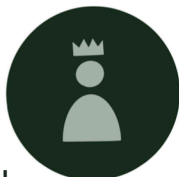


ROLES

As we all know, Crown and defence councils have fundamental roles set out within the *Code of Professional Conduct for BC*. While the Crown has a quasi-judicial role that represents the state, the defence is burdened with representing a person charged with a criminal offence. Both the Crown and defence defend Canada's adversarial system which stems from common law. Within this adversarial system, lawyers serve as protectors of essential individual rights, and alongside judges, deliver a fair and impartial trial. Both must act for the public and the administration of justice resolutely and honourably, within the limits of the law, while treating the tribunal with "candour, fairness, courtesy and respect" (Code of Professional Conduct for British Columbia, 2013, p. 62).



TWO PILLARS ASSESSMENT FOR CHARGE AND APPROVAL

The *BC Crown Counsel Policy Manual* states that the Crown must consider the presumption of innocence and a burden of proof beyond a reasonable doubt prior to proceeding with the two-part test (BC Prosecution Service, 2021, p. 2).

- The Evidentiary Test: is there a likelihood that a "conviction according to law is more likely than an acquittal" (BC Prosecution Service, 2021, p. 2)?
- Would proceeding with a charge would be in the public's best interest?

MENTAL HEALTH

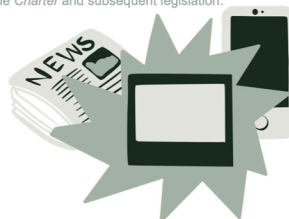


Lawyers are found to "have the highest depression rates among various occupations, with lawyers experiencing depression four times more often than the rest of the population" (Nemeth, 2019). This is most likely due to the potentially gruesome content lawyers are charged with sifting through in preparation for a trial. Lawyers' mental health can also be impacted by having to work considerably long hours, which risks psychological distress, and sleep deprivation, alongside feelings of loneliness (Muca, 2019). Alcohol dependency is also quite common for lawyers, as a way to help cope with stressful situations and long hours—often resulting in addiction as a result. A 2016 study on 13,000 American lawyers found that more than "36% of them showed signs of possible alcohol dependence" (The Law Society of BC, 2021).

Research by:
Victoria
Steve
Raveen
Julianna
Evalyn
Sebastian



Television and movies have tainted society's perception of Crown prosecutors and defence councils significantly. In *real* life, we often see lawyers pleading to the jury or the judge for justice, being the voice for victims, families, police etc. However, the dramatized dialogues and fictitious scenes are the antithesis of what actually occurs in the real life (spelt real) courtroom—which is much more formal. Contrary to what many believe, a Crown prosecutor's role is not to represent victims or secure convictions, but to represent the community as a whole. In the same token, it matters not whether the defence *knows* of an accused's guilty or innocent—their sole purpose is to protect their rights provided by the *Charter* and subsequent legislation.



ETHICS

In the 70's a popular article titled *Conflicts as Property* challenged the western justice process (Christie, 1977)

- "professionalisation" (p. 4) of conflicts equated to stealing
- Desired a renewed "lay-orientation"
- Victim at the periphery "One way of reducing attention to the conflict is reduced attention given to the victim" (p. 5); looking for causes of criminality to divert attention; "the victim has lost the case to the state" (p. 3)
- Seeing people as roles rather than as their whole selves a "re-establishment of caste-society" (p. 5)
- The "easy way out" (p. 9)? (punishment/emphasis on effects rather than cause)
- Our court process could be just a stage in the justice process (p. 10)

Restoration-based processes are beginning to be used again in western societies, and judges will sometimes refer cases to be solved in community settings with the help of trained mediators.

- Victim-offender mediation
- Circle processes
- Family Group Conferences

Conflicts of interest

Guilty client?
Disadvantaged defendant?

Solicitor-client privilege

Disclosure

CROSS-EXAMINATION

Leading questions are used as a method of control to trip up or give the appearance of agreement

It has been recommended to "never afford an opportunity" for a cross-examined witness to explain or elaborate. It has also been suggested that a good approach would be to pose yes-or-no questions to the witness to make their lack of explanation make them appear more "evasive" and suspect (Pratt, 2003, p. 265).

Testimonies rife with contradictions can impeach a witness (Melilli, 2014-15 p. 324)—thus, the concern is that inconsistencies do not necessarily signal a lack of truthfulness.

Witnesses may be re-traumatized in the process - especially as their integrity is contested

Communication differences in certain populations can lead judges and juries to misinterpret responses

