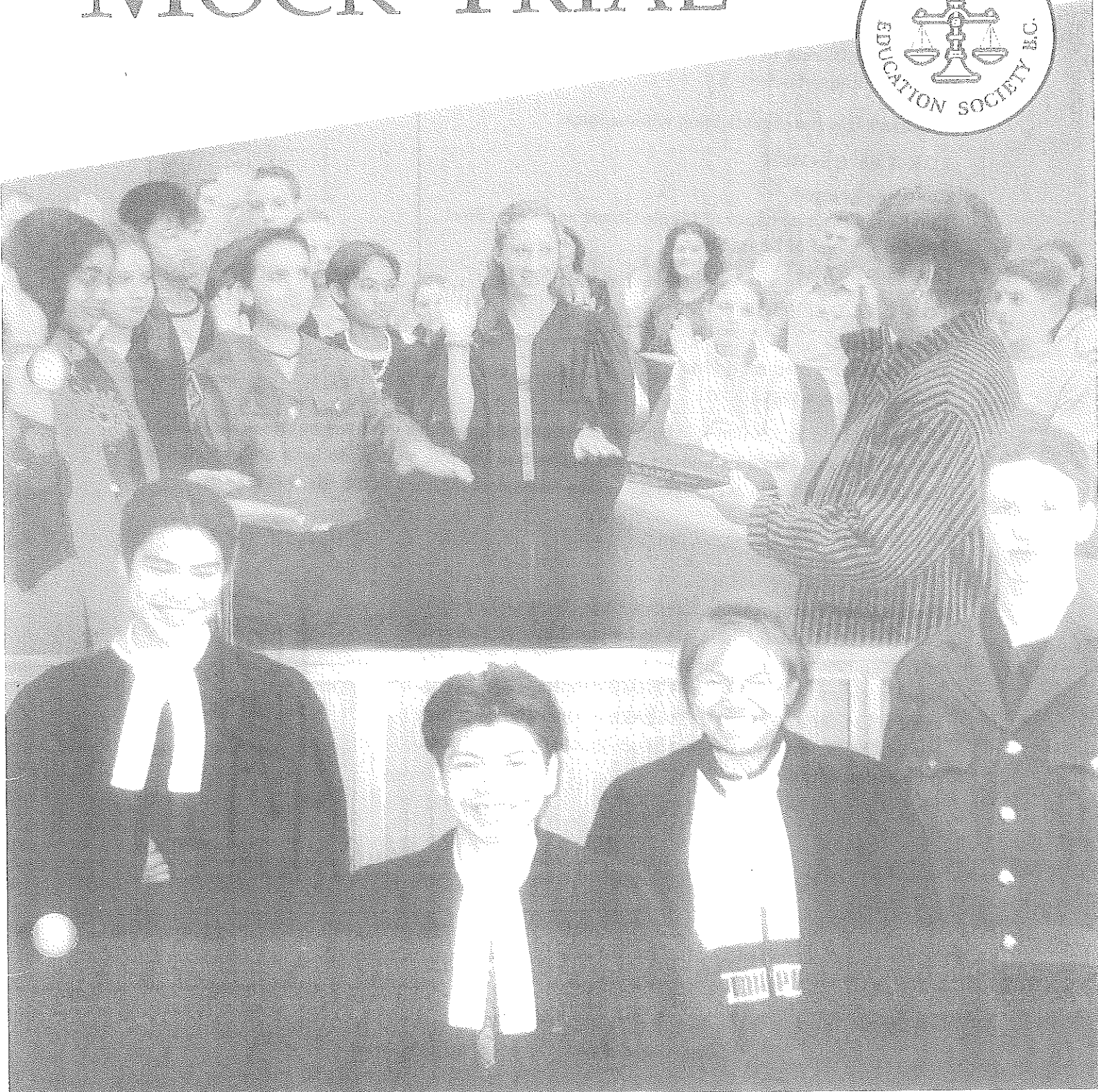
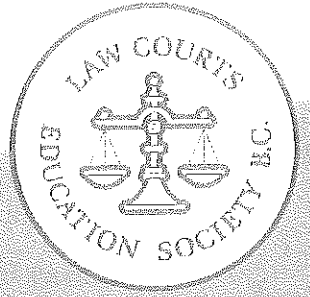


REGINA V. GIRARD

# ADVANCED MOCK TRIAL



# Materials for the Participants

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## **CROWN AND DEFENCE COUNSEL NEED:**

- All the witness role sheets
- The indictment, and admissions to be made
- Judge's charge to the jury
- Sections 34 (2) and 235 (1) of the Criminal Code
- Judgment in R.v.Lavallee
- Crown and defence files from "Guide to Mock Trials: The Basics"

Crown and defence should each meet with a lawyer to discuss the details of this case.

## **THE JUDGE NEEDS:**

- All the witness role sheets
- The indictment, and admissions made
- Judge's charge to the jury
- Judge's file from "Guide to Mock Trials: The Basics"
- Sections 34 (2) and 235 (1) of the Criminal Code
- Judgment in R.v.Lavallee

The judge should meet with a local member of the judiciary, if possible, to discuss the case.

## **NICOLE GIRARD, AND DRS. HOLMES & LONGSIO SHOULD READ:**

- Additional materials about the battered wife syndrome

Dr. Longsio also needs Nicole Girard's statement, and Ken Cato's role sheet.

## **THE COURT CLERK NEEDS:**

- The indictment
- Copies of section 34 (2) of the Criminal Code to hand to the jury when the judge has charged them
- Exhibits 1A to 1D and exhibit 2
- Court clerk's file from "Guide to Mock Trials: The Basics"

## Admissions to be Made

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Admissions are necessary to focus the case and to save some time. Admissions are made by counsel in many criminal trials and when they are appropriate, they are encouraged by judges. In a real case the admissions would normally be made by the lawyers involved, but in this mock trial, the judge should advise the jury at the outset that counsel have agreed upon certain admissions and have asked that the judge make those admissions known to members of the jury.

- 1) That Nicole Girard caused the death of Kevin Steel at Williams Lake, British Columbia, on October 29, 1989 about 02:07 hours. She did this by shooting him with a rifle.
- 2) That the various admissions and statements made by Nicole Girard to Cst. Stevens concerning the death of Kevin Steel are all admissible in evidence. It is specifically admitted that such admissions and statements were made voluntarily and that none of the rights accorded to criminal suspects by the Canadian Charter of Rights and Freedoms were infringed or violated.
- 3) That Dr. D. Longsio is qualified to testify as an expert witness upon the subject of spousal assault and the effect it has upon women.

NOTE: The judge should incorporate these admissions into his or her opening statement. For details on how to construct the opening statement, students should refer to the Judge's File, in "Guide to Mock Trials: The Basics."



## Crown Witness #2 – Kim Kendrick

In this mock trial you are going to play the role of Kim Kendrick, a high school English teacher.

You live in a town house (#16) complex known as Cariboo Place. You and your spouse returned home about midnight on Saturday, October 28, 1990. You noticed that your neighbours in #18 were partying—people were coming and going, barbecuing, and a ghetto blaster was blaring heavy metal rock. You could see many cases of beer on a picnic table.

You will say that when you went to bed at about 1 a.m. you covered your head with a pillow. You will say that otherwise "it sounded like a rock concert going on at the end of my bed."

But things did quiet down about 1:30 a.m.

About 2 a.m. you heard an argument. You recognized the voices as those of your neighbours: Kevin Steel (known as "Rooster") and his girlfriend, Nicole Girard. You recall hearing Nicole say, "I didn't do anything to your sister. I didn't do anything."

You got out of bed to look out the window, but did not see anything out of the ordinary.

But just a few minutes after things quieted down again, you heard a loud bang. You thought it was a car backfiring. Then you heard another bang and realized that the noises were gunshots.

You got up and went to the window again. You heard a sound like a child crying. Then you could hear a woman's voice in the neighbouring yard. The woman said, "!!\*, he punched me in the face. He punched me in the face!"

You saw the woman wandering around the yard briefly before going back into the town house.

You telephoned the police at 2:07 a.m. While you were still on the telephone, two police cars arrived. You saw officers emerge with their guns drawn.

On cross-examination, you will say that during the course of the argument you could hear a woman screaming and, "I knew somebody was getting a beating." The screams were those of "pain and fear." The woman wandering around the yard after gunshots was Nicole, who was "completely hysterical."

You will recall also hearing Nicole say, "I killed him. You guys are my witnesses. You guys are my witnesses!"

You will say that usually Rooster and Nicole were quiet enough neighbours. But sometimes the engine noises and exhaust from their Harleys were annoying.

You will explain that Nicole moved out a few times but always returned within a few days or a week.

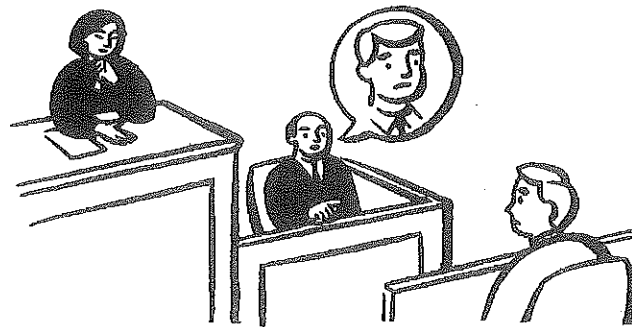
You used to tell Rooster that he should just “let her go...there’s all kinds of other girls out there.”

On cross-examination, you will say that apparently Nicole had been asleep the time you and Rooster arrived to move the couch. You will agree that Rooster yelled words to the effect, “Hey, *\*\*\*\** bitch, get down here right now,” and that she was a “little upset” by Rooster’s yelling and name-calling.

On cross-examination you will also agree that you had seen Rooster throw Nicole “into walls, across the room, over the couch-stuff like that.” You will say that “it was his business...I didn’t want to get involved,” and that you had told Rooster not to beat on Nicole when you were around.

On cross-examination, you will also say that Rooster “had never really been very violent until he met Nicole.”

You will add that while Nicole was afraid of Rooster, “a lot of times she wasn’t because she was very aggressive and she never backed down...she always fought back.”



# Nicole Girard

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As the accused, Nicole Girard, you do not appear as a witness in this mock trial, because your lawyer has decided that it is in your own best interests not to appear.

However, the whole trial revolves around your actions, and you have an important role to play. Your major responsibility is to make the following taped statement. It will be used in the trial as evidence. You need to "become" Nicole Girard in order to make an effective statement. The strength of your presentation on the tape will be vital to your future. To enter into the role as fully as possible, you need to become really familiar with the "Battered Wife Syndrome." You should find out as much about this syndrome as you can.

You also need to be photographed by Cst. Kellsted, for the exhibits. This is a photograph of you that was taken shortly after you shot your boyfriend. The role sheet for Cst. Kellsted describes how you need to dress in order to be photographed.

## Statement

**Cst. Stevens:** Now Nicole, I have told you that you are under arrest for murder and you've talked to your lawyer here. I want to obtain a statement from you and I have told you that you are not bound to say anything, but that anything you do say may be taken down and will be tape recorded to be used as evidence at your trial. It is now 05:50 hours, October 29, 1990, and we are at the office of the Williams lake R.C.M.P. detachment.

**Nicole:** Can I ask you something off the record? What will I get for murder? My lawyer told me 25 years.

**Cst. Stevens:** I think, Miss Girard, that I shouldn't go into that with you. But you know that murder is a very serious offence. Right now I want you to tell us what happened tonight, okay?

**Nicole:** I don't know what I'm going to say. All I know is I was scared. It's not the first time.

**Cst. Stevens:** Just start at the beginning. Maybe from when you guys got back to your place from the Lakeview.

**Nicole:** We came back from the Lakeview and parked the bikes in the yard. Kevin wanted to have a shower, so he went up to have a shower. So me and Joanne went outside and sat at the picnic table and talked, and uh oh my sister phoned so I went in the house and talked to my sister for a while. By that time Kevin was out of the shower and he called me off the phone and asked me if there were clean jeans, and I said no but I'd wash them if he wanted. He said, no

I went running out of the house to the front lawn. Everyone was asking what happened and I told them and everyone, they all scrambled, like, "shit, I better get out of here." Then I went back in the house and Joanne was on the phone calling the police.

I wanted to see him but everyone said no. I want to go to his funeral. And then Joanne kept hugging me and saying, "I know, I know," and arguing with what I said.

And then you guys came, the police came. And that was it.

**Cst. Stevens:** You mention that Kevin kind of passed out when he came downstairs. Do you know how much he had to drink?

**Nicole:** I'd say about 12. He was kind of nodding off. Oh, he got sick. I remember he barfed on the carpet in the rec. room and I took him into the laundry room and I was comforting his back, like rubbing it, and he was sick over the sewer and he kept pushing me away. He didn't want me to comfort him, and he sobered up a bit.

**Cst. Stevens:** You say that Kevin gave you the gun. Where did he get the gun from?

**Nicole:** The guns were all kept in the second bedroom on the left hand side.

**Cst. Stevens:** Is that the bedroom you were in?

**Nicole:** No, I was in my bedroom. We have separate bedrooms.

**Cst. Stevens:** So Kevin had to leave your bedroom to get the gun?

**Nicole:** I guess so.

**Cst. Stevens:** You say a shot was fired after he gave you the gun. Who fired that shot?

**Nicole:** Me.

**Cst. Stevens:** Did you aim that shot anywhere?

**Nicole:** No.

**Cst. Stevens:** Did Kevin say anything when you aimed the gun at yourself?

**Nicole:** He didn't try to stop me. He said he was going downstairs. I guess he said, "You or me," and that I'd get it when everybody leaves. That I remember good.

**Cst. Stevens:** You say you thought you aimed above him for the second shot. Did you actually sight down the barrel of the gun before you pulled the trigger?

**Nicole:** No, I was too upset, scared. I tried to aim higher. I didn't want to shoot him. I was too scared.

## Defence Witness #1 – Dr. J. Holmes

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You are a medical doctor and you have been practicing in British Columbia for 10 years. You supervise the emergency department at Cariboo Memorial Hospital in Williams Lake.

You do not know the accused personally, but you have examined the hospital records concerning her. They record the fact that you treated her occasionally between January 1987 and October 1990. The records show she made the following visits to the emergency department.

- 1) June 26, 1987. She complained of chest pain. Dr. Judy Fothergill noted tenderness and some bruising.
- 2) August 15, 1987. She complained of a sore toe. X-rays revealed that it was broken. She said she had dropped a cement block on her foot.
- 3) October 10, 1987. She again complained of chest pain. She told Dr. Sandy Desai that she had been kicked while trying to stop a fight.
- 4) October 24, 1987. She complained of pain in her left hand and a swollen nose. X-rays revealed broken bones in her hand and a fractured nose. Dr. Desai also observed that she had a black eye. She told Dr. Desai that she had fallen from a horse a week previously.
- 5) December 23, 1987. She attended with a Mr. Kevin Steel, who she said was her boyfriend. She left before being examined. She had wanted a prescription for pain killers but had been told it could not be issued until after she had been examined.
- 6) November 2, 1988. She attended with her father. She complained of a cut finger, which was stitched.
- 7) June 8, 1989. She attended with Mr. Steel. Her lip was cut and bleeding, requiring stitches. Mr. Steel said that she had fallen against the kitchen table.
- 8) December 1, 1989. She attended with her sister. She had a large bruise over her left eye, a bruise over her nose, which was bleeding, and scratches on her neck. Her teeth were painful to the touch. She said that she had fallen down the stairs when she got in the dark to go to the bathroom.

On cross-examination, you will say that you saw the accused yourself on December 1, 1989. Your notes record that you told her that you did not believe her story. Your notes also record that you asked her if she was being beaten by her common-law husband.

You will say that the accused emphatically denied this and said that she and Kevin Steel were planning to marry and start a family soon.