

“R. v. Mickelow”

Mock Trial Script on:
Drinking and Driving

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Yale Secondary School
1993

Based on Drinking and Driving: What's Fair?

By

Law Courts Education Society of BC & ICBC

Approximate Length: 45 minutes

Characters:

1. Crown
2. Defence
3. Judge
4. RCMP Constable Gregory
5. Police Ride-Along
6. Accused
7. Defence Witness 1
8. Defence Witness 2
9. Court Clerk
10. Sheriff 1
11. Sheriff 2
12. Sheriff 3
- 13-25. Jury

Judge waits outside courtroom. One sheriff waits by Judge's door and opens as Clerk says "all rise"

The Accused is taken to prisoners' dock where she sits and waits. Sheriff takes seat next to the accused.

When the Accused is in the dock, Clerk begins.

Clerk: Order in Court. All rise.

Judge: You may be seated.

Clerk: (standing) Regina versus Mickelow.

Crown: (standing) _____ (your name) appearing for the Crown (sits).

Defence: (standing) _____ (your name) appearing for the Defence (sits).

Clerk: (Accused and clerk stand and face each other.) This court is now in session with the Honorable _____ presiding.
You, Janine Mickelow, stand charge that on the ___ day of ____, 200__, you did unlawfully drive a motor vehicle while impaired, contrary to section 253(a) of the Canadian Criminal Code.
How do you plead?

Mickelow: Not guilty (sits).

Judge: Crown, you may make your opening statement.

Crown: (stands) The Crown intends to prove that on the night of _____, __, 200__, Janine Mickelow was seen to be driving in an unusual manner down _____ Road in _____. When stopped, police detected the odour of alcohol on Ms. Mickelow's breath, and her eyes were bloodshot. The Accused also appeared to be nervous, confused, and stagger several times. We will also show that the Accused failed the breathalyzer test on two attempts. Thank you (sits).

We would like to call our first witness, Officer Gregory.

Clerk: (stands) Call Officer Gregory (Sheriff goes out of court and returns with Officer Gregory who walks to witness box and remains standing).

(hands Bible to witness) Take the Bible in your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Officer: I do.

Clerk: State your name and spell your last name. (sits.)

Officer: Constable Steve Gregory.

Crown: Constable Gregory, how long have you been a police officer.

Officer: 5 years.

Crown: In that time, have you ever dealt with impaired drivers?

Officer: Yes.

Crown: Can you tell us how many?

Officer: Maybe 1 or 2 a week for five years, so about 400 impaired drivers.

Crown: So, would you say that you are good at spotting impaired drivers?

Officer: Yes.

Crown: Please tell us what happened on the night of _____, __, 20__.

Officer: At about 11pm, we noticed a car making a right turn off _____ Street in _____ and driving east along _____ Hill Road.

Crown: You say we. Was there someone with you?

Officer: Yes. I had a student as a Ride-along for the evening.

Crown: Thank you. Please continue with your story.

Officer: We noticed that the car swerved into the oncoming lane three times, as if the drivers were about to change lanes but then changed his or her mind. The road was dry so I knew the car was not skidding. I then decided to pull the car over and I turned on the lights, but the driver did not stop. I added the spot lights and then turned on the siren, but the driver still did not stop, so I was forced to pull around the vehicle and cut it off just after the crest of _____ Hill Road.

Crown: Is there any way the Accused could have missed your lights or siren?

Officer: No. When the 500-watt lights are turned on, the light is very intense.

Crown: What happened next?

Officer: We got out of the police car and walked back to the Accused's car. I identified myself and asked her for her drivers' license and vehicle registration. Her hands were shaking and she looked nervous as she fumbled with her wallet and dropped the registration on the floor of the car.

Crown: Do you see the person that was driving the car in the court?

Officer: Yes (points to Mickelow).

Crown: What happened next?

Officer: As I leaned down to talk to the driver, noticed an odour of alcohol on her breath. I asked her to step out of the car. As she did, she held onto the roof of the car to steady herself. As I questioned her about any drinking she may have done that evening, I noted that her answers were confused and that she stuttered and slurred her words a little as she spoke. I asked her to walk a straight line. She stumbled and was not able to complete this test successfully. On these grounds, I decided to arrest Ms. Mickelow for impaired driving. I read her *the Charter* at 11:15pm and placed her into the police car for transport to the station.

Crown: Then what did you do?

Officer: I ordered that the car be parked on Guildford Street and the passenger find another way home. I radioed the office and asked them to phone the passenger's parents to come and get her. They arrived within ten minutes of the call and took her home. The father stated at the time that he would act as the legal guardian for the accused and that he would come to the station shortly.

Crown: At the police station what happened?

Officer: Jacqui VanVeen.

Crown: At the police station what happened?

Officer: We arrived at the Abbotsford Detachment station at 2355 hours and the accused was brought into the interrogation room for further questioning, the breathalyzer test, and possible booking.

Crown: Was the accused allowed a phone call?

Officer: Yes. The accused was allowed to make a phone call in a private room. She returned to the interrogation room, and Constable J. Brown administered the first Breathalyzer test at 0015 hours and the second test 20 minutes later at 0035 hours.

Crown: My Lord, by previous agreement, the Defence has agreed that Constable Brown is a qualified Breathalyzer technician and is therefore not required to testify.

Judge: Defence?

Defence: Yes My Lord, we agree.

Judge: Please carry on.

Crown: Thank you. Constable Gregory, what readings did the tests show?

Officer: The first sample showed 0.10 and the second showed 0.08.

Crown: My Lord, the Crown wishes to admit as Crown Exhibit A, signed and witnessed copies of the Breathalyzer readings (Crown hands papers to Clerk who marks them with an "A" and then hands them to the Judge. Copies are also presented to the Defence counsel. The Judge looks over the papers and hands them back to the Clerk.)

Judge: The exhibits are so admitted.

Crown: What happened next Constable Gregory?

Officer: The Accused said she had only one beer at a party and that she also had the flu. Her guardian then arrived at the station and I explained the situation to him and told him that she was being charged with impaired driving. She was then released to his custody.

Crown: Thank you. No further questions My Lord (returns to seat and sits.)

Judge: M_, _____, you may cross-examine.

Defence: You said that when you turned on your lights and siren you were near the crest of _____ Hill Road. Is that correct?

Officer: Yes.

Defence: Please describe the road at that point and beyond.

Officer: There is an over-pass that narrows the road from four to two lanes, then the road curves back and forth for about 500 metres and then the road opens to 4 lanes again.

Defence: Is it possible that the accused did not feel it was safe to stop at the top of the hill and therefore continued to where the road was 4 lanes again?

Officer: Yes.

Defence: So, your passing of the accused's car and cutting it off may not have been necessary?

Officer: I made a judgment call. When the accused did not stop, I felt they might be planning to run.

Defence: Did the driver show in any way that she knew you were there?

Officer: No.

Defence: You stated that the accused was nervous, that her hands were shaking as she fumbled with her wallet and that she had difficulty finding the vehicle registration.

Officer: Yes.

Defence: Where do you keep your personal vehicle registration?

Officer: My personal car registration is in the glove box of my car.

Defence: Can you find that registration quickly?

Officer: Well, I'd have to move everything because it is usually at the bottom of the pile.

Defence: I see. Have you ever seen similar reactions from other people you have stopped?

Officer: Yes I have.

Defence: So are you telling us that when you pull someone over, that these are not unusual reactions?

Officer: No. I suppose that they are rather common because people do get nervous around the police.

Defence: You also state that the accused staggered, had to hold onto the roof of the car and had bloodshot eyes.

Officer: Yes.

Defence: Do you consider that these are other indicators of being impaired?

Officer: Yes, they are.

Defence: Could there be other reasons for these actions?

Officer: There may be, but the odour of alcohol...

Defence: I just want a yes or no answer, Constable.

Officer: Yes.

Defence: You said the readings were 0.10 and 0.08. Is that correct?

Officer: Yes.

Defence: With readings this low, don't you think a 24-hour suspension was more appropriate?

Officer: No. She failed the simple sobriety test and failed to stop when the lights and siren were used. I felt that she was legally impaired and therefore I had the right and the duty to charge her.

Defence: No further questions My Lord. (returns to seat and sits.)

Judge: Does the Crown wish to re-examine this witness?

Crown: (stands.) No My Lord.

Judge: The witness may step down. (as the witness leaves, the judge continues.)
The Crown may call its next witness.

Crown: (stands.) Call Jennifer Muhtadi.

(Sheriff 3 goes out of the courtroom and escorts Jennifer Muhtadi into courtroom.

Witness walks to witness box and remains standing.)

Clerk: (hands Bible to witness.) Take the Bible in your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Jen: I do.

Clerk: Please state your name and spell your last name. (sits.)

Jen: Jennifer Muhtadi. M-U-H-T-A-D-I.

Crown: Miss Muhtadi, were you with Constable Gregory on the evening of April 9, 1993.

Jen: Yes I was.

Crown: Will you please explain to the court why you were in the police car on that evening.

Jen: As part of the Grade 12 Law course, our teacher, Mr. McClellan has arranged for students to ride along with the RCMP one night a week. This was my week for the ride.

Crown: Good. Now will you tell the court what happened on the night of April 8, 1993.

Jen: Constable Gregory and I were travelling east on Old Yale Road when we saw a car make a right turn off Fraser Street and move in the same direction as us. The car swerved across the dotted lane lines twice and then over the double centre lane line. Constable Gregory said "I think we may have an impaired driver". He turned on his flashing lights but the car kept going. He turned on his bright follow spots but the car did not stop. By this time, we were over the bridge and so Constable Gregory turned on his siren and passed the car. Once we were in front of the car, he stopped and forced the other car to come to a stop as well. We then got out of the police car and walked to the defendant's car.

Crown: Did you get out of the car too?

Jen: Yes. He told me earlier to come with him wherever he went unless he told me otherwise.

Crown: Do you see the driver of the car in the court?

Jen: Yes. The girl in the prisoners' dock.

Crown: Good. Continue your story.

Jen: When we got to the car, I saw the driver looking very terrified. You know, eyes wide open, concerned look etc. The officer asked her for her drivers' license and car registration. She seemed to have trouble finding her license and even dropped her wallet onto the floor. She also searched for her vehicle registration, but couldn't seem to find it in the glove box.

Crown: Were you standing in a position to see all of this?

Jen: Yes. I was standing next to the officer at the drivers' door near the front corner of the drivers' side window.

Crown: OK, go on.

Jen: When she finally got her license and registration, the officer asked her to get out of the car. When she did, she stumbled and had to grab the roof of the car to stop from falling down. The accused was asked to walk in a straight line for ten steps. She was unable to complete this without moving off or stumbling.

Crown: Did you notice anything else about the accused?

Jen: I don't understand what you mean.

Crown: Can you tell me anything else about her eyes, speech, etc?

Defence: Objection My Lord. My friend from the Crown is leading the witness.

Judge: Sustained.

Crown: Let me rephrase the question. Please describe any other actions you may have noticed.

Jen: Oh. She slurred her speech and I could smell alcohol on her breath.

Crown: Was it a strong odour?

Jen: Well, I could smell it from a couple of feet away.

Crown: Good. What happened next?

Jen: Well, the officer continued to question her about how much she had to drink that evening and why she didn't stop. The officer then told her that he was going to arrest her for impaired driving. He then took out a card and read her the Charter of Rights.

Crown: How do you know it was the Charter?

Jen: The officer told me and showed it to me later when I asked about reading rights to the accused, and I heard him say that she had a right to a lawyer and all of that kind of stuff.

Crown: What happened next?

Jen: Constable Gregory put the accused into the back of the police car and told her friends to take the car and park it around the corner and then he would call for her parents to come and get her. When they were gone, we took the accused to the police station where she was questioned again and given a breathalyser by another policeman.

Crown: Thank you. No further questions My Lord.

Judge: Ms. Fehr.

Defence: Thank you My Lord. Ms. Muhtadi, do you know the defendant?

Jen: Yes, she is a fellow student in my Law class.

Defence: How well do you know the accused?

Jen: Just enough to say hello but that is about all.

Defence: As a student, have you heard of students from your school who are heavy drinkers at parties?

Jen: Yes.

Defence: Has the defendant's name come forward as a heavy drinker?

Jen: No.

Defence: Is the accused a member of any organization around the school?

Jen: Yes, the Counter Attack group.

Defence: Please explain to the court the function of the Counter Attack group?

Jen: They are a group who promote safe driving and alcohol free parties amongst students by bringing guest speakers and displays to the students at school.

Defence: Miss Muhtadi, have you ever been stopped by the police for anything?

Jen: Yes, for speeding.

Defence: When you saw the lights and had to talk to the police officer, how did you feel?

Jen: Nervous!

Defence: Nervous, interesting. Did your mouth go dry?

Jen: Yes.

Defence: Did you fumble with your wallet?

Jen: Yes.

Defence: Were you able to find your registration easily and quickly?

Jen: No.

Defence: Thank you. No further questions My Lord. (moves to seat and sits.)

Judge: Ms. Fennell, do you wish to re-examine this witness?

Crown: (stands.) No My Lord. That concludes the Crown's case. (sits.)

Judge: Thank you. This witness is excused. (witness gets up and leaves the courtroom.) Ms. Fehr, you may make an opening statement.

Defence: (stands.) Thank you my Lord. Ladies and gentlemen of the Jury. The defence does not deny that the accused had a drink on the night in question, as a matter of fact, we will introduce a witness that will state the accused only had 1 beer all evening. As for the Prosecution's allegations that the accused appeared to stagger and be nervous, we will prove that the accused was nervous because of a previous encounter with the police. We will also introduce evidence to show that the accused was suffering from the flu and that this caused her eyes to be bloodshot, her to have a flushed face, and be unsteady on her feet. Thank you. (sits.)

Judge: Thank you. Defence may call its first witness.

Defence: (stands.) Defence calls Jacqui VanVeen (sits.)

(Sheriff 3 leaves court and returns escorting the witness. The witness moves to the witness box and remains standing.)

Clerk: (hands Bible to witness.) Take the Bible in your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Jacqui: I do.

Clerk: State your name and spell your last name. (sits.)

Jacqui: Jacqui VanVeen. V-a-n Capital V-e-e-n.

Judge: Thank you. Ms. Fehr.

Defence: Thank you My Lord. Miss VanVeen, please tell the court how you know the accused.

Jacqui: We live together at my parents' house. Janine's parents are away as missionaries and so she is living with my family while they are away.

Defence: As school friends and roommates, what can you tell me about the accused?

Jacqui: She and I are both on the Honour Roll at Yale Secondary School. I have an "A" average and she has a "B" average. She is a leading member of the School Counter Attack Team and has attended several workshops regarding drinking and driving. She was the prime motivator and organizer of several guest speakers and displays at the school on the topic. We also worked together on a major law project. She has been out on the ride-along programme twice as she has an interest in the area of law enforcement.

Defence: Tell me what happened on the night of April 8, 1993.

Jacqui: We went to a pre-grad party at a friends' house with about 50 other students. Since his parents were away, there was the usual assortment of alcoholic beverages. Many students were drinking and several were drunk by the time we got there.

Defence: And what time was that?

Jacqui: About 8:30.

Defence: How much did you drink at the party?

Jacqui: Only 1 beer.

Defence: Did the accused drink during the party?

Jacqui: Yes, but only one bottle of beer.

Defence: You seem pretty sure about the amount she drank. How do you know it was only 1 bottle?

Jacqui: Well Jeanine and I both really like the same guy who was at the party. We've been arguing about him for a couple of weeks. We decided that to end the fighting, whoever he spent the most time with at the party would be the winner and the other girl would back off. As a result, we spent most of the evening watching each other and so I saw that she only had one beer for the entire time we were there. As a result of us trying to keep each other away from the boy, he found someone else and left with her.

Defence: I see. Then what happened?

Jacqui: We got into a big argument blaming each other for losing the boy to the other girl. The host of the party came and told us to leave because we were wrecking everyone else's good time. At about 10:45 we got into the car and headed home, still arguing.

Defence: Can you tell me why her car was observed swerving and weaving all over the road?

Jacqui: While we were arguing, she kept looking over at me and yelling while I yelled back at her. Just after we pulled onto Old Yale Road, the argument escalated to punching. Every time I punched her or she me, the car swerved simply because we were not paying attention.

Defence: Why didn't you stop when the officer turned on his lights?

Jacqui: We just didn't notice them. We were so concerned with our fight that we just sort of tuned out the rest of the world.

Defence: What about when the siren went off?

Jacqui: That brought us back to reality. But we didn't want to stop on the east side of the bridge because of the merging lane and the fact that the lanes moved from 4 down to 2. So Janine waved her hand to signal she saw the officer and carried on down to the road to the section where it widens to 4 lanes.

Defence: What happens next?

Jacqui: The police car pulled out to the wrong side of the road and roared past us and then screeched to a stop to cut us off.

Defence: What did you think when you saw the officer pass you and stop so fast?

Jacqui: What have we done? They must really think we are Bonnie and Clyde. We were really frightened. Janine was really upset because she has a previous conviction for impaired driving.

Defence: When did she get that?

Jacqui: I think shortly after she got her drivers' license a couple of years ago. Anyway, in all the time I've known her, I don't recall seeing her ever drink and drive until this party.

Defence: Do you know why Janine is such an advocate for Counter Attack?

Jacqui: I think it is because of an accident a friend of hers had a few years ago, but I have never really pressured her to tell me.

Defence: Good. What happened once you had stopped for the police officer?

Jacqui: Janine was really scared. She was trying to find her license in her wallet but because she was shaking so hard, she dropped it on the floor. When she was asked to get the registration, she reached over to the glove box to get it. It was full of Kleenex, CD's, make-up and other junk. The registration was at the very bottom so she had trouble finding it. Once she found everything, the officer asked her to get out of the car. As she was getting out, I noticed that she did not look very well.

Defence: Did the police ask the accused to walk in a straight line for a given distance?

Jacqui: Yes.

Defence: Was the accused able to complete this task?

Jacqui: No.

Defence: You stated that the accused did not look very well as she got out of the car. Why would you say that?

Jacqui: She had been sick for the past few days and so I thought she was going to throw up right there. When she got out of the car, she moaned and had to grab the car because she was starting to faint.

Defence: So the accused may have been sick during the time of the arrest and the sobriety test.

Jacqui: Yes.

Defence: Do you know if the accused had been to see a doctor or was she taking any type of medication for this illness?

Jacqui: I don't know about medicine but I know she had been to see her doctor the day before because I drove her and waited for her in the doctor's waiting room

Defence: My Lord, Defence would like to introduce defence exhibit A. This is a doctor's certificate report from the defendant's family doctor, a Dr. Chris Wallace from Abbotsford. (Defence hands the report to the clerk who marks the exhibit defence A and gives it to the Judge.) This report states that Janine Mickelow was suffering from a form of flu that has symptoms of a flushed face, bloodshot eyes, and unsteadiness. What happens next?

Jacqui: The police officer told Janine that she was under arrest for impaired driving and read her a Charter statement. He then told me to park the car on Guildford and that he would have his office contact my parents to come and get me. My dad arrived and the officer explained the situation to him. My dad said that he would come to the station shortly to act as her guardian. He took me home and then went to the station. Just after he left, Janine phoned from the station to ask my dad to come and help her. I told her that he was already on the way.

Defence: Thank you. No further questions My Lord. (leaves podium and returns to seat.)

Judge: Thank you. Your witness Ms. Fennell.

Crown: (stands and moves to podium.) Thank you My Lord. Miss VanVeen, you stated that you and the accused were watching each other at the party and that you only saw the accused have 1 beer and that you were at this party from 8:30 until 10:45. Is that correct?

Jacqui: Yes.

Crown: Are you expecting this jury and court to believe that you never took your eyes off the accused for 2 and ¼ hours; that you watched her constantly for all of that time, never losing sight of her for even one moment?

Jacqui: I didn't watch her every second, no. I watched her often enough to know that she nursed only one drink the entire time we were there.

Crown: So you did not watch her every minute or second. Could it be possible for the accused to have gotten another beer when you were not watching? Could someone have taken her empty bottle and given her another without your knowledge?

Jacqui: I guess so, but...

Crown: Thank you. You also stated that you and the accused were in a punching match while in the car. Is this usual activity for two grade 12 girls who are supposed to be friends?

Jacqui: Hey we are friends and friends fight. Sure fighting in the car was stupid but when you're in love, you'll do or say anything in anger.

Crown: You state you took the accused to the doctor on the day before the incident in question. Did you hear what the doctor said to her?

Jacqui: No.

Crown: Did you take the accused to the pharmacy to fill a prescription following her appointment?

Jacqui: No, but not every illness requires a pill.

Crown: My Lord, I want that last statement stricken from the record as the witness is not a qualified medical practitioner.

Judge: The jury is instructed to disregard the last statement made by this witness. The witness is reminded that she is to answer the questions and not state her opinions.

Crown: Thank you My Lord. I have no further questions for this witness. (moves from podium and returns to seat).

Judge: Ms. Fehr. Do you wish to redirect?

Defence: (stands.) No My Lord.

Judge: Call your next witness.

Defence: Call Janine Mickelow.

Clerk: Call Janine Mickelow to the stand.

(accused rises from the prisoner's dock and comes to the witness box.)

(hands Bible to witness.) Take the Bible in your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mickelow: I do.

Clerk: State your name and spell your last name. (sits.)

Mickelow: Janine Mickelow. M-i-c-k-e-l-o-w.

Defence: Janine, tell the court something about yourself.

Mickelow: I am a grade 12 student at Yale Secondary School. I have been on the Honour Roll 2 out of 3 reports this year with a "B" average. I am the president of the Counter Attack Team which has a function of trying to convince students that drinking and driving to not mix. I have attended several Counter Attack workshops this year and I am a strong believer in SADD.

Defence: When you went to the doctor, did he prescribe anything for the flu?

Mickelow: No.

Defence: So you are not on any medication?

Mickelow: No.

Defence: What happened at the party?

Mickelow: We got to the party at about 8:30. I made the rounds visiting everyone while trying to find the boy Jacqui and I were fighting about. Sure enough I found him. Now the contest between Jacqui and I was on. I flirted and hung around him for about 30 minutes but he was more interested in

drinking. He indicated that to get on his good side I should have a drink too. I agreed and was presented with a beer. I managed to nurse the beer for about 1 and ½ hours. But even that didn't work. Pretty soon, Jacqui and I were verbally fighting again and the host came and told us to go away because we were ruining the party for everyone else. So we left and continued to fight in the car, eventually moving to a punch out.

Defence: Why did the car swerve?

Mickelow: Hey when you punch someone or they punch you, you are usually looking at them. I was more interested in getting my revenge against Jacqui than watching what I was doing.

Defence: So are you saying that every time one of you punched the other, the car swerved?

Mickelow: Yes.

Defence: Now what happened when the police lights went on?

Mickelow: Nothing. We were simply more interested in yelling or screaming at each other to notice the flashing lights.

Defence: What about when he turned on the siren?

Mickelow: That woke us up. I waved my hand to indicate that I was aware of his presence and that I would stop at the first safe location.

Defence: What do you mean by safe location?

Mickelow: Well, the road was too narrow just east of the bridge and so I decided to move down Old Yale to Guildford where the road is again 4 lanes wide.

Defence: OK, so what happened next?

Mickelow: The officer came back to the car and asked me for my license and registration. I was so nervous that I dropped my wallet onto the floor.

Defence: Why were you nervous?

Mickelow: I always get nervous. I get nervous if I have to talk to a teacher, the principal, or a policeman.

Defence: Are you nervous now?

Mickelow: You bet!

Defence: What about the registration?

Mickelow: Same thing, only this time it was buried under a bunch of junk in the glove box so it took me a couple of minutes to find it.

Defence: Now, when you got out of the car, it has been stated that you stumbled, slurred your speech, and were unable to walk the straight line test.

Mickelow: That is correct. I had been sick with the flu for about 4 days before the party night. At the party, I still wasn't feeling all that well and the 1 beer I had didn't help how I felt. When the officer asked me to get out of the car, I had a sudden dizzy spell and had to hold onto the car or fall down. I was still feeling dizzy when I was doing the walk the line test.

Defence: And the bloodshot eyes?

Mickelow: According to my doctor, everything – eyes, speech and balance were all due to the flue.

Defence: When the officer arrested you, did he read your Charter?

Mickelow: Yes.

Defence: Did he explain the rights to you?

Mickelow: Yes.

Defence: Were you allowed to make a phone call in private?

Mickelow: Yes.

Defence: Would you please tell the court what happened at the station?

Mickelow: When we got to the station, the officer took me into a small room with a breathalyzer machine. She allowed me to make my phone call. When I returned to the room, a second officer was present. The first officer asked a few more questions such as "how many beers did I really have"? or "how often did I drink?" She mentioned that her computer search had revealed my past impaired driving charge. Then the second officer introduced himself as a qualified breathalyzer technician and explained the process to me.

Defence: How long of a time was there between the tests?

Mickelow: They said 20 minutes.

Defence: Do you know what the readings were?

Mickelow: They told me .10 in the first test and .08 in the second.

Defence: What happened next?

Mickelow: Jacqui's dad arrived at the station and the officer had a discussion with him. The officer then came back to me and told me that I was being released to Mr. VanVeen and that I would be notified of the court date for the charge of impaired driving.

Defence: Thank you Janine. I have no further questions of this witness My Lord. (moves from podium to seat and sits.)

Judge: Your witness Ms. Fennell.

Crown: (stands and moves to podium.) Thank you My Lord. Ms. Mickelow, how often do you drink?

Mickelow: Rarely. Maybe one or two beers a month, if that.

Crown: How many drinks did you have at the party?

Mickelow: Just one.

Crown: You would have us believe that you went to a pre-grad party with 50 other teenagers for over two hours and had only one beer. I find that hard to believe.

Mickelow: No it's true. I only had one drink.

Crown: And yet you blew readings of .10 and .08. Both readings over the legal limit after only one drink? How often do you drive after you drink?

Mickelow: Never!!

Crown: Never? Are you sure? After all, you have a previous impaired conviction and let's face it, students drink and drive.

Mickelow: But that was a long time ago. I learned my lesson.

Crown: I think not Ms. Mickelow. Haven't you seen statistics that show nearly everyone who drinks will get behind the wheel of a car after a drink or two because they don't consider themselves drunk. As a member of the Counter Attack Team at Yale Secondary, surely you would agree?

Mickelow: Yes, but...

Crown: Then knowing these statistics and having lost a friend due to drunk driving, and having a past record of impaired driving, why in the world would you get behind the wheel?

Mickelow: I don't know. I just forgot. I had too many other things on my mind. I just didn't think.

Crown: That's right. You didn't think about the possibility that you could have hurt or killed some innocent person, your friend, or even yourself.

Defence: (stands.) My Lord, the Crown is badgering the witness. (sits.)

Judge: Sustained. Ms. Fennel, may I remind you that the jury will make the decision as to innocence or guilt and that I will not tolerate grand standing in my Courtroom.

Crown: I apologize My Lord. I have no further questions. (moves from podium and takes seat.)

Judge: Ms. Fehr, do you wish to redirect?

Defence: (stands.) No My Lord. That concludes the Defense's case.

Judge: If there are no more witnesses, then we will hear our closing statements. Ms. Fehr.

Defence: (stands and faces the jury.) Thank you My Lord. Ladies and gentlemen of the jury. We have heard here today a story of an intelligent young lady who was caught up in the problems of everyday teenagers. A young lady who readily admits making a mistake is very remorseful for that mistake. Ms. Mickelow is the leader of the Yale Secondary School Counter Attack team and is dedicated and promotes the idea that drinking and driving do not mix. She has attempted to live this belief found with opposing pressures from her peer group. This is not an easy task in today's society. She watches out for her fellows by being a designated driver at parties. Janine is still a youth, one who got caught up in heat. Unfortunately, she succumbed to peer pressure and had one beer. The readings of the breathalyzer showed that while she was impaired, the readings were equal to or just over the legal levels of the law. I suggest that if Janine were an adult, we would not be sitting here today because the driver would receive a 24 hour roadside suspension. Add to all of this the fact that Janine was suffering from the flu. The defence introduced a doctor's report that indicated that all of the symptoms the officer suggested were caused by alcohol were more likely caused by her illness. Ladies and

gentlemen, I want you to think about yourselves. How many of you here have had one or two beers and then driven your car? You were lucky, because more than likely, you did not get caught. Look at the accused and see that she has learned a lesson. I ask you to find Janine Mickelow not guilty of impaired driving. Thank you (returns to seat.)

Judge: Ms. Fennell.

Crown: (stands and faces the jury.) Thank you My Lord. Ladies and gentlemen. It doesn't matter if the accused had only 1 drink or 10 drinks. The simple fact is that she was over the legal limit as prescribed by law. One drink by a driver will slow reflexes. That, ladies and gentlemen is when the accidents and injuries begin. Yes, the accused is remorseful, but this is not her first offense. My learned friend of the defence has tried to show you that the actions observed by the police were not due to intoxication but due to the flue. I too ask you to think about yourselves after one or two drinks and try to see if your actions match those of the defendant. If they do, then the accused is guilty of impaired driving. Thank you. (returns to seat).

Judge: Ladies and gentlemen. As members of the jury, you must decide whether the accused is guilty or not guilty of the charge of operating a motor vehicle while impaired. Our law says that every accused person is presumed to be innocent until proven guilty. It is your job to decide whether the lawyer for the Crown has proven the guilt of the accused beyond a reasonable doubt. If the Crown has not proven guilt beyond reasonable doubt, in other words; if you are not sure of the accused persons' guilt, then you must acquit the accused. If you have no doubts, then you must find the accused guilty of the charge.

In a real trial, you would have to make a unanimous decision. Since our time here is short, I ask you to decide by a majority decision only. Please choose one among you to act as a foreman. Go now to the jury room to make your decision. Once you have made your decision, please let the sheriff outside the jury room door know and then wait to be brought back to the court room

This court stands in recess.

Clerk: All rise.

(Sheriff 1 leads the judge to his chambers. When the judge has left, Sheriff 2 leads the jurors to the jury room for deliberation. Sheriff 3 leads the prisoner to the cell area.)

When the jury has reached a decision, Sheriff 3 returns the prisoner to the dock, sheriff

2 leads the jury back to the jury box. When these two things are complete, the clerk takes charge.

Clerk: All rise. This court is again in session. Judge Peter Jahutka presiding.

(Judge enters court and takes his seat at the bench.)

Judge: Be seated

Ladies and gentlemen of the jury. Before we hear your verdict, on behalf of Yale Secondary School Law 12 and Mr. Jeff McClellan, thank you for your assistance in the presentation of this mock trial.

Clerk: Foreman, please rise and state the jury's verdict.

Foreman: My Lord, the verdict of the jury is _____. (sits.)

If the verdict is innocent then:

Clerk: Janine Mickelow, please stand. This jury having found you not guilty, you are free to go.

If the verdict is guilty then:

Judge: Ms. Fehr. Is there anything you wish to add before I pronounce sentence?

Defence: (stands.) Call Deb Green.

(Sheriff goes out of court and returns with Green. Green walks to witness box and remains standing.)

Clerk: (hands Bible to witness.) Take the Bible in your right hand. Do you swear to tell the truth, The whole truth and nothing but the truth so help you God?

Green: I do.

Clerk: State your name and spell your last name. (sits.)

Green: Debora Green. G-r-e-e-n.

Defence: (stands and moves to lawyers' podium.) Ms. Green, how long have you known the accused?

Green: She has worked with me at the Value Save Food Store for 1 and ½ years. I have known her both as a coworker and as a friend. Over that time, I have gotten to know her family and observed that she has close bonds with her parents and is very supportive of her friends. She is a good student who is always in class, participates well in class, and helps students who are having difficulty with a subject.

Defence: What do you know about her drinking habits?

Green: Well, I do know that she is a very strong believer in the Counter Attack Programme and SADD. I believe that these feelings are rooted to the death of a friend when she was younger to an impaired charge she received shortly after she started to drive. I have never seen her drink and drive. I have seen her almost baby-sit many of her friends who do get drunk at parties and then take them home so that they don't hurt themselves or others.

Defence: Is there anything else you would like to add?

Green: Janine and I work together at the food store. She is always on time, never questions any job she is given, and always has a smile for her co-workers and the customers.

Defence: Thank you Ms. Green. No further questions My Lord. (returns to seat.)

Judge: Ms. Fennell, do you wish to examine this witness?

Crown: (stands.) No My Lord. (sits.)

Judge: The witness is excused. (witness leaves the witness box.)

Janine Mickelow please stand. This Jury have found you guilty, it is now my duty to sentence you. Do you have anything to say?

Mickelow: Yes My Lord. I am truly sorry for my actions and for all of the hurt and disappointment I have given to all of my friends and family. Please forgive me.

Judge: As you know Ms. Mickelow, impaired driving is considered to be a very serious offence in the province of British Columbia. And as this is your second charge, you are liable for a maximum imprisonment of 6 months, a 3 year prohibition from driving and a \$2000 fine. It is in my power to vary these somewhat but you have placed me in a difficult position. I realize that young people of today do get themselves into positions where their feelings take over their rational thinking with imprisonment. You obviously

show remorse for your infraction but this is your second offence. You have made very great efforts in the past to assist your peers out. For this reason I do not feel that imprisonment would be beneficial to you or society. Therefore, I have decided upon the following sentence. First, you will surrender your drivers' license to the department of motor vehicles for a period of 1 year in which time you are not to drive. Second, I am imposing a special community service in lieu of imprisonment. You are to create a one hour presentation about the evils and dangers of drinking and driving that you will present no less than 50 different community organizations and high schools throughout the lower mainland and Fraser Valley. It is my hope that Ms. Mickelow that you will not believe this court to be soft in imposing this sentence and that you have really learned a valuable lesson that you will teach to others.

This court stands adjourned.