

# COURTROOM VISITS: A GUIDE FOR TEACHERS

## Overview

School excursions to local courthouses are OJEN's most popular and broadest-reaching program. In collaboration with our justice and education sector partners, OJEN is privileged to facilitate experiential, court-based learning encounters all over Ontario, impacting tens of thousands of students every year.

Courtroom visits enable students and teachers to meet with judges, assistant Crown attorneys, defence lawyers, justices of the peace, and other justice sector representatives, and speak with them about different aspects of the justice system and their particular roles within it. Rather than being passive observers during these sessions, students can have their questions about the justice system answered by those most closely involved in the process. Students watch different courtrooms in session, observe different justice sector roles in action and gain real-life exposure to the justice system, complementing what is being studied in the classroom.

## What Happens During Courtroom Visits?

When students participate in a courtroom visit as part of OJEN's Courtrooms & Classrooms program, they often begin the day by meeting with a member of the court staff, like an assistant Crown attorney, trial coordinator or judicial secretary. This person might give the students a brief introduction to the court system and an overview of the roles of various court officials or introduce key concepts in the criminal justice system, such as the "presumption of innocence" and the "impartiality of judges". She or he generally also gives students an overview of the cases on each courtroom's docket for that day.

Afterwards, students are welcome to watch the trials and motions being heard in the courthouse that day.

Students may also have the opportunity to meet with Crown or defence counsel, civil lawyers or a judge during a break in the court schedule, who can answer further questions. Other available justice sector representatives, such as justices of the peace, court security representatives, and registrars also participate in courtroom visits on occasion.

Other opportunities, such as tours or demonstrations of court hearings, are available in some courthouses.

## Caution Regarding Certain Proceedings

While there are some circumstances in which a judge may order a courtroom closed to public audiences, the vast majority of proceedings in Ontario courthouses are open to the public. This openness helps to bolster public confidence in, and understanding of, the justice system. However, based on feedback from court staff, individual teachers and other justice and community partners, we also wish to issue a caution to teachers about having their students observe certain kinds of proceedings.

## Young Students

School excursions to court present excellent learning opportunities for younger students, especially for teachers seeking to expand their classes' understanding of the roles and institutions associated with Canadian government and politics. However, the matters before a court at any given time can range dramatically in seriousness and in many cases there is no way to know in advance what

might be available for observation on the day of a visit. Accordingly, teachers, court staff, and parents have expressed concern over elementary school-aged children observing court matters involving legal issues better suited to a mature audience. If this is a concern, we ask teachers to consider requesting bail hearings, civil matters, small claims court or Provincial Offences Act matters, such as traffic court, in order to give their students a first-hand look at the justice system while avoiding concerns over age-appropriateness. Additionally, OJEN can provide in-school justice education programming specifically designed for elementary students. To learn more, contact [info@ojen.ca](mailto:info@ojen.ca).

## Youth Court

The criminal law in Canada treats young people differently than adults in recognition of their less-developed maturity and capacity to fully consider the consequences of their actions. In so doing, it assumes a greater emphasis on both intervention and rehabilitation than with respect to adults. As such, we ask that teachers carefully consider the ramifications for accused young persons, witnesses at their hearings, and their own students before allowing students to observe youth court - especially in their home communities. Young people have social networks that are exponentially larger than they were even a decade ago, and there could be serious consequences for them if peers, family, potential employers or others know of their involvement in criminal proceedings.

## Family Court

A strong understanding of family law topics such as marriage, divorce, custody, and access is critical to building legal capability in young people. Many teachers, however, plan to attend family court under the assumption that, like the criminal court, these

hearings take place in large rooms with ample, discrete seating. This is almost never the case. Family court matters are often heard in spaces much smaller than classrooms. This, combined with the intimacy and emotionality of the issues being heard, can lead to an encounter that is uncomfortable at best and disruptive at worst. We ask teachers to consider whether this experience is what they intend for their classes before requesting a visit to family court.

## Hearings involving violence and abuse

Many crimes of violence carry with them a deep sense of shame for complainants and stigma for accused persons. This is particularly true when the matter before the court involves abuse or exploitation of vulnerable people, as in allegations of sexual assault, child exploitation, and intimate partner violence. It is well-established in social science literature that this shame prevents many victims from speaking out. Further, and sadly, many Ontario students are themselves victims of abuse and violence, and observing trials of this nature poses a significant risk of triggering a severe emotional response for these students. We therefore ask teachers to seriously consider age-appropriateness, sensitivity to complainants and accused persons, and the best interests of their own students when advising their classes about which courtrooms to enter. In most cases, court staff are happy and able to provide a list of matters heard on a given day in order to help ensure teachers are adequately informed.

OJEN encourages teachers to discuss these issues with their students. Indeed, the open-court principle creates some important tensions within the justice system and students can learn much from engaging with this tension. When preparing students for a trip to the courts, consider asking them to imagine that a close friend was giving testimony that day—



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as a complainant, and accused person, or a witness – and then to think through how public interest in openness might run contrary to that friend’s interest in protecting their privacy. As well, ask them to consider the broader interests of society at large, and whether there are ways in which openness might actually be a barrier to justice.

As always, OJEN is pleased to try to locate a lawyer or other justice sector professional practising in any of the areas above to visit classes and speak to students about their work, as an alternative to visit such court proceedings in person. For more information, please contact OJEN at [info@ojen.ca](mailto:info@ojen.ca).

## Universal Design Principles and Courtroom Visits

In an effort to ensure that all students have the most meaningful court visit experience possible, OJEN has developed the following suggestions for how to incorporate the principles of Universal Instructional Design into your field trip. In addition to targeting all students, this approach can also be of specific support with respect to learning issues such as anxiety, information processing, comprehension, retention, boredom and applying knowledge. The more differentiation strategies available and the more done to support prior knowledge around a court visit, the more fully students will be able to engage with all aspects of the trip.

### Before Your Court Visit

GOALS	ACTIVITIES
<p>Students have realistic expectations about what they might see and do while at court</p>	<ul style="list-style-type: none"> <li>• Review itinerary for the trip</li> <li>• Review the structure and traditions of the courts in Ontario</li> <li>• Review the similarities and differences between criminal and civil law</li> <li>• Clarify what kinds of legal proceedings might take place at the site they are visiting</li> <li>• View student-produced videos of prior school trips to courts. For example, see: <a href="https://www.youtube.com/watch?v=3jLyWSP90lg">https://www.youtube.com/watch?v=3jLyWSP90lg</a></li> </ul>
<p>Students complete activities that build knowledge in advance of the trip</p>	<ul style="list-style-type: none"> <li>• Scan news media to spot different areas of law and identify legal and social issues</li> <li>• Review key vocabulary and professional roles related to the courts</li> <li>• Review the physical arrangement of the courtroom and transform your classroom into a courtroom for a period</li> <li>• Prepare questions in advance if meeting with a lawyer, judge, or other court personnel</li> <li>• Consult <a href="http://www.ontariocourtdates.ca/">http://www.ontariocourtdates.ca/</a> the day before your trip to learn what kinds of matters are being heard</li> </ul>

<sup>1</sup> See the OJEN resource, In Brief: The Canadian Courts, available online at: <http://ojen.ca/en/resources/in-brief-canadian-courts>

<sup>2</sup> See the OJEN resource, In Brief: Careers in Justice, available online at: <http://ojen.ca/en/resource/in-brief-careers-in-justice>

<sup>3</sup> See the 'Build A Courtroom' activity in the OJEN resource, In Brief: The Canadian Courts.

<sup>4</sup> Refer to the FAQ in this Guide



## While at Court

GOALS	ACTIVITIES
<p>Students are engaged through focused activities</p>	<ul style="list-style-type: none"> <li>• Locate and note meaning of special symbols, attire, and other courtroom features that were discussed in any preparatory activities</li> <li>• Complete short answer questions or fill-in-the-blank sheets prepared by their teacher</li> <li>• Shoot brief videos outside the courthouse describing students' expectations and experiences of the trip</li> </ul>
<p>Students meet learning expectations for the trip</p>	<ul style="list-style-type: none"> <li>• Take notes on proceedings observed. If used to support different learning styles, some recording devices or other adaptive technology may be permitted in courtrooms.</li> <li>• Determine whether they are observing criminal or civil proceedings and list reasons</li> <li>• Determine what the purpose of the proceeding is, and try to guess what happened before</li> </ul>
<p>Students generate new questions based on experience</p>	<ul style="list-style-type: none"> <li>• Note unfamiliar concepts to follow up on</li> <li>• Make a guess at what will happen next in the proceedings observed</li> </ul>

## After the Court Visit

GOALS	ACTIVITIES
<p>Students reflect on their visit to the court</p>	<ul style="list-style-type: none"> <li>• Compare and contrast observations and notes in group or small group discussion</li> <li>• Follow up on concepts noted as unfamiliar</li> <li>• If travelling back to school via school bus, consider debriefing en route while experiences are fresh in students' minds</li> </ul>
<p>Students communicate what they learned</p>	<ul style="list-style-type: none"> <li>• Working from notes, contribute to a class legal newspaper, reporting on cases observed or providing illustrations</li> <li>• Edit individual videos and combine with journalistic reporting on cases to create a class video log</li> </ul>
<p>Students connect and extend court experience to learning at school</p>	<ul style="list-style-type: none"> <li>• Track progress of actual cases observed, and use these to illustrate legal concepts and issues</li> <li>• Contact OJEN to arrange for a lawyer as a guest speaker in class</li> <li>• Incorporate OJEN or other mock trial resources as learning or culminating activities</li> </ul>

<sup>5</sup> Teachers can book guest speakers through the OJEN website at: <http://ojen.ca/en/our-work/classroom/form>

<sup>6</sup> See the Classroom Resources section of the OJEN website at: <http://ojen.ca/en/resources/classroom>

## Protocol for Courtroom Visits

This courtroom protocol has been developed following thousands of successful courthouse visits across Ontario. The following suggestions are aimed at creating a positive learning experience for students while also respecting other visitors, judges, court staff, and parties to court proceedings inside the courthouse.

### Dress

Students must dress appropriately. School dress protocol applies to court as well. Sunglasses are to be removed. Only headwear worn for religious and cultural purposes is acceptable.

### Courthouse Rules

Some courthouses require the public to go through a security check before entering. Visitors to such courthouses will be searched for the protection of all members of the public, court staff, lawyers, and the judiciary. This search may be primarily electronic, and entail walking through a magnetometer (like at the airport), which detects the presence of weapons or dangerous objects. Visitors may also be “wanded” with a metal detector. Parcels, briefcases, purses, and school bags may be searched. Knives or other weapons will be confiscated and people carrying them may be excluded from the courthouse and may be liable to prosecution.

Be considerate and respectful of others and talk quietly in public spaces outside of courtrooms, such as lobbies and hallways.

Security officers can ask disruptive or disrespectful visitors to leave a courtroom or the building.

Eating, drinking or chewing gum inside courtrooms is not permitted.

Cell phones, pagers, and electronic devices must be turned off and put away prior to entering a courtroom. Electronic devices, including devices with headphones, are not to be worn in courtrooms.

Cameras cannot be used inside courthouses for any reason, including for personal use such as class photos. Photos must be taken outside of the building. This prohibition applies to all cameras, including those built into mobile phones.

**NOTE:** Some exceptions may apply to the prohibition on electronic devices. If students or teachers use such devices as adaptive technologies in support of accommodating learning differences and hope to do so while at court, please contact OJEN at [info@ojen.ca](mailto:info@ojen.ca) to arrange permission prior to your trip.

Reading books, magazines or newspapers inside courtrooms is not permitted.

While in the courthouse, do not comment on anything you have seen or heard in court – there are family members, friends, witnesses, and other people closely connected to the proceedings throughout the courthouse.

## Courtroom Demeanour

Obey courtroom staff at all times. Court staff are responsible for protocol and order in the courtroom.

Arrive on time to avoid any delays, and be seated as soon as possible.

Everyone stands when the judge enters or exits the courtroom. Everyone remains seated unless asked to rise by the courtroom clerk, judge, justice of the peace, or court services officer.

When court is in session, everyone must be quiet. This includes entering and exiting the courtroom in a quiet and orderly manner.

Do not drape coats or anything else over the benches.

Some courthouses have microphones located throughout the courtroom, which are very sensitive and may even pick up whispering. Courteous, quiet, and attentive demeanour is expected at all times.

Everyone in the courtroom must show respect for complainants and witnesses. Being questioned about complicated events can be very difficult, and possibly traumatic. It is important that they are able to tell their story with as little disturbance as possible.

Do not leave the courtroom while the judge is speaking. Try to leave during a natural break in the proceedings (e.g., a witness change or a recess) as people entering and exiting the courtroom is distracting.

Sometimes a judge will order that no one can leave until the recess. The court services officer will advise if this is the case.

Be patient when leaving the courtroom at a recess in the proceedings. The jury and the judge must leave first.

## Non-Publication

Most courtrooms are open to the public. If the judge has ordered the proceedings to be held in camera (i.e., privately), a sign will be posted on the courtroom door. Do not enter a courtroom with such a sign.

Youth Court matters deal with persons under the age of 18 years. It is against the law to publish the names of young persons charged with criminal offences. Initials or pseudonyms only must be used to report on these matters. **This includes classroom assignments and school newspaper reports based on courthouse visits.**

Sometimes judges make orders of non-publication regarding the identity of witnesses, evidence in a preliminary hearing, evidence in a bail hearing, or in other matters. It is against the law to publish anything related to such prohibited matters. Students can check with the court clerk at a break to confirm whether or not there is a publication ban in place for the particular proceeding.

## Other Signs on Courtroom Doors

**Witnesses Excluded by Judge's Order:** You may enter. This means that witnesses who are waiting to testify cannot come in.

**Publication Restrictions in effect by Order of the Court:** You may enter. This means it is against the law to publish any information identifying specific people involved in the hearing, including posting any details on social media.

**Courtroom Sealed by Judge's Order:** You may not enter. This means that this courtroom is not in session and not available to the public.

## Q & A SESSIONS - TOP QUESTIONS

In preparing this resource, OJEN asked Crown prosecutors and defence lawyers some of the questions that are most frequently asked by students attending criminal court. Here are their responses.

### What are the various roles in the criminal courtroom?

In a courtroom, you will find the following people:

- the accused person, who is charged with an offence;
- the judge, who makes the ultimate decision as to guilt or innocence and who imposes the sentence, if the accused is convicted;
- the defence counsel, who defends the accused;
- the assistant Crown attorney (usually called the "Crown"), who prosecutes the accused on behalf of the government;
- the clerk, who handles the paperwork for the court;
- the court reporter, who takes down verbatim notes (called "transcripts") of the proceedings in court;
- others depending on the nature of the case, such as jury members, many types of court workers and witnesses or other people giving testimony

### What is the most high profile case you've ever done?

For many Crowns, the highest profile cases are the murder prosecutions. They are all different in their own ways, but they all have a common element: the loss of life. As a result, most murder prosecutions have at least some media coverage. Every once in a

while, less serious cases get a lot of media coverage too, for example when an accused person or victim is a celebrity, or when the community is outraged, such as when animals/children are injured.

Defence lawyers get the chance to work on lots of different types of high profile cases. For some, the highest profile case is a murder prosecution. Murder cases often have media attention and will also often have a lot of different observers coming to the courtroom to watch. For other defence lawyers, appeals at the Supreme Court of Canada or Court of Appeal will be the most high profile case they will work on. Some defence lawyers do appeals and get the chance to argue cases that create important legal principles that affect citizens' everyday lives. For example, arguing an important case on privacy or search and seizure will often bring about media attention and will be discussed within the legal community.

### Have you ever been afraid that someone might hurt you?

It is very rare that a client or someone else involved in a case will attack one of the lawyers in a case. Defence lawyers often meet with clients charged of very violent offences. Many cases will often have observers who have an interest in the proceeding and who are angry at the accused. Having said that, the vast majority of lawyers will never feel as though they are in danger from a client or from any members of the public with an interest in the case.

## Why are the government lawyers called “Crowns”?

In criminal trials, the state is prosecuting an individual charged with violating the *Criminal Code of Canada*. Lawyers for the prosecution are called “Crowns” because we represent the head of state, Queen Elizabeth the Second.

## What’s the best part/biggest challenge of your job?

The best part of being a Crown is being able to make a difference by protecting society from serious criminals and by recognizing when someone deserves a second chance. We have a great deal of independence and are allowed to make important decisions that really affect the lives of accused persons, victims and society in general. Often times, the biggest challenge is trying to prove a case beyond a reasonable doubt, despite all of the hard work of the police, the Crown and the victim, sometimes the decision of the court does not go the way you expect. This can be very difficult to explain to the victim and society, even when it may have been the right decision in law.

The best part of being a defence lawyer is helping people. That is, at heart, why you become a defence lawyer. This can happen when you help a client defend him or herself at trial. It can happen when you believe someone’s *Charter* rights have been violated and you convince a judge that this has happened. It can also happen if you have a client who is mentally ill or struggles with addiction and you help that client through the legal system while also getting them the help they need to live a better life. This is also the most challenging part of being a defence lawyer: we are constantly tasked with going beyond a client’s “legal” troubles and have to help

them in all areas of their life. Arguing a client’s case in court without considering how to help them with mental health will often mean you are not helping a client at all.

## How much money do you earn?

Crowns are paid based on year of call, essentially, how long you’ve been a lawyer. The salaries are meant to be high enough that we are immune to bribery, but low enough that the public does not feel that the public purse is being misspent. All government employees who are paid over \$100 000 are placed on a list that is published yearly. A Crown who has worked for 10 years can expect to make \$150 000 per year.

Like Crowns, judges are government employees and their salaries are regulated by the law. There is a large range in judges’ salaries. Depending on what level of court they represent and on how long they have been working, they might earn between \$125 000 and well over \$300 000 per year.

Defence lawyers vary greatly in how much they make. It depends on what types of cases they take and what kind of clients they attract. Some defence lawyers will specialize in helping clients who need Legal Aid to pay for their cases or who are mentally ill or poor and have little money. Sometimes, those lawyers will make much less than \$100 000 per year. Other lawyers will specialize in cases where their clients have money to pay for a lawyer. Those lawyers will make much more than \$100 000 per year, sometimes up to several hundred thousand per year.

## **Have you ever thought you made a mistake or the wrong decision about a case?**

Lawyers often believe they have made a mistake in representing their clients. There will always be something after a trial that a lawyer will think he or she could have done better. That is part of the job

## **Have you ever thought a jury was wrong and can you do anything about it?**

Sometimes lawyers will think juries convicted their client when they should not have or vice-versa. The only remedy is to appeal the finding and hope that the appeal is successful so they can get a different result or, in very rare cases, have the Court of Appeal enter a different finding.

## **Have you ever wanted to become a judge?**

It would be a very interesting and different perspective to become a judge. You usually make the final decision in the case. To do so, you must be independent and have no real interaction with victims, witnesses, accused and the lawyers involved in the case.

## **What is the biggest challenge facing our justice system?**

There is a significant lack of resources in the criminal justice system. There are many accused persons, and many charges, and in order to be resolved, they all need time in a court in front of a judge or a jury. But there are only so many courtrooms, and only so many police officers, judges, Crowns and defence counsel to deal with each matter. As a result, each matter takes months and even years to reach its conclusion.

Our governments have to do more to ensure that everyone who comes through the criminal justice system gets access to justice quickly and effectively.

This includes ensuring that the government hires enough Crown attorneys and pays them fairly. It includes ensuring there are enough judges and courtrooms so that trials can happen quickly. It also includes ensuring that Legal Aid is properly funded so that a larger number of people can have access to a defence lawyer. All of these different parts are needed to ensure that our justice system runs smoothly and efficiently.

## **What did/should you take in university?**

Many lawyers have an Arts Degree with majors in English, psychology, and/or political science, but many have degrees in the sciences, business studies, engineering and virtually every other academic discipline. The law impacts every area of our lives so there is nothing you can study that is truly irrelevant. There are no degree requirements to get in to law school. Good grades are the most important. Take something you really enjoy and will do your best in.

## **How hard is law school/ the bar exam?**

Law school and taking the bar exam is like any other formal education: to excel you will need to read, listen and remember a lot of material. You need to study. The LSAT is the standardized test that you must complete before you are accepted. It is difficult, however and there are lots of practice tests and prep courses you can take.

## **What do you do if you think an innocent person is convicted/guilty person is acquitted?**

The Crown is a Minister of Justice, and runs trials in order to bring the truth before the court. If the Crown believes that a person is innocent, they will not prosecute. Similarly, if it becomes clear mid-trial that a person is innocent, the Crown has an obligation to not proceed with the trial. As for guilty

people being acquitted, it certainly can happen. The standard of proof is beyond a reasonable doubt, and it's so high that guilty people get acquitted in order to ensure that an innocent person doesn't get convicted.

If a defence lawyer thinks an innocent person is convicted, the only remedy is to try to appeal the conviction and ask our Court of Appeal to overturn the conviction. If a defence lawyer thinks a guilty person is acquitted, there is nothing a defence lawyer can do. It is crucial in our system that a lawyer is loyal to their client. It would destroy our system if a lawyer tried to get their own client convicted.

Often, defence lawyers will defend people who appear guilty. In these cases, defence lawyers are obligated to give that person the best possible defence without lying to the court. This is a job that

we take very seriously. The issue in each case is not whether a person is actually guilty, but rather, whether the Crown has proven the person guilty beyond a reasonable doubt. This high standard is at that core of our democracy. It ensures that every person has the chance to challenge the evidence in their case and only those who are clearly guilty will be punished. It also means that every person is entitled to a defence, no matter how guilty they look. Our system cannot start taking away freedoms from people who look guilty; when we do that, it is only a matter of time before freedoms no longer exist for anyone charged with a crime.