

Judge says otherwise.

- Offering misleading or untruthful evidence is a crime called perjury and can result in jail time of up to 14 years.

5. *Submissions*

- Once the defence rests their case, both sides have a chance to make final remarks to the Judge. The defence gets to go first only if they offered evidence during the trial.
- This is a chance to sum up, no new evidence may be given. This is the last chance to try to show that the Prosecution didn't prove guilt beyond a reasonable doubt.

6. *Decision*

- The Judge may make a decision right away or may adjourn.
- If an accused is found not guilty they are free to go.
- If an accused is found guilty they must be given a sentence. Before sentencing, the accused has a chance to address the judge.

Contact Information

Provincial Court Criminal Division
729-1358

Crown Attorney's Office
729-2897

Legal Aid Commission
753-7860

PLIAN's Lawyer Referral Service
722-2643 or 1-888-660-7788

This brochure contains general information only, and is not intended to provide legal advice. If you have a specific legal problem, you should speak with a lawyer. PLIAN offers a lawyer referral service.

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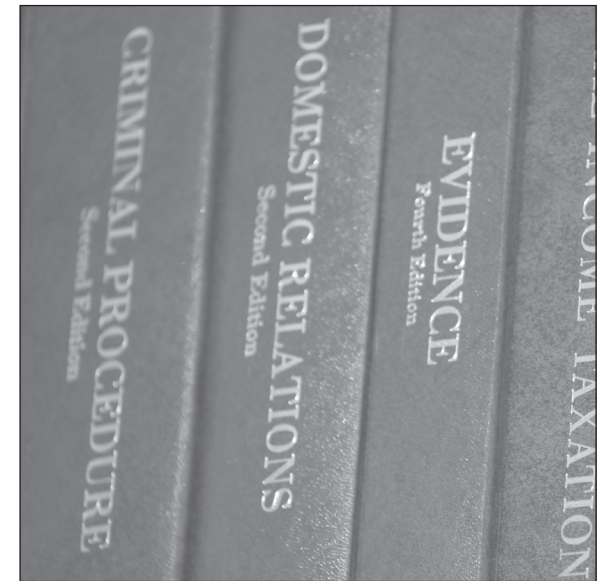
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Criminal Procedure in Provincial Court

What You Should Know

Second Edition



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Criminal Procedure

Whenever someone has been accused of breaking the law and they say they didn't do it, a trial will be held. All accused persons are innocent until proven guilty beyond a reasonable doubt.

The Participants

1. Judge

Sits at the front of the room facing everyone else. Addressed as "Your Honour". Decides if the accused is guilty or not guilty. If the verdict is guilty, the judge decides on the sentence.

2. Prosecutor

Sits facing the judge to the left of the courtroom. Will present the Crown's (government's) case to the court. Addressed as "the Prosecutor," "Crown Counsel," "the Crown," or by their actual surname.

3. Defence Counsel

Sits facing the judge to the right of the courtroom. Presents the accused/defendant's case to the court.

4. Accused / Defendant

Sits in the courtroom until their case is called. Once the judge calls the case, the accused stands up, and may be asked to come forward. Has the right to be present in the courtroom at all times.

5. Witnesses

Usually both the Crown and the defence bring witnesses to the trial. Witnesses give their evidence under oath from the witness box. They promise to tell the truth about what they know about the crime or what they may have seen. They usually wait in the hallway until they are called to testify.

6. Court Clerk

Normally sits directly in front of the judge. The clerk calls the courtroom to order, passes evidence to the Judge, swears in the witnesses, writes out any orders, and tape records the proceedings.

7. Observers

Unless otherwise ordered, Court is open to the public. Observers sit in the rear of the courtroom.

BASIC CRIMINAL TRIAL

1. The Case is Called

The accused sits in the courtroom. Once the clerk or Judge calls the case, the accused comes to the front of the room and stands.

2. The Criminal Trial Begins

The Judge will ask both the Defence and the Prosecutor if they are prepared to proceed.

3. The Crown's Case

- To prove that an accused is guilty beyond a reasonable doubt, the Prosecutor must prove that the offence was committed (called *actus reus*), the offence was intended (called *mens rea*), the identity of the guilty party (the accused committed the offence), and the time, date, and place of the offence.
- The evidence offered may be verbal (ex. a police officer), written (ex. a breathalyser test result), or an actual item.
- Once the prosecution has finished questioning each witness, the defence has a chance to cross-examine them if they choose. This is a time to ask questions not make a speech. The reason the defence may want to cross examine is to bring out any weak spots in the evidence, ie. ask questions to show that the witness is not sure of the facts and to raise doubts as to what they may have seen or heard.
- After the defence finishes their cross-examination, the Prosecutor may redirect, which simply means to ask further questions.

4. The Defence's Case

- Once the Prosecution rests, that is has no more witnesses to call, the defence may present evidence by the accused testifying themselves or through other witnesses if they choose.
- If the defence chooses to be a witness the Prosecutor can cross-examine them. The accused must answer all questions unless the