

FOR THE COURT CLERK

Assemble your materials. You should have:

- *Trial Script*

In your role as the Court Clerk, you act as an assistant to the Judge by helping to ensure that the trial is run in an orderly fashion. You also make sure that the Judge has everything she or he needs.

GETTING READY FOR THE TRIAL

Think about the role that you are playing. How does it feel to be the Court Clerk? How would a Clerk act? Reading these notes and discussing your duties will help you to be your part.

The following is a step-by-step outline of your tasks to help you create your role and be well-prepared for the trial:

1. Study the *Trial Script* to become familiar with the trial procedure. Special attention should be given to your own parts so that you know when you have to speak.
2. Practice your parts.
3. The Crown will give you two copies of the Indictment against the accused. One copy is yours so that you can read the charge to the accused and the other copy is for you to give to the Judge.
4. Ensure that the Judge has everything he or she needs before the trial begins, such as paper and a pen for taking notes. You should have a pen and paper, too, and a book for the witnesses to swear their oaths.

DUTIES

Opening, Recessing and Closing Court

At the beginning of the trial, when the Judge is ready to enter, you call the courtroom to order. This task is also performed after every recess in the trial proceedings.

The Judge will tell you when a recess is to be taken so that you may announce the break to the court.

Your final duty in the trial is to announce the closing of the court on the Judge's instructions.

Reading the Charge

Once the court has been called to order, the Judge will ask you to read the charge to the accused. This involves reading the information on the Indictment which you will receive from the Crown and then asking the accused how he or she pleads to the charge.

Swearing In the Witnesses

Before each witness gives any evidence in court, she or he must swear an oath (or promise) to tell the truth. Your job is to read this oath to each witness when he or she takes the stand to testify.

JURY TRIAL OUTLINE

1. OPENING OF COURT
 - Judge enters.
2. CHARGE AND PLEA
 - The charge is read by the court Clerk and a plea is entered.
3. THE CROWN'S CASE
 - Crown calls and examines witnesses.
 - Defence cross-examines.
4. THE DEFENCE'S CASE
 - Defence calls and examines witnesses.
5. SUMMATIONS
 - Defence
 - Crown
6. JUDGE'S CHARGE TO THE JURY
 - Judge instructs the Jury.
7. RETURNING THE VERDICT
 - After deliberations, the Jury gives the verdict.
8. SENTENCING
 - If the verdict is guilty, the Crown and Defence speak to sentence.
 - Judge gives sentence.

TRIAL SCRIPT

1. OPENING OF COURT

- 1- a Everyone, except the Judge, should be in position.
- COURT CLERK: **All rise, this court is now in session, Madam Justice/Mr. Justice _____ now presiding.**
- Everyone stands.
- 1- b Judge enters, bows to the Crown and the Defence Counsel. They bow back. Judge sits down.
- JUDGE: **You may be seated. [All sit.] Are all parties present?**
- 1- c Crown Counsel stands and introduces the case and all Counsel.
- CROWN COUNSEL: **The case of The Queen and _____, My Lady/Lord. I am _____ for the Crown. My learned friends _____ represent the accused.**
- JUDGE: **Thank you, Mr./Ms. _____.**

2. CHARGE AND PLEA

2- a JUDGE: [to Clerk] **Please read the charge.**
[to accused] **Please rise and hear the charge.**

Accused, Defence Counsel and Clerk stand.

2- b Clerk reads the indictment.

CLERK: _____, you are charged that
on or about _____, you did unlaw-
fully _____ thereby committing
_____. How say you this charge? Do
you plead guilty or not guilty?

ACCUSED: Not guilty.

Everyone sits down.

3. THE CROWN'S CASE

3- a Judge asks Crown to begin.

JUDGE: Ms./Mr. _____, please proceed.

3- b The Crown Counsel, who is starting the questioning, stands and gives
the name of the first witness.

CROWN: **The Crown calls _____ to the
stand.**

3- c The first witness takes the stand and is sworn in by the Clerk. [Clerk
gives the witness the book for taking the oath.]

CLERK: **Will you state your name to the court,
please?**

WITNESS: [gives full name]

CLERK: **Do you swear the evidence you shall give
this court and Jury sworn between our
Sovereign Lady, the Queen, and the
accused shall be the truth, the whole truth,
and nothing but the truth so help you God?**

WITNESS: I do.

3- d Crown begins questioning the witness. Defence Counsel must listen carefully to the questions and to the evidence given.

3- e Once the Crown Counsel is finished questioning the witness, he or she informs the Judge and turns the witness over to the Defence Counsel for cross-examination.

CROWN: [to Judge] **These are all the questions I have of this witness, My Lady/Lord.**
[to witness] **Will you please answer the questions of my learned friend?**

3- f Defence Counsel stands and cross-examines the witness usually just on points of disagreement. The Defence Counsel tells the Judge when he or she is finished with the witness. The Judge gives the witness permission to leave the stand.

DEFENCE: [to Judge] **Those are all the questions I have of this witness, My Lord/My Lady.**

JUDGE: [to witness] **Thank you. You may step down.**

3- g Steps 3- b to 3- f are followed for each witness.

3- h When all the Crown witnesses have been called, Crown Counsel closes his or her case.

CROWN: **That is the case for the Crown, My Lord/My Lady.**

3- i The Judge acknowledges this and asks the Defence to start its case.

[to Crown] **Thank you Mr./Ms. _____.**
[to Defence] **Will the Defence begin?**

4. THE DEFENCE'S CASE

4- a The Defence Counsel now has an opportunity to call witnesses who are helpful to the Defence's case. If the accused is taking the stand, he or she is normally the first defence witness.

4- b The steps followed are exactly the same as for the Crown witnesses.

DEFENCE : **The Defence calls _____ to the stand.**

The witness takes the stand.

CLERK: **Will you state your name to the court, please?**

WITNESS: [gives full name]

CLERK: **Do you swear the evidence you shall give this court and Jury sworn between our**

Sovereign Lady, the Queen, and the accused shall be the truth, the whole truth, and nothing but the truth so help you God?

WITNESS: **I do.**

4- c Defence Counsel examines the witness.

4- d Once the defence has completed the questioning of the witness, he or she informs the Judge and asks the witness to answer the Crown's question.

DEFENCE: [to Judge] **Those are all the questions that I have of this witness, My Lord/My Lady.**
[to witness] **Will you please answer the questions of my learned friend?**

4- e The Crown questions the witness. When Crown Counsel has finished the cross-examination of the witness, he or she informs the Judge. The Judge excuses the witness.

CROWN: [to Judge] **Those are all the questions that I have of this witness, My Lord/My Lady.**

JUDGE: [to witness] **Thank you. You may step down.**

4- f Steps 4- b to 4- e are followed for each witness that the Defence calls. Once all the defence witnesses have been questioned, Defence Counsel tells the Judge that the case for the defence is closed.

DEFENCE: **That is the case for the defence, My Lord/My Lady.**

JUDGE: **Thank you Mr./Ms. _____.**

5. SUMMATIONS

5- a Judge will call a short recess (5 to 10 minutes) to allow the Crown and the Defence to prepare their summations to the Jury.

JUDGE: **Court will recess for _____ minutes.**

CLERK: **All rise. Court will resume in _____ minutes.**

Everyone remains standing until the Judge leaves the courtroom.

5- b When the recess is over, the Clerk calls the court to order again using a procedure that is similar to the original opening of court.

CLERK: **All rise, this court is now in session.**

Everyone stands. The Judge enters.

- 5- c The Judge asks the Defence to start.
- JUDGE: **If you are ready, Mr./Ms. _____, we will begin summations.**
- DEFENCE: **Thank you, My Lord/My Lady.** [presents summation to the Jury]
- JUDGE: [to Defence] **Thank you, Counsel.**
 [to Crown] **Please proceed Mr./Ms. _____.**
- JUDGE: [to Crown] **Thank you, Counsel.**

6. CHARGE TO THE JURY

- 6- a The Judge gives instructions to the Jury on its duty. The charge also includes the general principles which must apply to criminal trials and the things that the Crown must prove for this charge. Then, the Judge asks the Jurors to go to the jury room to decide upon a verdict.
- JUDGE: **Ladies and gentlemen of the Jury, I am going to ask you to retire to your jury room now. Please appoint a foreman from among your members who will deliver your verdict after your deliberations are over, if you reach a verdict.**
- 6- b The court recesses while the Jury discusses the case.
- JUDGE: **Court will now recess.**
- CLERK: **All rise, this court stands recessed.**
- Everyone rises and remains standing until the Judge and the Jury have left the courtroom.

7. RETURNING THE VERDICT

- 7- a As soon as the Jury has reached a verdict, the foreman tells the Clerk who informs the Judge. Court is reconvened and the Jury is called back.
- CLERK: **All rise, this court is now in session.**
- JUDGE: [to Clerk] **Please call the Jury.**

7- b The Jurors return and take their places in the jury box. The accused and his or her lawyers stand to hear the verdict.

JUDGE: **Ladies and gentlemen of the Jury, have you reached a verdict?**

The foreman rises to report the decision.

FOREMAN: **Yes, we have reached a verdict, My Lord/My Lady. We find the accused [guilty or not guilty].**

JUDGE: **Thank you, members of the Jury. You are now discharged.**

7- c Jurors can now leave the courtroom or remain to hear the Judge's sentence if they found the accused guilty. If the Jury found the accused not guilty, proceed to step 8-d to adjourn court.

8. SENTENCING

8- a Before the Judge pronounces a sentence, he or she asks both the Crown and the Defence to present information about the accused which will help in reaching a fair sentence. The Judge will consider things such as the character of the accused, any previous record, letters of reference and so on.

JUDGE: [to Defence] **Do you wish to speak to sentence?**

DEFENCE: **Thank you My Lord/My Lady** [gives information].

JUDGE: [to Defence] **Thank you Counsel.**
[to Crown] **Do you wish to speak to sentence?**

CROWN: **Thank you My Lord/My Lady** [gives information].

JUDGE: [to Crown] **Thank you Counsel.**

8- b The Judge can now call a short recess while he or she decides on a sentence for the accused.

JUDGE: **Court will now recess for five minutes.**

CLERK: **All rise, court will reconvene in five minutes.**

Everyone stands while the Judge leaves.

8- c The Judge returns, ready to sentence the accused.

CLERK: **All rise, this court is now in session.**

JUDGE: You may be seated.

The accused and the Defence Counsel remain standing. Everyone else sits down.

JUDGE: _____, you have been found guilty of _____, and I sentence you to _____.

8- d Court is adjourned.

JUDGE: This court is adjourned.

CLERK: All rise, court is adjourned.

Everyone stands until the Judge has left the courtroom.

INDICTMENT

IN THE COURT OF QUEEN'S BENCH (CRIMINAL, JURY)
JUDICIAL CENTRE OF _____

CANADA
SASKATCHEWAN

HER MAJESTY THE QUEEN

- AGAINST -

INDICTMENT

_____ of the City of _____, in the Province of Saskatchewan,
(name of accused)

stands charged:

that she/he, the said accused _____, on or about the _____ day
(name of accused)

of _____, A.D., 19__ at _____, at the City of _____, in the
(time of offence)

Province of Saskatchewan, did steal _____, the property of _____

of a value exceeding one thousand dollars, contrary to Section 334(a) of the *Criminal Code*.

Dated at the City of _____, in the Province of Saskatchewan, this _____

day of _____, A.D., 199__.

(NAME OF CROWN PROSECUTOR),
Agent for the Attorney General
Province of Saskatchewan