

Date Reviewed

March 2023

Course

[Social Studies 8](#)

Topic

Medieval Law

Big Idea

Changing ideas about the world created tension between people wanting to adopt new ideas and those wanting to preserve established traditions.

Essential Question

How does Medieval legal history help us understand the origins of our current legal system?

Content

Students are expected to know the following

- social, political, and economic systems and structures

Curricular Competencies

Students are expected to be able to do the following

- explain different perspectives on past or present people, places, issues, or events, and compare the values, worldviews, and beliefs of human cultures and societies in different times and places (perspective)

Core Competencies

[Communication](#) – I can explain how aspects of our criminal justice system began in Medieval times.

[Thinking](#) – I can analyze how the Magna Carta continues to influence the world today.

[Personal and Social](#) – I can compare my world view and beliefs with those of Medieval times.

First People's Principles of Learning

- Learning is embedded in memory, history, and story.

Introduction

- Share this story of Medieval justice (from BBC article [Trial by ordeal: When fire and water determined guilt](#)):

Mr. Ailward broke into his neighbour's house to collect the money his neighbour, Mr. Fulk, owed him. Fulk came home and found Ailward in his house and had him arrested for theft.

Ailward claimed that he was innocent. But he had to undergo an ordeal to prove it. He was tied up and thrown into a pond. If he sank, he would be innocent. He floated—so he was found guilty. His punishment was that he was blinded.

- Ask: Was medieval justice fair?

Pre-Assessment

- Provide students with the handout “Medieval Crime and Punishment: Fact or Fiction”. They should read each of the eight statements about crime and punishment during the Middle Ages and then indicate whether they think the statement is true or false.
- Then provide students with access to the article [Medieval Torture's 10 Biggest Myths](#) to see check their answers.
- Challenge students to revise each false statement to make it accurate.

Interactive Learning Activities

Part 1: Medieval Courts

- Provide students with access to the article [Crime and Medieval Punishment](#) and have them read the introduction.
- Using a [Think-Pair-Share](#) strategy ask: How were punishments for breaking the law in Medieval times different from punishments today? (*punishments were harsh, used physical punishments including death penalty, focused on deterrence rather than rehabilitation.*)
- Remind students that in the Middle Ages, land was owned by a Lord and farmed by peasants or serfs. The Lord provided safety and protection for the peasants or serfs who lived and worked on his manor. Explain that each manor had a court to settle disputes and punish those who did not follow the law.
- Have student read the rest of the article [Crime and Medieval Punishment](#) and compare the Manorial Court with the King's Court using the handout “Comparing Medieval Courts”.
- Have students share their questions about trial by ordeal and their predictions about why it was replaced by trial by jury.

Part 2: From Trial by Ordeal to Trial by Jury

- Point out that trial by ordeal may seem ridiculous to people today but in Medieval times it made sense.
- Provide students with the handout “Trial by Ordeal” and access to the articles [Trial by ordeal: When fire and water determined guilt](#) and [How did Medieval justice work?](#)
- Ask:
 - What role did religion play in trial by ordeal? (*God was seen as determining guilt through the result.*)

- What role did community play in trial by ordeal? (*The key to the ordeal was the interpretation of the result. The community would probably have had a good idea if someone had committed the crime or not so would interpret accordingly.*)
- Why did the Church stop supporting trials by ordeal in 1215? (*Thought it wasn't right to ask God to get involved in a trial to determine guilt or innocence.*)
- What role did King Henry III play in replacing trial by ordeal with trial by jury in England? (*He issued an edict in 1219 to encourage trial by judge and jury to determine guilt or innocence.*)

Part 3: Magna Carta

- Point out that 1215 was not only the end of trial by ordeal, but it also saw the creation of the Magna Carta. Magna Carta is Latin for “Great Charter”. The Magna Carta is a document signed by King John of England and wealthy landowners (barons) that limited the power of the king and gave rights to the barons, including the right to a fair trial.
- Show the video [What is the Magna Carta?](#) (3:32).
- Ask:
 - What are some daily protected rights you take for granted?
 - Do they share similarities with those rights in the Magna Carta?
- Provide students with the handout “Magna Carta in Canada” and access to Canadian Encyclopedia article [Magna Carta](#). Have them read the section about the Magna Carta in Canada and complete a web to show how ideas from the Magna Carta have influenced Canada.

Part 4: Mens Rea and Actus Reus

- Point out that Medieval courts in England considered both whether the accused committed a crime (Actus Reus) and also whether the person intended to commit the illegal act (Mens Rea). The accused’s state of mind mattered when judging their guilt or innocence. Mens Rea, Latin for “guilty mind”, asks whether the person intended to commit the crime.
- Using a [Think-Pair-Share](#) strategy, have students discuss:
 - For an act to be a crime, do you think the accused person must have intended to commit the crime?
 - Consider a situation where a person might have committed a criminal act without meaning to. Should the person be charged? Would it be fair for them to be convicted of the crime?
- Have students describe a situation where someone commits an illegal act but does not intend to:
 - where someone accidentally or unintentionally harms another person.
 - where a person possesses something illegal but either does not know the nature of the substance or does not realize he has it.
 - where someone is acting on a mistaken set of facts.
- Provide students with the handout “Mens Rea and Actus Reus”. Have them work with a partner to consider each scenario and determine whether the person had the actus reus (guilty act) and the mens rea (guilty mind) necessary to be found guilty of the crime.
- Explain that in Canada, most criminal offences require that a person be found to have had the necessary state of mind or mens rea for the offence before they can be found guilty. For many

offences the mens rea refers to intending to commit the act but some offences require different states of mind (i.e. intending to cause death, knowledge of likely consequences, wilful blindness, negligence, and recklessness). It is irrelevant whether or not the person knew the act was illegal. Ignorance of the law is not an excuse.

Post-Assessment

- Have students respond to the following question:
 - How do my world view and beliefs compare to those of Medieval times?
 - How does Medieval legal history help me understand the origins of Canada's current legal system?
- They could present their learning in a paragraph, chart, web, comic strip, or format of their choice.

Extension Activities

- Pose the question: Should we get rid of prisons? Using a [Barometer Strategy](#) have each student take a stand on the issue anywhere between the designated areas for "strongly agree" and "strongly disagree".
- Read the following facts one at a time and allow time for students to shift where they are standing. You may want to ask students why they chose to shift their opinion.
 - There are more people in prison around the world today than at any other time in history.
 - The United States has the highest rate of imprisonment with 2 million people behind bars.
 - 40,000 Canadians are in prison and the number of Indigenous and racialized minorities in our prisons is rising.
 - Indigenous adults are 4% of the Canadian adult population and 30% of the prison population. Indigenous youth make up almost ½ of youth in prison but are only 8% of the Canadian youth population.
 - 80% of those in Canadian prisons did not graduate high school and 65% have less than a grade 8 education.
 - The cost of keeping one prisoner in a Canadian prison is \$130,000/year.
- Have students conduct an inquiry into the pros and cons of abolishing prisons. They could start their research with the CBC article [If we abolish prisons, what's next?](#)

Additional References

“7 Obscure Medieval Laws: These are the laws we're glad aren't enforced today.” [n.d.] *English Heritage*. <https://www.english-heritage.org.uk/visit/inspire-me/obscure-medieval-laws/>

“Crime and Punishment: Feudal law and its impact on rural village life” 2021. *The London School of Economics and Political Science*. <https://www.youtube.com/watch?v=rjbm0jNS2QM>

“Elizabeth Papp Kamali: Medieval England’s Lessons for Today.” 2019. *Harvard Law Today*. <https://today.law.harvard.edu/elizabeth-papp-kamali-medieval-englands-lessons-for-today/>

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<https://www.britannica.com/topic/ordeal>

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<https://www.thecanadianencyclopedia.ca/en/article/mens-rea>

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<https://www.thecanadianencyclopedia.ca/en/article/criminal-law>

Materials and Resources

Medieval Crime and Punishment: Fact or Fiction

Predict whether each of the following statements about Medieval crime and punishment is true or false.

During the Middle Ages...	True or False?
Judges usually decided very quickly whether someone was guilty or innocent.	
Common criminals were regularly beheaded in the public square.	
There was no professional police force.	
Thieves were punished by having their hands cut off.	
A body-stretching device called the rack was commonly used as a punishment.	
Banishment was a common punishment.	
Criminals could avoid punishment by seeking sanctuary in a church.	
Many women were accused of being witches and were burned at the stake.	

Then read *Medieval Torture's 10 Biggest Myths*

<https://www.livescience.com/11338-medieval-torture-10-biggest-myths.html> to see which of the statements are fact and which are fiction. If a statement is not accurate, revise it to make it true.

Answer Key--Medieval Crime and Punishment: Fact or Fiction

Predict whether each of the following statements about Medieval crime and punishment is true or false.

During the Middle Ages...	True or False?
Judges usually decided very quickly whether someone was guilty or innocent.	True
Common criminals were regularly beheaded in the public square. <i>Nobles who committed treason were beheaded privately at the castle.</i>	False
There was no professional police force.	True
Thieves were punished by having their hands cut off. <i>Cutting off a body part was usually only a threat not a punishment.</i>	False
A body-stretching device called the rack was commonly used as a punishment. <i>The rack was mostly used to torture religious opponents beginning in the 1500s (end of the Middle Ages).</i>	False
Banishment was a common punishment.	True
Criminals could avoid punishment by seeking sanctuary in a church.	True
Many women were accused of being witches and were burned at the stake. <i>During the Reformation (after the Middle Ages) many women were accused of being witches and mostly killed by hanging.</i>	False

Then read *Medieval Torture's 10 Biggest Myths*

<https://www.livescience.com/11338-medieval-torture-10-biggest-myths.html> to see which of the statements are fact and which are fiction. If a statement is not accurate, revise it to make it true.

Comparing Medieval Courts

Read the article "*Crime and Medieval Punishment*".

<https://www.historyonthenet.com/medieval-life-crime-and-medieval-punishment>

Compare two types of Medieval courts in the chart below"

Manorial Court		King's Court
	type of crimes	
	type of trials	
	most surprising fact	

What questions do you have about trial by ordeal?

Why do you think trial by jury came to replace trial by ordeal?

Answer Key--Comparing Medieval Courts

Read the article "Crime and Medieval Punishment".

<https://www.historyonthenet.com/medieval-life-crime-and-medieval-punishment>

Compare two types of Medieval courts in the chart below"

Manorial Court		King's Court
Less serious	type of crimes	Most serious
Trial by jury	type of trials	Trial by ordeal <ul style="list-style-type: none"> • Ordeal by fire • Ordeal by water • Ordeal by combat
Answers will vary	most surprising fact	Answers will vary

What questions do you have about trial by ordeal?

Responses will vary

Why do you think trial by jury came to replace trial by ordeal?

Answers may include that evidence and reason were increasingly important.

Trial by Ordeal

Read the articles *Trial by ordeal: When fire and water determined guilt*
<https://www.bbc.com/news/uk-45799443> and *How did Medieval justice work?*
<https://www.abdn.ac.uk/sll/disciplines/english/ion/justice.shtml>

Use the information to complete the chart below:

Type of trial	How it worked	Role attributed to God	Role of the community
Trial by Fire			
Trial by Water			
Trial by Combat			

Why did the Church stop supporting trials by ordeal in 1215?

What role did King Henry III play in replacing trial by ordeal with trial by jury in England?

Answer Key--Trial by Ordeal

Read the article "Trial by ordeal: When fire and water determined guilt"

<https://www.bbc.com/news/uk-45799443> and How did Medieval justice work?

<https://www.abdn.ac.uk/sll/disciplines/english/ion/justice.shtml>

Use the information to complete the chart below:

Type of trial	How it worked	Role attributed to God	Role of the community
Trial by Fire	Accused had to carry a red-hot bar of iron and walk 3m. If the wound healed within three days, they were innocent. But if it became infected, they were guilty.	Believed that God could heal so if the wound healed quickly, it showed God found them innocent.	Decided how well the wound had healed. Involved judgement which could be influenced by knowledge of the individual involved and awareness of the circumstances of the case.
Trial by Water	Accused was thrown into water on a rope with a knot. If they sank to the depth of knot, they were innocent and would be pulled out before they drowned. If they floated, they were guilty.	Believed that if they sank this meant that the water accepted them (like baptism) which showed God found them innocent.	Had to decide how deep a person sank which could be open to interpretation if the person was thrashing and the rope was moving around. (Their opinion of the person and the case would affect judgement.)
Trial by Combat	Accused had to fight their accuser. Either side could pay a champion to fight in their place.	Believed God would give strength to the person/side who was right.	

Why did the Church stop supporting trials by ordeal in 1215?

The Pope decreed that it was not right to ask God to intervene in a trial because it was like asking for a miracle. Because priests were no longer allowed to oversee the ordeal, bless the water and iron, and ensure the validity of the result, this made ordeals impossible.

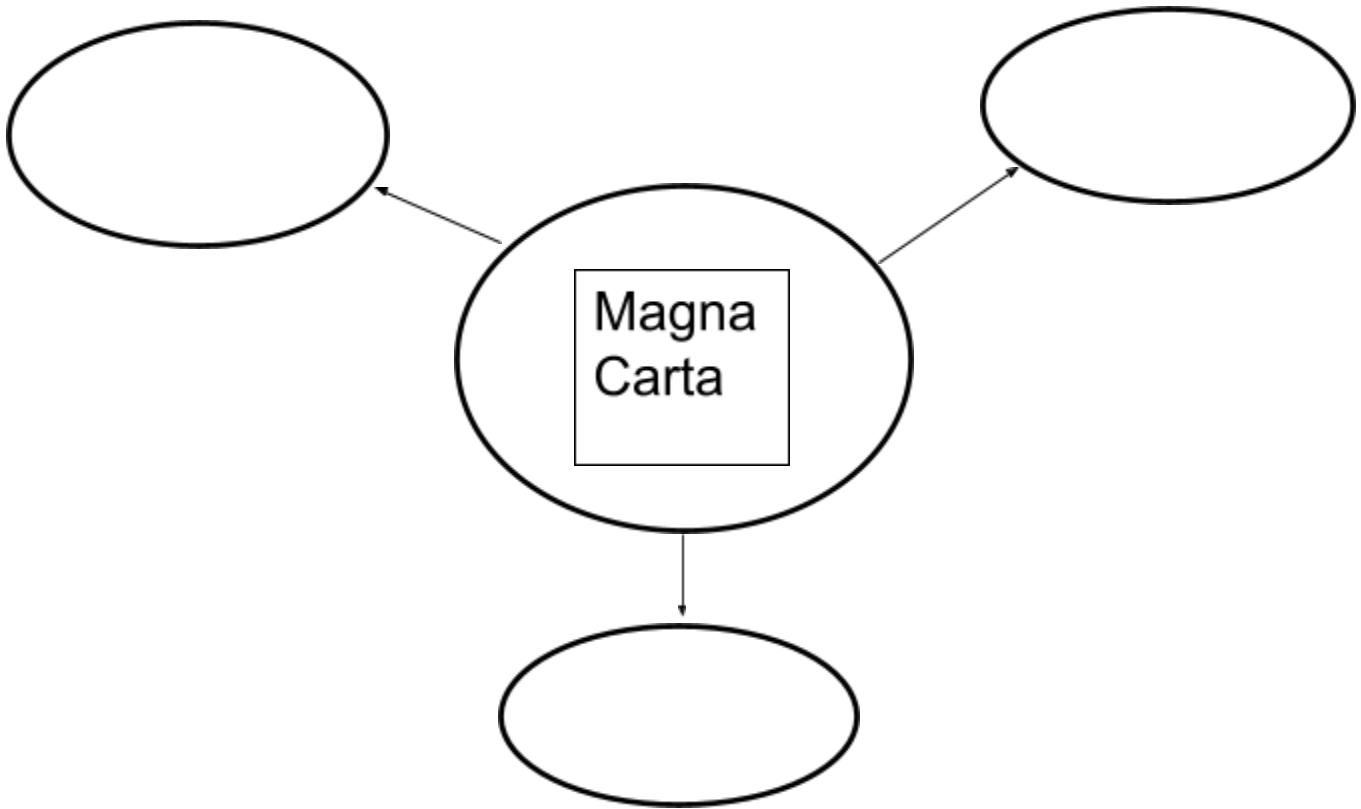
What role did King Henry III play in replacing trial by ordeal with trial by jury in England?

Because England had to find another method of proof of guilt or innocence, he issued an edict in 1219 that encouraged trial by judge and jury. The jurors were twelve worthy, local citizens who used common sense and knowledge of people and events involved to determine guilt or innocence.

Magna Carta in Canada

Read about the Magna Carta in Canada in the Canadian Encyclopedia
<https://www.thecanadianencyclopedia.ca/en/article/magna-carta>

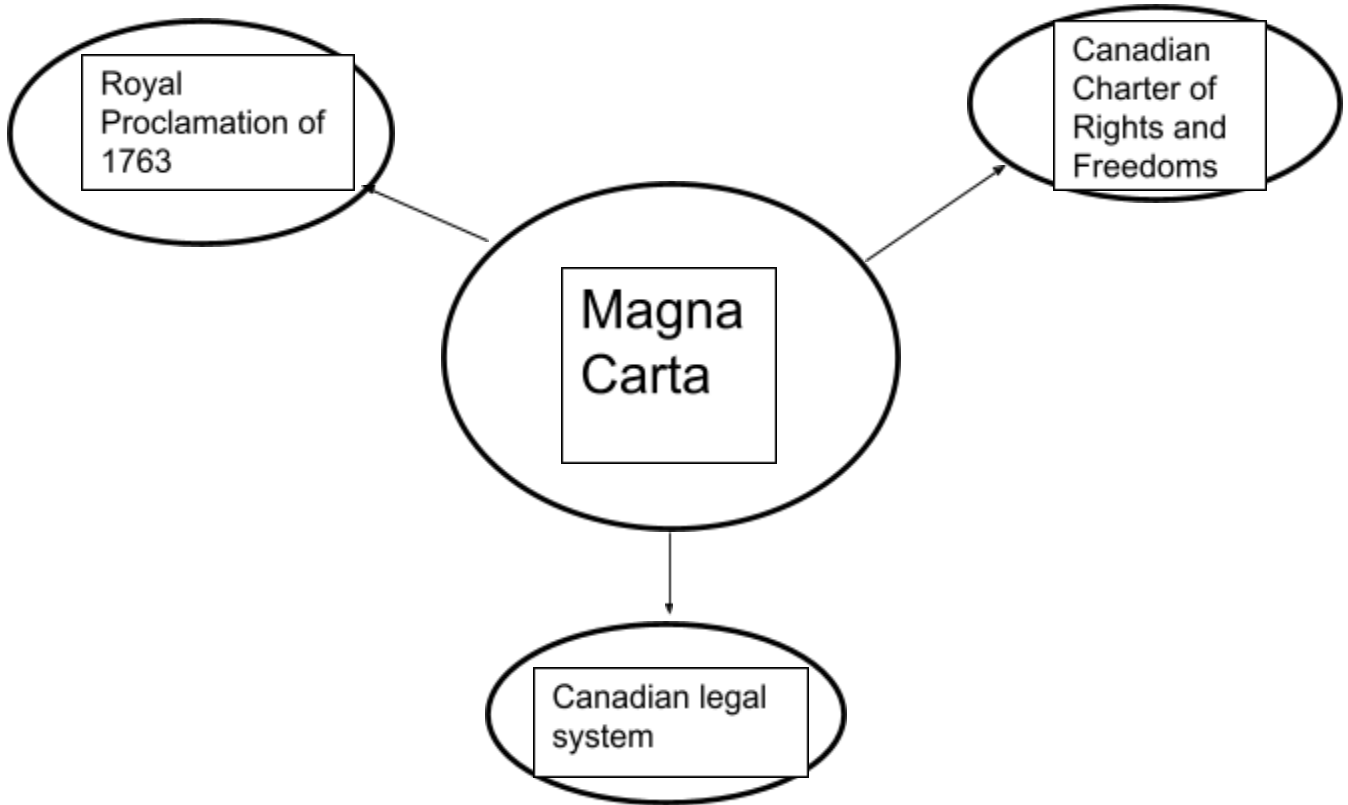
Complete the web below to show how the ideas from the Magna Carta have influenced Canada.



Answer Key--Magna Carta in Canada

Read about the Magna Carta in Canada in the Canadian Encyclopedia
<https://www.thecanadianencyclopedia.ca/en/article/magna-carta>

Complete the web below to show how the ideas from the Magna Carta have influenced Canada.



Mens Rea and Actus Reus

In each of these scenarios, indicate if you think that the person had the actus reus (guilty act) and the mens rea (guilty mind) necessary to be found guilty of the crime.

Act	Mens Rea	Actus Reus
It was Hockey Night in Canada and the Vancouver Canucks were playing the Colorado Avalanche. Todd Bertuzzi of the Canucks was looking to get back at Steve Moore of the Avalanche. Bertuzzi grabbed Moore's jersey and punched him in the back of the head, knocking him unconscious. Bertuzzi landed on top of him, driving Moore face first into the ice while other players piled on. The combination of the hit, fall, and piling-on had resulted in three fractured neck vertebrae, facial cuts and a concussion. The incident ended Moore's professional hockey career.		
In line for a concert, a friend asked Chanice to hold her bag while she went to the bathroom. A police officer approached Chanice and searched her friend's bag and found MDMA (Molly/Ecstasy). Chanice was charged with possession of an illegal drug.		
Rasheed baby-sits the neighbour's kids every day after school, sometimes driving them to soccer in the family car. After dropping them off one day, he decides to watch their practice. Rasheed leaves the dog in the car for a few hours even though it's 35 degrees outside. Before the end of the game, someone walks by, notices the distressed dog, and calls the police.		
Mark lost his temper in a restaurant because he felt the automatic gratuity on the bill was unfair. He slammed his fist down on the table and a glass flew off, hitting a customer at the next table and cutting his cheek just below the eye.		
Brianna was on her way into the beer store when a man asked her if she would mind buying him a six-pack of beer while he stayed outside with his dog. She said sure and accepted his money. Once in line she thought that he looked a little young but bought him the beer anyway.		
While browsing in a thrift store, Rose ran into a friend from her school. They decided to get a coffee. As they left the store, Rose forgot that she was still wearing a silver bracelet she was considering buying.		
Carmen comes to work one Tuesday feeling sick. After a few hours at work, she decides she needs to go home because she's really tired. Carmen gets into her car and starts driving but she's having a hard time focusing on the road because she's so tired. A police officer driving behind her notices she is weaving across driving		

lanes. Just before he stops her, Carmen falls asleep at the wheel and drives into a ditch. Luckily, she is not seriously hurt.		
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Answer Key--Mens Rea and Actus Reus

In each of these scenarios, indicate if you think that the person had the actus reus (guilty act) and the mens rea (guilty mind) necessary to be found guilty of the crime.

Act	Mens Rea	Actus Reus
It was Hockey Night in Canada and the Vancouver Canucks were playing the Colorado Avalanche. Todd Bertuzzi of the Canucks was looking to get back at Steve Moore of the Avalanche. Bertuzzi grabbed Moore's jersey and punched him in the back of the head, knocking him unconscious. Bertuzzi landed on top of him, driving Moore face first into the ice while other players piled on. The combination of the hit, fall, and piling-on had resulted in three fractured neck vertebrae, facial cuts and a concussion. The incident ended Moore's professional hockey career.	X	X
In line for a concert, a friend asked Chanice to hold her bag while she went to the bathroom. A police officer approached Chanice and searched her friend's bag and found MDMA (Molly/Ecstasy). Chanice was charged with possession of an illegal drug.		X
Rasheed baby-sits the neighbour's kids every day after school, sometimes driving them to soccer in the family car. After dropping them off one day, he decides to watch their practice. Rasheed leaves the dog in the car for a few hours even though it's 35 degrees outside. Before the end of the game, someone walks by, notices the distressed dog, and calls the police.	X	X
Mark lost his temper in a restaurant because he felt the automatic gratuity on the bill was unfair. He slammed his fist down on the table and a glass flew off, hitting a customer at the next table and cutting his cheek just below the eye.		X
Brianna was on her way into the beer store when a man asked her if she would mind buying him a six-pack of beer while he stayed outside with his dog. She said sure and accepted his money. Once in line she thought that he looked a little young but bought him the beer anyway.		X
While browsing in a thrift store, Rose ran into a friend from her school. They decided to get a coffee. As they left the store, Rose forgot that she was still wearing a silver bracelet she was considering buying.		X
Carmen comes to work one Tuesday feeling sick. After a few hours at work, she decides she needs to go home because she's really tired. Carmen gets into her car and starts driving but she's having		X

a hard time focusing on the road because she's so tired. A police officer driving behind her notices she is weaving across driving lanes. Just before he stops her, Carmen falls asleep at the wheel and drives into a ditch. Luckily, she is not seriously hurt.

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