

KNOCKIN' ON HEAVEN'S DOOR

Scripted Mock trial

CHARGE = DRIVING WHILE IMPAIRED CAUSING DEATH

Each year in British Columbia, more than 5,000 people are injured and nearly 200 more are killed in crashes caused by a drinking driver. The video "*Knockin' On Heaven's Door*," its viewers guide and mock trial were produced with the goal of reducing the number of young people who are injured or killed in crashes involving alcohol.

The mock trial, written by Jan Baldwin and Yvette Ortiz of the Law Courts Education Society of B.C., is based on the video "*Knockin' On Heaven's Door*," which was produced by the Orientation Adjustment Services for Immigrants Society (OASIS). We recommend that you view the video before you go through the scripted mock trial scenario.

ICBC acknowledges the efforts of the Law Courts Education Society and Oasis for their dedication to increasing awareness of the impaired driving problem.

Law Courts Education Society of BC

9 Roles + Jury

Sheriff

Crown Counsel

Defence Counsel

Judge

Court Clerk

Suki Johal

Constable Bergeron

Joe Singh

Rich Martin

12 Jury Members

SCRIPT:

Sheriff: Order in court. All rise, Supreme Court is now in session.
Justice _____ presiding.

Crown: May it please My Lord, _____ appearing for the Crown.

Defence: May it please My Lord, _____ appearing for the Defence.

Court Clerk: Accused please stand. Her Majesty the Queen versus Richard Glen Martin

Richard Martin stand charged; that in the City of Surrey, Province of British Columbia, on or about the 15th day of June 1994, you did unlawfully drive while impaired, causing death, contrary to the provisions of the Criminal Code of Canada. How do you plead?

Rich: Not Guilty!

Judge: As members of the jury, you are the judges of the facts of this case and you will be making the final decision as to the guilt or innocence of the person put before you.

I remind you that the accused person is presumed to be innocence until the opposite is proven. The Crown's case must provide beyond a reasonable doubt that the accused is guilty. If, after considering all the evidence, you have a reasonable doubt then you must find the accused innocent. If you are convicted of the guilt of the accused person, then you must convict.

Reasonable doubt means focusing on what you have heard. Don't speculate or make up "what ifs" or "could haves." Remember to consider what both sides have presented to you and make your judgement based upon whether the Crown has carefully established its case and whether the Defence has established reasonable doubt in your mind.

Does Crown wish to make an opening statement?

Crown: Ladies and gentlemen of the jury, Crown will try to prove beyond a reasonable doubt that Mr. Richard Martin did act irresponsibly on June 15, 1994 by driving while impaired and causing death. Mr. Martin celebrated graduation with his friends, drank champagne and other alcoholic drinks for a majority of the evening. Mr. Martin did not make safe transportation

arrangements and chose to drive. His actions resulted in the death of Ms. Debra Chang.

At this time, Crown would like to call its first witness to the stand –Ms. Suki Johal.

Clerk: Take the Bible in your right hand. Do you swear that the evidence you shall give shall be the truth, the whole truth and nothing but the truth, so help you God?

Suki: (You must be standing) I do.

Clerk: Please state your full name and spell your last name for the record.

Suki: Suki Johal. J-O-H-A-L.

Crown: Can you tell us your relationship with the accused?

Suki: Well, he's a friend. He's actually a closer friend of my ex-boyfriend, Joe. He was Deb's boyfriend.

Crown: And what was your relationship to Ms. Debra Chang?

Suki: Deb was my best friend. I've known her since grade one.

Crown: June 15th was a very special night for you, Ms. Chang, Mr. Singh and Mr. Martin. Please tell the court what happened that evening.

Suki: June 15th was our graduation party. We had been looking forward to it all year. Deb and I bought our dresses together and the guys promised us beautiful corsages, champagne and a wonderful evening.

Crown: Can you tell us what Mr. Martin was like that evening?

Suki: In the limo he was in a serious mood. We were all talking about the future and he was a real downer. But eventually, he got into a happier mood.

Crown: You said his mood improved. At what point did he start drinking?

Suki: We started drinking as soon as we were in the limo. We drank champagne.

Crown: How many bottles of champagne did you share?

Suki: We started off with one bottle, but then Rich surprised us and brought out a second one.

Crown: How many glasses of champagne did Mr. Martin have?

Suki: (Pauses and thinks) Hmm. They were pretty big bottles, so I would say between 4-5 glasses.

Crown: Did you drink anything else in the limo or at the grad dance?

Suki: Yes, Rich spiked our drinks with rum at the dance.

Crown: What did you mean rich spiked your drink?

Suki: The grad was dry, so he brought a flask to the dance.

Crown: So you're telling us that you all drank in the limo and at the graduation dance, including Rich.

Suki: Especially Rich.

Crown: And what happened at the end of the grad party? I understand you had another party to go to?

Suki: Yes, that's right.

Crown: And what kind of arrangements did you make to go to this party?

Suki: Joe, Deb and I took a cab, but Rich refused to go with us.

Crown: Did Mr. Martin drive himself to the house party?

Suki: Yes, even after we told him that he was drunk. Joe offered to pay for the cab, but he just didn't care—he refused. Deb almost went with him, but I stopped her.

Crown: Did Mr. Martin get to the party on time?

Suki: Yes. Deb was really worried about him.

Crown: What happened at the party?

Suki: We danced, we talked, Deb was very happy to be with Rich—she was totally in love with him.

Crown: Did you drink, or more specifically, did Mr. Martin continue to drink?

Suki: Yes, I noticed that he had a couple of beers or something.

Crown: What time did Mr. Martin and Ms. Chang leave the party?

Suki: They left at about 2:30 a.m. Deb was going to phone her dad to pick them up.

Crown: And why didn't she?

Suki: Because Rich wanted to take her to the "cliffs." He didn't want her father around.

Crown: Were you worried about Ms. Chang when she left with Mr. Martin?

Suki: Yes, I even asked her to sleep over.

Crown: In your opinion, was Mr. Martin intoxicated at the time he left the party?

Suki: Yes.

Crown: Thank you, I have no further questions.

Judge: Defence, do you wish to cross-examine?

Defence: Yes, My Lord. Ms. Johal, you stated you were friends with Mr. Martin?

Suki: I would say so-so.

Defence: Isn't it true that throughout the evening you were arguing with Mr. Martin?

Suki: I wouldn't say arguing all night – just disagreeing on some points.

Defence: Ms. Johal, were you drinking that evening?

Suki: Yes.

Defence: And how many glasses of champagne did you have?

Suki: Oh, about 2-3 glasses and maybe a couple of drinks at the grad dance.

Defence: And would you say you were intoxicated?

Suki: Just a small buzz, but not really drunk.

Defence: It sounds to me like you are not sure how many drinks you had. Could you be mistaken on how many drinks Mr. Martin had?

Suki: (Pauses to think) No.

Defence: But you say you're not sure how many you had?

Suki: That's true, but I'm 99% sure he had that amount because I remember Rich and Joe drank more than Deb and me.

Defence: Did my client ever fall or stumble?

Suki: No.

Defence: Were you watching Mr. Martin all evening?

Suki: No.

Defence: You state that Mr. Martin drank at the grad dance and then at the party.

Suki: Yes.

Defence: Did you serve him the drinks?

Suki: No, but...I know he was drunk because he was acting pretty weird and too happy.

Defence: Wouldn't that be typical behavior for someone who is celebrating a very special occasion?

Suki: Yes—I guess so.

Defence: Thank you, Ms. Johal, I have no further questions.

Judge: You may be seated, Ms. Johal.

Crown: My Lord, we wish to call our next witness—Constable Bergeron.

Clerk: Take the Bible in your right hand. Do you swear that the evidence you shall give shall be the truth, the whole truth, and nothing but the truth, so help you God?

Constable: (You must be standing) I do.

Clerk: Please state your full name and spell your last name for the record.

Constable: (Remaining standing during your testimony) My name is Constable Rob Bergeron. B-E-R-G-E-R-O-N.

Crown: How long have you been a police officer?

Constable: I've been a police officer for six years. I've been working in Traffic Accident Investigation for the past four years.

Crown: You arrived at the scene of the accident at approximately 3:00 a.m.

Constable: Yes, I arrived at the scene about the same time as the paramedics and other emergency crews.

Crown: Please describe what happened.

Constable: Upon arrival I went over to see the female victim who appeared to have suffered very serious injuries. I then asked the ambulance attendant to identify the other occupant of the vehicle.

Crown: Please continue.

Constable: I went over to Mr. Martin. He was conscious but in pretty rough shape. He was able to speak to me as I recall him asking about his girlfriend.

Crown: Is Mr. Martin in the courtroom?

Constable: Yes.

Crown: Can you identify Mr. Martin?

Constable: Yes, that's him (pointing to the accused).

Crown: You say he appeared to be in pretty rough shape. Can you elaborate?

Constable: He couldn't move his legs and his face had cuts and scratches all over it. His pupils were dilated and his speech a little slurred. I could smell alcohol on his breath and on his clothes. I asked for his license. He pointed to his tuxedo and when I reached into his pocket I found his wallet and a flask.

Crown: What did the flask contain?

Constable: It contained alcohol. I believe it was rum.

Crown: Is this the flask you recovered from Mr. Martin?

Constable: Yes.

Crown: My lord, we'd like to present this as exhibit A.

(Clerk marks exhibit and passes it to the judge)

Crown: What happened after you took the flask?

Constable: He was obviously in a lot of pain and so the paramedics transported him to the hospital. I went directly to the hospital as well, where I requested Mr. Martin be given a blood test.

Crown: Why did you request that?

Constable: Mr. Martin's breath and clothes reeked of alcohol and he was incoherent. I requested a blood-alcohol test based on those observations.

Crown: What were the results of the blood test?

Constable: Mr. Martin's blood test revealed a blood alcohol reading of .09, which is over the legal limit.

Crown: My Lord, Crown submits the accused's blood test records as exhibit B. (Passes records to Clerk) Thank you Constable, I have no further questions.

Judge: Defence, do you wish to cross-examine?

Defence: Yes, My Lord. Constable Bergeron, had it been raining that evening?

Constable: Yes, a few hours before.

Defence: Would it be fair to say that the road was slippery?

Constable: Yes.

Defence: How many times would you say you had been called to the scene of an accident in this area—especially on an evening like this?

Constable: At least once every couple of weeks, perhaps a little more.

Defence: This is an area that has many accidents?

Constable: Yes.

Defence: Now, you say that Mr. Martin's speech was slurred and his pupils were dilated?

Constable: Yes, that's right.

Defence: Mr. Martin had just gone through a very serious accident, incurred serious injuries, and was possibly in shock. Couldn't these symptoms be because of the traumatic experience he had just suffered?

Constable: It's possible, but I'm not a doctor.

Defence: Thank you, Constable Bergeron. I have no further questions.

Judge: You are excused Constable Bergeron. Defence, please proceed with your opening statement.

Defence: Ladies and gentlemen of the jury we will try to prove that there is significant doubt that Mr. Martin was impaired on the evening of June 15th. You will hear from Mr. Martin what really happened that night and from a witness who was with Mr. Martin all evening.

We would now like to call our first witness to the stand, Mr. Joe Singh.

(Joe whispers to court clerk that he will be affirming to tell the truth)

Court Clerk: Do you solemnly affirm that the evidence you shall give shall be truth, the whole truth, and nothing but the truth?

Joe: I do.

Clerk: Please state your full name and spell your last name for the record.

Joe: Joe Singh. S-I-N-G-H.

Defence: What is your relationship to Mr. Martin?

Joe: He's my best friend—we've known each other 4 years.

Defence: Mr. Singh, please tell us about the evening of June 15th.

Joe: It was our grad night. We went to our grad dance and then to a house to party.

Defence: We heard from Suki Johal that you had all been drinking that evening. For example, she says there were champagne in the limo and that Mr. Martin had about 4-5 glasses of champagne and maybe some other drinks. Is that correct?

Joe: No. It was less than that—maybe about 2-3 glasses of champagne. We all shared the flask and I think he had one beer at the house party.

Defence: And how can you be sure of that?

Joe: I was looking out for him. I don't know how Suki could know since she was arguing with him all evening—she wasn't even paying attention to him.

Defence: Was she arguing with Mr. Martin?

Joe: Yes.

Defence: Do you think she really liked him?

Joe: I don't think she was happy that Deb was going out with him. She never spoke highly of him.

Defence: You stated you were with Mr. Martin all evening. In your opinion was he intoxicated and incapable of operating a motor vehicle?

Joe: He was fine to drive—I was looking out for him.

Defence: Do you think Mr. Martin would put Ms. Chang in a dangerous situation?

Joe: He was so in love with Deb he'd never do anything to hurt her. He even told me that he was going to go to Montreal with her.

Defence: Thank you, Mr. Singh. I have no further questions.

Judge: Crown, do you wish to cross-examine?

Crown: Yes, My Lord. Mr. Singh, you stated that Mr. Martin was fine to drive. If that was the case, why did you offer to pay for a cab after the grad dance and insist that Mr. Martin come with you?

Joe: I wanted us to stay together—I didn't want the girls to worry.

Crown: Mr. Singh, I understand that you also had a few drinks that evening. Would you say you were intoxicated?

Joe: No, I was fine.

Crown: Could it be possible that you are mistaken and, as Ms. Johal states, you had a few more drinks than she did?

Joe: As I said, I was fine.

Crown: Mr. Singh, do you feel at all responsible for what happened that evening?

Joe: No. Rich was fine to drive. He's my friend—I watch out for my friends.

Crown: Thank you, Mr. Singh. I have no further questions.

Judge: You may be seated, Mr. Singh.

Defence: We will now call Mr. Martin to the stand.

Clerk: Take the Bible in your right hand. Do you swear that the evidence you shall give shall be the truth, the whole truth and nothing but the truth, so help you God?

Rich: (You must be standing) I do.

Clerk: Please state your full name and spell your last name for the record.

Rich: Richard Martin. M-A-R-T-I-N.

Defence: This was an evening that you had been looking forward to. Were you able to sleep the night before?

Rich: No, I was excited so I didn't get much sleep.

Defence: How did you celebrate that evening?

Rich: Joe, Deb, Suki and I rented a limo to go to the school grad and we planned to go to a house party afterwards.

Defence: Did you drink that evening?

Rich: Yes.

Defence: Do you recall how much?

Rich: Approximately 2-3 small glasses of champagne and maybe one beer at the house party. Oh yea, and one rum and coke at the grad dance.

Defence: And how were you feeling at the house party?

Rich: I was pretty tired, but at the same time excited. I told Deb that I was going to Montreal with her.

Defence: Would you say you were intoxicated that evening?

Rich: No— definitely not. I know my limits.

Defence: How were the road conditions that evening or, more specifically, how were the conditions on Cliff Road?

Rich: It had been raining so it was pretty slippery.

Defence: What conditions was your car in that evening?

Rich: It's a pretty old car and my tires needed to be changed. Besides that, everything was fine.

Defence: Please tell the court what happened on the way to the cliffs.

Rich: We were on our way to the cliffs—we were tired. But talking to each other. We were getting close to one of the curves and I noticed a flag person

waving to us. I tried to stop but the car slid so I swerved to miss him and the car went over the cliff.

Defence: Is this the place you are describing? (Points out map).

Rich: Yes.

Defence: Were there any warning signs letting you know there was a road construction ahead?

Rich: No, there was no prior warning—the flag person just appeared all of a sudden.

Defence: And you say you tried to stop?

Rich: Yes, but because of the road conditions and because of my tires, I was unable to stop.

Defence: After the accident, the police questioned you. Were you alert and willing to answer police questions?

Rich: I couldn't really talk at the scene of the accident because I was in so much pain. I was so worried about Deb, I couldn't concentrate on anything.

Defence: What kind of injuries did you sustain?

Rich: I injured both of my knees, fractured my left ankle and had bumps and bruises all over my body.

Defence: Would you say you were incoherent?

Rich: Yeah, I was out of it.

Defence: Mr. Martin, Constable Bergeron had testified he found a flask in your tuxedo. Can you explain this?

Rich: I brought a small amount of rum with me to the grad and I had one drink out of it. The flask ruptured in the crash and the rum spilled all over my clothes—that's why my clothes may have smelled like alcohol.

Defence: Are you remorseful for what happened?

Rich: Yes, deeply. It was an accident and I'd give anything to take Deb's place. I miss her so much—I loved her.

Defence: Thank you, I have no further questions.

Judge: Crown, do you wish to cross-examine?

Crown: Yes, My Lord. Mr. Martin you stated that you weren't quite tired that evening from all the excitement and lack of sleep. I also hear from Ms. Johal that Ms. Chang had made prior transportation arrangements with her father. If you were so tired, why did you refuse the ride?

Rich: As I said before, I wasn't concerned because I know my limits. Besides, at the end of the evening I drank pop so it woke me up.

Crown: So you weren't tired when you were driving to the cliffs?

Rich: Well, I guess not, I was alert.

Crown: If you were so alert, then why didn't you notice the road construction was ahead? There was clearly enough warning.

Rich: No, there wasn't. Or, at least, I didn't notice.

Crown: Do you remember how fast you were driving?

Rich: The speed limit—approximately 50km/h.

Crown: If you were driving the speed limit then wouldn't it have been easy to stop even with all those conditions you spoke of? Might it be possible that you were falling asleep or that your reflexes were a little slow?

Rich: No, it was slippery and like I said, I needed new tires.

Crown: I have no further questions, My Lord.

Defence: I have no further witnesses, My Lord.

Judge: Please start your closing statements.

Crown: Ladies and gentlemen of the jury, there are many important factors that point, beyond a reasonable doubt, that Mr. Martin is guilty of impaired driving causing death. First and foremost, the medical evidence entered shows that Mr. Martin's blood alcohol level was over the legal limit. That evidence is further supported by testimony from Ms. Johal that he had at least 4-5 glasses of champagne in the limo, carried a flask to the grad dance, and continued drinking at the house party. He drank consistently all evening. You also heard from Constable Bergeron that Mr. Martin had alcohol on his breath and on his clothes and that not only did he appear to be impaired—but the blood-alcohol test proves it.

We cannot blame this accident on road conditions. If Mr. Martin was driving the speed limit, 50km/h, he could have easily controlled the car.

Mr. Martin's conduct is reprehensible. He was given the opportunity to be driven home by Mr. Chang, but instead he ignored the law, chose to drink and drive, and caused the death of Ms. Chang.

Judge: Thank you. Defence, please begin your closing statements.

Defence: Ladies and gentlemen of the jury, June 15th was a very special evening for Mr. Martin. It was his graduation night and Mr. Martin was tired and excited, but not intoxicated as my learned friend has suggested.

He had a few social drinks with his friends, including Ms. Chang, but this did not impair his capability to drive.

Let us examine the road conditions that evening (points to the map of Cliff Road). As you can see from this map, there was only one flag person warning drivers of the road construction ahead that evening. This clearly does not give a driver sufficient notice to know at what point to stop. We've also heard from Constable Bergeron that Cliff Road is an area of many accidents—especially on rainy evenings. My client also stated that the road was slippery and that his tires did not give him sufficient control to stop the car.

Furthermore, my client was able to drive himself from the graduation dance to the house party without incident. You heard Mr. Singh testify that Mr. Martin was capable of driving and that my client would never do anything to endanger Ms. Chang's safety. The Crown's witness, Ms. Johal, was unable to clearly state how many drinks Mr. Martin had that evening. These are the many facts that you must consider before making the final decision. I thank you.

Judge: To the jury, you have heard the evidence and you must now decide whether Richard Martin is guilty of this crime. The Crown argues that Mr. Martin drank all evening and chose to drive. Defence argues that Mr. Martin was tired and excited and that evening the road conditions and his car were not ideal. If you have a reasonable doubt that Mr. Martin was impaired while he was driving, causing the death of Ms. Chang, you must find him not guilty. If you have no doubt that he was intoxicated when he was driving, you must find him guilty. There will be a brief recess while the jury deliberates.

The judge leaves the bench. The jury leaves the courtroom to deliberate.

After a brief recess...

Sheriff: All rise. This trial is now in session.

Clerk: Have you reached a verdict? (Asking the Jury foreperson)

Foreperson: Yes, we have.

Clerk: Will the accused please rise?

Foreperson: We find the accused _____.

(If the accused is found guilty, the Judge will then ask the lawyers to speak the sentence. The Judge will then sentence the accused.)

Judge: Members of the Jury, thank-you for your thoughtful deliberation. This court is now adjourned.

Sheriff: All rise.