

## Season 2, Episodes 6 and 8: The Differing Roles of The Crown and Defence in The Criminal Justice System (with Megan Savard and Meaghan Cunningham)



### Guide

### Learning objectives

- To introduce students to the roles of Crown attorneys and defence lawyers in Canada's criminal justice system
- To explore how the adversarial system works and why both Crown and defence roles are essential to a fair trial
- To examine how criminal trials balance the rights of the accused, the interests of complainants, and the broader public interest
- To encourage critical reflection on the limits of criminal trials in addressing sexual violence and the possible role of restorative justice and other responses
- To develop students' ability to analyze legal issues by considering multiple perspectives, legal standards, and the influence of media and public opinion

### Materials

- Copies of the handout below
- Device to listen to the "[Law Syrup](#)" [podcast episodes](#)

### Teaching and learning strategies

- **Group discussion:** Students read the handout and complete the discussion questions in pairs or small groups. The class then shares insights and explores how Crown and defence lawyers approach the same case from different roles.
- **Case study analysis:** Students examine the Hockey Canada trial as a case study to explore how criminal law operates in highly publicized cases and how legal reasoning may differ from public expectations.
- **Role comparison and legal reasoning:** Through the "Comparing the roles of Crown and defence" and "Public opinion and legal decision-making" exercises, students analyze the responsibilities of different actors in the justice system and consider how legal standards guide decision-making.
- **Critical reflection on justice responses:** Activities exploring the limits of criminal trials and restorative justice encourage students to think carefully about how society responds to harm and the challenges involved in addressing complex social issues through the criminal law.



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Handout

### **Note on content**

Some of the topics discussed in this resource involve sexual violence and public debates about criminal trials. Teachers may wish to remind students that these discussions should focus on legal principles, respectful dialogue, and careful analysis of the justice system. The activities in this resource are not intended to ask students to judge any individual case or person nor to relitigate a trial.

### **Background**

#### **The adversarial system and the roles of Crown and defence**

Canada's criminal justice system is adversarial. This means that two sides, the Crown and the defence, present their arguments before an impartial judge or jury, who decides the outcome.

The Crown attorney represents the public interest, not any one individual. A Crown does not act as the complainant's (the person who reports being harmed by a crime) personal lawyer. Instead, the Crown must decide whether:

- there is a reasonable prospect of conviction, and
- continuing the prosecution is in the public interest.

## The Differing Roles of The Crown and Defence

The defence lawyer represents the accused person. Defence counsel protects the accused's rights, tests the strength of the Crown's evidence, and ensures that no one is convicted unless the Crown proves guilt beyond a reasonable doubt.

Although Crown and defence lawyers may appear to be in conflict, both roles are essential to a fair criminal justice system.

A recent example that highlights these different roles is the Hockey Canada trial, which attracted significant national and international media attention. The case involved allegations of sexual assault connected to members of Canada's 2018 World Junior hockey team. Because of the public visibility of the case, many people closely followed the legal proceedings and expressed strong opinions about how the justice system should respond.

The two *Law Syrup* podcast episodes examined in this resource discuss the trial from different perspectives.

In one episode, defence lawyer Megan Savard reflects on the challenges of defending individuals in a highly scrutinized case. She emphasizes the importance of testing evidence and protecting the rights of the accused.

In the other episode, Crown prosecutor Meaghan Cunningham discusses the responsibilities of prosecutors, including deciding whether there is a reasonable prospect of conviction and ensuring that the trial process is fair.

Both speakers highlight an important point: criminal trials are not designed to confirm public expectations or deliver moral judgments. Instead, they operate according to legal standards, rules of evidence, and principles that balance the rights of the accused, the interests of complainants, and the broader public interest.

**Pause and think: Why might a fair trial require both a prosecutor and a defence lawyer to fully carry out their roles, even when that creates tension or disagreement?**

## The Differing Roles of The Crown and Defence

### What does a Crown attorney do?

In the episode featuring Crown prosecutor Meaghan Cunningham, she explains that many people misunderstand the Crown's role. A criminal case is not simply "the accused versus the victim." Instead, the Crown represents the public interest and has a duty to act fairly.

This means the Crown is not supposed to seek a conviction at all costs. Instead, the Crown has what Cunningham describes as a quasi-minister of justice role. This means working to ensure a fair process, respecting the rights of the accused, and taking the interests of complainants seriously while still acting in the broader public interest.

Cunningham also explains that Crown attorneys exercise significant discretion. In Ontario, police decide whether to lay charges. Once charges are laid, the Crown must decide whether the case should continue.

A prosecution should continue only if both of the following are true:

- there is a reasonable prospect of conviction, and
- the prosecution is in the public interest

A strong public interest alone is not enough. If there is no reasonable prospect of conviction, the Crown has a duty not to continue the case.

Cunningham also stresses that a "successful prosecution" is not measured only by whether there is a guilty verdict. She explains that the Crown's goal is to ensure a fair trial. She also notes that, in some cases, a prosecution may still serve the public interest by contributing to the broader public understanding of issues such as consent, sexual violence, and the criminal trial process.

### Discussion

In the episode, Meaghan Cunningham stresses that a "successful prosecution" is not measured only by whether there is a guilty verdict. Instead, she says the goal is a fair trial.

## The Differing Roles of The Crown and Defence

### Discussion questions

- Why might a fair trial be a more appropriate goal than a conviction?
- Why is it important that the Crown represent the public interest rather than only the complainant's wishes?
- Why is a strong public interest alone not enough to justify continuing a prosecution?
- Can a prosecution still serve the public interest even if the accused is found not guilty? Explain your reasoning.

### What does a defence lawyer do?

In the episode featuring defence lawyer Megan Savard, she explains that defence lawyers are often misunderstood by the public. Many people wonder how a defence lawyer can represent someone accused of a serious crime. However, defence lawyers play a critical role in ensuring that the criminal justice system operates fairly and that the rights of the accused are protected.

A defence lawyer's responsibility is to represent the accused person and ensure that their legal rights are protected throughout the criminal process. This includes reviewing the evidence presented by the Crown, challenging unreliable or weak evidence, and cross-examining witnesses in court. By carefully testing the Crown's case, defence lawyers help ensure that no one is convicted unless the evidence meets the required legal standard.

Defence lawyers also help accused individuals understand the charges against them, the possible consequences of those charges, and the options available to them during the criminal process.

In Canada, people accused of crimes have several important legal rights, including the right to remain silent, the right to be represented by a lawyer, and the right to a fair and public hearing before an independent court.

## The Differing Roles of The Crown and Defence

Defence lawyers therefore play an essential role in protecting individual rights and maintaining the fairness of the justice system. Even when a case receives significant public attention or criticism, defence counsel must still ensure that the accused receives a fair trial and that legal standards are respected.

### Discussion

In the episode, Megan Savard explains that defence lawyers play a crucial role in ensuring fairness within the criminal justice system.

### Discussion questions

- Why is it important for accused persons to have strong legal representation?
- Why is the presumption of innocence considered an important principle in criminal law? How does it affect the role of defence lawyers in a trial?
- How can protecting the rights of the accused also protect the integrity of the justice system?
- Why might defence lawyers face criticism from the public in high-profile cases?

### The Hockey Canada trial

Both podcast episodes refer to the Hockey Canada trial as an example of how criminal law operates in highly publicized and emotionally charged situations. The case involved allegations of sexual assault connected to members of Canada's 2018 World Junior hockey team. Because the accused were prominent athletes and the allegations raised broader questions about consent and accountability in sports culture, the case received significant media coverage and public attention.

## The Differing Roles of The Crown and Defence

The case became a national conversation not only about the events themselves, but also about how the justice system responds to allegations of sexual violence. Many members of the public followed the proceedings closely and expressed strong opinions about what the outcome of the case should be.

In the episode with Cunningham, she reflects on how cases like this can spark wider public dialogue about sexual violence and the experiences of survivors. She notes that even when a trial ends without a conviction, the legal process can still contribute to public discussion about issues such as consent and the challenges survivors may face when reporting sexual assault.

In the conversation with Savard, she discusses how high-profile cases can place additional pressure on everyone involved in the trial process. When a case receives intense media attention, lawyers must focus on the evidence presented in court and the legal standards that apply, rather than public narratives or assumptions.

The Hockey Canada trial therefore highlights how criminal proceedings can intersect with broader social debates. It also shows how the adversarial system requires Crown and defence lawyers to approach the same case from different roles and responsibilities within the justice system.

These discussions illustrate how a single criminal case can raise broader questions about public trust in the justice system, the experiences of complainants, and the limits of what criminal trials can address.

### Discussion questions

- Based on the two podcast episodes, how might a Crown attorney approach the Hockey Canada case differently from a defence lawyer?
- How might intense media coverage make the roles of Crown and defence more challenging?
- In a case like this, why is it important that lawyers remain focused on the legal evidence presented in court rather than public opinion?

## The Differing Roles of The Crown and Defence

### **Key legal concepts from the episodes**

Before completing the exercises, review these important ideas discussed in the podcast episodes.

#### **Presumption of innocence**

In Canada's criminal justice system, a person accused of a crime is presumed to be innocent. This means they are treated as not guilty unless the Crown proves the charge in court.

#### **Adversarial system**

Canada uses an adversarial justice system. The Crown and the defence present their cases before an independent judge or jury. The judge or jury decides the outcome based on the evidence and the law.

#### **Beyond a reasonable doubt**

In a criminal trial, the Crown must prove the accused person's guilt beyond a reasonable doubt. This is the highest standard of proof in Canadian law. If the judge or jury has a reasonable doubt, the accused must be found not guilty.

#### **Public interest**

Crown attorneys represent the public interest, not any individual person. Their role is to help ensure that the trial process is fair and that the law is applied properly.

#### **Reasonable prospect of conviction**

Before continuing a prosecution, Crown attorneys must decide whether there is a reasonable prospect of conviction based on the available evidence. This means the evidence is capable of proving the charge beyond a reasonable doubt. If this standard is not met, the Crown has a duty to stop the prosecution.



## The Differing Roles of The Crown and Defence

### Exercises

#### **Exercise 1: Comparing the roles of Crown and defence**

This activity helps you understand the different roles of Crown attorneys and defence lawyers in Canada’s criminal justice system.

##### **Instructions:**

1. In groups or individually, create a two-column chart.
2. Label one column “Crown Attorney” and the other “Defence Lawyer”.
3. For each role, identify:
  - who they represent
  - their main responsibilities
  - one misconception the public may have about their role
4. Then think about and answer this question:
  - Why does a fair trial depend on both the Crown and the defence doing their jobs fully?
5. Share and take up as a class.

#### **Exercise 2: Public opinion, media attention, and legal decision-making**

Both podcast episodes discuss the pressure that can arise in high-profile cases.

This activity asks you to think about the difference between public reaction and legal decision-making.

## The Differing Roles of The Crown and Defence

### Instructions:

1. Read the statements below. For each one, decide whether it is based on (or influenced by) mainly:
  - legal reasoning
  - public opinion
  - both
2. Then briefly explain your answer.
  - "A case should proceed only if there is a reasonable prospect of conviction."
  - "A person charged with a serious crime should have a defence lawyer."
  - "If many people are upset about a case, the verdict should reflect that."
  - "A fair trial requires decision-makers to focus on the evidence presented in court."
  - "Media attention can make it harder for lawyers to do their jobs without outside pressure."

Afterward, discuss these questions:

- Why might public opinion and legal standards sometimes point in different directions?
- Why is it important that criminal trials are decided based on evidence rather than media coverage?

### **Exercise 3: The limits of a criminal trial**

Both podcast episodes raise questions about the limits of criminal trials, especially in cases involving sexual violence.

This activity focuses on the purpose and limits of criminal trials. It does not ask you to decide what should happen in any real case.

## The Differing Roles of The Crown and Defence

### Instructions:

Respond to the following question:

What is a criminal trial designed to do, and what is it not designed to do?

Identify at least:

- two things a criminal trial is designed to do
- two things a criminal trial may not do well

You may wish to think about ideas such as:

- testing evidence
- protecting the rights of the accused
- deciding whether guilt is proven beyond a reasonable doubt
- responding to broader social harm
- helping victims heal
- addressing public anger
- creating social change

Then reflect: Why might some people feel dissatisfied with a criminal trial even when the legal process is fair?

You may respond in a short paragraph or point form or through class discussion.

### **Exercise 4: Restorative justice and other responses to harm**

In the Crown episode, Meaghan Cunningham discusses conversations about restorative justice. In the defence episode, Megan Savard also reflects on the limits of criminal trials.

This activity asks you to think carefully about different ways society might respond to harm.

## The Differing Roles of The Crown and Defence

### Instructions:

Consider this statement: Some people argue that survivors of harm should have options other than a criminal trial.<sup>1</sup>

Respond to the following questions:

1. What are some possible benefits of having additional options, such as restorative justice?
2. What are some possible risks or concerns with these approaches?
3. Why might it be important that restorative justice processes are voluntary and survivor-focused?
4. Why might restorative justice be appropriate in some situations but not others?

Write a short paragraph or point-form response or take up as a class discussion.

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<sup>1</sup>See LEAF's work and advocacy on restorative and transformative justice as an example: <https://www.leaf.ca/factsheet/restorative-and-transformative-justice-rj-tj-in-ontario-a-necessary-option-for-survivors-of-sexual-assault/>