

Criminal Mock Trial

Regina v. Baljinder _____ and Mark _____

Issue: Is Baljinder guilty of aggravated assault and uttering threats? Is Mark guilty of aggravated assault?

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:
 - Sean _____ Victim
 - Sarah _____ Girlfriend
 - Constable Lee: Police Officer/Fingerprint/Forensics Expert
- 3 Defence witnesses:
 - Ali _____ Baljinder’s best friend
 - Mark _____ Accused
 - Baljinder _____ Accused

Optional:

- Sheriffs
- Journalists
- Court artist



B) Exhibits Required:

Knife, knife sheath, fingerprint documents showing Mark’s prints matching the prints on the knife, and fingerprint documents showing Sean’s prints matching the prints on the knife, a blood analysis showing that the blood on the knife was the same blood type as the victim, and a diagram of the parking lot. The knife and the knife sheath must be drawings or pictures. Weapons are not allowed into the courthouses.

C) Parts:

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

CC991410
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

BALJINDER

And

MARK

INDICTMENT
ACTE D'ACCUSATION



Baljinder and Mark 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 commit aggravated assault of Sean _____, contrary to Section 268(2) of the *Criminal Code of Canada* and against the peace of our Lady the Queen her Crown and Dignity.

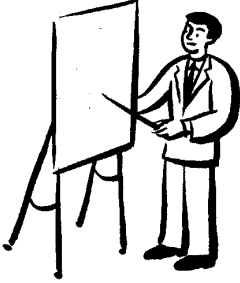
Baljinder stands charged/est inculpé

COUNT 2: THAT, at or near the City of _____, Province of British Columbia, on or about the 19th day of November, 20__, he did knowingly utter a threat to Sean _____ to cause death or bodily harm to him, contrary to Section 264.1(1)(a) 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 November, 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.

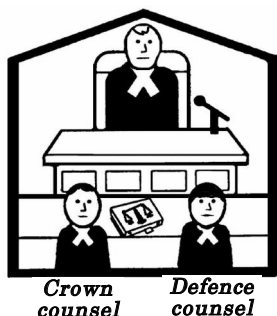
Instructions for the Teacher



- 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 examination 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 sheets**, 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 sheet 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 Baljinder threatened Sean at the dance. Sean was frightened by these threats and took the words seriously. Once Sean left the dance, he was first attacked by Baljinder and then also by Mark. Although Sean fought with Baljinder, he did so partly because he was afraid for his safety because of the earlier threats. In any event, Sean never intended to fight with Mark as well, and certainly had no idea that he and Mark would struggle and he would end up getting stabbed. The evidence will show that the knife found on the ground had Mark's and Sean's fingerprints on it and that the knife fit perfectly into the knife sheath that Mark was wearing. It will also show that the blood analysis of the blood on the knife was a perfect match to Sean's blood type.

Defence Theory:

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

Baljinder will claim that it was a consensual fight or self-defence. The threats earlier in the evening were just words which he never intended to carry out. He had no idea that Mark was going to step-in or that he had a knife. Mark probably thought Baljinder needed help because Sean was bigger than Baljinder.

Mark will claim that Sean was beating up Baljinder. Mark says that he just stepped-in to help protect his friend. Mark will say that he tried to pull Sean and Baljinder apart and that Sean grabbed his knife and in the struggle Sean was injured. Mark will say he did not intend to injure anyone and just was trying to break up the fight.

Students playing the part of counsel should study each of the witnesses' evidence 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.



Uttering a Threat Section 264(1)(a) *Criminal Code of Canada*

- Date: November 19, 20__
- Time
- Place: _____ Street (address)
- Jurisdiction: _____ (name of place), B.C.
- Identification of the accused
- Details of incident
- Knowingly (inferred)
- Uttered: "the exact words" through Sean and Sarah
- To cause bodily harm: "words" can infer harm
- Without lawful authority (inferred)
- Engage in conduct that causes that other person to reasonably fear for their safety
- Threatening directed at Sean

Aggravated Assault Section 268(2) *Criminal Code of Canada*

- Date: November 19, 20__
- Time:
- Place: _____ Street (address)
- Jurisdiction: _____ (name of place), B.C.
- Identification of accused
- Identity of victim Sean
- Details of incident
- Force applied directly or indirectly
- Wounding: Sean and the constable must describe the injury
- No consent to be wounded
- Identification of Exhibits
- Knife
- Fingerprint Sheets
- Blood Analysis Sheet



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 unlawful _____ (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 Sean _____ to the stand, My Lord/Lady.**"
11. The deputy sheriff will say: "**Sean _____ 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 you 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 **Sarah and Constable Lee** 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 **Ali, Mark and Baljinder** 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 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

Sean _____

My name is Sean _____ and I am 18 years old. Right now I am attending school at the local community college so I can get a good job. On the evening of November 19th, 20__ I went out to a dance with some friends. I was with my girlfriend, Sarah. Wouldn't you know it but Baljinder was there. What a thug! My sister Susan had just dumped him and he used to go out with Sarah. Both girls say he's a goof. He was staring at me all night, even glaring at me. I felt pretty uncomfortable with him around, but I wasn't going to let that spoil my night. Hey – I'm twice the size of that little punk!

I could see Baljinder pretending to fight with that weirdo friend of his called Mark. Mr. Knife-boy! Mark has some strange interest in knives and is always talking about gory and violent things. Someone said they even saw a knife in his belt, I'm not too sure that I saw one.

I heard Baljinder bragging that people should wait around until closing to see some excitement. At first I didn't know what he meant but then I knew he meant something to do with me 'cause I could see him gesturing in my direction and he was doing some Mike Tyson boxing style motions. I even saw him doing some stabbing motions with his right hand, which really freaked me out. Anyhow, he's such a little dweeb that I said I wasn't afraid to have a fight with him. I knew Baljinder meant business but there was no way I could leave early as I was with my friends and they would have called me a sissy.



Sarah thought we should leave through the back door. She seemed to think Baljinder was really out to get me. But we left via the front and headed to the parking lot where everyone parks their cars. Baljinder and Mark were there. As soon as he saw me Baljinder took off his jacket and put his fists up. I took off my jacket and squared off, it was just the two of us. I'm bigger than he is, so I figured I could get him no problem. It all happened so fast, and I don't remember the exact sequence, so I couldn't tell you who threw the first punch.

Then out of nowhere, Baljinder says what sounds like some code word, it sounded like he said "Harley" and someone thumps me in the shoulder. Mark grabbed my shoulder trying to pull me away from Baljinder and then the two of them were fighting me. I was really scared. Next thing I knew was I felt a shot of pain in my shoulder, and a bunch more thumps from what seemed like every direction, and then I heard screams. I fell to the ground and I think I passed out. By the time I came around the police officer was standing over me and then it was off to the hospital.

Crown Witness # 1

I have no idea why Mark joined Baljinder but I guess it had to have been Mark. He loves knives and he and Baljinder were "practising" earlier in the evening.

My shoulder is permanently injured. I suffered nerve damage and some paralysis. I can't play sports anymore. I had to stay in hospital for a week because I was so weak from losing so much blood. My blood type is B negative.

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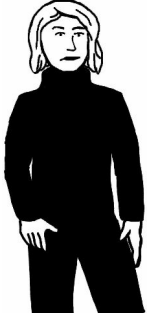
This is your basic story. There are details that you will have to fill in with your teacher's help and in discussion with the students acting as Crown counsel.

On the witness stand you will be asked to describe the incident and the two people. You will be asked to identify the people who were fighting with you. Crown counsel will ask you to describe and point out each person involved in the actual fight.

Crown Witness #2

Sarah _____

My name is Sarah _____ and I just finished high school last June. I am going to the community college now and trying to get my dental receptionist certification. I met Sean in high school but I never dated him then. We met up in college. I use to go out with Baljinder and I don't think he likes me hanging around with Sean.



I saw the whole thing, beginning earlier in the evening with Baljinder threatening Sean and practice-fighting with Mark at the dance. I saw a knife inside Mark's waistband; it had to have been a knife because the handle was sticking out (I assume it was in a sheath) and later I saw a knife on the ground.

When I went out with Baljinder he was an animal and I definitely DO NOT like him. I'm glad Sean's sister dumped him. Now he knows what it feels like! Same goes for Mark – he's just plain weird.

I heard Baljinder threatening Sean. I heard Baljinder saying that people should stick around at 2 a.m. to see "a little blood and fun" and I knew exactly what he meant to do. I mean, he was planning to fight with Sean. I tried to get Sean to leave early, or to leave through the back door, but he was too tough, and refused. Even though he's bigger than Baljinder, Baljinder is such an animal that I wouldn't put bets on Sean winning just because of his size. I think Sean felt the same way. He doesn't like to fight but was feeling threatened.

Anyways, we got out to the parking lot which is well lit and of course these idiots square off: Baljinder and Sean. Jackets off and fists up. What a couple of idiots! Baljinder was giving as good as he was getting from Sean. I was standing behind Sean so I couldn't see too well, but I'm sure Baljinder threw the first punch. They go to it, and then all of a sudden I hear someone say something like "Harry" a couple of times, and then, as if on cue, Mark jumps into the fight. I'm not quite sure who said that, it was coming from Baljinder's direction. Mark was pulling on Sean, and I saw both Baljinder and Mark fighting with Sean. It looked like Mark had something in his hand, and he made a couple of punches to Sean. It was freaky, because Sean went down after that and I could see blood on the front of his shirt. I screamed and ran over to him. The police showed up shortly after that.

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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

Crown Witness # 3

Constable Lee

I am Constable _____ Lee with the _____ Police Department. My badge number is _____ and I have been with the department for ten years and have been assigned to the patrol unit for the last five years. I am also a forensic scientist and a fingerprint expert. I have worked for ten years in those fields and have done thousands of blood type and fingerprint comparisons.

I responded to a call of a fight at local dance about 0200 hrs. and arrived to a crowd of teens in the parking lot adjacent to the premises. As usual, there were a lot of witnesses, but only a few that were willing to come forward. I obtained statements from the victim, his girlfriend Sarah (sober and somewhat hostile to Baljinder), the accused Baljinder, the co-accused Mark, and their friend Ali. The accused and the co-accused were all very lucid and knew what was happening. Their judgment was not impaired by alcohol or drink.

I called the Emergency Health Service because the victim was lying on sidewalk with stab wound to the front of his shoulder. There was significant blood loss and the victim was apparently in shock.



I took both Baljinder (accused) and Mark (co-accused) into custody. I read them their rights and asked if they wanted to make a statement. They each declined. I observed that Mark wore a knife sheath on the belt of his jeans, no knife in it at the time, but the knife I seized fit the sheath perfectly.

The indication was that injury was caused by a knife wound and on investigation; I located a small (4" blade) shiny knife under a vehicle near where I first saw the co-accused standing. I seized the knife as an exhibit, following the procedures I have been trained in for fingerprint analysis. The knife was tested and fingerprints belonging to the co-accused Mark were located on handle of knife. I have the fingerprint examination document here today. I also found a second set of prints on the knife which belonged to Sean, the person who was stabbed. I have the document here with me today. I also conducted a blood analysis of the blood on the knife and compared that to the blood type of the victim and I found that it was the same blood type, B negative.

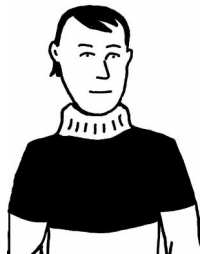
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On the witness stand you will be asked questions by Crown counsel regarding the details of your investigation. You will be asked to describe the two accused and to point them out in the courtroom. The knife, knife sheaf, the fingerprint and blood analysis exhibits and the diagram of the parking lot will be introduced throughout your testimony so be sure to have them ready to produce at the trial. You can use pictures or cardboard exhibits only. You will be qualified as an expert in regard to fingerprint and blood analysis.

Defence Witness # 1

Ali _____

My name is Ali _____ and I have just been selected to be the class valedictorian for graduation. I am best friends with Baljinder _____. I went out to the dance with Baljinder and Mark on the evening of November 18th, 20__ and I was present during the fight in the parking lot in the early morning hours of November 19th, 20__.



I didn't have anything to drink and I know that Baljinder and Mark did. I don't know what the problem between Baljinder and Sean is but there's sure some bad blood. They were giving each other the evil eye all night.

At the dance, Baljinder and Mark were kind of "play fighting," sort of like boxing. I saw Mark show Baljinder something in his waistband, and I guess now it must have been a knife. I heard Baljinder joking about sticking around until closing, but it was just a joking tone of voice. I also heard him saying stuff about 'blood and fun' but no one ever takes him seriously. I know he gets into a lot of fights because he tends to be hot headed.

After closing I tried to get us moving along, just in case anything was going to happen in the parking lot. But Baljinder took his time leaving, and did seem to be waiting for someone. Then when Sean and Sarah came out, Baljinder took off his jacket, and said to Mark, "Okay, Here goes!" Sean went along with things, cause he took off his jacket too. I'm sure Sean threw the first punch, and if he hadn't, I'm not sure if Baljinder would have. Sean's a lot bigger than Baljinder, and Baljinder might have chickened out but for Sean being first. They each got in a couple of shots, and then, to all of our surprise, Mark got involved. I heard someone say something like "Hairy, hairy" – whatever that means – but at that point Mark pulled Sean away from Baljinder and gave him a couple of hockey punches to his shoulder. They were struggling and then Sean fell down to the ground. I never saw him holding anything, but I did see blood on Sean's shoulder. I don't know how the blood got there, cause I didn't see either Mark or Baljinder do anything other than punch Sean.

The police came after that. They had to calm Sarah down more than anything – she was really out of control hysterically.

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When you are on the witness stand the Defence counsel will ask you to identify the people you are talking about. At that time you will point to Baljinder _____ and Mark _____. Be prepared to answer questions on cross-examination by Crown counsel.

Defence Witness # 2

Accused: Baljinder _____



My name is Baljinder _____ and I am not going to school. I am working as a pizza delivery boy. I am a friend of Mark _____ and I do hang out with him quite a bit. He is a good buddy of mine. On that night, I was going out with Sean's sister who was my girlfriend. She dumped me on the way to the dance. I was pretty choked, and when I saw Sean there, with Sarah (another ex), I was even more choked. Sean spent the night laughing at me as if I was some kind of loser. Mark was with me, and some other friends. We work out together at the gym and were just goofing around, doing our Mike Tyson impersonations and having fun. Mark showed me a knife he'd just bought from some guy on Granville Street. He was proud of it, but I told him to put it away. Then the guy starts imitating stabbing motions with his right arm, and for sure I told him to cut it out, or else there'd be "blood at closing in the parking lot." I certainly didn't intend to fight with Sean, although he was giving me such stares that when I left at closing time, I decided to wait for him to give him a piece of my mind. I wanted to tell him I didn't appreciate his dirty looks.

When I got to the parking lot, I started to go to my car. Then Sean took his jacket off and put up his fists. I could have kept going, but he wanted a fight and I agreed. I took off my jacket and he took a couple of swings. I thought he was gonna kill me as he's so much bigger than me, so I yelled out "Help, Help." I guess that's when Mark stepped in. Mark tends to get carried away and he must have got carried away then. He pulled Sean away and they started to struggle. Sean went down and I saw blood coming from his right shoulder.

Then the police showed up and no one wanted to talk to them. It was just a fight that got out of control.

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

Defence Witness # 3

Accused: Mark _____

My name is Mark _____ and I'm looking for work at the present time. I am best friends with Baljinder _____ and we do everything together. I sort of protect his back if he is ever in trouble.

Baljinder, me and the boys went out after Baljinder's girlfriend dumped him. Baljinder said he was gonna find Sean and even the score against Sean's sister (Baljinder's ex-girl). That's why we went to the dance. We ran into our buddy Ali there. We got there and Baljinder and Sean stared at each other all night. Baljinder wanted me to practice fighting with him, and he wanted to see the new knife that I'd just bought on Granville Street. It was for my Dad's birthday. I didn't really want to show it to him inside the dance, but I did anyway. Then Baljinder starts pretending to stab someone, using his right arm as if stabbing downwards. Then Baljinder starts telling everyone, loud enough for Sean to hear, to stick around 'til 2 am, in the parking lot, to see a little "blood and fun," and I figured he meant to have a fight with Sean. Baljinder usually follows through with things.



While we're still inside, Baljinder tells me he's going to jump Sean if he sees him in the parking lot after closing. He tells me he might need a bit of help and then he says that if he does, he'll say "Harley." That would be the signal for me to jump in and help him out. I figured he'd only say that if he was really losing the fight, so when they started fighting, I just watched. By the time Sean and Sarah came out, Baljinder was already waiting – jacket off and fists up. He was kind of grinning too. Sarah was trying to get Sean to walk away but Sean said he could handle this and took off his jacket too.

The fight was on and it looked to me like Baljinder was taking a beating. I heard him say the words "Harley, Harley" so I jumped in, and pulled Sean away and started to struggle with him. I was just helping out my buddy. During the struggle Sean pulled out my knife and tried to use it on me. I tried to get it away from him and then he collapsed, and I noticed that my knife was on the ground. I don't know what happened or how Sean got blood on his shoulder.

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



POLICE DEPARTMENT

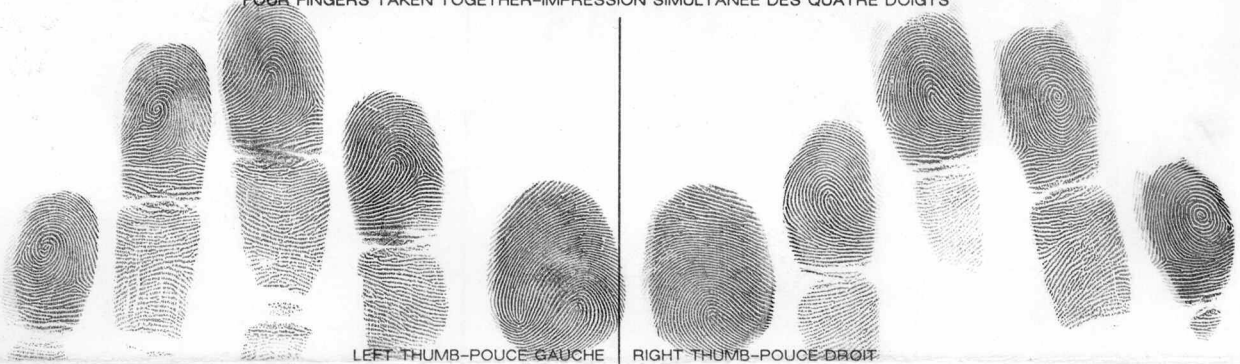
BRITISH COLUMBIA . CANADA

FINGERPRINT EXAMINATION SHEET

	Thumb-Pouce	Index	Middle-Médius	Ring-Annulaire	Little-Auriculaire
R I G H T R O I T E					
L E F T G A U C H E					

IF ANY FINGERPRINT IS NOT RECORDED, GIVE REASON - IF AMPUTATED, DEFORMED OR INJURED, GIVE DATE
S'IL MANQUE UNE EMPREINTE, DIRE POURQUOI - EN CAS D'AMPUTATION, DE DÉFORMATION OU DE BLESSURE, DONNER LA DATE

FOUR FINGERS TAKEN TOGETHER-IMPRESSIION SIMULTANÉE DES QUATRE DOIGTS





BLOOD ANALYSIS FORM

VICTIM'S BLOOD TYPE: B NEGATIVE

**BLOOD TYPE FROM
EVIDENCE: B NEGATIVE**

TEST CONCLUSION: MATCH