

## What happens at the end of a trial?

Once all the evidence has been introduced, the prosecutor and your paralegal each have an opportunity to submit to the Justice of the Peace their argument as to why the court should find in their favour.

The Justice of the Peace will assess all the evidence, the law and final submissions and either dismiss the charge or register a conviction.

If the case is dismissed this means that you have been successful in defending the charge.

If you are convicted the Justice will determine a fit sentence. To determine a fit sentence the Justice will take into account the severity of the evidence, the sentence provisions in the law and your personal circumstances as presented by your paralegal. A fit sentence in Provincial Offences Court is usually a monetary penalty.

If you have been found guilty you can talk to your paralegal about appealing the conviction.

## I'm going to trial...



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## What do I need to know?

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## What is a trial? \_\_\_\_\_

A trial, for a provincial offence, is a hearing in a courtroom presided over by a Justice of the Peace to determine your guilt to the charge laid against you by the police or the Ministry of Transportation

## What is the role of the Justice of the Peace? \_\_\_\_\_

The Justice of the Peace, referred to as Your Worship, presides over the trial ensuring that all the rules of evidence are followed and making sure that you receive a fair trial

He/she listens to all the evidence, usually making notes, and determines whether or not the prosecution has proven its case beyond a reasonable doubt. The Justice of the Peace may also be required to determine if the defendant has established a defence to the charge(s)

At the end of the trial the Justice of the Peace will decide the evidence and either dismiss the charge (find you not guilty) or convict you (find you guilty).

## What is the prosecutor's role? \_\_\_\_\_

The prosecutor is either a lawyer or a paralegal representing the government or the Crown. His/her role is to present evidence to the court (Justice of the Peace) through witnesses in an effort to prove the charge beyond a reasonable doubt. They will question all of their own witnesses and cross-examine any witnesses called on behalf of the defence.

## What is my paralegal's role?

Your paralegal represents you. This means that he/she works for you to protect your rights and speak to the court and prosecutor on your behalf.

Your paralegal will review all the disclosure (i.e. the information gathered by the enforcement officials (OPP, MTO, Regional police) as part of their investigation). Your paralegal will then prepare your defence by determining exactly what is alleged against you, what the law is and how to best defend the charge.

Your paralegal will then prepare for the trial by drafting cross-examination questions for the prosecution's witnesses, and readying any defence witnesses which may include you. He/she will also prepare all the arguments he/she intends to make including final submissions and any objections that are foreseeable.

Remember, your paralegal represents your interests and therefore, if you have any questions or need clarification on any subject you should always feel free to ask.

## What is my role? \_\_\_\_\_

You are the defendant. Depending on what you and your paralegal have decided you may testify on your own behalf. During the trial you will sit at the front of the courtroom with your paralegal. When your paralegal is present you are not required to speak directly to the judge or prosecutor.

Whether you are testifying or not you should always dress respectably when going to court. This means that you should always wear clean, pressed business like attire. It is never acceptable to wear jeans or exercise type clothing.

## How is evidence introduced?

Evidence can be oral testimony of a witness or it can be something tangible like documentation. All evidence must be introduced through a live witness.

A witness will be asked questions by both the prosecution and the defence. The Justice of the Peace can also ask questions if he/she deems it necessary.

A witness cannot testify to hearsay evidence. This rule is very broad and so are the exceptions, but it basically prevents a witness from testifying as to what someone else said.

The prosecutor and defence determine whom they will call as witnesses and the evidence to be introduced. Each side has the right to object to evidence it believes violates a rule of evidence and have the Justice of the Peace decide to accept or reject the evidence.

When a prosecutor or defence is questioning its own witness (the witness they called to the stand) this is called direct examination. When a prosecutor or defence is questioning the opposing party's witness, this is called cross-examination.

In direct examination questions cannot be leading, i.e. the question cannot suggest the answer, whereas, in cross-examination leading questions are permissible. An example of a leading question is: "did you perform a pre-trip inspection?" An example of an open-ended question is: "What did you do to confirm the safe operation of your vehicle?"