiff's attorney (or prosecutor in the criminal case) should go first, beginning with a short personal introduction. The attorney will ask a general question and will instruct the jury pool that any person whose answer is "yes" should raise a hand. Then, identified by their juror number and/or their juror name, these students will be called on to explain their responses. The plaintiff's attorney/prosecutor should be given 8 to 10 minutes to complete his or her portion of the voir dire, after which the defense attorney will ask questions from the perspective of his or her client for another 8 to 10 minutes.

Remember, the whole idea behind voir dire is to find out which persons would be beneficial or harmful to the attorney's client. Questions should be asked with this purpose in mind. Sample questions for each trial are provided. Each attorney should be allowed a set number of peremptory strikes—perhaps three to five. The attorneys should discuss their strikes with the class immediately following the time allotted for the activity.

Once the questioning is completed, have the attorneys read their list of removed jurors aloud, explaining what type of challenge was used, and giving the reasons for each challenge for cause.

After the jury is selected, discuss the process with your students—as students now, not as jurors. First ask them if they were able to determine what the case was about from the questions being asked. How did they know that? What were the clues? You can explain the facts of the case a little further, elaborating on why specific questions were asked and tying those questions to key facts in the case, if you desire. Ask the students whether they would have stricken any student who was not stricken by one of the attorneys, and ask them to give their reasons.

Finally, ask why certain questions were asked, what responses the attorneys were looking for, what strategies each attorney used and why, and whether the students think this is a fair way to select a jury.

(FOR OVERHEAD, TO DISTRIBUTE TO STUDENTS, OR TO READ TO STUDENTS)

Oath for Prospective Jurors

The court clerk asks citizens who have been summoned to raise their rights hands.
The clerk then reads the following:

Do each of you solemnly swear or affirm that you will truthfully
answer all questions of you by the Court and counsel relating to
your being competent to try the issues in this case?

All prospective jurors should answer "Yes" or "I do."

Prospective jurors should then be invited to be seated.

CRIMINAL PROBLEM — STATE OF IOWA V. TYLER DILLON

Note: These are provided to assist volunteer attorneys or teachers in preparing for the mock voir dire and to give them general ideas for questions to ask during that exercise. The participating attorneys or teachers should feel free to expand on the topics introduced by the sample questions or to ask other questions. The volunteer attorneys or teachers who will conduct the mock voir dire should review the following questions before the date of the program.

ATTORNEY FOR THE STATE (PROSECUTION)

I am here representing the State of Iowa—this case is called the *State of Iowa v. Tyler Dillon*. You, as potential jury members, are called upon to do your duty and follow the laws of this state in deciding the guilt of this Defendant.

Have any of you served on a jury before today? If so, what was the charge and what was the result?

You will hear that this case involves drugs. Have you or any members of your family ever been charged with an offense involving drugs? (This line of questioning would have to be handled very carefully because a person who admits to using drugs has admitted to having committed a crime).

Possession of drugs is against the law. Some people may disagree with the law and think that drugs, or at least certain drugs, should be legal, but it is still against the law. If you are on this jury, you will be called upon to uphold the law, whether you agree with it or not. Does anyone think that he or she would have a hard time following the law for any personal or philosophical reasons?

The State's burden of proof is beyond a reasonable doubt; it is the heaviest burden of proof put upon a party in a trial. Can anyone explain in their own words what they think "reasonable doubt" means? How many think that this means that the State has to eliminate all doubt? If the judge gives you an instruction that defines "beyond a reasonable doubt" that is different from what you thought it meant, would you agree to follow the instruction?

The defendant in this case is a high school student, and the State has charged him with bringing a drug called ecstasy with him to school. He doesn't have a record, he was a popular student, a good athlete, and earned good grades. Does anyone believe that someone with these qualities would never violate the law?

Do you think that it is possible for someone who used to be a good student to fall in with the wrong crowd and start getting in trouble? What are some of the reasons that might happen?

Does everyone agree that even if someone breaks the law once, he or she should face the consequences? If not, do you think that your opinions on that issue would make you unable to be fair in this case, even if the State proved the charge against the defendant beyond a reasonable doubt?

I appreciate all of your willingness to reveal your honest beliefs on these matters. The Defendant's counsel will now have an opportunity to ask you questions.

DEFENSE COUNSEL

I represent the defendant, Tyler Dillon, in this case.

How many of you are related to a police officer or know a police officer? Is anyone related to a teacher or a principal? Does anyone think that police sometimes make mistakes—that the wrong person might sometimes be charged for a crime they didn't do? Has anyone ever had an experience when that happened to them or to someone close to them?

Does anyone think that teachers or principals might also make mistakes sometimes—that the wrong person might be accused of something they didn't do?

Does anyone have brothers and sisters? When you were growing up, did your brother or sister ever blame you for doing something you didn't do? How did it make you feel? What did you do about it?

What about in your adult life: Does anybody know someone who has been—or has anyone personally been—accused of something they didn't do? What happened?

Does the fact that Tyler has been charged with this crime mean he is guilty? Does anyone believe that just because Tyler Dillon is sitting here before you, charged with a crime, he must have done something wrong?

Have any of you heard that a defendant is presumed innocent? What does that mean? (If no one offers a good definition, ask whether they would agree that it means that if they were asked to render a verdict right now it would be that Tyler Dillon is innocent).

In civil cases, facts must be proven by a preponderance of the evidence. In criminal cases, like the one here, facts must be proven beyond a reasonable doubt. If you think of justice as a scale, in civil cases, the scale has to tip a little beyond even to meet the preponderance standard. In criminal cases, however, the scale has to tilt all the way down in order for a fact to be proven beyond a reasonable doubt. You will be asked to apply this "beyond a reasonable doubt" standard—the highest standard possible. Can you apply this high standard? Can you hold the State to its burden?

You will hear testimony from two witnesses for the State. What factors might be important to consider when evaluating someone's credibility—whether someone is lying or telling the truth? Do you think that a person's motive for testifying might influence whether or not that witness is being honest?

Have any of you ever heard of "pleading the Fifth" or "invoking the Fifth Amendment"? The Fifth Amendment says that a defendant charged with a crime has the right not to testify because no one can be required to testify against himself or herself. Instead, the State has the burden to prove that Tyler Dillon committed the crime he is charged with. Tyler Dillon does not have to prove anything here today. If Tyler Dillon does not testify today, would any of you assume he was guilty?

Can anyone think of legitimate reasons why a person might choose not to testify? (Scared, the State has not proven its case, etc.)

Those are all of the questions that I have. Thank you.

CIVIL PROBLEM — ROY PHILLIPS V. BILLY’S PUB

Note: These are provided to assist volunteer attorneys or teachers in preparing for the mock voir dire and to give them general ideas for questions to ask during that exercise. The participating attorneys or teachers should feel free to expand on the topics introduced by the sample questions or to ask other questions. The volunteer attorneys or teachers who will conduct the mock voir dire should review the following questions before the date of the program.

ATTORNEY FOR THE PLAINTIFF

I represent the Plaintiff, Roy Phillips, who has lived in Colesburg, Iowa, his entire life. Mr. Phillips has brought this lawsuit because he claims that the Defendant, Billy’s Pub, injured Roy Phillips by serving a man named Brian Wilson, who was Roy Phillips’ boss, too much alcohol. We believe that Billy’s Pub is responsible for Brian Wilson becoming intoxicated and crashing his truck — thereby paralyzing Roy Phillips, who was a passenger in Mr. Wilson’s truck.

Every one of us comes into this courtroom with his or her own life experiences. Our life experiences shape who we are and who we become. There are things called biases and prejudices. Can anybody tell me what they think a bias or a prejudice is? (A bias is a preference for one thing over another. A prejudice is a dislike of something). Do any of you have any biases or prejudices that may prevent you from giving Roy Phillips a fair trial? How many of you have ever been involved in a civil trial as a plaintiff or defendant? Have any of you been involved in a civil lawsuit as a witness? Do any of you have family members or friends that have filed a lawsuit? Where those experiences good or bad? How was the litigation resolved? Were you pleased with the outcome?

Do you believe a person who is injured by the fault of someone else, whether intentionally or accidentally, should be able to bring a lawsuit to compensate them for their injuries?

Does anyone believe there are too many lawsuits today? Why do you believe that?

You have all heard of guilt beyond a reasonable doubt. You probably heard this at some point while watching one of the numerous law shows on television. Beyond a reasonable doubt is the criminal standard of proof. This is a very heavy and difficult burden. It means if you have one doubt, big or small, that you cannot find the defendant guilty of the crime he or she is charged with.

The burden of proof in a civil case is called the preponderance of the evidence. Can anyone explain what they think “preponderance of the evidence” means? (What that means is Mr. Phillips, as the Plaintiff in this matter, needs only to tip the scale in his own favor to win. That is, if you weigh all the evidence presented by both sides and put each piece of evidence on a scale, one side for the plaintiff and one for the defense, if the scale tips in the slightest amount for my client, then he must prevail). Does anyone here think that they would not be able to weigh the evidence and make your decision based on which way the scale tips?

Has anyone ever been in a car accident? Has anyone, either themselves, family members or friends, ever been seriously injured in a car accident? Has anyone ever been injured by a drunk driver?

Do anyone of you know a person or know of a person that is paralyzed? How were they paralyzed?

How do you feel when you see someone that is paralyzed and has no use of their legs?

The Defendant in this matter, Billy's Pub, is a bar or drinking establishment. As such, it operates through its employees, such as its bartenders, waiters and waitresses and management. Our law allows for entities such as bars like Billy's Pub, to be held responsible for the actions of their employees, because a bar cannot act but by and through its employees. Do any of you have a problem holding a business, or in this case, a bar, responsible for the actions or inactions of its employees?

How do you feel about a bartender that serves alcohol to a patron who is drunk and then lets them leave the bar and get in a car and drive?

How many of you believe that only the patron or the person consuming the alcohol should be held responsible for their own intoxication regardless of whether a bartender is required to stop serving alcohol to them if they believe they are drunk?

I appreciate all of your willingness to reveal your honest beliefs on these matters. The Defendant's counsel will now have an opportunity to ask you questions.

ATTORNEY FOR THE DEFENDANT

I represent the Defendant, Billy's Pub, here today. The Plaintiff's counsel, having the burden of proof in this case, spoke to you first, and I have been carefully listening to your answers. You will hear more about the facts of this case when we start the trial, but I do want to tell you that my client, Billy's Pub, denies that it is at fault or responsible for Roy Phillips's injuries.

Does anyone feel that because a person sues in court, that s/he automatically deserves compensation?

Does anyone disagree with the rule that requires the Plaintiff to prove his case by showing the evidence favors them more than it favors the Defendant? If the Plaintiff fails to prove his case according to the law that the court will instruct you on, are you willing to award nothing, even though there is a serious injury involved in this case?

Would a feeling of sympathy prevent you from being loyal and faithful to your oath and from returning a verdict based solely upon the evidence? What would you do if you were back in the jury room and you felt that you were being swayed by sympathy, rather than the law of the case? Can anyone think of a strategy they might use for making sure that they are applying the facts to the law that the judge gives them, rather than being influenced by sympathy?

If the court instructs you that the Plaintiff must prove his/her case by preponderance of the evidence and if at the close of evidence it is equal on both sides, would anyone vote for the Plaintiff for sympathetic reasons?

Earlier you heard about the burden of proof and how the Plaintiff must prove the cause of the accident and that Billy's Pub was responsible. My client does not have to prove anything. What do you think of the fact that the plaintiff has the burden of proof in this case?

You know by now that my client is a bar or drinking establishment. Do any of your families or friends own a bar or work in a bar?

Do all of you agree that you must be equally fair to both parties in hearing and weighing the evidence regardless of whether one is just a brick and mortar building and the other a living person?

Does anyone believe that accidents are just accidents; that sometimes no one is "at fault" or negligent—that this was just an unfortunate accident?

Those are all of the questions that I have. Thank you.

Jury Service in Iowa

FREQUENTLY ASKED QUESTIONS

From the Iowa Judicial Branch's Web Site
<http://www.judicial.state.ia.us/faq/jury.asp>

Each year, thousands of Iowans perform a valuable public service as jurors. Through jury service, citizens have an opportunity to actively participate in the court system. The Iowa Judicial Branch recognizes the sacrifices made by jurors and is working to make jury service as convenient and comfortable as possible. This section provides basic information about jury service.

1. How are people called for jury service?

The courts use computers to randomly select prospective jurors from a jury pool source list. The sourcelist is composed of names of citizens who are licensed to drive and registered to vote in Iowa. The list is maintained by the state and annually updated. If your name is selected as a prospective juror, the court will send you a questionnaire, which is to be completed and returned to the court. Among other things, the questionnaire asks if you meet the state's minimum qualifications for jury service — a U.S. citizen; at least eighteen years old; able to understand English in written, spoken, or manually signed mode; and able to receive and evaluate information such that the person is able to render satisfactorily juror service.

2. Does jury service take much time?

The juror summons that is mailed to each person called to serve will indicate the general term of jury service. Iowa law provides that a person shall not be required, in any two-year period, to serve a term of more than three months unless to complete service in a particular case; to serve on more than one grand jury; or to serve as both a grand and petit juror. In 1998, the Iowa Judicial Branch streamlined the process for calling jurors. The new jury management system allows courts to reduce the length of juror service, making it more convenient for citizens. Courts using this procedure are able to release jurors who report for service if the person is not selected for a specific panel after one entire day. Those who are selected are only required to serve on one trial. Please check with the local jury manager about your specific term of service.

3. How may I get excused from jury service?

State law limits the circumstances for which the court may excuse a person from jury duty. A person has the right to be excused from service if the person submits written documentation to the court's satisfaction that (1) the person is solely responsible for the daily care of a person with a permanent disability living in the person's home and that performance of jury service would cause substantial risk of injury to the health of the disabled person; or (2) the person is breast feeding her child and is not employed outside the home. The court has discretion to excuse someone from jury service upon a finding of hardship, inconvenience, or public necessity. If you want to be excused from jury service, you should file a written request with the clerk of court as soon as possible.

Jury service is an important responsibility. A person who makes a false claim for the purpose of getting excused or helping someone else get excused may be found in contempt of court and could be punished by the court.

4. What's the difference between a petit jury and a grand jury?

A grand jury is a group of seven citizens convened for the purpose of determining whether there is sufficient evidence for a person who is accused of a crime to be brought to trial. (As opposed to the county attorney filing a charge). The grand jury shall meet at times specified by order of a district court judge, at the request of the county attorney or at the request of the majority of the grand jurors. The county attorney is responsible for presenting evidence to the grand jury. Grand jury proceedings are closed to the public.

A petit jury acts as the fact finder when a party in a civil case or a defendant in a criminal case has requested a jury. In criminal trials, 12 jurors sit on the jury; in civil trials, 8 jurors comprise the jury. If a jury has not been requested, the judge acts as the fact finder.

5. Are jurors paid?

Pursuant to Iowa law, jurors receive \$10 a day and are entitled to reimbursement for travel to and from the courthouse and for parking expenses. While employers are not required to pay the salaries of employees on jury duty, many do so in recognition of the importance of jury service.

6. What if jury service interferes with my job?

Iowa law prohibits an employer from threatening or coercing an employee or terminating the employment of a person due to serving or being called to serve as a juror. An employer who violates the law is subject to contempt of court and is also subject to a lawsuit by the employee.

The Steps of the Jury Trial

The following summarizes the steps in both civil and criminal trials:

1. **Opening Statement by Plaintiff or Prosecutor:** Plaintiff's attorney (in civil cases) or prosecutor (in criminal cases) outline their cases by describing the evidence to be presented as proof of the **allegations** — unproven statements — in the **complaint, indictment or trial information**. This often involves a summary or chronological overview of the important facts and a brief statement of what witnesses or documents will show to prove or to disprove disputed facts.
2. **Opening Statement by Defense:** Defendant's attorney similarly outlines its case by explaining the evidence to be presented to deny the allegations made by the plaintiff or prosecutor.
3. **Direct Examination by Plaintiff or Prosecutor:** Each witness for the plaintiff or prosecution is questioned. Other evidence, such as documents or physical evidence supporting the plaintiff or prosecution, is presented. Skilled attorneys let the witness be the focus of attention while they remain in the background.
4. **Cross-Examination by Defendant:** The defense next may question each plaintiff or prosecution witness. Because cross-examination is an attempt to break down the story or to discredit the witness in the eyes of the jury, its results can be quite dramatic.
5. **Motions:** If the prosecution's or plaintiff's basic case has not been established from the evidence introduced, the judge can end the case by granting the defendant's motion for judgment as a matter of law in civil cases or by entering a directed verdict of acquittal in criminal cases. These motions are always presented outside the presence of the jury, after the completion of the prosecution's or plaintiff's case. If the judge denies such a motion, the jury reconvenes and hears the defense's case.
6. **Direct Examination by Defense:** Each defense witness is questioned by lawyers for the defense, similar to number 3 above.
7. **Cross-Examination by Plaintiff:** Each defense witness is cross-examined by the plaintiff's attorney or prosecutor, similar to number 4 above.
8. **Jury Instructions:** The judge explains the rules of law to consider in weighing the evidence. The prosecution, or the plaintiff in a civil case, must meet the burden of proof to prevail. In a criminal case, the burden is very high. The prosecution must set out such a convincing case against the defendant that the jurors believe **beyond a reasonable doubt** that the defendant is guilty. In a civil case, the plaintiff must prove the case by a **preponderance**, or the greater part, **of the evidence**. In some courts all or part of the jury instructions are given before the lawyers give their closing arguments, so that the members of the jury will know the law they must apply to the facts and arguments made by counsel. In other courts, including Iowa state courts, the instructions are given just before jury deliberation begins.

9. **Closing Arguments by Plaintiff or Prosecutor:** The prosecutor or plaintiff's attorney reviews all the evidence presented, notes uncontradicted facts, states how the evidence has satisfied the elements of the charge, and attempts to persuade the jury to find the defendant guilty (in criminal cases) or to render a verdict for the plaintiff (in civil cases).
10. **Closing Arguments by the Defense:** Same as closing argument by prosecution or plaintiff. The defense asks for a finding of "not guilty" (in criminal cases) or a verdict for the defendant (in civil cases).
11. **Rebuttal Argument:** Prosecutor or plaintiff can usually reserve part of the time allowed for the closing argument to make additional remarks to counteract the closing argument by the defense. The plaintiff or prosecutor gets the last word because the burden of proof is theirs.
12. **Verdict:** The jury selects a foreperson, reviews the court's **instructions** and **charge** and begins deliberations. Jurors may not discuss the case during the trial. Discussions or deliberations may begin only after the jury receives the charge and retires to the jury room to deliberate. In most states (including Iowa), the jury's decisions must be unanimous in criminal cases, although the Supreme Court allows 9-3 verdicts in some cases in which the death penalty cannot be given. Not all states require unanimous verdicts in cases involving **misdemeanors**, actions punishable by less than one year in prison. In Iowa, a jury in a civil case can return a less than unanimous verdict after six hours of deliberations.

The jury may ask the bailiff for exhibits introduced during the trial. The jury may ask the judge to answer questions that members of the jury have about the instructions or about the process. Such questions must be in writing and delivered to the bailiff. After the jury reaches a verdict, the foreperson signs the verdict. The parties return to the courtroom, and the jury enters. The foreperson hands the verdict to the bailiff, who in turn delivers it to the judge. The judge then asks the foreperson to announce the verdict.

Jury deliberations are sometimes lengthy. If the jury is required to reach a unanimous decision but cannot do so, it is said to be a **hung jury**, and the case is declared a **mistrial**, which may require a new trial.



Materials for Day Two

The information provided below should help the instructor to answer basic questions that may arise in connection with the mock trial provided on the videotape accompanying the program.

QUESTIONS OF FACT VS. QUESTIONS OF LAW

The role of the judge is to determine the law that applies to a particular case. The judge, in the **jury instructions**, states the law and defines the aspects of it that pertain to the case at trial. The jury's role is to determine the facts and to apply them to the law. The jury will be asked to answer **jury questions** that are specifically tailored to the particular facts of the case.

The jury instructions and verdict forms relating to the two mock trials contained in the video are provided in Handout 8 (for the criminal trial) and Handout 9 (for the civil trial).

STEPS IN A JURY TRIAL

The steps of a jury trial are described in Handout 7. Note that the opening statements and closing arguments are **not** evidence. Only testimony from sworn witnesses and documents admitted by the judge may be considered by the jury in determining the outcome of a case. The attorneys merely present evidence that they want the jury to consider from the witnesses, documents and other exhibits brought out during witness examinations.

BURDEN OF PROOF

In general, the party bringing the claim, or charging someone with a crime, has the burden of proof, which is the obligation to prove the facts on which the lawsuit or criminal prosecution is based.

In a criminal case (*State of Iowa v. Tyler Dillon* in the program video), the prosecution must prove its case **beyond a reasonable doubt**. This does not mean that the jury must be 100 percent certain that the defendant is guilty, but that any doubts that jurors have about guilt must be unreasonable. For teaching purposes, an unreasonable doubt may be defined as a doubt for which one cannot give a reason.

In a civil case (exemplified by *Roy Phillips v. Billy's Pub* in the accompanying program video), the burden of proof is usually the **preponderance of the evidence**. "Preponderance" means the greater part, or at least slightly more than half. In other words, to find for the plaintiff, the jury must believe that the facts are more in favor of the plaintiff than the defendant. If the jury cannot decide which party the facts favor (i.e., the facts favor each side equally), or if the jury finds that the facts favor the defendant, the defendant must win.

Video Trial Transcript: State of Iowa v. Dillon

IN THE DISTRICT COURT
IN AND FOR MIDLANDS COUNTY

STATE OF IOWA,

Plaintiff,

vs.

TYLER DILLON,

Defendant.

TRIAL TRANSCRIPT

APPEARANCES:

STATE'S ATTORNEY, on behalf of the Plaintiff.

DEFENDANT'S ATTORNEY, on behalf of the Defendant.

JURY TRIAL HELD BEFORE THE
HONORABLE NICHOLAS McCARRY,

taken at _____
on the _____ day of _____, commencing
at _____, reported by _____
Certified Shorthand Reporter in and for the State of Iowa.

CERTIFIED SHORTHAND REPORTER

THE BAILIFF: All rise. Court is now in session. The Honorable Judge Nicholas McCarry presiding.

THE COURT: Thank you. Please be seated. Jurors remain standing. We will now swear you in. Will the jurors please raise your right hand? Do you swear or affirm to render a true verdict according to the law as given to you by this Court and the evidence submitted according to the rulings of this Court?

THE JURORS: I do.

THE COURT: Please be seated. We will now hear opening statements. Prosecution will go first.

STATE'S ATTORNEY: May it please the Court, counsel, members of the jury. On April 2nd, Tyler Dillon committed a crime. He brought an illegal substance called ecstasy to school with him and stashed it in his locker. The boy with whom he shared the locker saw the drugs and told the assistant principal. As a result, Tyler Dillon sits before you today, charged with possession of ecstasy.

The State will prove beyond a reasonable doubt that Tyler Dillon is guilty. We will do this through the testimony of two witnesses. Our first witness will be the boy with whom he shares the locker, Will Murphy. You'll hear how Will Murphy and Tyler Dillon were friends and how Will Murphy had to turn his friend in to the assistant principal when he found illegal drugs on his friend's locker shelf.

Our second witness will be the assistant principal, Michael Lewis. Mr. Lewis will tell you how he found the baggie of pills in Tyler Dillon's locker, on Tyler Dillon's shelf next to a canister of tennis balls labeled TD, because they belonged to Tyler Dillon. Mr. Lewis will also explain to you that Tyler Dillon admitted that the shelf on which the pills were found was his shelf.

The State will prove beyond a reasonable doubt that on April 2nd, Tyler Dillon knowingly possessed ecstasy. We feel confident that after hearing all the evidence, you will return a verdict of guilty. Thank you.

THE COURT: Does the defense wish to present an opening statement at this time?

DEFENDANT'S ATTORNEY: Yes, Your Honor. May it please the Court, counsel, members of the jury. This case isn't motivated by justice. It's motivated by revenge. Tyler Dillon doesn't do drugs. He's never done drugs and he wouldn't do drugs. Those drugs were not Tyler Dillon's. The only reason we're here today is because Will Murphy was mad at Tyler Dillon and he wanted to get back at him; wanted to get revenge on him.

Will Murphy wanted Tyler Dillon kicked off the tennis team so he could get back on the tennis team, so Will Murphy put the drugs in the locker they shared; then pointed the finger at Tyler Dillon. We're here today because of revenge. Those drugs were Will Murphy's drugs; not Tyler Dillon's.

Why would Will Murphy do such an awful thing to his friend? You will hear how Will Murphy and Tyler Dillon had thrown a party that had gotten out of control. You'll hear that because that party got out of control, the school suspended Will Murphy from the tennis team. You'll see how mad that made Will Murphy; mad because he couldn't play tennis; mad because he couldn't even be on the team, while Tyler Dillon was still on the team.

At the end of the trial today, you'll understand how Will Murphy was so mad at Tyler Dillon that he put drugs in their locker to get Tyler Dillon kicked off the tennis team. In fact, Will Murphy not only had the ability to put the drugs in the locker, but a teacher saw him at the locker when he wasn't supposed to be there before he supposedly found the ecstasy.

The prosecution will not be able to meet its burden of proving beyond a reasonable doubt that Tyler Dillon had those drugs in his locker because Tyler Dillon is innocent. Thank you.

THE COURT: State, you may call your first witness.

STATE'S ATTORNEY: The State calls Will Murphy.

WILL MURPHY, called as a witness, being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY STATE'S ATTORNEY:

Q. Would you introduce yourself to the jury, please.

A. My name is Will Murphy.

Q. How old are you, Will?

A. I'm eighteen.

Q. Do you go to school?

A. Yes. I'm a student at University High.

Q. Do you know Tyler Dillon?

A. Yeah. We go to school together and used to share a locker. I've known him since we were in grade school.

Q. What do you mean you used to share a locker?

A. Well, first Ty got suspended. Then when he came back to school, they gave him a different locker.

Q. Why did Tyler get suspended?

A. Because he had ecstasy.

Q. How do you know that Tyler had ecstasy?

A. Because I was the one who found it. You see, I left my third period class to go to the bathroom. On the way back, I stopped by my locker to get a book for class that I had forgotten.

Q. And what happened when you got to your locker?

A. I opened the door; bent down to pick up my book. When I stood back up again, I noticed a bag with pills on one of the shelves.

Q. What shelf was this bag on?

A. It was on Ty's shelf.

Q. What did you see in the bag?

A. A bunch of little pills. They looked like ecstasy.

Q. How did you know what they were?

A. I've seen ecstasy before at parties. Besides, everyone knows what ecstasy looks like.

Q. What did you do when you saw the bag?

A. At first, I didn't know what to do. I just stood there for a minute, stunned. But then I shut the door and went and found Mr. Lewis, the assistant principal.

Q. Why did you look for Mr. Lewis?

A. I'd worked with him before on a few projects and he was someone I felt comfortable going to with something like this. Besides, I think he's supposed to deal with disciplining people and stuff like that and drugs.

Q. Did you find him?

A. Yes. I found him in his office and asked him to come with me to my locker.

Q. What happened when you returned to your locker?

A. I opened the door and I pointed to the shelf with the bag on it.

Q. What did he do?

A. The next thing I knew, Ty was off the tennis team and suspended.

STATE'S ATTORNEY: Thank you. I have no further questions, Your Honor.

THE COURT: Cross-examination?

DEFENDANT'S ATTORNEY: Yes, Your Honor.

CROSS-EXAMINATION

BY DEFENDANT'S ATTORNEY:

Q. On April 2nd, it's fair to say you were mad at Tyler Dillon?

A. Yeah. I was pretty mad all right.

Q. You had a party at the end of March —

A. Yes.

Q. — at your parents house —

A. Yes.

Q. — when they were out of town?

A. Yes.

Q. Your parents didn't know about the party?

A. No.

Q. They didn't give their permission for the party?

A. No.

Q. Tyler Dillon invited lots of people to the party —

A. He sure did.

Q. — without your permission?

A. Right.

Q. You got in trouble for it?

A. Yes.

Q. You got in trouble when the police showed up?

A. Yes. Q. The school found out about your party and suspended you from school and the tennis team?

A. Yes, they did.

Q. Tyler Dillon was on the tennis team?

A. Yes.

Q. The school didn't do anything to Tyler Dillon?

A. No, they didn't.

Q. That made you mad?

A. It sure did. That whole mess was his fault.

Q. When you got back to school after being suspended, you suddenly found ecstasy?

A. Yes.

Q. You say you found it in your locker?

A. That's where it was.

Q. The locker you shared with Tyler Dillon?

A. Yes.

Q. You knew that Tyler Dillon would get kicked off the tennis team if the school thought he had drugs?

A. Yes, I knew that.

Q. You put the drugs in the locker to get back at Tyler Dillon.

A. No, I didn't do that.

Q. You put the drugs in the locker to get him kicked off the tennis team.

A. No, I didn't.

Q. You testified that you've seen ecstasy at parties before?

A. Yes.

Q. Isn't it true that there was ecstasy at your own party?

A. I don't know. I heard that there was some.

Q. You were the only student besides Tyler Dillon who could get into that locker, am I right?

A. Yes.

Q. After Tyler Dillon was kicked off the tennis team, you were invited back onto the team?

A. Yes.

DEFENDANT'S ATTORNEY: I have no further, Your Honor.

THE COURT: Any redirect?

STATE'S ATTORNEY: No, Your Honor.

THE COURT: You may be seated. (Witness excused.)

THE COURT: State, you may call your next witness.

STATE'S ATTORNEY: The State calls Michael Lewis.

MICHAEL LEWIS, called as a witness, being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY STATE'S ATTORNEY:

Q. Please introduce yourself to the jury.

A. My name is Michael Lewis.

Q. And what do you do for a living?

A. I'm an assistant principal at University High School in Iowa County.

Q. And what is your training as an assistant principal?

A. I graduated from Iowa State University with a degree in secondary education. I taught English for five years and then I got my master's at the University of Northern Iowa in school administration and I have been an assistant principal for four years.

Q. And what are your responsibilities as an assistant principal?

A. I'm in charge of student discipline, which includes investigating reports of student misconduct and recommending appropriate discipline to the principal, and other duties.

Q. Do you know a person by the name of Tyler Dillon?

A. Yes, I do. He's sitting right there in the blue shirt. He's a senior at University High School.

Q. When is the last time you spoke to Tyler Dillon?

A. On April 2nd when I recommended that he be suspended.

Q. Why did you recommend he be suspended?

A. I found a bag of drugs in his locker.

Q. How did you find the bag?

A. Another student, Will Murphy, showed it to me.

Q. How did you know it was ecstasy?

A. Well, as part of my job, I've had training with the local police in identifying certain drugs and I had also seen ecstasy in the school before.

STATE'S ATTORNEY: Your Honor, may I approach?

THE COURT: You may.

Q. Mr. Lewis, I'm showing you what's been marked for identification as State's Exhibit A. Do you recognize State's Exhibit A?

A. Yes. That's the bag of drugs I found on Tyler Dillon's shelf on April 2nd.

Q. And is State Exhibit A in the same or substantially the same condition as when you found it on April 2nd?

A. Yes, it is.

STATE'S ATTORNEY: Your Honor, the State offers Exhibit A.

THE COURT: Any objection?

DEFENDANT'S ATTORNEY: No, Your Honor.

THE COURT: State's Exhibit A is received.

(State's Exhibit A was offered and received in evidence.)

Q. Where was the bag when you first observed it in Will Murphy and Tyler Dillon's locker?

A. On Tyler Dillon's shelf.

Q. What did you do after you saw the bag?

A. I took it out and opened it to get a better look at the contents. I then replaced it and called Tyler out of his classroom and brought him down to his locker. I asked him who used the shelf with the tennis balls and the pop cans and he said it was his shelf.

Q. What did you do then?

A. I took the bag from the shelf and asked him if he knew what it was.

Q. And what did he say?

A. He said that he didn't know and he said that it wasn't his, and he seemed nervous and he started stammering.

Q. What happened next?

A. I took him to my office and promptly suspended him from the tennis team. I also recommended that he be suspended from school for at least two weeks.

STATE'S ATTORNEY: No further questions, Your Honor.

THE COURT: You may cross-examine the witness.

CROSS-EXAMINATION

BY DEFENDANT'S ATTORNEY:

Q. When you confronted Tyler Dillon about the drugs, he said they weren't his?

A. That's what he said.

Q. He said he didn't have anything to do with them?

A. Yes.

Q. He looked surprised to see drugs?

A. Yes.

Q. In fact, throughout this whole ordeal, Tyler Dillon has always said that the drugs were not his?

A. Yes, he did.

Q. You knew that Will Murphy and Tyler Dillon shared a locker?

A. Yes.

Q. As an assistant principal, you also knew that Will Murphy had been suspended from the tennis team?

A. Yes. I suspended him.

Q. You assumed that the drugs in the locker belonged to Tyler Dillon.

A. Yes.

Q. You assumed they were Tyler Dillon's because they were on the shelf near the tennis balls.

A. Yes.

Q. You assumed they were Tyler Dillon's because that's what Will Murphy told you.

A. Yes, I did.

DEFENDANT'S ATTORNEY: No further questions.

THE COURT: Any redirect examination?

STATE'S ATTORNEY: No, Your Honor.

THE COURT: You are excused.

(Witness excused.)

THE COURT: Does the State have any more evidence to present?

STATE'S ATTORNEY: The only other evidence that the State wishes to present, Your Honor, is to agree with the defense that the pills found in the locker were tested by a drug lab and found to be ecstasy.

THE COURT: Is that correct, counsel?

DEFENDANT'S ATTORNEY: Yes, Your Honor.

THE COURT: Very well. The jury is instructed that the pills found in the locker were ecstasy. Does the State have any further evidence to present?

STATE'S ATTORNEY: No, Your Honor. The State rests.

THE COURT: Does the defense wish to present any evidence?

DEFENDANT'S ATTORNEY: Yes, Your Honor. The defense calls Meredith Colfax to the stand.

MEREDITH COLFAX, called as a witness, being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

DEFENDANT'S ATTORNEY:

Q. Could you please introduce yourself to the jury.

A. My name is Meredith Colfax.

Q. How old are you, Ms. Colfax?

A. I'm thirty years old.

Q. Where did you go to school?

A. I received a BA from the University of Iowa. I am certified to teach grades nine through 12 and then I went back to get my master's degree in science.

Q. Where do you work?

A. I've been teaching at the University High School ever since I finished my master's degree.

Q. What do you teach?

A. Earth science and physics.

Q. I want to take you back to April 2nd. Were you working at University High School on April 2nd?

A. Yes, I was.

Q. Did anything unusual happen that day?

A. Yes, it did.

Q. Could you please tell the jury what happened.

A. Yes. During third period, I saw Will Murphy wandering the hallways when he was supposed to be in class. He was hanging out around his locker and I told him he needed to get back to the class he was supposed to be in.

Q. Did you see him go to his class?

A. Well, I was heading to the teacher's lounge for a cup of coffee, and I didn't follow him to his classroom, but when I came back from the teacher's lounge, he wasn't there anymore, so I assumed he had gone to class.

Q. Was seeing him in the hallway all that unusual?

A. Well, ordinarily it wouldn't have been unusual, but later that day I found out that he had accused Tyler of having ecstasy in the locker and given that I had seen him hanging around the locker and the hallway that morning, it just seemed a little fishy to me.

DEFENDANT'S ATTORNEY: I have no further questions.

THE COURT: Cross-examination?

STATE'S ATTORNEY: Yes, Your Honor.

CROSS-EXAMINATION

BY STATE'S ATTORNEY:

Q. Ms. Colfax, when you saw Will Murphy in the hall that day, he told you he had to go to the bathroom; correct?

A. Yes, he told me that.

Q. In fact, you saw him walking toward the bathroom, didn't you?

A. Well, I don't really know where he was going. That's why I told him to get back to class.

Q. It would be fair to say that when you saw Will Murphy, he was heading in the general direction of the bathroom; correct?

A. Yes.

Q. When you saw Will Murphy, you didn't see him with any drugs, did you?

A. No. He wasn't walking around with drugs in his hands.

Q. You know Tyler Dillon's family, don't you?

A. A little bit.

Q. Well, you graduated from high school with his sister, didn't you?

A. Yes, I did.

STATE'S ATTORNEY: No further questions, Your Honor.

THE COURT: Redirect?

DEFENDANT'S ATTORNEY: No, Your Honor.

(Witness excused.)

THE COURT: You may call your next witness.

DEFENDANT'S ATTORNEY: The defense calls Tyler Dillon.

TYLER DILLON, called as a witness, being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY DEFENDANT'S ATTORNEY:

Q. Could you please introduce yourself to the jury.

A. My name is Tyler Dillon.

Q. How old are you?

A. Eighteen years old.

Q. Where do you go to school?

A. Well, I'm back at University High School now.

Q. What do you mean you're back at University High School now?

A. After I was accused of having ecstasy in my locker, they suspended me from school for two weeks. Now I'm back in school.

Q. Do you play any sports?

A. I used to be on the tennis team, but I got kicked off because of this charge.

Q. When did you get kicked off the team?

A. As soon as I was accused of having ecstasy in my locker.

Q. When did you first find out that you were being accused of having ecstasy in your locker?

A. When the assistant principal pulled me out of class and took me to my locker.

Q. What happened when he took you to your locker?

A. He asked me which shelf was mine and I told him mine was the one with the tennis balls. Then he pulled out a baggie of ecstasy and accused me of hiding it there.

Q. Had you ever seen the ecstasy in your locker before?

A. No. I had no idea how it got there.

Q. Did the ecstasy belong to you?

A. No way. I don't do drugs.

Q. Have you ever seen ecstasy before?

A. Yes. I saw some at Will's party.

Q. Did you use any ecstasy at Will's party?

A. No way. I don't do drugs.

Q. Would anybody else besides you have been able to get into your locker?

A. Will's the only person that could have gotten into my locker because we shared it. It would have been easy for Will to put the ecstasy on my shelf and make it look like it was mine.

Q. Why do you think he would do something like that?

A. Because he was mad about the party at his parents house when they weren't home. It got a little bigger than he thought it would. The police broke it up. Then the police told the school and he was suspended from school and the tennis team. He blamed me for it. I think it was his way of getting back at me and getting back on the team.

DEFENDANT'S ATTORNEY: I have no further questions at this time.

THE COURT: Cross-examination?

STATE'S ATTORNEY: Yes, Your Honor.

CROSS-EXAMINATION

BY STATE'S ATTORNEY:

Q. You want to get back at Will Murphy because you got in trouble; isn't that true?

A. I just don't want to be found guilty for something I didn't do.

Q. You were nervous when the assistant principal confronted you with the bag of ecstasy.

A. Yes, I was nervous.

Q. You were nervous because you realized you'd been caught.

A. No. I was nervous because I was being accused of something I didn't do.

Q. You were nervous because those drugs belonged to you.

A. Those drugs weren't mine.

Q. Those drugs were by your tennis equipment —

A. Yes.

Q. — by your soda cans —

A. Yes.

Q. — on your shelf —

A. Yes.

Q. — because they were yours.

A. No. Those drugs weren't mine.

Q. You want the jury to believe that your friend put drugs on your shelf just to get back at you?

A. That's what happened.

Q. You and Will Murphy have been friends since elementary school, haven't you?

A. Yes. We'd been friends since grade school.

STATE'S ATTORNEY: I have no further questions of this witness, Your Honor.

THE COURT: Redirect examination?

DEFENDANT'S ATTORNEY: Yes, Your Honor.

REDIRECT EXAMINATION

BY DEFENDANT'S ATTORNEY:

Q. Had you ever seen those drugs before your assistant principal showed them to you?

A. No. I had no idea there were drugs in the locker.

DEFENDANT'S ATTORNEY: Nothing further, Your Honor.

COURT: Recross?

STATE'S ATTORNEY: No, Your Honor.

(Witness excused.)

THE COURT: Does the defense wish to present any more witnesses?

DEFENDANT'S ATTORNEY: No, Your Honor. The defense rests.

THE COURT: Ladies and gentlemen of the jury, before we begin closing arguments, I'm going to give you the instructions you will need for your deliberations.

(Jury instructions were read at this time.)

THE COURT: The State may now make its closing arguments.

STATE'S ATTORNEY: May it please the Court, counsel, members of the jury. Tyler Dillon committed a crime when he brought ecstasy to school with him on April 2nd. He is guilty of possession of ecstasy.

The defense would have you believe that this is some big conspiracy theory, but that just doesn't make sense. Tyler Dillon and Will Murphy have been friends since elementary school. Sure, Will Murphy was mad at Tyler Dillon, but that doesn't mean he put ecstasy in his locker.

When Will Murphy saw the ecstasy, he told the assistant principal and that's why we're here today; not because of some crazy revenge plot by Will Murphy. You heard the assistant principal say that Tyler Dillon was nervous when he showed him the baggie of pills. Well, Tyler Dillon was nervous because Tyler Dillon was guilty. Tyler Dillon committed a crime when he brought ecstasy to school with him.

The State has proven him guilty beyond a reasonable doubt and now, ladies and gentlemen, it's up to you. Find him guilty. Thank you.

THE COURT: Does the defense have a closing statement?

DEFENDANT'S ATTORNEY: Yes, Your Honor. May it please the Court, counsel, members of the jury.

This case is not motivated by justice. It's motivated by revenge. Will Murphy was mad that his party got out of control. He was mad that he was suspended from school. He was mad that he was suspended from the tennis team. He was especially mad that the same thing didn't happen to Tyler Dillon. Tyler Dillon was still on the tennis team until Will Murphy supposedly found ecstasy in their locker.

Will Murphy admitted to you how mad he was at Tyler Dillon. He admitted to you that he had access to the locker. We had to bring a teacher who saw Will Murphy in the hallway to explain how Will Murphy was wandering the hallways by his locker before he supposedly found the ecstasy. Then Tyler Dillon took the stand and told you that the ecstasy wasn't his.

Ladies and gentlemen, Tyler Dillon is innocent until the prosecution proves beyond a reasonable doubt that he is guilty of possessing ecstasy. The prosecution has utterly failed to meet that burden. The fact that Will Murphy was mad at Tyler Dillon is reasonable doubt. The fact that Will Murphy was mysteriously wandering the hallways before the ecstasy was found is reasonable doubt. The fact that there was ecstasy at Will Murphy's party and then ecstasy miraculously showed up at the locker he shared with Tyler Dillon is reasonable doubt. The fact that Tyler Dillon looked you in the eye and told you that the ecstasy wasn't his is reasonable doubt.

When you go back to the jury room, render the only verdict that will bring justice to this case. Find that Tyler Dillon did not possess ecstasy. Find him not guilty. Thank you.

THE COURT: Does the State wish to offer a rebuttal?

STATE'S ATTORNEY: Yes, Your Honor. Sure, there was ecstasy at that party, but who was at that party? Tyler Dillon was at that party. In fact, it was Tyler Dillon's fault that the party got out of control. Tyler Dillon brought ecstasy to school on April 2nd. Do justice by finding him guilty. Thank you.

THE COURT: Ladies and gentlemen of the jury, you have heard the evidence. You have received the Court's charge and you have heard the final arguments from both parties. It is now the time in the trial when we hand the case over to you for your deliberations. You may now retire to the jury room.

(Jury deliberations commenced at this time.)

THE COURT: The Court thanks the jury for its time and attention in connection with this trial. I remind you that our justice system could not survive unless citizens recognize their responsibility to participate in jury service. Has the jury reached a verdict in this case?

JURY FOREPERSON: Yes, we have, Your Honor.

THE COURT: What say you?

JURY FOREPERSON: We the jury find the defendant —

IN THE DISTRICT COURT
IN AND FOR MIDLANDS COUNTY

STATE OF IOWA,

Plaintiff,

vs.

TYLER DILLON,

Defendant.

JURY INSTRUCTIONS

INSTRUCTION NUMBER ONE

Tyler Dillon is presumed innocent and not guilty. This presumption of innocence requires you to put aside all suspicion which may arise from the arrest, charges, or present situation of the Defendant. The presumption of innocence remains with the Defendant throughout the trial unless the evidence establishes guilt beyond a reasonable doubt.

INSTRUCTION NUMBER TWO

In order to prove the Defendant is guilty of Possession of Ecstasy, the State must prove, beyond a reasonable doubt, the following elements of Possession of Ecstasy:

- (1) The defendant knowingly possessed ecstasy on April 2nd.
- (2) The defendant knew that the substance he possessed was ecstasy, an illegal drug.

If the State has proved both of these elements beyond a reasonable doubt, the defendant is guilty of possession of ecstasy. If the State has failed to prove either of these elements beyond a reasonable doubt, the Defendant is not guilty.

INSTRUCTION NUMBER THREE

The burden is on the State to prove Tyler Dillon guilty beyond a reasonable doubt. A reasonable doubt is one that fairly and naturally arises from the evidence, or lack of evidence, produced by the State. If, after a full and fair consideration of all evidence, you are firmly convinced of the Defendant's guilt, then you have no reasonable doubt and you should find the Defendant guilty. But if, after a full and fair consideration of all evidence, or lack of evidence, produced by the State, you are not firmly convinced of the Defendant's guilt, then you have a reasonable doubt and you should find the Defendant not guilty.

IN THE DISTRICT COURT
IN AND FOR MIDLANDS COUNTY

STATE OF IOWA,

Plaintiff,

vs.

TYLER DILLON,

Defendant.

FORMS OF VERDICT

FORM OF VERDICT #1:

We, the jury, find the defendant, Tyler Dillon, not guilty.

FOREPERSON

FORM OF VERDICT #2:

We, the jury, find the defendant, Tyler Dillon, guilty.

FOREPERSON

IN THE DISTRICT COURT
IN AND FOR MIDLANDS COUNTY

ROY PHILLIPS,

Plaintiff,

vs.

BILLY'S PUB,

Defendant.

VIDEO TRIAL TRANSCRIPT

APPEARANCES:

PLAINTIFF'S ATTORNEY, on behalf of the Plaintiff.

DEFENDANT'S ATTORNEY, on behalf of the Defendant.

JURY TRIAL HELD BEFORE THE
HONORABLE NICHOLAS McCARRY,

taken at _____
on the _____ day of _____, commencing
at _____, reported by _____
Certified Shorthand Reporter in and for the State of Iowa.

CERTIFIED SHORTHAND REPORTER

THE BAILIFF: All rise. Court is now in session. The Honorable Judge Nicholas McCarry presiding.

THE COURT: Thank you. Please be seated. Jurors remain standing. We will now swear you in. Will the jurors please raise your right hand? Do you swear or affirm to render a true verdict according to the law as given to you by this Court and the evidence submitted according to the rulings of this Court?

THE JURORS: I do.

THE COURT: Please be seated. We will now begin with opening statements. Plaintiff's counsel?

PLAINTIFF'S ATTORNEY: May it please the Court, counsel, members of the jury. We need to go back to the night of October 17th. It's a quiet night at Billy's Pub, a little tavern located about eight miles outside of Gettysburg, Iowa. There is a bartender on duty by the name of Dallas Russell. You will hear that Bartender Russell knows that he is not supposed to serve alcohol to an intoxicated customer, but you will also hear that Bartender Russell's earnings depend on how much alcohol he sells.

On this night, Brian Wilson, the owner of Wilson Construction, comes in after work. Mr. Wilson orders a meal and a beer. The bartender then begins to serve Mr. Wilson a steady stream of alcohol, progressing from beer to whiskey and Coke. Mr. Wilson's speech becomes slurred and he staggers whenever he walks to the rest room. Despite this behavior, Bartender Russell keeps the drinks coming for nearly three-and-a-half hours. He never cuts Mr. Wilson off.

This is not the end of the story, because Mr. Wilson did not come to the tavern alone that night. Mr. Wilson had given a ride to his 23 year old employee, Roy Phillips. After they ate dinner together, Mr. Wilson and Roy spent most of the evening on opposite sides of the room; Mr. Wilson on his bar stool and Roy playing pool with another patron. There is very little discussion between the two until it's time to leave the bar.

Mr. Wilson insists on giving Roy a lift home. Roy, having no other way to get home and having no idea how much alcohol Bartender Russell has served Mr. Wilson, accepts the ride. You will hear that on the way home, Mr. Wilson loses control of his truck and it flips three times. Roy's neck is broken and he is paralyzed from the waist down. Mr. Wilson dies almost instantly. The autopsy shows that Mr. Wilson's blood alcohol content was .22, over two times the legal limit.

We are here today because Billy's Pub had a duty to stop serving alcohol to Mr. Wilson once he became intoxicated. Because its bartender, Dallas Russell, failed to fulfill his duty, Billy's Pub is now responsible for what Mr. Wilson did when he left the bar. That is why at the end of this trial, I will ask you to hold Billy's Pub accountable for the devastating injuries to Roy Phillips. Thank you.

THE COURT: Defense counsel?

DEFENDANT'S ATTORNEY: May it please the Court, counsel, members of the jury. What happened to Mr. Phillips is a tragedy. Seeing his current condition will fill any human being with sympathy. This case is not about sympathy, however. It's about responsibility; personal responsibility. Mr. Wilson chose to drink alcohol that night and Mr. Phillips chose to get in the truck with him. We at Billy's Pub are not responsible for those poor decisions.

We will be calling two witnesses today. First, we will call Dallas Russell, our bartender on duty that night. Dallas will explain that when he served Brian Wilson, there was no stumbling; there was no slurred speech, and, in fact, Mr. Wilson engaged in conversation with a fellow patron during the majority of the time he was at the bar that night. Dallas will also tell you that he would not have continued serving Brian Wilson if he thought Mr. Wilson was drunk.

Second, we will call Samantha Dixon. Ms. Dixon was the waitress on duty that night. She'll tell you that she remembers seeing Brian Wilson and Roy Phillips at our bar on October 17th. She'll tell you that there was no stumbling and Mr. Wilson did not look drunk when he left the bar around 9:45 p.m.

Mr. Phillips sued us. The judge will tell you that this means he has the burden of proving that we did something wrong. We did nothing wrong. Because we did nothing wrong, and because Mr. Phillips has to take responsibility for choosing to get in Mr. Wilson's truck, we are confident that you will find in our favor. Thank you.

THE COURT: The plaintiff may call his first witness.

PLAINTIFF'S ATTORNEY: Your Honor, we call Roy Phillips.

ROY PHILLIPS, called as a witness, being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY PLAINTIFF'S ATTORNEY:

Q. Please state your name and age for the jury.

A. Roy Phillips. I'm 24 years old.

Q. Where do you live?

A. I've lived in Colesburg, Iowa, my entire life.

Q. Are you employed?

A. No, not since the crash. It paralyzed me from the waist down. I've been in rehabilitation ever since I left the hospital.

Q. What did you do for a living before the crash?

A. I worked for Wilson Construction as a heavy equipment operator.

Q. I want to go back to October 17th, the day of the crash. Did you go to work that day?

A. Yes, I did. I drove in about 30 miles from my home. I got there about seven o'clock in the morning.

Q. How long did you work that day?

A. I worked a whole day. I probably called it quits about 5:45 that night.

Q. What did you do after work?

A. Well, my boss, Brian Wilson, he invited me to a fish fry at a local bar he knew about. When it came time for us to leave, he had me leave my car at the job site. He said the bar was a little out of the way and it would be silly for us to take two vehicles.

Q. How were you going to get your car?

A. We both lived in Colesburg, so he said he would drive me straight home after supper and then bring me to work in the morning. I could get my car then.

Q. So did you ride with Mr. Wilson to supper?

A. Yes, I did.

Q. Where did he take you?

A. Kind of to the middle of nowhere; a local bar called Billy's Pub. It was off Highway 30 about eight miles from Gettysburg.

Q. What did you do when you arrived?

A. Brian and I sat at the bar and had the fish special and a couple of beers. After that I got up and went to the other side of the bar where I chatted and played pool for a couple of hours with a woman I met.

Q. What was Mr. Wilson doing when you were playing pool?

A. He had met a man while we were eating and they began talking about a paving project. I wasn't really paying much attention to them after I went to play pool, but I think they talked for a couple — for quite a while.

Q. When is the next time you specifically remember seeing Mr. Wilson?

A. The woman I was playing pool with left with a couple of her friends and I went looking for Brian. I found him sitting alone at the bar talking to the bartender.

Q. How many people were in the bar at this point?

A. We were about it, except for the bar staff. Maybe one or two others.

Q. What happened next?

A. I told Brian I was tired and I was ready to go.

Q. How did Mr. Wilson respond?

A. He said he was too, but he just wanted to finish his soda.

Q. What was he drinking?

A. I wasn't sure, but it looked like a Coke in a tall pint glass.

Q. Did you ask him what it was?

A. No.

Q. Did Mr. Wilson finish his drink?

A. Yes.

Q. What happened then?

A. He got up, kind of stumbled a little bit and began walking towards the door.

Q. Did you know if Mr. Wilson had been drinking alcohol the entire time you were playing pool?

A. No. I had no idea.

Q. Did you ask Mr. Wilson how much he had had to drink?

A. No.

Q. Why not?

A. Because he was an adult and he knew he had to drive us home. I figured he knew his limit and he switched from beer to Coke. Besides, the same bartender was there at the bar the whole time. The thought never entered my mind that he was sitting there getting loaded.

Q. What happened next?

A. We got into Brian's truck and he started to drive us back to Colesburg. It was raining. Brian was going pretty fast. When he went to turn off the highway, he lost it. I remember flipping over and over. I blacked out and when I came to, I couldn't feel my legs. My neck was broken.

Q. What happened to Mr. Wilson?

A. He flew through the windshield and died immediately.

PLAINTIFF'S ATTORNEY: Your Honor, both parties stipulate at this time that Mr. Wilson's autopsy showed his blood alcohol content to be .22, which is more than two times the legal limit at his death.

THE COURT: Is that correct, counsel?

DEFENDANT'S ATTORNEY: Yes, it is, Your Honor.

PLAINTIFF'S ATTORNEY: Then we have no further questions, Your Honor.

THE COURT: Cross-examination?

DEFENDANT'S ATTORNEY: Yes, Your Honor.

CROSS-EXAMINATION BY DEFENDANT'S ATTORNEY:

Q. Let's start by talking about what you knew before you left Billy's Pub with Mr. Wilson behind the wheel. You and Mr. Wilson both had the fish dinner special?

A. Yes.

Q. You both had a few beers with dinner?

A. Yes.

Q. Probably two or three?

A. Yes.

Q. Did you quit drinking alcohol after those first two or three beers?

A. No.

Q. You had another six to seven beers that night, didn't you?

A. That sounds right.

- Q. Did Mr. Wilson tell you that he was going to stop drinking after those first two or three beers?
- A. No.
- Q. You just assumed that he stopped drinking alcohol even though you didn't?
- A. Yes, I did. He was the one who drove us.
- Q. You ran a bar tab over the course of the night with Mr. Wilson, didn't you?
- A. Yes.
- Q. At the end of the night, the bill was \$35 and you both threw in a 20?
- A. That's right. The extra was for the tip.
- Q. The fish dinners were on special that night for \$5 a person?
- A. That sounds right.
- Q. How much were the beers?
- A. A dollar apiece.
- Q. So if, between the two of you, you spent \$10 on the two dinners, \$10 for your ten beers, and \$3 for Mr. Wilson's beers with dinner, that means Mr. Wilson somehow racked up an additional \$12 in bar expenses while you were playing pool; right?
- A. I suppose so.
- Q. And when he got up off his bar stool at the end of the night, he stumbled, didn't he?
- A. Yes.
- Q. But it never entered your mind that he had spent that additional money on alcohol?
- A. No.
- Q. Let's talk about your choices after you left the bar. You did not choose to drive Mr. Wilson's truck?
- A. No. I was a little tipsy myself. I was in no condition to drive.
- Q. You did not choose to call a cab?
- A. There weren't any cabs out where we were.
- Q. You did not choose to have someone from your hometown come to pick you up?
- A. It was 10 o'clock p.m. Everyone I knew was in for the night.
- Q. You didn't even try to find a ride, did you?
- A. No, I didn't.
- Q. Instead, you chose to get into the vehicle that Mr. Wilson was driving?
- A. Yes.
- Q. After he had just spent nearly three hours sitting in a bar?
- A. Yes.

DEFENDANT'S ATTORNEY: No further questions.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY PLAINTIFF'S ATTORNEY:

- Q. Did you have any other way to get home that night?
- A. No. I was in the middle of nowhere with no car in the middle of a thunderstorm. Besides, I had no idea that Brian was drunk.

PLAINTIFF'S ATTORNEY: No further questions, Your Honor.

THE COURT: You may step down.

(Witness excused.)

THE COURT: The plaintiff may call their next witness.

PLAINTIFF'S ATTORNEY: Your Honor, we call Preston Miller.

DIRECT EXAMINATION

BY PLAINTIFF'S ATTORNEY:

Q. Would you please introduce yourself to the jury and tell them your age for the record.

A. My name is Preston Miller and I'll be 63 next month.

Q. What do you do for a living?

A. Well, I farm and I run a grain elevator in Gettysburg.

Q. Were you in Billy's Pub on the night of October 17th?

A. Yes, I was.

Q. Did you go for the fish fry?

A. No. I ate dinner with my wife that night. She went shopping with her sister, so I thought I'd stop by and wet my whistle.

Q. Did you sit with Brian Wilson that night?

A. I did.

Q. Did you know him before that night?

A. Well, not personally, but I knew he ran a construction business and I needed a road paved by my grain elevator. That's what got us to talking.

Q. How long were you sitting with Mr. Wilson that night?

A. An hour-and-a-half, two hours.

Q. Were the two of you drinking alcohol together?

A. Yeah, yeah. We drank while we talked business. He drank quite a few whiskey and Cokes. Doubles, I think.

Q. How much did you have to drink?

A. Maybe four beers.

Q. Could you tell whether the alcohol was affecting Mr. Wilson?

A. Sure. He was slurring his speech and he had to steady himself when he got off the bar stool to go to the rest room.

Q. Were you worried that he had had too much to drink?

A. Not really. Brian mentioned that he was there with one of his employees, so I guess I just assumed he was hitching a ride with him.

Q. Did the same bartender serve you and Mr. Wilson all night?

A. Yeah. Dallas. He's a good kid.

Q. During the nearly two hours that you sat with Mr. Wilson, was it obvious that he was intoxicated?

A. It was to me.

PLAINTIFF'S ATTORNEY: No further questions, Your Honor.

THE COURT: Cross-examination?

CROSS-EXAMINATION

BY DEFENDANT'S ATTORNEY:

Q. Mr. Miller, you just testified that you had at least four beers the night of October 17th?

A. Yeah.

Q. Is that how many you told your wife you had that night?

A. Well, I think so.

Q. Do you always tell her how much you drink when you go to a bar?

A. Well, sometimes I estimate.

Q. I understand. Regardless, you had enough to drink that night that you weren't comfortable driving home, were you?

A. That's right. I caught a ride home with my neighbor. I told Brian to give me a call about the paving job and I left him sitting in the bar.

Q. You chose not to drive home because you had been drinking?

A. Correct.

Q. Do you know who Roy Phillips is?

A. I do.

Q. Did you see Mr. Phillips at the bar that night?

A. Yeah. Like I said, I assumed Brian was riding home with him.

Q. Where did you see Mr. Phillips?

A. Well, he was playing pool with some lady. He came up to the bar several times for beer.

Q. Did Mr. Phillips talk to Mr. Wilson during any of these trips to the bar?

A. Yeah. Not for very long. Roy seemed pretty anxious to get back to the lady he was playing pool with.

Q. How many times did Mr. Phillips come over to talk to Mr. Wilson?

A. Oh, I reckon about twice.

Q. Did Mr. Wilson order any drinks during these conversations?

A. I seem to remember once where Roy ordered beer and Brian told Dallas to give him another.

Q. You said you thought Mr. Wilson was drunk. Was there anything to stop Mr. Phillips from seeing what you saw?

A. I don't know. Maybe, maybe not.

DEFENDANT'S ATTORNEY: No further questions.

THE COURT: Redirect?

PLAINTIFF'S ATTORNEY: Not necessary, Your Honor.

(Witness excused.)

THE COURT: Does the plaintiff have any further witnesses?

PLAINTIFF'S ATTORNEY: No, Your Honor. The plaintiff rests his case.

THE COURT: The defendant may call its first witness.

DEFENDANT'S ATTORNEY: Your Honor, we call Dallas Russell.

DALLAS RUSSELL, called as a witness, being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY DEFENDANT'S ATTORNEY:

Q. Please introduce yourself to the jury.

A. I'm Dallas Russell.

Q. Where do you live?

A. Gettysburg, Iowa.

Q. How old are you, Mr. Russell?

- A. I'm 37.
- Q. What do you do for a living?
- A. I have two jobs. During the day I run a canoe rental business on the Madison River called Russell Canoes and during the evening I'm a bartender at Billy's Pub.
- Q. How long have you been a bartender?
- A. A little over three — three years now.
- Q. Were you working at Billy's Pub on October 17th?
- A. Yes, I was.
- Q. Do you remember serving Brian Wilson and Roy Phillips that night?
- A. I do. I saw the two of them come in together. Mr. Wilson had stopped in a couple of times before.
- Q. What was Brian Wilson drinking that night?
- A. Whiskey and Cokes. He also had some beer with his dinner and he had the fish special, I think.
- Q. What was Roy Phillips drinking?
- A. He stuck to beer the whole night.
- Q. How long were Mr. Wilson and Mr. Phillips in Billy's on October 17th.
- Q. I'd have to say about three-and-a-half hours. It seems to me they came in after six and left before ten. I remember they were talking about how they'd had to quit work for the day because it was getting dark and there was a storm coming in.
- Q. Do you remember how many drinks Mr. Wilson had?
- A. They were running a tab together, so I can't say exactly how many each of them had. I do remember that they split the tab at the end of the night and they each paid half.
- Q. How much was the total bill?
- A. Well, they left \$40 and said keep the change for a tip, so I'm pretty sure the total bill was about \$35. The only reason I remember that is because I thought the tip was a little on the cheap side.
- Q. How much do whiskey and Cokes cost?
- A. Mr. Wilson was ordering doubles, so those are \$2 a glass.
- Q. Did Mr. Wilson order a whiskey and Coke in front of Mr. Phillips?
- A. Sure. They each placed their orders at the same time at least once or twice. Mr. Wilson kept saying, "Another double, Dallas."
- Q. At any point during the evening, did you think that Mr. Wilson was intoxicated?
- A. No, I didn't. He was talking business with one of our regulars, Preston Miller, and seemed to carry on his end of the conversation just fine. I was more concerned about Preston because I have had to cut him off before.
- Q. Did you notice whether Mr. Wilson was slurring his words or unsteady on his feet?
- A. Absolutely not. He seemed perfectly fine to me. I mean otherwise I wouldn't have continued serving him. We have strict rules at Billy's Pub and if somebody seems drunk, then we refuse to give them any more drinks.

DEFENDANT'S ATTORNEY: No further questions.

THE COURT: Cross-examination?

CROSS-EXAMINATION

BY PLAINTIFF'S ATTORNEY:

- Q. Billy's Pub is licensed to sell alcohol in the State of Iowa; correct?
- A. Yes. We have a liquor license.

- Q. You are aware that you are not supposed to sell alcohol to an intoxicated customer; isn't that correct?
- A. Yes.
- Q. You say you heard Brian Wilson and Preston Miller talking business at the bar?
- A. Yes, I did.
- Q. Would you agree that they were talking for about two hours?
- A. Something like that. I wasn't really watching the clock. The night drags on a lot longer if I start to do that.
- Q. You would agree that Preston Miller was talking with Brian Wilson more than you were?
- A. Yes.
- Q. Preston Miller was also sitting closer to Brian Wilson than you were?
- A. Well, I wasn't sitting at all. Actually, I was standing behind the bar, but yes, Preston was closer than I was.
- Q. The canoe business gets a little slow at this time of year, doesn't it?
- A. Sure. During the winter there's no business at all.
- Q. When your canoe business is closed, the only way you get money is through bartending; isn't that right?
- A. Yes. I live on tips a lot of the time.
- Q. The more drinks you sell, the more tips you get?
- A. That's the way it's supposed to work. Depends upon the customer.
- Q. Of course, if you admitted to overserving the customer and letting him drive home drunk, you'd lose your job, wouldn't you?
- A. Sure, but that's not what happened here. Mr. Wilson was a big guy. He looked like he was holding his liquor just fine.

PLAINTIFF'S ATTORNEY: No further questions, Your Honor.

THE COURT: You may step down.

(Witness excused.)

THE COURT: The defendant may call its next witness.

DEFENDANT'S ATTORNEY: Your Honor, we call Samantha Dixon.

SAMANTHA DIXON, called as a witness, being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY DEFENDANT'S ATTORNEY:

- Q. Please introduce yourself to the jury.
- A. I'm Samantha Dixon. I live in Colesburg and I live with my husband and my three kids.
- Q. How old are your children?
- A. I have two boys and a girl. The boys are 13 and 11 and my girl is nine.
- Q. Where do you work, Ms. Dixon?
- A. I'm a waitress at Billy's Pub.
- Q. How long have you been a waitress?
- A. I started back again after my youngest went to kindergarten, so it would be four years now.
- Q. Were you working on October 17th?
- A. Yes, I was.
- Q. Do you remember serving Mr. Wilson and Mr. Phillips that night?
- A. I do. They both had the fish special for supper.

- Q. Do you know whether Mr. Phillips and Mr. Wilson drank any alcohol that night?
- A. Well, they both had beer with supper and then I remember noticing that Mr. Wilson switched to whiskey and Coke at some point, but I don't know when and I think Mr. Phillips kept drinking beer.
- Q. Was it obvious to you that Mr. Wilson continued to drink alcohol throughout the evening?
- A. Sure. He had a beer or mixed drink in front of him every time I saw him.
- Q. Do you remember how many drinks they each had?
- A. I really don't. I served them supper and brought some beers to Mr. Phillips while he was playing pool, but Dallas took care of the bill.
- Q. Do you know how much the total bill was?
- A. No. I only know that my cut of the tip was \$2, which was kind of low given how long they'd been there.
- Q. Did you see Mr. Wilson when he was sitting at the bar?
- A. Sure. It wasn't very busy that night. I saw him talking to Preston Miller and I saw him leave.
- Q. Did you ever notice Mr. Wilson slurring his words that evening?
- A. No. He was talking normally.
- Q. Did you ever see Mr. Wilson stagger or stumble that evening?
- A. No. I was shocked to hear about the car accident because he did not look drunk when he left the bar.

DEFENDANT'S ATTORNEY: No further questions.

THE COURT: Cross-examination?

CROSS-EXAMINATION

BY PLAINTIFF'S ATTORNEY:

- Q. Ms. Dixon, you didn't serve Mr. Wilson drinks at the bar that night, did you?
- A. I served Mr. Wilson supper, but since he stayed at the bar after supper, Dallas was in charge of the drinks.
- Q. So would it be fair to say then that you don't know how many drinks Mr. Wilson had drunk that night; correct?
- A. Yes, I don't know how many he had.
- Q. Because Dallas was doing the serving; is that right?
- A. Yes.
- Q. Would it also be fair to say that every time you saw Mr. Wilson, he had a drink in front of him?
- A. Sure, but that doesn't mean it was a different drink. Like I said, I wasn't keeping track.
- Q. Ms. Dixon, you claim that you didn't see Mr. Wilson stumble when he left the bar; isn't that correct?
- A. That's right. He didn't stumble. If he had, I would have had him call someone for a ride.
- Q. You still work at Billy's Pub, don't you?
- A. Yes.
- Q. And you want to keep working there, don't you?
- A. For the time being, sure.

PLAINTIFF'S ATTORNEY: No further questions.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY DEFENDANT'S ATTORNEY:

- Q. You mentioned that you would have had Mr. Wilson call for a ride if you saw him stumble. Did Billy's have a phone on October 17th?

A. Yes.

Q. Did Mr. Phillips ask to use it?

A. No, he didn't.

Q. Did you also mention that you live in Colesburg?

A. I do.

Q. Have you ever given a patron a ride home before?

A. Sure, I have.

Q. Did Mr. Phillips ask you for a ride to Colesburg on October 17th?

A. No, he didn't.

DEFENDANT'S ATTORNEY: No further questions.

THE COURT: You're excused.

(Witness excused.)

THE COURT: Anything further from the defendant?

DEFENDANT'S ATTORNEY: No, Your Honor. The defendant rests.

THE COURT: Any further evidence from the plaintiff?

PLAINTIFF'S ATTORNEY: No, Your Honor.

THE COURT: Members of the jury, this concludes the evidentiary portion of the case. It is now appropriate for me to give you your instructions.

(Jury instructions were read at this time.)

THE COURT: Counsel may make their closing argument.

PLAINTIFF'S ATTORNEY: May it please the Court, counsel, members of the jury. Of the three things that we, the plaintiff, had to prove, two are not in dispute. The defense admits that Billy's Pub was licensed by the State of Iowa to sell alcohol. The defense also admits that Brian Wilson's blood alcohol level was twice the legal limit when he left the defendant's bar.

The only real question before you is whether Billy's Pub employees sold and served alcohol to Brian Wilson when they knew, or should have known, that Mr. Wilson was intoxicated. The judge said a person is considered intoxicated if by drinking beer, wine, or liquor, the person loses control of his bodily actions to any extent.

You heard from eyewitness Preston Miller that on the evening of October 17th, Brian Wilson's speech was slurred and his walking was unsteady. The testimony isn't surprising when you consider all of the alcohol that Mr. Wilson was served, how long it was served to him, and how high his blood alcohol level was after the crash. The defendant's only witnesses are two employees who claim they never knew that Brian Wilson was intoxicated. How believable is that testimony? Let's set aside the fact that Mr. Russell and Mrs. Dixon could very well lose their jobs if they had said otherwise. We can even set aside the fact that the defendant's witnesses were the ones who served Mr. Wilson enough drinks to intoxicate him to not once, but twice the legal limit.

The fact is that a reasonably observant person, Preston Miller, sat at the very same bar that Dallas Russell was tending and had no doubt that Brian Wilson was drunk. We proved that Billy's employees served Brian Wilson alcohol when, at the very least, they should have known that he was intoxicated. Selling alcohol is serious business. If that is how you want to make your money, the law says that you have to follow certain rules. The employees of Billy's Pub failed to follow those rules on October 17th and now because of that failure, an innocent young man will never walk again.

We come before you now and ask you to hold Billy's Pub accountable. Thank you.

THE COURT: The defendant may make its closing argument.

DEFENDANT'S ATTORNEY: May it please the Court, counsel, members of the jury. We don't deny that a tragedy occurred on October 17th. A man is dead and another is paralyzed. The question before you is why. When you look

at the evidence, the answer is clear. Mr. Wilson chose to drink and drive. Mr. Phillips chose to go along for the ride. Billy's Pub is not to blame for either of these poor choices. It's a matter of personal responsibility.

The plaintiff failed to prove that Billy's Pub employees sold and served alcohol to Brian Wilson when they knew, or should have known, that Mr. Wilson was intoxicated. No one got on the stand today and described Mr. Wilson making a spectacle of himself on the night of October 17th. To the contrary, it is undisputed that he was able to carry on a lengthy business conversation.

All the plaintiff offered was the perspective of one person who was drinking himself, who gave his personal opinion that Brian Wilson seemed intoxicated. I ask you if that condition was so obvious, how did Mr. Phillips miss it during the times that he came back to the bar to order drinks? The plaintiff can't have it both ways. Either Mr. Wilson was obviously drunk and Mr. Phillips knew it, or the condition wasn't obvious and our employees can't be blamed for missing it.

Because the plaintiff failed to fulfill his burden of proof, Billy's Pub cannot be liable for Mr. Wilson's actions. In addition, regardless of how you decide the question of the Pub's liability, Mr. Phillips cannot recover damages in this case because he assumed the risk of riding with Mr. Wilson that night.

We proved three things in this regard. First, Mr. Phillips knew a risk was present. He knew Mr. Wilson was his ride home. He knew Mr. Wilson had been drinking. He even claims he saw Mr. Wilson stumble on the way out of the bar.

Second, Mr. Phillips understood the seriousness of the risk. Mr. Phillips told you that he did not offer to drive because he was tipsy after drinking ten beers. It's unreasonable to think that Mr. Phillips recognized that it was wrong for him to drive, but did not reach the same conclusion about Mr. Wilson, a man who had spent several hours drinking doubles at the bar.

Third, Mr. Phillips freely chose to incur the risk. Mr. Phillips did not have to get in the truck with Mr. Wilson. He could have gotten a ride home from someone else at the bar. He could have called to have someone from home pick him up. He didn't even look for an alternative. Mr. Phillips chose poorly that night and he cannot blame his choice on Billy's Pub.

What happened to Mr. Phillips is tragic, but it is a tragedy for which Mr. Phillips is personally responsible. That is why we ask that you find Billy's Pub not liable in this case. Thank you.

THE COURT: Rebuttal?

PLAINTIFF'S ATTORNEY: Roy Phillips didn't assume any risk because he didn't know that Brian Wilson was drunk. Why should Dallas Russell have realized it when Roy Phillips could not? Russell knew that Wilson was drinking whiskey in his Coke. Roy did not. Russell knew how many drinks he served to Wilson. Roy did not. Russell spent three hours across an oak bar from Wilson that night. Roy spent that time across the room. It was Dallas Russell's job to know when his customers had had enough to drink.

Whether it was an oversight or a conscious attempt to sell more alcohol and make more money, the bottom line is Russell broke the rules and Roy paid the price. Defense counsel is right. This case is about responsibility; the bar's responsibility. Don't let Billy's Pub duck its responsibility to Roy Phillips. Thank you.

THE COURT: Ladies and gentlemen of the jury, you have heard the evidence. You have received the Court's charge and you have heard the final arguments from both parties. It is now the time in the trial when we hand the case over to you for your deliberations. You may now retire to the jury room.

(Jury deliberations commenced at this time.)

THE COURT: The Court thanks the jury for its time and attention in connection with this trial. I remind you that our justice system could not survive unless citizens recognize their responsibility to participate in jury service. Has the jury reached a verdict in this case?

JURY FOREPERSON: Yes, we have, Your Honor.

THE COURT: What say you?

JURY FOREPERSON: We the jury find the defendant —

IN THE DISTRICT COURT
IN AND FOR MIDLANDS COUNTY

ROY PHILLIPS,

Plaintiff,

vs.

BILLY'S PUB,

Defendant.

JURY INSTRUCTIONS

INSTRUCTION NUMBER ONE

The Plaintiff claims that the Defendant is liable for his damages. The Defendant denies this claim. The amount of any such damages will be decided—if necessary—at a later time. You are not to concern yourself with the question of whether the Plaintiff should receive damages at any time during your deliberations.

INSTRUCTION NUMBER TWO

Whenever a party must prove something they must do so by the preponderance of the evidence. Preponderance of the evidence is evidence that is more convincing than opposing evidence.

INSTRUCTION NUMBER THREE

In order to prove that the Defendant is liable, the Plaintiff must prove all of the following propositions:

1. The Defendant was licensed by the State of Iowa to sell alcohol.
2. The Defendant's employee sold and served alcohol to Brian Wilson when the employee knew or should have known Brian Wilson was intoxicated.
3. The Plaintiff was injured in person as a result of Brian Wilson's intoxication.

If the Plaintiff has failed to prove any of these propositions, the Defendant is not liable. If the Plaintiff has proved all of these propositions, then you must decide whether the Defendant has proved the defense of assumption of the risk.

INSTRUCTION NUMBER FOUR

A person is intoxicated if by drinking beer, wine and/or liquor, one or more of the following is true:

- a. His reason or mental ability has been affected.
- b. His judgment is impaired.
- c. His emotions are visibly excited.
- d. He has, to any extent, lost control of bodily actions.

INSTRUCTION NUMBER FIVE

The phrase “knew or should have known” means that the person had actual knowledge or that a reasonably observant person under the same or similar circumstances would have had knowledge.

INSTRUCTION NUMBER SIX

The Defendant claims the Plaintiff assumed the risk when he got in Brian Wilson’s car. The defense of assumption of risk is proved if the Defendant proved all of the following assumptions:

1. The Plaintiff knew a risk was present;
2. The Plaintiff understood its seriousness; and
3. The Plaintiff freely chose to incur the risk.

If the Defendant has proved each of these propositions, then the Plaintiff assumed the risk of harm and the Defendant is not liable. If the Defendant has failed to prove any of these propositions, the Defendant is liable.

IN THE DISTRICT COURT
IN AND FOR MIDLANDS COUNTY

ROY PHILLIPS,

Plaintiff,

vs.

BILLY'S PUB,

Defendant.

FORMS OF VERDICT

We find the following verdict on the questions submitted to us:

Question No. 1: Was the Defendant, Billy's Pub, liable for the injuries to Roy Phillips?

Answer "yes" or "no".

ANSWER: _____

(If your answer is "no", do not answer Question No.2.)

Question No. 2: Did Plaintiff, Roy Phillips, assume the risk of harm?

Answer "yes" or "no"

ANSWER: _____

FOREPERSON

"We the Jury" Program Student Evaluation

	Poor		Fair		Average		Good		Excellent	
	1	2	3	4	5	6	7	8	9	10

Please evaluate the following based on the above scale (circle):

Program Organization	1	2	3	4	5	6	7	8	9	10
Subject Matter	1	2	3	4	5	6	7	8	9	10
Videotape	1	2	3	4	5	6	7	8	9	10
Written Materials	1	2	3	4	5	6	7	8	9	10
Program Presenters	1	2	3	4	5	6	7	8	9	10

Please rate the following parts of the program:

Day 1

Introduction	1	2	3	4	5	6	7	8	9	10
Interactive Lecture	1	2	3	4	5	6	7	8	9	10
Mock Voir Dire	1	2	3	4	5	6	7	8	9	10

Day 2

Video Mock Trial	1	2	3	4	5	6	7	8	9	10
Deliberations	1	2	3	4	5	6	7	8	9	10
Overall Program Rating	1	2	3	4	5	6	7	8	9	10

What grade are you currently in: Freshman Sophomore Junior Senior

What mock trial did you view: Civil Criminal

After participating in this program, my willingness to serve as a juror is (circle one):

INCREASED UNCHANGED DECREASED

Please indicate what you believe were the two **best** parts of this program:

Please indicate what you believe were the two **weakest** parts of this program:

Please provide suggestions for improvement and general comments below and on back.

	Poor		Fair		Average		Good		Excellent	
	1	2	3	4	5	6	7	8	9	10

Please evaluate the following based on the above scale (circle):

Program Organization	1	2	3	4	5	6	7	8	9	10
Subject Matter	1	2	3	4	5	6	7	8	9	10
Videotape	1	2	3	4	5	6	7	8	9	10
Written Materials	1	2	3	4	5	6	7	8	9	10
Program Presenters	1	2	3	4	5	6	7	8	9	10

Please rate the following parts of the program:

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Introduction	1	2	3	4	5	6	7	8	9	10
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Day 2

Video Mock Trial	1	2	3	4	5	6	7	8	9	10
Deliberations	1	2	3	4	5	6	7	8	9	10
Overall Program Rating	1	2	3	4	5	6	7	8	9	10

Number of students participating in program: _____

Grade level of students participating: _____

Which mock trial did you present to your class? Civil Criminal

What verdict(s) did your class reach?

Criminal Trial:

Guilty Not Guilty

Civil Trial:

Question 1: Yes No

Question 2: Yes No

Please indicate what you believe were the two **best** parts of this program:

Please indicate what you believe were the two **weakest** parts of this program:

Would you have your class participate in this program again? Yes No If no, why not?

Please provide suggestions for improvement and general comments on back.

"We the Jury" Program Volunteer Lawyer Evaluation

Dates of Program: _____

How many class days were used to present the program: _____

Name and City of School: _____

Teacher's Name: _____

Grade Level of Participating Students: _____

Number of Students Participating in Program: _____

Mock Trial Used: Criminal Civil

	Poor		Fair		Average		Good		Excellent	
	1	2	3	4	5	6	7	8	9	10

Please evaluate the following based on the above scale (circle):

Program Organization	1	2	3	4	5	6	7	8	9	10
Subject Matter	1	2	3	4	5	6	7	8	9	10
Videotape	1	2	3	4	5	6	7	8	9	10
Written Materials	1	2	3	4	5	6	7	8	9	10
Student Response	1	2	3	4	5	6	7	8	9	10
Teacher Response	1	2	3	4	5	6	7	8	9	10

Please indicate what you believe were the two **best** parts of this program:

Please indicate what you believe were the two **weakest** parts of this program:

Would you volunteer to implement this program again? Yes No

If no, why not?

Please provide suggestions for improvements and general comments below and on back.