



Ontario Justice Education Network

Handout: Roles in the Criminal Justice System

ACCUSED

The accused is the person who is alleged to have committed the criminal offence, and who has been charged with committing it. Before being charged, a person may be known as the "suspect." During trial proceedings the accused is sometimes called the 'defendant' (as in: "Will the defendant please rise."). If found guilty, the accused may be called the 'offender' or 'perpetrator'.

APPELLANT

The term for the party appealing a judgment (even if they were a defendant at the civil or criminal trial below).

ARRESTING OFFICER

The arresting officer is the police officer who investigates the crime, and then arrests and charges the accused, which starts the prosecution process.

CRIMINAL DEFENCE COUNSEL

A defence counsel is hired by a person charged with a criminal offence and represents that person in the court process. A defence counsel's job is to make sure someone accused of a crime gets a fair trial. To do this, defence counsel brings evidence to the court and draws the court's attention to any flaws or weaknesses in the crown's evidence and arguments. It is the defence counsel's job to protect client's right to a fair trial and to ensure that any reasonable doubts concerning the crown's case are presented to the court.

CRIMINAL DUTY COUNSEL

A duty counsel is a lawyer paid by Legal Aid Ontario to help an accused person who cannot afford a defence counsel. Duty counsel assists the accused in many of the same ways a defence counsel does. They can give advice and basic assistance with the court process. They cannot replace a lawyer on a file and instead can only help out on a given day by assisting the accused with asking for a delay, doing some simple plea-

bargaining with the crown, conducting bail hearings, and assisting with guilty pleas and sentencing.

COURT ARTISTS

Individuals who document the trial through drawings because cameras are not allowed in Canadian courtrooms.

COURT CLERK

A court clerk is a court official who assists the judge with keeping the courtroom running smoothly. Court clerks swear in witnesses, mark exhibits, open the court, call for adjournments and close the court.

COURT INTERPRETER

The court interpreter is a professional interpreter paid for by the Ministry of the Attorney General, who ensures that the accused and witnesses who speak a language other than the language of the court proceeding (in Ontario, English or French) can give and hear evidence and directions made during the hearing.

COURT REPORTER

A court reporter is a court official who keeps a written record of everything that is said in the courtroom. Lawyers, the judge, and the jury can refer back to these records in order to see if witnesses have changed their testimony during the course of a trial or if something that someone has said has been forgotten or misquoted. The judge can also refer back to these notes when writing their final decision. Many court reporters use recording devices to back up their written/typed notes. The transcript produced by the court reporter is essential for any subsequent appeal.

COURT SERVICES OFFICER

A court services officer assists the judge by keeping order in the court. Part of the court services officer's job is also to make sure that the

accused, the victim, and the witnesses are safe while they are in the courtroom. If the accused is being held in custody, the court services officer will escort the accused into the courtroom. The judge can ask the court services officer to remove people from the courtroom who are causing disturbances or acting disrespectfully towards the court.

CROWN ATTORNEY AND ASSISTANT CROWN ATTORNEYS

Crown attorneys act on behalf of the Attorney General to prosecute criminal cases. Unlike in the American system, Canadian crown attorneys are not usually involved in police investigations. Instead, they review police findings and make independent assessments about whether or not there is sufficient evidence to justify a prosecution. A crown attorney's goal is to bring all credible evidence before the courts to try to prove guilt beyond a reasonable doubt. The crown attorney does not "win" or "lose" a trial.

DEFENDANT

In a civil case, the defendant is the name given to the person being sued. In a criminal case, this is the name given to the person accused of the crime.

EXPERT WITNESS

Expert witnesses are witnesses that the court considers to have sufficient expertise in their field to testify about more than they have seen or heard. Expert witnesses testify about conclusions they have reached from certain facts and they can testify about their opinions on the facts. Only expert witnesses can testify about their opinions. Expert testimony usually helps the court understand some of the other evidence being presented. For example, a sexual assault counselor might be considered an expert witness on how women are affected by sexual assault; a pathologist would be considered an expert in what different autopsy results mean; a firearms expert can speculate about what kind of gun might have been used based on physical evidence presented by someone else.

JUDGE

A judge is someone with a legal background who has been appointed by either the provincial or federal government to hear evidence in court and make decisions about the outcome of legal cases. Judges are required to listen to all the evidence

presented during a trial and act impartially in their decision-making. Even in cases where there are juries, the judge will play a role in determining certain aspects of the proceeding such as whether certain pieces of evidence will be introduced to the jury. A judge is expected to give oral and written reasons for a particular decision. If the trial includes a jury, a judge must summarize information for the jury and give jury members instructions about how to apply the law correctly in coming to its decision. In criminal proceedings, the judge will be responsible for sentencing.

JURY

Juries are groups of citizens chosen from the community who are sworn to hear evidence and witness testimony at trials, and reach a decision on a case. In criminal trials, juries can decide if defendants are guilty or innocent of an offence. Trial by jury is also available in some civil litigation matters, but is rarely used. Canadian juries decide verdicts, but not sentences.

JUSTICE OF THE PEACE

A justice of the peace is a provincially appointed judicial officer who is often the first (and sometimes the only) judicial officer that a member of the public will ever meet. Justices of the peace deal with most matters in a criminal case prior to trial for both adults and young persons. They preside in bail court, to decide whether an accused person should be kept in jail until their trial, and also deal with most pre-trial court appearances. Justices of the peace also hear and decide provincial offences cases for adults and young persons, including offences such as trespassing, liquor violations, traffic offences, workplace safety, environmental protection, parking and noise by-laws. Other areas that justices of the peace deal with include: firearm prohibitions, warrants for child protection, peace bonds, and mental health assessment orders.

LAWYER

Lawyers act for clients in many different types of legal transactions and proceedings, such as real estate purchases, wills, criminal charges, divorces, domestic violence, child welfare, child support, civil debt collection, challenges to legislation, breaches of *Charter* rights, defamation, and immigration. Lawyers explain the law, complete legal transactions, propose legal options for the resolution of disputes, and represent clients before

courts, tribunals, and in private mediations and arbitrations. Lawyers usually specialize in particular practice areas, such as family law, property law, wills and estates, civil litigation, or criminal defence work. Other lawyers work for the government (i.e. assistant crown attorneys).

NATIVE WORKER

Native workers assist aboriginal people who are involved in the criminal justice system, ensuring they are treated with respect and in a manner sensitive to their culture.

PANEL OF JUDGES

In appeals, depending on the type of claim and which court is hearing the claim, there may be one judge or a panel of judges presiding. If there is a panel of judges, the decision of the majority of the panel members determines the outcome. Dissenting judgments are judgments from those panel members who disagreed with the majority.

PARTIES TO AN APPEAL

In appeals, the people involved are the appellant, who brings the appeal, and the respondent, who denies the appeal.

PRESS

Reporters who document what happened at a trial for the public.

PROBATION OFFICER

Probation officers prepare reports assessing offenders and their suitability for rehabilitative interventions (internal or community-based educational, counseling, or treatment programs or services), and enforce probation orders. Probation is a court order that allows offenders to remain in the community subject to conditions contained in a probation order. Offenders with conditional discharges, suspended sentences, or intermittent sentences *must* be placed on probation, while those subject to fines, incarceration (time in jail) or conditional sentences *may* be placed on probation.

REGISTRAR

The registrar maintains all files and exhibits

associated with the court process. Publicly viewable documents are housed at the registry of the court before and after trials. Once a trial is completed and the appeal period has passed, original exhibits are returned to their owners.

RESPONDENT

The name of the defendant on an application or the name of the party that is defending an appeal.

SURETY

The surety is a person who agrees to ensure that an accused person attends court as required until the case is over, and to ensure that the accused abides by the conditions of release, including any reporting, curfew and non-contact clauses. Sureties sign recognizances, agreeing to pay a specified amount of money if the accused person fails to obey the court order. The surety may also have to deposit a sum of money to the court before the accused person is released.

TRIAL COORDINATOR

A trial coordinator schedules the order of hearings in a court on a given day, week and month and decides which judge will hear which case in which courtroom. The trial coordinator also responds to enquiries when matters do not appear on the court list.

VICTIM/WITNESS WORKER

Victim/Witness workers ensure victims and witnesses are supported throughout the criminal justice process. They provide information about the court hearings, as well as services available to witnesses.

WITNESSES

Witnesses are members of the public who have some knowledge about the accused or the event and are brought into the courtroom to give evidence that helps a judge or jury decide the outcome of the case. If such a person testifies in a trial, she/he will be under an oath to tell the court only the truth about what she/he has seen and/or heard. With very rare exceptions (see expert witness), a witness in court can only testify about what she/he has personally seen and/or heard.