

Criminal Trials in Canada





Criminal Trial Principles

In Canada we have a set of principles that are designed to **guarantee fairness** and promote a balance between the **power of the Crown** and the **civil liberties of the accused**.



Criminal Trial Principles

#1 – The Rule of Law

The **rule of law** means that people can be punished only for breaking the law, not for thinking about it.

The **rule of law** provides that all citizens are equal before the law.

Criminal Trial Principles #2 – Specific Allegation

Individuals need to know exactly which *Criminal Code* offence they are charged with, and what specific circumstances are alleged to make up the offence.

Criminal Trial Principles

#3 – Case to Meet



Accused individuals don't have to explain themselves in court until the Crown presents a plausible case against them.

This is known as a “**Case to Meet**”, which is a case for the Crown that is sufficiently strong to support a conviction.

If the Crown cannot establish enough evidence to bring a case to trial, then it is dropped.

Criminal Trial Principles

#3 – Case to Meet



Rules in place to balance the power and resources the Crown enjoys

Crown always presents evidence first in criminal trial

The Crown bears the **burden of proof**

Crown must prove the accused is guilty

Crown can't force accused to testify

Criminal Trial Principles #4 – Innocent until proven Guilty

The Crown must establish the guilt of the accused.

Therefore the accused is considered innocent until proven guilty.

The Crown also must prove their case beyond a reasonable doubt.





Criminal Trial Principles #5 – Open and public trial

By law, criminal trials must be open to the public and to the media.

A reasonable person, observing a trial, should perceive it as fair and unbiased

Criminal Trial Principles

#6 – Independent and impartial adjudication

Judges must be impartial and have no personal interest in the outcome of a trial.

Juries must also be impartial.

The process of jury selection ensures that this is met.



JURY TRIAL

Discuss with a partner

Which of the 6 criminal trial principles are most important?

Rule of Law	Specific Allegation	Case to Meet
Presumption of Innocence	Open and Public Trial	Independent & Impartial Adjudication

Why do you think is so?



The Jury



Why would an individual charged with an indictable offence choose to be tried in front of a jury instead of a judge?

The Jury

Individuals charged with a serious indictable offence have the option of trial before a judge and jury

It is up to the jury to determine the facts of the case.

At the end of the case the judge instructs the jury how to apply the law, based on the facts.





In Canada, the jury in a criminal trial comprises of 12 members, chosen by both the Crown and the Defence.

Jury in Canada

Selecting a jury uses a pool of people created by the Provincial Government.

This is called a **Jury Array**. The Government uses a survey to sort potential jurors before calling them to court.

Who can serve on a jury...



The Ontario Juries Act outlines the rules and procedures the juries and courts must follow...



In Ontario, Canadian citizens who 18 years of age or older are generally eligible to serve as jurors.



However, individuals in certain occupations are excluded from participating in a jury.



These occupations include, lawyers, law students, doctors and people working in law enforcement

Jury Selection

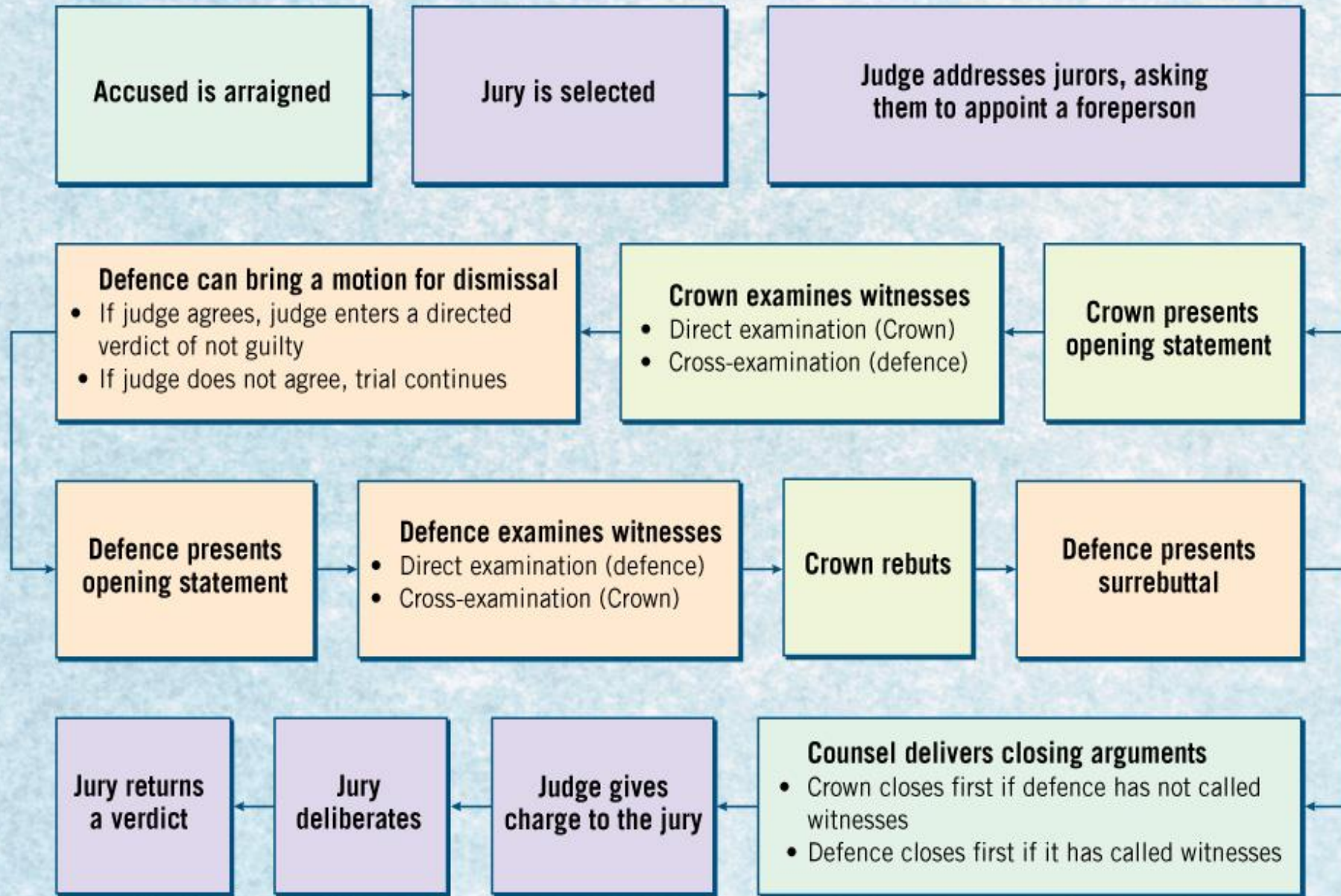
Once potential jury members are selected from a pool of jurors they are organized in court for jury selection.

This process is known as **empanelling a jury**

This can take days and usually means needing to select hundreds of people to find enough potential jurors for a trial.



STAGES IN A CRIMINAL TRIAL BY JURY





Jury Challenges

Both the defense and the Crown have the right to challenge potential jurors.

This means either side can remove a potential juror if they want to.

Why would both lawyers want to challenge jurors?

The purpose of challenges is to create an impartial jury and to give the Crown or the defence equal opportunity to participate in the selection.



The Criminal Trial

Evidence at Trial



In a criminal trial, only relevant evidence is admissible.



Rules of Evidence In a criminal trial, there are many rules relating to evidence designed to ensure that judge or jury are not being misled from the facts



For instance, **Hearsay evidence** is not admissible in court. Here a witness cannot testify about indirect knowledge that they might have obtained



When the admissibility of evidence comes into question the court engages in a hearing known as a **Voir Dire**

The Jury is excluded from the process...

Voir Dire – a trial within a trial to determine whether evidence is admissible

Questioning the
Admissibility of Evidence



Rules Of Evidence

During a trial, the Crown or the defence may object to questions asked or the answers provided by witnesses.

When an objection is made the judge rules on whether the evidence in question is admissible or accepted by the court.

Common grounds for objection include:



Rules Of Evidence

Leading questions

Suggests to a witness a particular answer. This is not allowed during direct examination.

Hearsay statements

Evidence given by witness based on info received from someone else rather than personal knowledge.

Opinion statements

A witness cannot be asked their opinion on something unless they are qualified as expert witness.

Immaterial/Irrelevant questions

This has no bearing on case or is off topic

Basic Types of Evidence

Direct evidence

Eyewitness testimony by a witness to prove an alleged fact.

Circumstantial evidence

Indirect evidence that help erase doubt of the defendant's guilt.

Character evidence

Makes it appear likely that the defendant is the type of person who either would or would not commit a certain offence. There are rules around how this is used.



Appeals

If either side is not happy with the result of a trial they can appeal to have it looked at again.

An appeals court hearing the case can affirm the court's decision, reverse it or order a new trial.

Both the Defence and the Crown can appeal a case it considers improper. They can appeal the decision or the sentence.

The side that files the appeal is called the **appellant**; the responding side is called the **respondent**.

The appeal is usually heard by a panel of 3 to 5 judges, who only have to reach a majority decision.

