

Criminal Mock Trial

Regina v. Ming _____ and Luke _____

Issue: Are Ming and Luke guilty of break and enter and of robbery.

A) Participants:

Required:

- 1 Judge
- 1 Court clerk
- 10 – 12 Jury members
- 1 – 3 Crown counsel (lawyers for the Government)
- 1 – 3 Defence counsel (lawyers for the accused)
- 3 Crown witnesses:
 - Mr. Alfonso Alfredo - Home Owner/Victim
 - Maria _____ Neighbour
 - Constable Goldman - Police Officer/Dog Handler Expert
- 3 Defence Witnesses:
 - Van _____ Ming's boyfriend
 - Ming _____ the Accused
 - Luke _____ the Accused

Optional:

- Sheriffs
- Journalists
- Court artist

B) Exhibits Required:

Wallet, knife, toy gun replica and an Ironman Timex watch. The knife and gun should be drawings or pictures. Weapons are not allowed in the court-houses. Have your police witness make the drawings. The owner can provide the wallet and the watch to the police.

C) Parts:

- 1) Theory Sheets
- 2) Trial Procedure Sheet
- 3) Witness Evidence Sheets
- 4) Exhibits (to be provided by the owner and the police officer)



CC991411

IN THE SUPREME COURT OF BRITISH COLUMBIA

CANADA
PROVINCE OF BRITISH COLUMBIA/
PROVINCE de la COLOMBIE-BRITANNIQUE
CITY OF _____/VILLE DE _____

HER MAJESTY THE QUEEN/SA MAJESTÉ LA REINE

AGAINST/CONTRE

MING

And

LUKE

INDICTMENT
ACTE D'ACCUSATION



Ming and Luke stand charged/sont inculpés

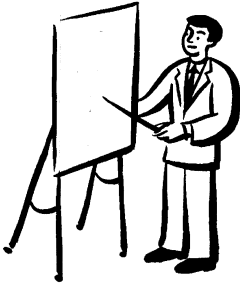
COUNT 1: THAT, at or near the City of _____, Province of British Columbia, on or about the 19th day of November, 20__, they did break and enter a place, a dwelling place, situate at _____ Street, with intent to commit an indictable offence therein, contrary to Section 348(1)(b) of the *Criminal Code of Canada* and against the peace of our Lady the Queen her Crown and Dignity.

COUNT 2: THAT, at or near the City of _____, Province of British Columbia, on or about the 19th day of November, 20__, they did commit robbery of Ernest Alfredo, contrary to Section 343(d) of the *Criminal Code of Canada* and against the peace of our Lady the Queen her Crown and Dignity.

DATED this/Fait le _____ day of/jour de _____, 20__, at the City of _____/Ville de _____, Province of British Columbia/Province de la Colombie-Britannique.

Crown Counsel and Agent of the
Attorney General of British Columbia
Agent du procureur general pour la
province de la Colombie-Britannique

Instructions for the Teacher



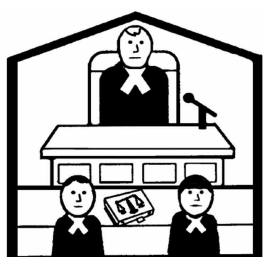
- (1) All students involved should receive a copy of the Trial Theories and the Trial Procedure.
- (2) Select students for roles in the trial or select teams and let the students decide which roles they will play.
- (3) Provide each student with the appropriate copy of the witness role sheet for the part s/he is to play. All "witnesses" should be asked to review this information, and be prepared to answer questions from both Crown and defence counsel during the trial. They can memorize their evidence or read from the sheet.
- (4) Provide each student who is a Crown or defence counsel with a copy of all witness role sheets and exhibits. Decide which witnesses each counsel will be questioning in either direct or during cross-examination. Give them a copy of the relevant sections of the **Legal Counsel** section to help them understand how to write their questions and how to make objections.
- (5) The student playing the part of the judge should receive a copy of their **Role sheet**, the **Trial Procedure** and the **Trial Theories**. A copy of the opening statement and charge to the jury from *Regina v. Arthur* may be useful. The judge will see the exhibits during the trial.
- (6) The student playing the part of the court clerk should receive the **Trial Procedure** and their **Role sheet** and also know the names of each witness.
- (7) The jury members should receive their **Role sheets**, but otherwise keep the facts of the case from them so that the trial will be more realistic.
- (8) The gender of all witnesses may be either male or female, as indicated throughout the following pages.
- (9) Instruct the class briefly on the techniques of direct examination and cross-examination. Remind the students that leading questions may not be asked during direct examination but they may be asked during cross-examination. Essentially, "leading questions" are those questions that put the answers to the witness.

Trial Theories

Before reading the role sheets of the witnesses in this trial you should know the two opposing theories of the Crown and the defence.

Crown Theory:

Crown counsel (lawyers for the government) will present witnesses to show that the two accused did unlawfully break and enter Mr. Alfredo's home. The evidence will show that once inside the two accused threatened Mr. Alfredo with a knife and a gun and then pushed him to the ground. The two accused then took his wallet and Ironman watch and ran out the back door of the house. The evidence will show that the two accused ran up the alley and were later found by a police dog hiding in some bushes. The wallet and the watch were found in their possession.



Crown
counsel Defence
counsel

Defence Theory:

Defence counsel will present a separate case for each of the accused. Perhaps two counsel can act for Luke and one counsel can act for Ming.

Ming will claim that she was just meeting Luke in the alley to get a ride home and that when she saw him running she ran away as well. She will claim that the watch on her wrist was her father's and that she borrowed it because her watch was broken.

Luke will claim that Ming told him to come to the back door of Mr. Alfredo's house and knock. He will say he heard screaming inside and that when he entered Ming was pointing a gun at an old guy lying on the floor. He claims that he ran and Ming followed. She gave him something and he put it in his pocket. He didn't know it was a wallet.

Students playing the part of counsel should study each of the witnesses' role sheets. Counsel should prepare a list of questions to ask their *own witnesses* to help prove their theory as set out above.

Next, counsel should prepare a list of questions to ask the *other side's witnesses* that will show that the other side's theory is incorrect.

Elements That Need To Be Proven

Crown counsel must present evidence on the following elements of the offence. This list will help counsel make up their questions for the witnesses.



Break and Enter Section 348(1)(b) *Criminal Code of Canada*:

- Date: November 19th, 20__
- Time:
- Place: _____ Street (address)
- Jurisdiction: _____ (name of place), B.C.
- Identification of accused
- To commit an indictable offence therein, that is, robbery
- Details of incident of break and entry and of the robbery; describe the wallet and the watch and enter them as exhibits
- Breaking
- Entering
- Dwelling Place
- Locked
- No Permission

Robbery Section 343(d) *Criminal Code of Canada*:

- Offensive weapon is barreled weapon from which any shot, bullet or projectile can be discharged causing serious bodily injury or death OR imitation of an offensive weapon (this case)
- Date: November 19, 20__
- Time:
- Place: _____ Street (address)
- Jurisdiction: _____ (name of place), B.C.
- Identification of Accused
- Provide details of the incident to do with the robbery, describe knife and gun and enter them into evidence as exhibits.
- Theft (moved items or took them)
- No permission to take items
- Value of items
- Ownership of items
- Armed





Criminal Trial Procedure

Courtroom: Prior to the Trial: Counsel--Crown and Defence Sheriff Accused Court Clerk

1. Jury enters and is seated in the jury box by the sheriff.
2. The case starts with the sheriff calling "**Order in court. All Rise.**"
Everyone stands. The judge enters and takes his or her seat. Everyone sits down.
3. The court clerk calls the case: "**Regina versus _____**"(names or name of the accused)
4. Crown counsel and defence counsel introduce themselves to the judge.
"**My Lord/Lady Jim Jones appearing for the Crown. Jones spelled J-O-N-E-S, initial J. for the record.**"
5. The court clerk stands and says to the accused "**Please stand.**"
The charge/s (the indictment) is read: "**You _____ and _____ (accused name/s) stand charged that on the _____ day of _____, 20____, you did unlawfully _____(read the Indictment). Having heard the charge how do you plead, guilty or not guilty?**"
6. Each of the accused pleads "**Not guilty**".
7. The court clerk says to the accused "**Be seated.**"
8. The judge makes the opening address to the jury and then asks Crown to proceed.
9. The Crown makes an **Opening Statement** to the jury (overview of case: theory, evidence and witnesses)
10. The Crown calls his/her first witness by saying: "**The Crown wishes to call Mr. Alfredo to the stand, My Lord/Lady.**"
11. The deputy sheriff will say: "**Mr. Alfredo to the stand.**"
12. The court clerk swears in the witness who is standing in the witness box by saying:
"**Do you swear that the evidence you shall give shall be the whole truth and nothing but the truth, so help you God?**
Or by affirming the witness as follows:
"**Do solemnly affirm that the evidence you shall give shall be the truth, the whole truth and nothing but the truth.**"
13. The witness will say: "**I do**" or "**I affirm.**"
14. The court clerk will say: "**State your name and spell your last name for the record.** After the witness spells his/her name the court clerk will say: "**You may be seated.**"
15. Crown counsel will conduct the direct examination and when finished will say: "**No further questions, My Lord/Lady.**"
16. Defence Counsel will cross-examine the witness and when s/he is finished s/he will say: "**No further questions, My Lord/Lady.**"



17. The same procedure is followed with **Maria and Constable Goldman** and when all the Crown's witnesses have testified Crown counsel will say: "**That concludes the Crown's case.**"
18. Defence counsel makes an **Opening Statement** to the jury.
19. Defence counsel calls witnesses **Van, Ming and Luke** to stand in similar manner to the Crown. The Crown will cross-examine each of those witnesses after the direct examination by defence counsel.
20. Defence and Crown counsel each make a **Closing Statement** (summary of testimony given at trial and how it either proves that the accused is guilty or innocent.) Defence Counsel goes first followed by the Crown.
21. The judge instructs the members of the **jury** on their responsibilities, the evidence and the law.
22. The deputy sheriff says "**All rise**" and the judge and jury leave. The jury goes to the jury room to decide on a **verdict**.
23. When the jury is ready with the verdict the deputy sheriff says, "**Order in the court, all rise.**" The jury returns to the courtroom and then the judge enters.
24. The court clerk asks for the verdict by saying: "**Mr./Madam Foreperson, what is your verdict as to the accused _____ on Count 1?** (Ask for it on other counts if there is more than one)
25. The **jury foreperson** responds with the verdict to the court clerk who then says to the judge: "**The jury finds the accused _____ not guilty/guilty.**
26. The clerk than says: "**Members of the jury, hearken to your verdict as the court doth record it. You find the accused _____ not guilty/guilty. This is your verdict, so say you all. Please stand to confirm your verdict.** (The members of the jury stand.)
27. The judge thanks the jury for their involvement in the trial process and releases them from their obligations.
28. If the verdict is **not guilty**, the accused may go free. If the verdict is **guilty**, the Judge asks Crown counsel and defence counsel to **speak to sentence** by telling the judge any special circumstances and what they feel would be a reasonable sentence.
29. The judge then **sentences** the accused.
30. The court clerk says, "**Order in court, all rise.**" Everyone stands, the judge leaves and the trial ends.

Crown Witness # 1

Mr. _____ Alfredo

My name is Alfonso Alfredo and I live with my family at _____ Street in _____. On the evening of November 19th, 20__ at about 9:30 p.m, I was at home alone. The rest of my family had gone out to the local community center.



All of a sudden there was a pounding at the front door. I started to ask who was there, but suddenly the door burst open. I saw the back door fly open also. The locks and frames of both doors were broken. Two people burst into the house, one in the front door and the second at the back door. The one at the front door was wearing a ski mask over his face. It was timed perfectly so that they were at the doors at exactly the same time. The two people were dressed in dark clothing. They told me to get down on the floor. One had a knife and the other had what looked like a gun. I thought it was a real gun. It looked so real. Later I found out it was a fake gun, but it was a replica that looked so real.

When I was on the ground, both people demanded money and jewellery. The one without the mask grabbed my wallet and the masked person took my watch from my wrist. My wallet had three hundred dollars in it and my driver's licence and credit cards. My kids had just given me the Ironman watch for my birthday. I think it was a Timex. After they took my things they both ran out the back door. I was quite shaken up and only managed to see that one of the accused was taller than the other. The one without the mask was a man. I heard them speaking to each other, but I didn't notice what they were saying. I thought they were both male. There is no way a girl would get involved in this. I think I might be able to recognize the person without the mask if I saw him again. It happened so fast. I was really scared they were going to hurt me.

•••••

This is your basic story. There are details that you will have to fill in with your teacher's help and in discussion with the students acting as Crown counsel. You can use your own details about the type of work you do and how old you are.

On the witness stand you will be asked to describe the incident, your belongings and the two people. You will not be able to identify the person who was wearing the mask. Crown counsel will ask you to describe the person you saw and point him out. You will be asked to identify your wallet and watch and say that you did not give anyone permission to take them. You will also be shown the knife and the gun for identification. You can only say that the ones you are shown are similar to the ones used on the night of the incident.

Crown Witness #2

Maria _____

I am Maria _____ and I live next door to Mr. Alfredo.

At about 9:30 p.m on November 19th, 20__, I just happened to be looking outside our back window when I saw a van parked in back of the Alfredo's house. I thought this was curious since I could tell the engine was running but the lights were off. I wasn't sure if anyone was home at the Alfredo's house because my friend Anna Alfredo was telling me they were going to some meeting at the community centre. Then I heard a lot of noise coming from the Alfredo's. It sounded like voices shouting and something banging. I thought about going to take a look but my mum told me to call 911 instead. I was pretty scared because I was not at all sure as to what was going on.



I turned out the kitchen light (facing our backyard) while I talked on the phone to 911 and then I saw 2 people come flying out from their backyard. I couldn't really tell if they came out of the house since I can't see their back door. One was taller than the other, and one almost looked like a woman, just from her size. The other one looked like a man and was very skinny. They both wore dark clothing. I was sure they were going to get in the van, but instead they bolted up the alley. I guess they saw the police car parked in front of the van, blocking its path.

Afterwards my mum and I went next door to talk to Mr. Alfredo. He was very shaken up.

•••••

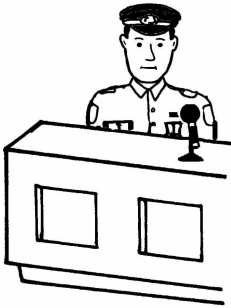
This is your basic story. There are details that you will have to fill in with your teacher's help and in discussion with the students acting as Crown counsel.

On the witness stand you will be asked to describe the incident and the two people. You will not be able to identify either person, as you did not see their faces. Crown counsel will ask you to describe what you do remember about the two people you saw running down the alley.

Crown Witness # 3

Constable Goldman

I am Constable _____ Goldman with the _____ Police Department. My badge number is _____ and I have been with the department for ten years and have been a dog master for the last five years. I am an expert in how a police dog responds to scent and as to how the police dog communicates his findings. The dog I work with is Police Dog Buck and he is a German shepherd. I have raised him from a pup. I have trained him and worked with him for five years. His training included the use of different quarries, varying terrains and climate conditions. He can track from a lingering scent and also from a piece of clothing left at the scene. Police Dog Buck is excellent at following scent and he is very accurate. He has successfully tracked many scents and can communicate his finds through sounds and mannerisms. I have testified many times in court as to his ability to track the scent.



On night in question, November 19th, 20__, I was on duty and in uniform and I was with Police Dog Buck. At approximately 9:30 p.m, I attended a report of break & enter in progress at _____ Street in _____. When I arrived, I used my police cruiser to block in a van parked behind that house. The van had its lights out but the engine was running. As soon as I arrived I took PD Buck down the alley because I thought I had seen 2 figures running in the yards. When we got several houses away, Buck seemed to pick up a scent and started pulling me further up the alley. PD Buck was tracking a scent – airborne, meaning very fresh – up the alley. Two blocks away, Buck started barking at a bush in a back yard. I commanded 2 figures in the bush to exit, with their hands up. A young man and young woman came out and both were wearing dark clothing. The young man was taller than the young woman. They were out of breath and breathing heavily. I arrested them and handcuffed them both while PD Buck stood guard. Then I read them their rights and asked for their names. The young man identified himself as Luke _____ and the young lady said her name was Ming _____.

I recognized both accused as being connected with a gang, "The Toughs." I am aware that getting into the gang requires passing an initiation which includes an act of violence. I suspect that tonight's activity, a home invasion, was a test for these two. I asked them if they wanted to make a statement or if they had anything to say. Luke just swore at me, but Ming said:

"I wasn't doing anything wrong. I was supposed to get a ride home with Luke and he told me to meet him behind his friend's house on _____ Street. So I went there, after I left my boyfriend's house, just in time to see Luke bolting out of some house. He was running, so I ran too."

I asked for the name of the boyfriend, but Luke kicked Ming just before she

Crown Witness # 3

answered, and Luke said to the officer "She ain't got nothin' to say to you." Pursuant to the arrests, I searched both accused and I located a wallet bearing identification in the name of Alfonso Alfredo in right pants pocket of the male, Luke. I located an Ironman watch on wrist of the female, Ming. Ming said to me that it belonged to her father and she had borrowed it because her own was broken. When another police car arrived, they took custody of the 2 accused.

On the way back to the house of the complainant, Buck sniffed out something in a dumpster. I had to get another officer to help me empty the dumpster. We located a knife and a replica gun in a puddle at the bottom. There were no clear fingerprints on the knife or the gun. I went briefly to speak to complainant and took statements from him and the witness, Maria. Mr. Alfredo identified the wallet and watch as belonging to him. He also said that the gun and knife looked like the ones the two people had. I also examined the doors in the house and outside the front door. I found the locks and frames of both doors were broken. I took all the items found to the police exhibit locker.

•••••

On the witness stand you will be asked questions by Crown counsel regarding the details of your investigation. You will be asked to describe the two accused and to point them out in the courtroom. The knife and gun exhibits will be introduced throughout your testimony. Be sure to have them ready to produce at the trial. The Crown will also ask you to identify the watch and wallet already entered as exhibits as the ones you took from the two accused. You will be qualified as an expert in regard to the dog evidence.

Crown will not introduce the two statements of the accused, Ming as those offer an excuse. Crown wants the accused, Ming to testify so she can be cross-examined.

Defence Witness #1



Van _____

My name is Van _____ and I go out with Ming _____. She was visiting me the night, November 19th, 20__ and she was going to get a ride home from my friend Luke at about 9:30 p.m. He drives a van and lives close to her, so she was to meet him nearby on _____ Street where he was dropping off a friend. She wasn't sure what time to meet him cause her watch was broken, so she left early just in case. She left about 9:15 p.m.

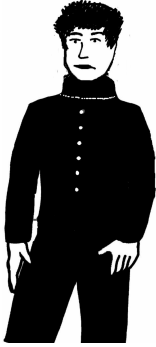
Luke's a cool guy – we hang together with a bunch of other friends. Sure I have a conviction for PSP (possession of stolen property), but that can't be brought up in court against me can it?

•••••

When you are on the witness stand the defence counsel will ask you to identify the person you are talking about. At that time you will point to Ming _____. Be prepared to answer questions on cross-examination by the Crown counsel.

Defence Witness # 2

Accused: Ming _____



My name is Ming _____ and I am going to night school. I am an acquaintance of Luke _____'s but I do not hang out with him much. He is a good buddy of my boyfriend, Van _____. On that night, I was visiting with my boyfriend, Van. I was supposed to get a ride home with Luke and he said to meet him on _____Street where he was dropping off another friend. I left Van's place about 9:20 p.m. and walked over to the meeting place.

I found his van, empty but running, in behind a house. I figured that this was Luke's friend's house so I started to go up to the back door. Luke comes flying out the door, holding stuff in his hands. He looked panicked! Luke started to run. I just followed him, man – he ran so I ran! We ran past his van and up the alley. He tossed some stuff into a dumpster. Then we ran out of breath so we hid in some bushes, but then the cops came, and a dog. The dog was really scary so we came out of the bushes.

I told the police what happened when he asked me. I said,

"I wasn't doing anything wrong. I was supposed to get a ride home with Luke and he told me to meet him behind his friend's house on _____Street. So I went there, after I left my boyfriend's house, just in time to see Luke bolting out of some house. He was running, so I ran too."

I also told the officer that the watch on my wrist was my dad's, and that mine was broken.

I didn't break into that man's house and I didn't rob him. I wasn't even there when that happened. I've never seen that knife or gun before. I don't know why the police don't believe me.

•••••

When you are on the witness stand the defence counsel will ask you to point out Luke as the person you are talking about. You should prepare yourself for cross-examination by Crown counsel.

Defence Witness # 3

Accused: Luke _____

My name is Luke _____ and I've got a part-time job as a pizza delivery boy. I am an acquaintance of Ming _____ 's but I do not hang out with her much. I am a good buddy of her boyfriend, Van _____. I think she is into some rough stuff. I've heard that she is a member of that gang called "The Toughs."



I had no idea what was going on that night. Ming told me to pick her up at her friend's place at _____ Street to give her a ride home. I was to pick her up at about 9:30 p.m after she left Van's house. She told me to turn the lights off in the van and come and knock at the back door of that house when I got there. I'm sure I turned the van engine off. I went up to the back door, heard somebody screaming inside, and it sounded like Ming. I shoved the door in and there she was with a gun pointed at some old guy, lying on the floor. I freaked out and yelled, "Let's get outta here!"

We took off, but there was already a car blocking the van, so we ran up the alley.

Ming gave me something to put in my pocket and I did. I didn't know it was the man's wallet. She also gave me a knife and a gun and I tossed them in a dumpster. We kept running and finally hid in some bushes but a big mean police dog found us and we had no choice but to come out.

I was so mad at Ming that I decided not to say anything to the cop. Ming started blabbing. Just wait until her boyfriend sees and hears this.

I didn't break into that man's house and I didn't help Ming rob him. I wasn't even there when that happened. I just came in when I heard Ming yelling. She sounded as if she was scared. I've never seen that knife or gun before Ming handed them to me. I ran because I didn't like what was going down and she was making so much noise I was sure all the neighbours could hear. I don't know why the police don't believe me.

•••••

When you are on the witness stand the defence counsel will ask you to point out Ming as the person you are talking about. You should prepare yourself for cross-examination by Crown counsel.