# Texas Penal Code: Sexual Offenses

## Course
Law
Enforcement I

## Unit VI
Crime and
Punishment

## Essential Question
What is the truth about sexual assault and sex-related crimes in Texas?

## TEKS
§130.293(c)
(7)(A)(B)(D)

## Prior Student Learning
Basics of Texas criminal law

## Estimated Time
3 to 4 hours

## Rationale
Police officers must respond to sex-crime calls. They must be able to distinguish the particular sex crime described in the call to file the appropriate charges.

## Objectives
The students will be able to:
1. Discuss the definitions all sex crimes have in common.
2. Distinguish the different types of sex crimes and their punishments.
3. Develop logical arguments pertaining to the legitimacy of having or not having prostitution laws.

## Engage
Divide the class into groups. Have each group research one or two of the crimes within this lesson using the penal code as a resource. Have the groups present their information to the class. Have the students who are observing the presentations create bubble maps for the crime being presented. (Note: To make a bubble map the students will write the name of the crime on their papers and draw a circle around it. This is the first “bubble.” Then they will write down two or three facts that are presented and draw circles around each fact. Next, they will symbolically represent the relationships between the facts and the crime by connecting the bubbles with lines. Use the Individual Work Rubric and the Presentation Rubric for assessment.

## Key Points
Texas Penal Code. Title 5. OFFENSES AGAINST THE PERSON. Chapter 21. SEXUAL OFFENSES

Sec. 21.01. DEFINITIONS.

In this chapter:

1. "Deviate sexual intercourse" means:
   (A) any contact between any part of the genitals of one person and the mouth or anus of another person; or
   (B) the penetration of the genitals or the anus of another person with an object.

2. "Sexual contact" means, except as provided by Section 21.11, any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.

3. "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.

4. "Spouse" means a person to whom a person is legally married under Subtitle A, Title 1, Family Code, or a
comparable law of another jurisdiction.

Sec. 21.02. CONTINUOUS SEXUAL ABUSE OF YOUNG CHILD OR CHILDREN.

(a) In this section, "child" has the meaning assigned by Section 22.011(c).

(b) A person commits an offense if:

(1) during a period that is 30 or more days in duration, the person commits two or more acts of sexual abuse, regardless of whether the acts of sexual abuse are committed against one or more victims; and

(2) at the time of the commission of each of the acts of sexual abuse, the actor is 17 years of age or older and the victim is a child younger than 14 years of age.

(c) For purposes of this section, "act of sexual abuse" means any act that is a violation of one or more of the following penal laws:

(1) aggravated kidnapping under Section 20.04(a)(4), if the actor committed the offense with the intent to violate or abuse the victim sexually;

(2) indecency with a child under Section 21.11(a)(1), if the actor committed the offense in a manner other than by touching, including touching through clothing, the breast of a child;

(3) sexual assault under Section 22.011;

(4) aggravated sexual assault under Section 22.021;

(5) burglary under Section 30.02, if the offense is punishable under Subsection (d) of that section and the actor committed the offense with the intent to commit an offense listed in Subdivisions (1)-(4);

(6) sexual performance by a child under Section 43.25;

(7) trafficking of persons under Section 20A.02(a)(7) or (8); and

(8) compelling prostitution under Section 43.05(a)(2).

(d) If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific acts of sexual abuse were committed by the defendant or the exact date when those acts were committed. The jury must agree unanimously that the defendant, during a period that is 30 or more days in duration, committed two or more acts of sexual abuse.

(e) A defendant may not be convicted in the same criminal action of an offense listed under Subsection (c) the victim of which is the same victim as a victim of the offense alleged under Subsection (b) unless the offense listed in Subsection (c):

(1) is charged in the alternative;

(2) occurred outside the period in which the offense alleged under Subsection (b) was committed; or

(3) is considered by the trier of fact to be a lesser included
offense of the offense alleged under Subsection (b).

(f) A defendant may not be charged with more than one count under Subsection (b) if all of the specific acts of sexual abuse that are alleged to have been committed are alleged to have been committed against a single victim.

(g) It is an affirmative defense to prosecution under this section that the actor:

(1) was not more than five years older than:
   (A) the victim of the offense, if the offense is alleged to have been committed against only one victim; or
   (B) the youngest victim of the offense, if the offense is alleged to have been committed against more than one victim;
(2) did not use duress, force, or a threat against a victim at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense; and
(3) at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense:
   (A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or
   (B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section or an act of sexual abuse as described by Subsection (c).

(h) An offense under this section is a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years.

Sec. 21.06. HOMOSEXUAL CONDUCT — was declared unconstitutional by Lawrence v. Texas, 123 S.Ct. 2472.

Sec. 21.07. PUBLIC LEWDNESS.

(a) A person commits an offense if he knowingly engages in any of the following acts in a public place or, if not in a public place, he is reckless about whether another is present who will be offended or alarmed by his:
   (1) act of sexual intercourse;
   (2) act of deviate sexual intercourse;
   (3) act of sexual contact; or
   (4) act involving contact between the person's mouth or genitals and the anus or genitals of an animal or fowl.

(b) An offense under this section is a Class A misdemeanor.

Sec. 21.08. INDECENT EXPOSURE.

(a) A person commits an offense if he exposes his anus or any part of his genitals with intent to arouse or gratify the sexual desire of any person, and he is reckless about whether another is present
who will be offended or alarmed by his act.
(b) An offense under this section is a Class B misdemeanor.

Sec. 21.11. INDECENCY WITH A CHILD.
(a) A person commits an offense if, with a child younger than 17 years of age, whether the child is of the same or opposite sex, the person:
(1) engages in sexual contact with the child or causes the child to engage in sexual contact; or
(2) with intent to arouse or gratify the sexual desire of any person:
   (A) exposes the person's anus or any part of the person's genitals, knowing the child is present; or
   (B) causes the child to expose the child's anus or any part of the child's genitals.
(b) It is an affirmative defense to prosecution under this section that the actor:
(1) was not more than three years older than the victim and of the opposite sex;
(2) did not use duress, force, or a threat against the victim at the time of the offense; and
(3) at the time of the offense:
   (A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or
   (B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section.
(b-1) It is an affirmative defense to prosecution under this section that the actor was the spouse of the child at the time of the offense.
(c) In this section, "sexual contact" means the following acts, if committed with the intent to arouse or gratify the sexual desire of any person:
(1) any touching by a person, including touching through clothing, of the anus, breast, or any part of the genitals of a child; or
(2) any touching of any part of the body of a child, including touching through clothing, with the anus, breast, or any part of the genitals of a person.
(d) An offense under Subsection (a)(1) is a felony of the second degree and an offense under Subsection (a)(2) is a felony of the third degree.

Sec. 21.12. IMPROPER RELATIONSHIP BETWEEN EDUCATOR AND STUDENT.
(a) An employee of a public or private primary or secondary school commits an offense if the employee:
(1) engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works;

(2) holds a certificate or permit issued as provided by Subchapter B, Chapter 21, Education Code, or is a person who is required to be licensed by a state agency as provided by Section 21.003(b), Education Code, and engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person the employee knows is:
   (A) enrolled in a public primary or secondary school in the same school district as the school at which the employee works; or
   (B) a student participant in an educational activity that is sponsored by a school district or a public or private primary or secondary school, if:
      (i) students enrolled in a public or private primary or secondary school are the primary participants in the activity; and
      (ii) the employee provides education services to those participants; or

(3) engages in conduct described by Section 33.021, with a person described by Subdivision (1), or a person the employee knows is a person described by Subdivision (2)(A) or (B), regardless of the age of that person.

(b) An offense under this section is a felony of the second degree.

(b-1) It is an affirmative defense to prosecution under this section that:
   (1) the actor was the spouse of the enrolled person at the time of the offense; or
   (2) the actor was not more than three years older than the enrolled person and, at the time of the offense, the actor and the enrolled person were in a relationship that began before the actor’s employment at a public or private primary or secondary school.

(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.

(d) The name of a person who is enrolled in a public or private primary or secondary school and involved in an improper relationship with an educator as provided by Subsection (a) may not be released to the public and is not public information under Chapter 552, Government Code.

Sec. 21.15. IMPROPER PHOTOGRAPHY OR VISUAL RECORDING.

(a) In this section, "promote" has the meaning assigned by Section 43.21.
(b) A person commits an offense if the person:
   (1) photographs or by videotape or other electronic means
       records, broadcasts, or transmits a visual image of
       another at a location that is not a bathroom or private
       dressing room:
       (A) without the other person's consent; and
       (B) with intent to arouse or gratify the sexual desire of
           any person;
   (2) photographs or by videotape or other electronic means
       records, broadcasts, or transmits a visual image of
       another at a location that is a bathroom or private
       dressing room:
       (A) without the other person's consent; and
       (B) with intent to:
           (i) invade the privacy of the other person; or
           (ii) arouse or gratify the sexual desire of any
                person; or
   (3) knowing the character and content of the photograph,
       recording, broadcast, or transmission, promotes a
       photograph, recording, broadcast, or transmission
       described by Subdivision (1) or (2).

(c) An offense under this section is a state jail felony.

(d) If conduct that constitutes an offense under this section also
    constitutes an offense under any other law, the actor may be
    prosecuted under this section or the other law.

(e) For purposes of Subsection (b)(2), a sign or signs posted
    indicating that the person is being photographed or that a visual
    image of the person is being recorded, broadcast, or transmitted
    is not sufficient to establish the person's consent under that
    subdivision.

Activities
1. Divide the class in half. Have one group discuss the reasons why
   prostitution is and should continue to be illegal. Have the other class
   discuss why prostitution should be legal. Have the two sides come
   together and discuss their positions. Use the Debate Rubric for
   assessment.

2. Have students complete the open-note quiz.

Assessments
Sexual Offenses Exam and Key
Sexual Offenses Quiz and Key
Debate Rubric
Discussion Rubric
Presentation Rubric
Research Rubric

**Materials**
Sexual Offenses computer-based presentation
Computer-based presentation software

**Resources**
Texas Penal Code: [http://www.statutes.legis.state.tx.us/](http://www.statutes.legis.state.tx.us/)

**Accommodations for Learning Differences**
For reinforcement, students will find articles in the newspaper or online about sex crimes and determine which charges should be used and why. Use the Research Rubric for assessment.

For enrichment, students will research the effects sex crimes have on their victims. Use the Research Rubric for assessment.

**State Education Standards**
Texas Essential Knowledge and Skills for Career and Technical Education
§130.293. Law Enforcement I (One to Two Credits)
(7) The student analyzes procedural and substantive criminal law. The student is expected to:
   (A) define crime categories and respective punishments;
   (B) analyze the elements of criminal acts;
   (D) analyze types of criminal defenses.

**College and Career Readiness Standards**
III. Speaking
   B. Develop effective speaking styles for both group and one-on-one situations.
      1. Participate actively and effectively in one-on-one communication situations.
      2. Participate actively and effectively in group discussions.
      3. Plan and deliver focused and coherent presentations that convey clear and distinct perspectives and demonstrate solid reasoning.
**Sexual Offenses Exam**

1. _____ Deviate sexual intercourse means which of the following?
   A Any contact between any part of the genitals of one person and the mouth or anus of another person
   B The penetration of the genitals or the anus of another person with an object. If someone causes the penetration of the anus or sexual organ of another by any means with consent they have committed
   C Both A & B
   D None of the Above

2. _____ "Spouse" means a person to whom a person is legally married.
   A True
   B False

3. _____ Dillon forces Charles to sexually assault Rose. Dillon has committed which of the following offenses?
   A Sexual Assault
   B Aggravated Sexual Assault
   C Attempted Sexual Assault
   D Nothing

4. _____ Roy forces Julia to have deviate sexual intercourse with him against her will. Roy has committed which of the following offenses?
   A Sexual Assault
   B Aggravated Sexual Assault
   C Attempted Sexual Assault
   D Nothing

5. _____ Peyton is 22 and Lilly is 14. Peyton tries to arouse Lilly by touching her sexual organ. Everything is consensual. Peyton has committed which of the following offenses?
   A Sexual Assault
   B Aggravated Sexual Assault
   C Indecency with a Child
   D Nothing

6. _____ Alex is 22 and Peggy is 18. Alex tries to arouse Peggy by touching her sexual organ. Everything is consensual. Alex has committed which of the following offenses?
   A Sexual Assault
   B Aggravated Sexual Assault
   C Indecency with a Child
   D Nothing
7. Jose meets Emilia at a bar and slips a date rape drug into her beverage while she isn’t looking. They go back to Jose’s apartment where Emilia passes out. Tyler then proceeds to have sexual intercourse with Emilia. Which of the following offenses has Tyler committed?
A Sexual Assault
B Aggravated Sexual Assault
C Attempted Sexual Assault
D Nothing

8. Lindsey forces Malcolm to have deviate sexual intercourse with her while she points a gun at his head. Lindsey has committed which of the following offenses?
A Sexual Assault
B Aggravated Sexual Assault
C Attempted Sexual Assault
D Nothing

9. Reynaldo has become attracted to Kiki, who has Down syndrome. Kiki is aware of most things going on around her but not always. Reynaldo asks Kiki if he could have sex with her. Kiki asks Reynaldo what sex is and he tells her it is something fun. Kiki says okay even though she does not understand exactly what she is saying yes to. Reynaldo has committed which of the following offenses?
A Sexual Assault
B Aggravated Sexual Assault
C Attempted Sexual Assault
D Nothing

10. Ruby is 80 years old and Keith is a 30-year-old medical worker who takes care of Ruby every day. One day Keith forces Ruby to have deviate sexual intercourse with him against her will. Keith has committed which of the following offenses?
A Sexual Assault
B Aggravated Sexual Assault
C Attempted Sexual Assault
D Nothing

11. Safir is 13 and Dalia is Safir’s 20-year-old babysitter. Dalia sexually gratifies herself by touching Safir’s private parts while his clothes are still on. Dalia has committed which of the following offenses?
A Sexual Assault
B Aggravated Sexual Assault
C Indecency with a Child
D Nothing
12. _____ What is the penalty for continuous sexual abuse of children?
   A State jail felony
   B Third-degree felony
   C Second-degree felony
   D First-degree felony

13. _____ What is the penalty for public lewdness?
   A Class A misdemeanor
   B State jail felony
   C Third-degree felony
   D Second-degree felony
   E First-degree felony

14. _____ What is the penalty for indecency with a child?
   A Third-degree felony
   B Second-degree felony
   C both a and b
   D First-degree felony

15. _____ What is the penalty for indecent exposure?
   A Class C misdemeanor
   B Class B misdemeanor
   C Class A misdemeanor
   D State jail felony

16. _____ What's the lowest penalty for improper relationship between educator and student?
   A State jail felony
   B Third-degree felony
   C Second-degree felony
   D First-degree felony

17. _____ What is the lowest penalty for improper photography or visual recordings?
   A State jail felony
   B Third-degree felony
   C Second-degree felony
   D First-degree felony

18. _____ A police officer comes upon Eddie and Sally having sex in the park at 3 a.m. Eddie is 18 and Sally is 17. The couple could be charged with which of the following offenses?
   A Indecent Exposure
   B Disorderly Conduct
   C Sexual Assault
   D Public Lewdness
19. _____Ms. Royce teaches 12th grade English and has 18-year-old Dwyane as a student. They develop a special bond over the semester and decide to explore their relationship. Ms. Royce and Dwyane begin having sexual intercourse whenever they can. Ms. Royce has committed which of the following offenses?
   A Indecency with a Child
   B Improper Relationship between an educator and a student
   C Sexual Assault
   D Aggravated Sexual Assault

20. _____Any touching of the anus, breast, or any part of the genitals of another with intent to arouse or gratify the sexual desire of any person is which of the following?
   A Deviate Sexual Intercourse
   B Sexual Contact
   C Sexual Intercourse
   D None of the above

21. _____Any penetration of the female sex organ by the male sex organ is which of the following?
   A Deviate Sexual Intercourse
   B Sexual Contact
   C Sexual Intercourse
   D None of the above

22. _____When talking about sexual crimes, under what age is someone considered a child?
   A 12
   B 14
   C 17
   D 18

23. _____Considering homosexual contact a criminal offense was declared unconstitutional by Lawrence v. Texas.
   A True
   B False

24. _____A major element of indecent exposure is that the suspect intends to arouse or gratify the sexual desire of any person.
   A True
   B False

25. _____Public lewdness always has to be in public for it to be a crime.
   A True
   B False
Sexual Offenses Exam Key

1. C
2. A
3. A
4. A
5. C
6. D
7. B
8. B
9. A
10. B
11. C
12. D
13. A
14. C
15. B
16. C
17. A
18. D
19. B
20. B
21. C
22. C
23. A
24. A
25. B
Sexual Offenses Quiz

What is the term for, “contact between any part of the genitals of one person and the mouth or anus of another”?

1.

What is the term for, “any touching of the anus, breast, or any part of the genitals of another with intent to arouse or gratify the sexual desire of any person”?

2.

What is the term for, “any penetration of the female sex organ by the male sex organ”?

3.

When talking about sexual crimes, under what age is someone considered a child?

4.

According to the Family Code, what term means “a person to whom a person is legally married”?

5.

Considering homosexual contact a criminal offense was declared unconstitutional by?

6.

An “Act of Sexual Abuse” means any act that is a violation of?

7.

8.

9.

10.

11.

12.

13.

14.
What does the suspect do during second-degree felony indecency with a child?

15.

Number 15 can include contact through what?

16.

What does the suspect do or cause the child to do during third-degree felony indecency with a child?

17.

What is the intent during third-degree felony indecency with a child?

18.

A person commits this offense if he/she exposes his/her anus or any part of the genitals with the intent to arouse or gratify the sexual desire of any person

19.

What is the punishment for indecent exposure?

20.

Where does public lewdness happen?

21.

What is the punishment for public lewdness?

22.

What is the charge and punishment for someone who is an employee of a public or private primary or secondary school and engages in sexual relations with a student of that school?

23.

A person commits which offense if the person photographs, videotapes, or records a visual image of another at a location that may include a bathroom or private dressing room without the other person's consent; and with intent to arouse or gratify the sexual desire of any person?

24.

What is the punishment for Number 24?

25.
Sexual Offenses Quiz Key

1. Deviate Sexual Intercourse
2. Sexual Contact
3. Sexual Intercourse
4. 17
5. Spouse
6. Lawrence v. Texas
7. Aggravated Kidnapping
8. Indecency with a Child
9. Sexual Assault
10. Aggravated Sexual Assault
11. Burglary
12. Sexual Performance by a Child
13. Trafficking of Persons
14. Compelling Prostitution
15. Engages in sexual contact or causes the child to engage in sexual contact
16. Clothes
17. Expose his or her anus or genitals
18. To arouse or gratify the sexual desire of any person
19. Indecent Exposure
20. Class B misdemeanor
21. In a public place or a private place where someone would be offended
22. Class A misdemeanor
23. Improper Relationship between an educator and a student – Second Degree Felony
24. Improper photography or visual recordings
25. State jail felony
Debate Rubric

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Comments:
## Individual Work Rubric

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<td>Student used a variety of methods and sources</td>
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<td>to gather information. Student took notes while</td>
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**Total Points (20 pts.)**

**Comments:**
### Presentation Rubric

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<tbody>
<tr>
<td><strong>Topic/Content</strong></td>
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<tr>
<td>• Topic discussed completely and in-depth</td>
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<td>• Includes properly cited sources (if used)</td>
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<tr>
<td><strong>Creativity/Neatness</strong></td>
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<tr>
<td>• Integrates a variety of multimedia effects to create a professional presentation (transition and graphics) or appropriate visual aid used</td>
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<tr>
<td>• Title slide, table of contents, bibliography are included, using acceptable format</td>
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<td><strong>Mechanics</strong></td>
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<td>• Grammar, spelling, punctuation, and capitalization are correct</td>
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<td>• Image and font size are legible to the entire audience</td>
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<tr>
<td><strong>Oral Presentation</strong></td>
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<td>• Communicates with enthusiasm and eye contact</td>
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<td>• Voice delivery and projection are dynamic and audible</td>
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<td><strong>Audience Interaction</strong></td>
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<td>• Presentation holds audience’s attention and relates a clear message</td>
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<td>• Clearly and effectively communicates the content throughout the presentation</td>
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**Total Points (20 pts.)**

Comments:
## Research Rubric

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<tbody>
<tr>
<td><strong>Question/goal</strong></td>
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<td>Student identified and communicated a question or goal of the research</td>
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<td><strong>Research/Gathering information (if relevant)</strong></td>
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<tr>
<td>Student used a variety of methods and sources to gather information. Student took notes while gathering information</td>
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<tr>
<td><strong>Conclusion/Summary</strong></td>
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<td>Student drew insightful conclusions and observations from the information gathered. Information is organized in a logical manner</td>
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<td><strong>Communication</strong></td>
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<td>Student communicated the information gathered and summary or conclusions persuasively. Student demonstrated skill in the use of media used to communicate the results of research</td>
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<td><strong>Reflection</strong></td>
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<td>Student reflected on the importance of the research and its potential application</td>
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**Total Points (20 pts.)**

**Comments:**

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