

## ***Criminal Law***

The Criminal Code of Canada is federal legislation that sets out criminal law and procedure in Canada.

Criminal law prohibits harmful or undesirable conduct and sets out the process in which the process responds to it.

If you have been charged with a criminal offence, we recommend that you meet with a Criminal Lawyer to determine if you have any defence to the Charges that have been made against you.

The role of the Criminal Lawyer is to work together with his or her client to insure that they explore all options available to the client, depending on the nature of their case and the circumstances that arose that brought them before the Court.

The client has a right to always be informed at all times about how the case is progressing, and our firm is dedicated to fight for your cause. We are on your side.

When you are charged with a criminal offence, under the Charter of Rights and Freedoms, you need to know:

1. You are always innocent until proven guilty. The Crown needs to prove that you are guilty within the laws of evidence and although there may be some culpability, they may not be able to meet their onus, and a Criminal Lawyer can help determine if you have a viable defence.
2. The Crown Attorney has a hard burden. They need to prove their case beyond a reasonable doubt. This is a difficult task that the Crown Attorney has to overcome and on the basis of the Crown onus being “beyond a reasonable doubt”, there may be numerous possibilities of resolving the matter without having a finding of guilt.

Even in the event that there is no possible defence, a Criminal Lawyer can also assist you in sentencing. An experienced Defence Lawyer who has knowledge of the law and the Ontario Court system can help you in determining the right Court of action to protect you and to protect your rights. We at our firm dedicate ourselves and are fully committed to fighting for your rights, and to stand by you and be on your side.

## ***Going to Court***

If you have been charged with a criminal offence, you will be provided with a first appearance Court date. Your attendance on that date is mandatory unless you have made arrangements with your Counsel to have your Lawyer attend on your behalf, otherwise you would have to attend.

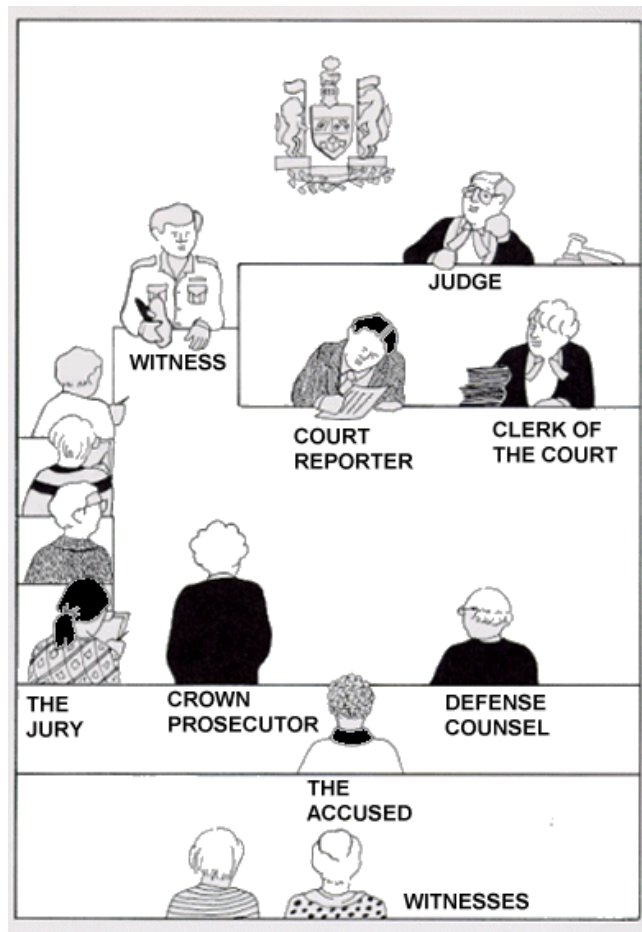
The first time you attend Court is a first appearance Court where an administrative Justice of the Peace will be presiding. The Justice of the Peace is there to insure that defendants are provided with their documentation, called “disclosure”, and arrange for the matter to move forward to the next step.

There are a number of steps involved with respect to the second attendance at Court which might involve a meeting with the Crown Attorney, an attendance before a Judge, or return to the Justice of the Peace for an adjournment of the matter as there may be further disclosure documents or other things that need to be arranged.

## ***The Court Process***

The diagram on the right shows a typical diagram of a courtroom.

This would be the case if there was a jury. In many criminal cases, there is no jury and the Judge alone decides the case.



## ***The persons Involved with the Court Process***

### **JUDGE**

- Listens to everyone's story and fits the pieces together like a puzzle until he/she understands the whole picture.
- Decides whether the accused is innocent or guilty, in the case there is no jury.
- Is called "Your Honour".
- Asks you to stand down when you have finished testifying and being cross-examined.
- Decides on the appropriate sentence when the accused is found guilty.

### **COURT REPORTER**

- Sits in front of courtroom near the judge.
- Records everything that people say while the trial is going on.

### **CLERK OF THE COURT**

- Is the judge's assistant.
- Says "all rise" when the judge enters the courtroom.
- Will ask the witness to take an oath or to make an affirmation promising to tell the truth.
- Calls witnesses by name to take the stand and asks them to give their full name for the court reporter to record it properly.

### **CROWN PROSECUTOR**

- Acts as the defender of society, not as the witness's lawyer. The accused is seen as someone who may have committed a crime against the values of society. Thus the Crown Prosecutor defends society's values. (You will also hear the Crown Prosecutor called the Crown or the Prosecutor. These terms mean the same thing.)
- Does NOT represent the victim.
- Decides whether the case will proceed.
- Will not drop a case at the victim's request.
- Will get at the truth. If there is not enough evidence, the Prosecutor will likely recommend that the trial not proceed.

- Is very busy and will probably not contact you unless you are a key witness and he or she needs to talk to you.
- Refers to the other lawyer as "my friend" as a sign of respect.
- Must be informed of any new evidence or information that you may have.

## DEFENCE LAWYER

- Works for the person accused of breaking the law.
- May try to find out if a witness is confused or making things up.
- Asks the witness questions when the Crown Prosecutor has finished (referred to as cross-examination).
- May ask you the same questions in different ways.
- Tests the credibility of the witnesses' evidence.