



***R v. Smith***  
**Mock Trial Scenario**

***R. v. Smith: Mock Trial for an offence under s. 162.1  
(distribution of intimate images)***

## ***Acknowledgements***

The Justice Education Society is grateful to Miranda Wardman, Law Clerk at the Supreme Court of BC for writing this script.

The Justice Education Society has several resource materials, including other mock trials, which you can find on our website: <https://lawlessons.ca/resources/mock-trials>

Justice Education Society  
260-800 Hornby Street  
Vancouver, BC V6Z 2C5  
Tel: (604) 660-9870  
Fax: (604) 775-3476  
[www.Justice Education.ca](http://www.Justice Education.ca)

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## **R. v. Smith: Mock Trial for an offence under s. 162.1 (distribution of intimate images)**

The following is a mock jury trial scenario for an offence under s. 162.1 of the *Criminal Code*, the distribution of intimate images. This mock trial scenario is intended for high school students. The scenario is unscripted, so students will be expected to come up with the necessary questions and dialogue to conduct the jury trial.

The students are provided with a list of participants, the relevant facts, exhibits, the relevant legal principles, individual testimonies of each witness, the judge's charge to the jury, instructions for the Court Clerk, and a guide for students who take on the role of the lawyers.

While a background and recount of the events is provided for each witness, students are encouraged to expand on the testimony of the witness they play, within reason. This will encourage students acting as the lawyers to think on their feet when conducting either their direct examination or their cross-examination of the witness, much like real lawyers do all the time.

### **List of Participants**

<b>Role</b>	<b>Participant Name</b>
Chris Smith (Accused)	
Rachel Brown (Complainant)	
Evan Armand	
Constable Jacinda Jones	
Phil Liber	
Defence Lawyer(s)	
Crown Lawyer(s)	
Judge	
Jury	
Court Clerk	

<b>Order of the Trial</b>	
<b>Event</b>	<b>Suggested estimated time</b>

Clerk calls to order, reads the charge to the accused, and then enters a plea from the accused. The lawyers will be asked to state their name for the record.	5 minutes
The Crown case will go first. They will provide an opening statement.	5 minutes
Rachel Brown will testify. The Crown will conduct their direct examination.	10 minutes
The defence will conduct their cross-examination of Rachel Brown.	5-10 minutes
Evan Armand will testify. The Crown will conduct their direct examination.	7 minutes
The defence will conduct their cross-examination of Evan Armand.	5 minutes
Constable Jacinda Jones will testify. The Crown will conduct their direct examination.	5-10 minutes
The defence will conduct their cross-examination of Constable Jacinda Jones.	7 minutes
The Defence will call their case. They will begin with their opening statement.	5 minutes
Chris Smith will testify. The defence will conduct their direct examination.	10 minutes
The Crown will conduct their cross-examination of Chris Smith.	5-10 minutes
Phil Liber will testify. The defence will conduct their direct examination.	5-10 minutes
The Crown will conduct their cross-examination of Phil Liber.	5 minutes
Closing arguments will proceed. The defence will go first, then the Crown.	10-15 minutes
The judge will provide their instructions to the jury in the form of the jury charge.	10 minutes
The jury will deliberate and give a verdict	15 minutes
The trial is complete and time for group reflection should occur.	15 minutes

### **Formalities**

When addressing the judge, one should address them as “Mr/Madam Justice” or simply “Justice”. Lawyers can refer to opposing lawyers as “my friend”, and to other lawyers on their side as their “colleague”. When speaking in court, lawyers should stand. Witnesses are required to stand for their oath, but may sit for their testimony.

## **Facts**

Chris Smith and Rachel Brown go to Vankelver High together. They dated for several months, but eventually their relationship ended. They had many mutual friends during their relationship and continued to share these friends after their relationship.

During their relationship, Rachel sent Chris revealing photos of herself in a bathing suit. Their relationship ended approximately two months after the photos were sent.

On November 14<sup>th</sup>, 2021, Rachel received a text from her friend Evan Armand. Evan was a mutual friend of Chris and Rachel's. Evan texted Rachel informing her that he had received a link to a website from Chris. When he clicked on the link, it seemed like Rachel's pictures were on the website. The photos did not show Rachel's face and it is disputed whether the photo is of Rachel.

Rachel and her mother reported the incident to the police. After a brief investigation was conducted, the Crown decided to lay charges against Chris for distributing the photos of Rachel without her consent. The Crown and the defence disagree over whether the photo on the website is of Rachel.

Chris was arrested on December 20, 2021. Chris turned 18 on November 1, 2021. He is being tried as an adult.

## **The Indictment**

IN THE SUPREME COURT OF BRITISH COLUMBIA  
DANS LA COUR SUPREME DE LA COLOMBIE-BRITANNIQUE

CANADA  
PROVINCE OF BRITISH COLUMBIA / PROVINCE DE LA COLOMBIE-BRIT:  
CITY OF CHILLIWACK / VILLE DE CHILLIWACK  
HER MAJESTY THE QUEEN / SA MAJESTE LA REINE  
AGAINST / CONTRE  
Chris James Smith

### **INDICTMENT / ACTE D'ACCUSATION**

#### **Count 1 / Chef 1**

Christopher James Smith, on or about the 14<sup>th</sup> day of November, 2021, at or near Vankelver, in the Province of British Columbia, by knowingly publishing, distributing, transmitting, selling, making available or advertising an intimate image of a person (a) knowing that the person depicted in the image did not give their consent to that conduct, or (b) being reckless as to whether or not that person gave their consent to that conduct contrary to Section 162.1 of the Criminal Code.

AND AGAINST THE PEACE OF OUR LADY THE QUEEN HER CROWN AND DIGNITY.  
ET CONTRE LA PAIX DE NOTRE DAME LA REINE, SA COURONNE ET SA DIGNITÉ

DATED THIS / FAIT LE 20<sup>th</sup> day of / jour de December, 2021, at the City of Vancouver / dans  
la Ville de Vancouver, Province of British Columbia / Province de la Colombie-Britannique




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**Crown Counsel and Agent of the Attorney General for  
the Province of British Columbia / Procureur de la  
Couronne et substitute du Procureur général de la  
Province de la Colombie-Britannique**

### **Relevant Law & Legal Principles**

The applicable *Criminal Code* provision is section 162.1, publication, etc., of an intimate image without consent:

Publication, etc., of an intimate image without consent

**162.1 (1)** Everyone who knowingly publishes, distributes, transmits, sells, makes available or advertises an intimate image of a person knowing that the person depicted in the image did not give their consent to that conduct, or being reckless as to whether or not that person gave their consent to that conduct, is guilty

(a) of an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) of an offence punishable on summary conviction.

Definition of *intimate image*

(2) In this section, *intimate image* means a visual recording of a person made by any means including a photographic, film or video recording,

(a) in which the person is nude, is exposing his or her genital organs or anal region or her breasts or is engaged in explicit sexual activity;

(b) in respect of which, at the time of the recording, there were circumstances that gave rise to a reasonable expectation of privacy; and

(c) in respect of which the person depicted retains a reasonable expectation of privacy at the time the offence is committed.

Defence

(3) No person shall be convicted of an offence under this section if the conduct that forms the subject-matter of the charge serves the public good and does not extend beyond what serves the public good.

Question of fact and law, motives

(4) For the purposes of subsection (3),

- (a) it is a question of law whether the conduct serves the public good and whether there is evidence that the conduct alleged goes beyond what serves the public good, but it is a question of fact whether the conduct does or does not extend beyond what serves the public good; and
- (b) the motives of an accused are irrelevant.

### **Beyond a reasonable doubt**

The core task of a criminal court is to determine whether the Crown has proven the allegations beyond a reasonable doubt. It is the job of the Crown alone to prove that an offence has been committed beyond a reasonable doubt, and the accused is not required to raise a defence. The accused is presumed innocent until the Crown has proven they committed the offence beyond a reasonable doubt.

A criminal court is required to analyze all of the evidence. The trier of fact will determine if the offence has been proven beyond a reasonable doubt. The trier of fact is either the judge in a judge alone trial or the jury in a jury trial. The trial Judge will always be the trier of law, the one who determines whether evidence is admissible and can be considered by the trier of fact.

Common sense and experience are available to a trier of fact when assessing the evidence and making credibility determinations.

### **Actus Reus**

The *actus reus* (“guilty act”) is the illegal act that a person must be found to have committed to be convicted of an offence. To prove the *actus reus* beyond a reasonable doubt, the Crown will call evidence in the form of witness testimony, agreed statements of fact, physical evidence, and other evidence. The Defence will also use evidence in an attempt to raise a reasonable doubt as to the accused’s guilt.

The *actus reus* of section 162.1 requires that the accused publishes, distributes, transmits, sells, makes available, or advertises an intimate image of a person. If the Crown can establish beyond a reasonable doubt that the accused has distributed intimate images in some way referenced in the preceding sentence, they will have proven the *actus reus* of an offence under s. 162.1.

### **Mens Rea**

The *mens rea* (“guilty mind”) requires the Crown to prove a state of mind for the offence beyond a reasonable doubt. The *mens rea* is specific to the offence and relates to the *actus reus*. For the *mens rea* of section 162.1, the accused must knowingly publish, distribute, transmit, sell, make available or advertise an intimate image of a person either knowing that the person depicted in the image did not give their consent to that conduct, or by being reckless as to whether or not that person gave their consent to that conduct.



“Knowing” is straightforward in that the accused must know that the person depicted in the image did not consent to the distribution of the image. “Reckless” means that the accused does not know whether or not the person depicted in the image consented, but takes the risk and distributes the image anyways. Either state of mind satisfies the *mens rea* for an offence under s. 162.1.

### **Motive**

Motive is an intention with which an intentional act is done. Motive does not need to be proven for an offence under s. 162.1. However, if the identity of the perpetrator is an issue, motive can be introduced as circumstantial evidence. Circumstantial evidence does not directly prove a fact in dispute, but allows the trier of fact to draw a reasonable inference about the existence or non-existence of a fact based on the evidence.

### **Summary vs. indictable**

For an offence under s. 162.1, the Crown can choose whether to pursue the offence as a summary offence or an indictable offence. This means it is a hybrid offence.

Summary offences are more minor. Usually they have a maximum punishment of six months in jail or a \$5,000 fine. Summary trials take place in provincial court before a judge. For the purposes of this scenario, if the Crown elects to proceed by summary conviction, a jury trial still can take place.

An indictable offence under s. 162.1 carries a maximum sentence of five years and is much more serious. For the purposes of this scenario, it is recommended that the Crown elect to proceed by indictable conviction to permit a jury trial.

### **Credibility**

Where the evidence comes from a witness, a major consideration is whether to believe the witness and, if so, to what extent. This inquiry involves an assessment of the witness's credibility, which refers to the trustworthiness or believability of the witness's testimony.

To assess credibility, one should look to the human characteristics of the witness, including their general integrity and intelligence, powers of observation, capacity to remember and accuracy in statement. While minor inconsistencies are unlikely to diminish the witness's credibility, a series of inconsistencies may cause the trier of fact to doubt the reliability of the evidence. The trier of fact should also consider the extent to which the witness's testimony matches with other proven or undisputed facts in the case. The witness's demeanour may also be considered.

### **Hearsay**

Hearsay is an out of court statement that is offered to prove the truth of what is asserted in court. Hearsay is inadmissible unless it meets exceptions to the rule. Hearsay is normally excluded because the original maker of the statement is not before the court,

and the evidence is not provided under oath. In addition, the truthfulness and accuracy of the statement maker cannot be tested on cross-examination; nor can the risk of wrongful transmission or misinterpretation be explored.

Hearsay is difficult to spot sometimes. Students are encouraged to look for hearsay when witnesses are testifying and object to the use of hearsay evidence. Elements of hearsay have been incorporated into some of the witnesses' testimony.

### **Agreed Statement of Facts**

The agreed statement of facts set out facts both parties agree are facts and they do not need to be argued in court. The agreed statement of facts for this scenario are as follows:

It is agreed that the photo posted to the website meets the definition of an intimate image per s. 162.1(2).

There are no *Canadian Charter of Rights and Freedoms* issues in this case.

There is no public good defence in this case.

### **Witnesses**

**Instructions for witnesses:** Each witness should learn their witnesses' version of events. Students are welcome to elaborate the facts presented below but must stick to the general statement of their witness. When asked a question about something that is not included in the witness's version of events, the student can either say they don't know the answer to the question or respond with an answer they think would be in line with what their witness would say. It is the student's choice to be a willing and responsive witness or to be a more reluctant witness. Creativity in developing your witness character is encouraged.

#### **Crown Witnesses**

#### ***Complainant Rachel Brown***

#### **Background**

- Name: Rachel May Brown
- Age: 17 years old
- Grade 12 student at Vankelver High
- Rachel has no previous criminal record

#### **Rachel's version of events:**

Rachel and Chris dated for several months. During that time, she sent explicit images to Chris. At the time she trusted Chris and did not even think he would ever show them to other people.

Rachel broke up with Chris, and she does not think he was expecting her to break up with him. Their break up was messy, and since they had many mutual friends, everyone knew the details of their break-up. Chris continued to send Rachel texts and would follow her in the hallways so they could “talk about getting back together”. Rachel eventually confided in her teacher about Chris bothering her. Rachel thinks the teacher informed the principal, who talked to Chris, because after he left her alone for a week. It was a week after that she received the link from Evan.

Rachel was at after school band practice when she received the photo. Rachel was extremely embarrassed, and wanted the photo removed. She told her friend Yusif Wenté about the pictures, and Yusif told her that he heard that sending intimate pictures around could be considered “revenge porn”. Yusif also told her that he had heard Chris talking about “getting back” at her for the break up.

After school, Rachel told her mother about the photo. Her mother was angry and phoned the school principal the next day. The principal advised her that since the photo was not related to issues at school, that the school would not do anything about it. Rachel’s mother then took her to the police station and reported the incident.

Rachel is worried that her whole school has seen the photos. She feels violated by their distribution and upset that Chris would do such a thing. She does not know how many people know about the photo.

### ***Evan Armand***

#### Background

- Name: Evan Armand
- Age: 17 years old
- Grade 12 student at Vankelver High
- Evan has no previous criminal record
- Evan has known Rachel for 12 years

#### **Evan’s version of events:**

On November 14<sup>th</sup>, 2021 Evan was at basketball practice. Chris and Evan play on the same basketball team.

In a group chat for the basketball team, Chris sent a link with the text “look who I found online”. Exhibit C shows the text message and that it was received at 15:40. Evan and many of his teammates clicked on the link, which linked them to a website with sexually explicit images. The second image on the site was of Rachel.

The image did not show Rachel’s face, but Evan recognized Rachel’s bedroom in the background, and he had seen the bathing suit the girl in the image was wearing on Rachel before. He recognised and believed the girl was Rachel right away.

Evan didn’t tell the others on the team he recognized Rachel. As far as he knows, he is the only one that recognized Rachel.

When Evan told Rachel about the photos, she did not confirm that they were of her.

### ***Constable Jacinda Jones***

#### Background

- Name: Constable Jacinda Jones
- Age: 47 years old
- Constable Jones has been a police constable for 7 years
- Constable Jones is a member of the internet crimes team (“ICT”)

#### **Constable Jones’s version of events:**

Constable Jacinda Jones conducted the investigation into Rachel’s complaint. She started with the link that was sent to Rachel by Evan. Rachel made a statement to Constables Jones that she was “85% sure that’s me in the photo and I did not say Chris could send that picture to anyone, let alone post it online”. Rachel further stated that she knew it was Chris because no one else had that photo.

Constable Jones obtained a warrant to search Chris and Rachel’s phone conversations. Exhibit A shows a conversation where Rachel sent Chris the photo in question. The photo has since been deleted from that text conversation. The conversation is from September 1, 2021. It is accompanied by a text from Rachel stating “this is yours now”. Constable Jones noted that at no point in the text conversation did Rachel tell Chris not to show the photo to anyone.

Constable Jones discovered that the photo posted online that Rachel alleges is her was posted by a user under the name “jumpboi842” at 15:30 on November 14, 2021. In tracing the IP address, Constable Jones found that the photo was posted from a computer at Rachel’s school. There is no way of knowing who at the school used the computer at school to post the photo.

The photo that was posted online was compared to the photo sent in the text message conversation. However, the comparison was inconclusive. Constable Jones cannot confirm that the photos are the same.

### **Defence Witnesses**

#### ***Chris Smith (accused)***

#### Background

- Name: Chris James Smith
- Age: 18 years old
- Grade 12 student at Vankelver High
- Chris has no previous criminal record

#### **Chris’s version of events:**

The accused, Chris Smith denies that the pictures are of Rachel. While he admits that Rachel sent him an intimate photo, he maintains that he would never post it online.

Chris denies that he kept following and texting Rachel when they broke up. He claims that he just said hello to her in the school hallways, and sent her a few texts to ask for an explanation as to why she broke up with him. He says the reason for sending the texts is because he found out through one of his friends that Rachel broke up with him and that she never talked to him about breaking up. He says that he was just confused.

Chris was at basketball when he sent his teammates the link to the photos. His basketball practice started at 16:00 on November 14, 2021. Before basketball practice, he had one hour of free time. He claims that he hung out in the school library doing his homework prior to basketball practice. He came across the link on his phone when a pop-up ad appeared on the basketball site he was scrolling through when taking a break from homework.

Chris clicked on the link as he thought the girl depicted in the pop-up ad might be Rachel. When he followed the link, he saw the second image and wasn't sure if it was Rachel or not. He then realized the time and had to head to basketball practice. On the way to practice, he sent the link to his basketball team group chat.

Chris said that by saying "look who I found online" in the text he meant it as a joke. He maintains that he did not know it was Rachel in the photo, but since the girl looked like Rachel, by saying "look who I found online", he was implying that it was funny that Rachel may have a doppelganger who posts explicit images online.

Chris has a scholarship to play basketball at a respected college. He is worried that if he is convicted of an offence, he will lose his scholarship. He is sorry that Rachel feels humiliated, but maintains that he did not post the image online.

### ***Phil Liber (basketball coach)***

#### **Background**

- Name: Phillip Steve Liber
- Age: 47 years old
- Basketball coach and Grade 11 teacher at Vankelver High
- Has known Chris for three years

#### **Mr. Liber's version of events:**

Phil Liber is Chris and Evan's basketball coach. He does not know much about the image and has not seen it. The defence called Mr. Liber to testify about his "no phones rule" at basketball practices. He asks that students keep their phones in their lockers so that they can focus on the practice.

Mr. Liber says that since practice started at 16:00 on November 14, 2021, most of the players would have needed to put their phones in their lockers around 15:20. This is

because most player's lockers are a 10 minute walk from the gym, and many of them begin warming up around 15:30 before a practice.

Mr. Liber was running late on November 14, 2021 and did not get to the gym until 15:45. He says he could not have seen if Chris was in the gym at 15:30. However, Mr. Liber stated that Chris is very serious about basketball and even has a scholarship for college basketball. As such, he says that Chris is almost always warming up at 15:30 before practice. Additionally, he stated that Raul Mercado, Chris's teammate, said Chris was there at 15:30.

## **Other Participants**

### **Judge**

The judge will maintain order in the courtroom. They will take notes about the trial in order to determine the correct sentence if the accused is found guilty. If either of the lawyers object to another's line of questioning or object to the use of hearsay evidence, the judge will decide whether to allow the question/evidence or reject the question/evidence.

In a jury trial, the judge does not determine the guilt or innocence of the accused. However, for the mock trial, the judge should take notes on whether they think the Crown has proven the elements of the offence, which witnesses they found credible, and their determination of the accused's guilt.

At the conclusion of the trial, the judge will read the following jury charge to the jury:

Members of the jury,

You will soon leave this courtroom and start discussing this case in the jury room. It is time for me to tell you about the law you must follow in making your decision.

You must consider the evidence and make your decision on a rational and fair consideration of all the evidence, and not on passion, or sympathy, or prejudice against the accused, the Crown, or anyone else connected with the case. In addition, you must not be influenced by public opinion. Your duty as jurors is to assess the evidence impartially. The only information that you may consider is the evidence that has been put before you in the courtroom. Any other information about the case from outside the courtroom, is not evidence

Any verdict you reach must be unanimous. Unless you are unanimous in finding Chris James Smith not guilty, you cannot acquit him. Nor can you return a verdict of guilty unless you agree unanimously that he is guilty.

The first and most important principle of law applicable to every criminal case is the presumption of innocence. Chris James Smith enters the proceedings presumed to be innocent, and the presumption of innocence remains throughout the case unless the Crown, on the evidence put before you, satisfies you beyond a reasonable doubt that he is guilty.

Two rules flow from the presumption of innocence. One is that the Crown bears the burden of proving guilt. The other is that guilt must be proved beyond a

reasonable doubt. These rules are linked with the presumption of innocence to ensure that no innocent person is convicted.

The burden of proof rests with the Crown and never shifts. There is no burden on Chris James Smith to prove that he is innocent. He does not have to prove anything.

Now what does the expression “beyond a reasonable doubt” mean? A reasonable doubt is not an imaginary or frivolous doubt. It is not based on sympathy for or prejudice against anyone involved in the proceedings. Rather, it is based on reason and common sense. It is a doubt that arises logically from the evidence or from an absence of evidence.

Several witnesses presented testimony in this trial. When you go to the jury room to consider the case, use your collective common sense to decide whether the witnesses know what they are talking about and whether they are telling the truth. There is no magic formula for deciding how much or how little to believe of a witness’s testimony or how much to rely on it in deciding this case. But here are a few questions you might keep in mind during your discussions.

Did the witness seem honest? Is there any reason why the witness would not be telling the truth?

Does the witness have any reason to give evidence that is more favourable to one side than to the other?

Did the witness seem to have a good memory? Does the witness have any reason to remember the things about which they testified? Did any inability or difficulty that the witness had in remembering events seem genuine, or did it seem made up as an excuse to avoid answering questions?

Did the witness’s testimony seem reasonable and consistent? Is it similar to or different from what other witnesses said about the same events? Did the witness say or do something different on an earlier occasion?

Do any inconsistencies in the witness’s evidence make the main points of the testimony more or less believable and reliable? Is the inconsistency about something important, or a minor detail? Does it seem like an honest mistake? Is it a deliberate lie?

I am going to speak to you for just a moment about reasonable doubt and credibility. Reasonable doubt applies to the issue of credibility. On any given point, you may believe a witness, disbelieve a witness, or not be able to decide. You need not fully believe or disbelieve one witness or a group of witnesses. If you have a reasonable doubt about Chris James Smith’s guilt arising from the credibility of the witnesses, then you must find him/her not guilty.

You have heard Chris James Smith testify. When a person charged with an offence testifies, you must assess that evidence as you would assess the testimony of any other witness. You may accept all, part, or none of Chris James Smith’s evidence.

Of course, if you believe the testimony of Chris James Smith that he did not commit the offence charged, you must find him not guilty.

If you don’t know whom to believe, it means you have a reasonable doubt and you must find Chris James Smith not guilty.

Even if the testimony of Chris James Smith does not raise a reasonable doubt about his/her guilt, (or, about an essential element of the offence charged (or, an offence)), if after considering all the evidence you are not satisfied beyond a reasonable doubt of his /her guilt, you must acquit.

The essential elements of the offence that Chris James Smith is charged with are publishing, distributing, transmitting, selling, making available or adverting an intimate image of a person knowingly or recklessly without their consent. To convict Chris James Smith, you must find that the Crown has proven beyond a reasonable doubt that Mr. Smith published Ms. Brown's photo online, knowing that she did not consent to this publication or reckless to whether she consented or not.

You may begin your deliberations.

## **Jury**

The jury will decide whether or not the accused is guilty or innocent. They will listen to the evidence throughout the trial, taking notes, and then they will begin deliberations. A unanimous decision must be reached for a verdict. To come to a verdict, the following questions must be satisfied beyond a reasonable doubt:

1. Is Rachel the individual depicted in the image?
  - a. If no, then Chris is not guilty.
2. Did Chris upload Rachel's image to the website?
  - a. If no, then Chris is not guilty.
3. Did Chris know that Rachel did not consent to her photo being uploaded to the website?
  - a. If no, proceed to next question.
4. Was Chris reckless to whether Rachel consented or not to the photo being uploaded?
  - a. If no to both (3) and (4), Chris is not guilty.
5. Does a reasonable doubt exist in your mind as to Chris's guilt?
  - a. If yes, Chris is not guilty.

Verdict: Guilty or Not Guilty

## **Court Clerk**

The Court Clerk performs administrative tasks in the courtroom. They will be responsible for a number of tasks in the courtroom, including:

- Calls to order:
  - Anytime the judge enters the courtroom: "Order in the court, all rise please".
  - When the judge sits down: "Court is now in session, please be seated".
  - Introduce the matter: "Calling the matter of Regina versus Charles James Smith".
- Reading the charges:



- Ask the accused to rise then state the following: “Chris James Smith is charged that he, on or about the 14<sup>th</sup> day of November 2021 in the City of Vankelver did publish or distribute intimate images contrary to section 162.1 of the *Criminal Code*. Chris James Smith, how do you plead to this charge? Guilty or not guilty?”
- Swearing in the witnesses:
  - First ask: “Will you state your name for the record? Please spell your first and last name”.
  - Then ask: “Do you wish to affirm or swear on the bible?”
    - If they wish to affirm ask: “Do you solemnly affirm that the evidence you are about to give, shall be the truth, the whole truth and nothing but the truth?”
    - If they wish to swear on the bible ask: Do you swear that the evidence you are about to give shall be the truth, the whole truth and nothing but the truth so help you God?”
- If any recesses are taken:
  - When ready to adjourn ask: “All rise, court is adjourned for ## minutes”.
  - When the Court returns: “Court is reconvened”.

### **Crown and Defence**

The Crown prosecutor represents the government and the public. They will prosecute the offence and aim to achieve a result that is in the public interest. As it is a big role, more than one student can be the Crown.

The defence represents the accused. They will attempt to raise a reasonable doubt as to their client’s guilt. As it is a big role, more than one student can be the defence.

Both the Crown and the defence will need to prepare opening and closing statements, prepare direct examination questions for their own witnesses, and cross-examination questions for the other side’s witnesses.

**Opening statement:** Look through your side’s witnesses’ facts and select what you believe are the central facts of your case. From these facts, make the relevant arguments. Make sure there is consistency between the opening and closing statements. In the opening statement, provide an overview of the case.

**Direct examination:** To prepare questions for direct examination think of the following:

- What your side needs to prove.
- Witness testimony that will help your case.
- Facts you want the witness to talk about.

During direct examination, you cannot ask leading questions. Leading questions are questions that prompt a desired answer. Leading questions are permitted in cross-examination.

To start direct examination, ask the witness to tell the court a bit about themselves. After that, ask questions about the events in question. From there, you could ask more specific questions.

The opposing party should listen and take note during the other party's direct-examination. Listen for leading questions that you may object to.

**Cross-examination:** To prepare questions for cross-examination think of the following:

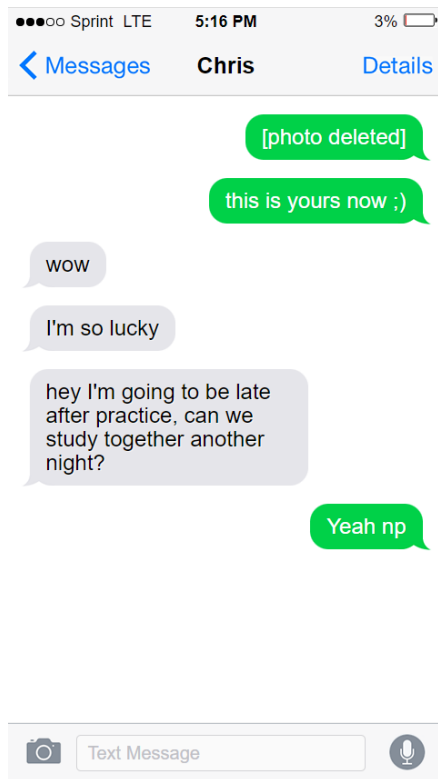
- What facts hurt your case?
- Is there a way to challenge the credibility of the witness whose facts hurt your case? Are they inconsistent at any point or could they be lying about something?
- Facts you want the witness to talk about.
- Ask leading questions that are specific to points you want to make.

Coming up with questions for cross-examination can depend on what was said in direct examination. As you receive answers, it is likely you will have to come up with questions on the spot.

**Closing statement:** In the closing statement, provide more arguments regarding your side's case. Focus on key facts that will be important to the jury. Point out any important testimony from witnesses and comment on a witnesses' credibility if the facts call into question their credibility. Prepare the closing statement ahead of time, but be prepared to adjust it based on what evidence comes out at the trial.

## Exhibits

### Exhibit A – Text Conversation



### Exhibit B – Photo Comparison Results

Image comparison Software ComIMAGE

Date: November 20, 2021

Title: Chris James Smith Investigation

Comparison:

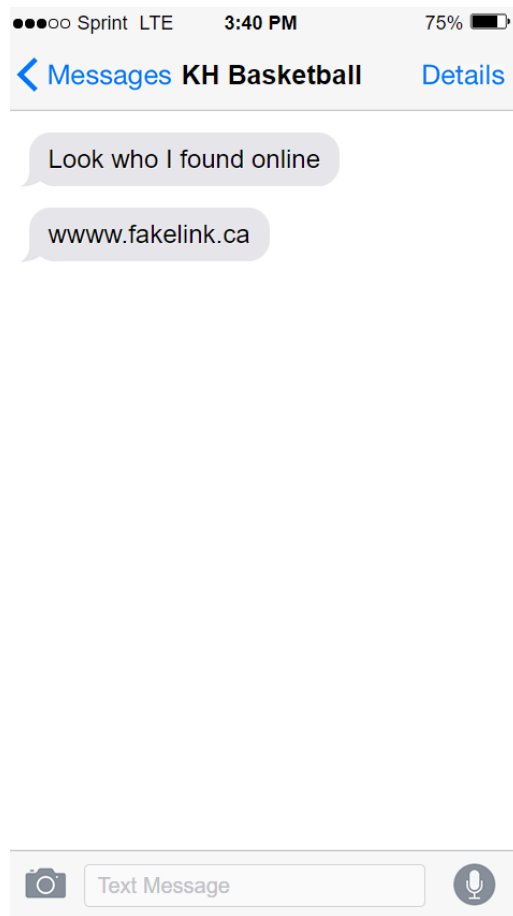
Photo 1: fileRachelBrown/ChrisSmithtextconversation.jpg

Photo 2: file jumpboi842image.jpg

Results: inconclusive

Description: The comparison indicates a 49% match between the two images. ComIMAGE software does not identify a match between photos unless there is a 80% match between images.

### Exhibit C – Text Conversation



### Exhibit D – Rachel Brown’s Police Statement

This statement contains the version of events as I, Rachel Brown, recall them leading to the discovery of my private images on a website “www.fakelink.ca”. I swear that the entirety of this statement is the truth.

Christopher James Smith is my former boyfriend. During our relationship, I sent him photos of myself, but I made it clear I did not want anyone else to see the photos. The photos are very private. One of the photos I sent Chris is the one I viewed on the website “www.fakelink.ca”.

Our break-up was not friendly. Chris wanted to get back together, and sometimes he would try to talk to me about getting back together in the hallways at school. I do not know if he tried messaging me, as I blocked his phone number. I also blocked him on social media out of fear that he would harass me.

I was at band practice when my friend Evan Armand sent me the photo. The sight of the photos was extremely upsetting, and I immediately phoned my mother and asked her what I should do.

My mother asked me if the photos could be removed, and I said I did not think so. She also asked me if Chris had posted the photos, as she knew about our bad break-up. I told her yes. As far as I know, my mother spoke to the principal the next day, and told them it was Chris who did this. I also think Chris posted the photos.

When I came home from school, my mother told me we were going to the police station. The police questioned me, and as a result of that questioning, I prepared this written statement. I believe that Chris Smith distributed my photo and I did not consent to this distribution.



Signed – Rachel Brown

### **Exhibit E – Chris Smith’s Police Statement**

This statement contains the version of events as I, Christopher James Smith, recall them leading to the discovery of Rachel Brown’s private images on a website “www.fakelink.ca”. I swear that the entirety of this statement is the truth.

Rachel Brown is my former girlfriend. We are no longer together and have been broken up for some time. I haven’t seen or spoken to Rachel much since we broke-up, but I have seen her in the hallway at school.

The school principal spoke with me a week before I got the link to the photos to congratulate me for my basketball scholarship. They also asked that I give Rachel some space, as there had been some complaints that I was “stalking” her. I told them that I wasn’t stalking Rachel, so the rumours they had heard were not true. I maintain that I was not stalking Rachel, and that I haven’t talked to her really at all since we ended our relationship.

I was headed to basketball practice on November 14, 2021, when I sent the link to the photos in question to my teammates. The link was sent to me by an anonymous phone number. I still do not believe the photos are of Rachel, I think the girl in the photo just looks like her. It does look like her bedroom in the background of the photo and Rachel does have the same bathing suit, but I maintain that the photos are not of Rachel.

I did not commit the offence of distributing Rachel’s photo on the internet. I respect Rachel and I would never hurt her that way. These are false allegations.



Signed – Christopher James Smith