

WHO LSLAP CAN HELP

LSLAP can help with many criminal law matters, but there are restrictions. We can ONLY assist the following people:

- People who **DO NOT** have a serious criminal record
- When the Crown is **NOT** seeking jail time
- People who are classified as **low-income**, determined on a case by case basis
- Cases which are tried in **Provincial Court**, not BC Supreme Court
- Cases where the Crown is proceeding summarily
- People whose trial dates are MORE than 3 **MONTHS** away

It is important to remember that for criminal trials that are going through to trial (i.e. the accused is pleading not guilty) a trial supervising lawyer is required. Make sure you let the client know our ability to appear in court is contingent on arranging a trial supervising lawyer PRIOR TO THE PRE-TRIAL CONFERENCE HEARING DATE.

LSLAP CRIMINAL FILE TIMELINE

Note: The client can apply for diversion or otherwise dispose of the file (plead guilty or enter into a s. 810 peace bond) any time after the first court appearance.

Arrest and Release from Custody (Notice to Appear, Summons, etc.)

Initial Appearance 1 - the client may receive a copy of the Particulars. **(disclosure)**

Initial Appearance 2 } Will keep happening every 1-2 weeks.

Initial Appearance 3 } until there is either:

Initial Appearance 4 } **a)** Early disposition

Etc. **b)** Trial date is set

Arraignment/Trial Fix Date

- At this appearance, the trial will be booked and a Pre-Trial Conference Hearing (PTC) will be set. **A trial date will be set a minimum of 3 months away. A PTC will be set approximately 60 days from the trial date. (DO NOT lose contact with the client during this time!)**

NOTE: Keep track of all court dates by checking CSO (Court Services Online) or the applicable Court Registry, NOT by calling the client! **DO NOT** rely on the client's memory to be accurate about the court date or the reason for the court appearance. However, **make sure the CLIENT has the correct dates**

- **Pre-Trial Conference Hearing** -The pre-trial conference is a procedural appearance for LSLAP files to confirm there is a VOLUNTEER trial supervising lawyer, that there are NO DISCLOSURE ISSUES, and that *Charter* challenge notices have been given.
- Trial Preparation with Andy **MUST** start **PRIOR** to the PTC.

30-09-2016 LSLAP-W...
 Recycle Bin
 VLC media player
 Avast Free Antivirus
 Updated Contact Inf...
 Supervising Lawyer Rep...
 Norton Installati...

BLACKOU SPEIL.do...
 Confirms -2.doc
 My.Conta...
 Alt Measu Letter.do...
 Stewart_S...
 Avast SafeZo...

LETTERH...

B.C. Home

Ministry of Justice

Court Services Online

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Version 3.0.0.03

Search Traffic/Criminal By Participant Name

* indicates a required field

Search For:

Match Search Criteria: Exactly Partially

- Individual Organization
- Current Alias

Last Name: *

First Name:

Location:

Level:

Class:

Your file number: ?

Below is a security device to prevent automated use of this service. Please enter the characters you see in the picture below into the space provided.



The Initial Client Interview

- Do NOT discuss the facts of the case -
- Can explain procedure to the client - **VERY IMPORTANT!**
- Obtain the client's full legal and given names & aliases and contact information
- Obtain whatever paperwork the client has
 - **We keep originals; client gets copies**
- Double check the next court date on CSO
- Tell client what will happen and what to say at their next appearance
- Fill out the client questionnaire handout

CLIENT QUESTIONNAIRE HANDOUT

(To be filled about by the clinician. The clinician asks the questions and records the information)

Client Information

Personal

1. Age: _____ DOB: _____
Place of Birth _____
Arrival in Canada _____ Immigration Status _____
2. First Nations background _____ Status _____
Band _____
3. Relationship Status _____ How long _____ Children _____
Rent or Own _____ Street _____
Address _____
For how many years _____
Live with whom _____ (Wife? - Husband? - Partner? - Children?)
Number of Children _____ Ages _____
4. Financial support _____ (my children, my parents, my _____)

Educational History

1. Grade Obtained _____ Where _____
 - a) Post-Secondary _____ Where _____
 - b) Vocational school _____ Where _____
Ticket Obtained _____
 - c) other (describe) _____
2. Training Certificates, Union Membership or other Professional Membership _____
3. I am now going to school or taking training in _____ at _____

Employment History

1. Employed _____ Where _____
Job Description _____ For how long _____

Full-time or Part-time _____

Hours/Days per week _____

2. EI or WCB _____ For how long _____
3. Social Assistance _____ For how long _____
 - a) Disability _____ Level I _____ Level II _____
4. I am looking for a job at the moment.
I have left applications at _____ (name the places).
And Manpower at _____ is helping me find a job (fill in the address).

Physical Health Issues

1. Under a Doctor's care _____ Medication _____
Diagnosis _____

Mental Health Issues

1. Under a Doctor's care _____ Medication _____
Which Doctor's office _____ Mental Health Team _____
Diagnosis _____
How Long _____

Drug Addiction Issues:

Which drugs use _____ How often _____ How long _____

Community Involvement - Volunteer Work

1. Place of Worship _____ I have been a member for _____ years.
2. Volunteer work _____
3. Hobbies _____

Full-time or Part-time _____

Hours/Days per week _____

2. EI or WCB _____ For how long _____

3. Social Assistance _____ For how long _____

a) Disability _____ Level I _____ Level II _____

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_____.

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Criminal Record

1. Criminal Record – Anywhere in Canada _____
2. Offences convicted of _____
3. Date of most recent conviction _____
Sentences received _____ (jail – fine – probation)

Letters of Reference Available

Money Available to Pay a Fine or Restitution

Family or Community Members willing to attend court with you if necessary

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Client Management

- Clients are not your friends
- It is good to be empathetic & sympathetic, but also important to keep professional distance
- You are there to advocate for the client within the bounds of the law and your ethical and professional duties
- You are not there to simply be the client's mouthpiece
- **Be Firm but Polite** - Remember you are the expert (the lawyer).
- Pro Bono clients can be fired

Personal Security & Information Security

- Interview your client in a professional setting –
- If you interview in a public place make sure no one can overhear your conversation OR see any of the documents.
- Be aware of where you are and who is around you when talking about your files & clients. **IF you are at the Court House do not discuss the case in the presence of Crown Counsel.**
- Be very cautious in meeting clients in their homes. Let someone know when you are going and when you expect to be done.
- Set up your clinic space so you have at least one escape route
- Never leave files unattended. Never leave YOUR file with the client
- **Do not leave your personal items in the open at your clinic.**
- Always be aware of the principles of Solicitor-Client Privilege.

Disclosure (the Particulars)

- Report to Crown Counsel (RTCC)
- Witness Statements – (hand written, audio recorded, video recorded & transcripts)
- Police Notes
- Photos & Exhibits

- Governed by *R v Stinchcombe*, *R v O'Connor*, *R v MacNeil*
- Crown is obligated to disclose anything that is in the possession of Crown and is likely relevant to an issue at trial or could go to a potential defence.
- Crown NOT obligated to disclose what is not in Crown's possession, clearly irrelevant, or is protected by privilege.

Information

- Essential elements of the offence
- Details must be proven

2019/Apr/10 6:26:04 PM

BC Government 604-660-1654

2/3

FORM 5001-1-1
PER 5000
REV. 05/14

**INFORMATION BY TELECOMMUNICATION THAT PRODUCES
A WRITING/DÉNONCIATION PAR TÉLÉCOMMUNICATION QUI
REND LA COMMUNICATION SOUS FORME ÉCRITE**

CANADA:
PROVINCE OF BRITISH COLUMBIA
PROVINCE DE LA COLOMBIE-BRITANNIQUE

Pursuant to section 508.1(2) of the *Criminal Code*/Suivant le paragraphe 508.1(2) du *Code criminel*

Court Identifier: 2042 - P - R - A
Court File Number: [REDACTED]
Type Reference: K
Info. Seq. Number: 1
Agency File Number: 401:19-[REDACTED]
DNA: <input checked="" type="checkbox"/>
K File: <input checked="" type="checkbox"/>
SOR: <input type="checkbox"/>

In the Provincial Court of British Columbia/Dans le tribunal provincial de la Colombie-Britannique.

This is the information of / Les présentes constituent la dénonciation de Sergeant Erin Holtz, a Peace Officer (the "informant" / le "dénoncateur") of / de Vancouver, British Columbia submitted before a justice by telecommunication that produces a writing / transmise à un juge de paix, par télécommunication qui rend la communication sous forme écrite.

The Informant says that he/she has reasonable and probable grounds to believe and does believe that: / Le(la) dénonciateur(trice) déclare qu'il(elle) a des motifs raisonnables et probables de croire et croit effectivement que:

Count 1

[REDACTED], on or about the 10th day of April, 2019, at or near Vancouver, in the Province of British Columbia, did commit assault of [REDACTED], contrary to Section 266 of the Criminal Code.

Count 2

[REDACTED], on or about the 10th day of April, 2019, at or near Vancouver, in the Province of British Columbia, did knowingly utter or convey a threat to [REDACTED] to cause death or bodily harm to [REDACTED], contrary to Section 264.1(1)(a) of the Criminal Code.

Pursuant to Section 508.1(2) of the *Criminal Code* the Informant states that all matters contained in this information are true to my knowledge and belief.

Suivant le paragraphe 508.1(2) du *Code criminel*, le dénonciateur(trice) déclare qu'il/elle croit vrais, au meilleur de sa connaissance, les renseignements contenus dans la dénonciation.

Dated/Fait le 10th of April 2019
at/a Vancouver
British Columbia / Colombie-Britannique

[Signature]
Signature of Informant / Signature du(de la) dénonciateur (trice)

I certify this information was received by me by means of telecommunication that produces a writing at / Je certifie que j'ai reçu la présente dénonciation par un moyen de télécommunication qui rend la communication sous forme écrite à

6:30 p.m. on/le APR 10 2019 at/a Burnaby, British Columbia / Colombie-Britannique
time/heure date city/municipality ville/municipalité

Process/Acte de procédure: AWW confirmed
[Signature] D. Mayo Justice of the Peace

A Justice of the Peace in and for the Province of British Columbia / Un juge de paix dans et pour la province de la Colombie-Britannique.
Assigné au tribunal Court et / du Justice Centre

[Signature] D. Mayo Justice of the Peace
A Justice of the Peace in and for the Province of British Columbia / Un juge de paix dans et pour la province de la Colombie-Britannique.

Report to Crown Counsel

- Formal report from police recommending charges
- contains all witness information: police & civilian

Report to Crown Counsel

NARRATIVES

Police File Number: 401:19-██████████

Court File Number:

1

2 her intoxicated ex-bf SOC ██████████ return so that police could deal with him
3 accordingly. As a result of the lack of evidence, and the intoxicated
4 complainant, there was insufficient evidence to pursue any criminal charges
5 in the matter at the time of police attendance. Act/Sgt. 2882 CARSON
6 advised. NFPAR at this time.

7

8

9 V2 ██████████

10

11 On April 9, 2019 at approx. 2300hrs at ██████████ Vancouver, B.C.
12 ██████████ called 911 to report that she let her ex-boyfriend
13 ██████████ into her apartment to pick up some of his belongings and he
14 was refusing to leave. PCs 2471 LUTZKE and 2891 BRUNING attended and
15 escorted ██████████ out of the apartment. ██████████ told police he fell out the bed
16 and hit his head on some wooden blocks so EHS attended and ██████████ left in
17 their care. ██████████ advised to make alternate arrangements to return ██████████'s
18 belongings to avoid having him inside her suite. File concluded.

19

20

21 INCIDENT

22

23

24 On April 9th, 2019 at approx ██████████ returned to ██████████'s residence after being
25 removed the previous night to collect the rest of his belongings. ██████████
26 allowed him to come in, and at some point ██████████ fell asleep.

27

28

29 On April 10th, 2019 at approx 0420 hours, ██████████ woke up and the two began to
30 argue. ██████████ became physical with ██████████ by grabbing her by the neck, grabbing
31 her by the arms, tried to push her head into a wall and threatening to kill
32 her. ██████████ became fearful and began to scream. ██████████ was able to get to her cell
33 phone and called the building manager Wilma PAMITTAN who attended ██████████'s
34 suite.

35

36

37 When PAMITTAN knocked on her door, ██████████ answered and told her that ██████████ was
38 trying to bang her head on the wall. PAMITTAN called 9-1-1 at approx 0430
39 hours. ██████████ left the suite and walked to the lobby of the building.
40 PAMITTAN went down to the lobby and observed ██████████ outside on the steps and
41 believed he was waiting for a taxi.

42

43 POLICE ACTION

44

45

46 PC 2276 SHERRY was working with PC 2518 SMITH in uniform and driving a

Booking Sheet

- Includes lots of personal information and sometimes valuable evidence of about the arrest.

PRISONER REPORT RAPPORT SUR LE PRISONNIER

MUN PROV RCMP GRC OTHER(Specify) AUTRE(Préciser)

Location of Event/Arrest - Lieu de l'événement/arrestation KGB/72		STATUS - ÉTAT CHA	Surname - Nom de famille Sam	OCC NO. - N° D'INC. Y-A 2014-001011	
CHECKED VÉRIFICATION <input checked="" type="checkbox"/> PIRS-SRRJ → <input checked="" type="checkbox"/> HIT CORRESPONDANCE <input checked="" type="checkbox"/> CPIC-CIPC → <input checked="" type="checkbox"/> HIT CORRESPONDANCE		Subject No. N° du sujet 1	G1 - P1 Yosemite	G2 - P2 Q	Gender Sexe MALE
Type of Warrant - Genre de mandat WARRANT FORM 7 UNENDORSED <input type="checkbox"/> Endorsed Visé		Address - Adresse 123321 199A Ave. Surrey, BC V7N 2P9			
MEMBER - MEMBRE Charter Read Charta lue PB Warning Mise en garde PB Counsel contacté Advocat PB MS9 Int.		<input type="checkbox"/> Same as Loc. of Event/Arrest - Indicate Zone Identique au lieu de l'évén./arrest - Indiquer la zone → 3 Bus. Tel - Tél. aff. _____ Res. Tel - Tél. res. 911-2233			
Det holding warrant - Dét. détenteur du mandat VANCOUVER		DOB - DDN 1972/08/20	App. Age Age app. 42	Height Taille 5'6"	
Prisoner No - Matr. du prisonnier 5340		Mass Masse 125 lbs	Hair Cheveux RED	Eyes Yeux BLUE	
Cell No. N° de cell. A5		Bag No. - N° de sac 30	Race/Desc Race/Orig. CAUCASIAN	POB - LDN CALGARY ALBERTA	
<input type="checkbox"/> Young Offender - Jeune contrevenant <input type="checkbox"/> Parents/Guardian advised - Père ou mère/tuteur avisés <input type="checkbox"/> YCJA waiver - Renonciation prévue par la LSJPA <input checked="" type="checkbox"/> Fingerprinted and Photographed - Dactyloscopié et photographié by - par Blanc		Driver's Licence No. - N° de permis de cond. NIL	POI - PDE _____	Photo No. - N° de photo _____	
Charge(s) - Accusation(s) theft under \$5000 sec 334(b) cc		F.P.S. 996969			
Investigator - Enquêteur PARDEEP BEESLA		Reg. No. - Matr. 59977	Unit - Service A WATCH	Col. Code Code d'interc. E0813	
Nature of Event - Genre d'événement THEFT/WARRANT		Reported on Signalé le 14-10-03 Y-A M D-J HH:MM			
Reg. No. - Matr. 747171		Occurred Between Survenu entre 2014/10/03 Y-A M D-J HH:MM and et 14-10-03 15:37 Y-A M D-J HH:MM			
CONDITIONS OF RELEASE - CONDITIONS DE LIBÉRATION AMJP					
DETAILS / ACTIONS PRÉCISIONS / MEASURES ACW FOR THEFT UNDER AND FOUND TO HAVE OUTSTANDING VANCOUVER WARRANT FILE # 14-095876 TRANSPORTED TO CELLS, SEARCHED AND WANDERED. <i>- At approx 2:35 lawyer BONFIELD called back, SOC refused to come out of his cell to speak with lawyer.</i>					
EFFECTS - EFFETS PRISONER SIGNS IN SHADED AREAS - LE PRISONNIER SIGNE DANS LES CASES OMBRÉES 229					
<input checked="" type="checkbox"/> Coat Manteau	<input type="checkbox"/> Dress Robe	<input type="checkbox"/> Glasses Lunettes	<input type="checkbox"/> Misc. Papers Papier divers	<input type="checkbox"/> Ring(s) Bague(s)	
<input checked="" type="checkbox"/> Shirt Chemise	<input type="checkbox"/> Skirt Jupe	<input type="checkbox"/> Watch Montre	<input type="checkbox"/> Bankbook Carnet de banque	<input type="checkbox"/> Earring(s) Boucle d'oreille(s)	
<input type="checkbox"/> Pants Pantalon	<input type="checkbox"/> Wallet Portefeuille	<input type="checkbox"/> Jewellery Bijoux	<input type="checkbox"/> Keys Clés	<input type="checkbox"/> Cigarettes	
<input checked="" type="checkbox"/> Shoes Souliers	<input type="checkbox"/> Purse Sac à main	<input type="checkbox"/> Medication Médicament	<input type="checkbox"/> Hat Chapeau	<input type="checkbox"/> Lighter Briquet	
<input checked="" type="checkbox"/> Belt Ceinture	<input type="checkbox"/> Radio	<input type="checkbox"/> Pager Téléavertisseur	<input checked="" type="checkbox"/> Cell Phone Cellulaire	<input type="checkbox"/> Other Autre	
Bulky Effects - Effets volumineux pen, receipt book, sweater, battery					
Effects returned - Effets remis 747171 Blanc					
PRISONER SCREENING - EXAMEN DU PRISONNIER					
Possible cause of Impairment (drugs, liquor, medication, etc.) - Cause possible des facultés affaiblies (drogues, alcool, médicaments, etc.) N/A		Unusual Actions (hiccup, belching, vomiting, fumbling, etc.) - Gestes inhabituels (hoquet, toux, vomissements, maladresse, etc.) SWEATING			
Reasonability - Réveil Responsiveness checked Réactions vérifiées N/A		Illnesses/medications - Maladies/médicaments N/A			
Breath (Odour of Liquor) - Odeur (alcool, etc.) N/A		Speech (blurred, incoherent, confused, clear, etc.) - Élocution (indistincte, incohérente, confuse, claire, etc.) N/A			
Balance (sure, fair, wobbling, staggering, falling, etc.) - Équilibre (stable, assez stable, chancelant, penché, tombé, etc.) JITTERY		State of Mind (depressed, angry, placid, etc.) - État d'esprit (déprimé, fâché, calme, etc.) ANGRY			
Medication required, unusual characteristics, distinguishing marks, etc. - Médicaments requis, particularités, signes distinctifs, etc.		<input checked="" type="checkbox"/> V <input checked="" type="checkbox"/> I <input checked="" type="checkbox"/> S <input checked="" type="checkbox"/> E <input checked="" type="checkbox"/> N <input checked="" type="checkbox"/> D <input checked="" type="checkbox"/> M <input checked="" type="checkbox"/> P <input type="checkbox"/> Other _____			
Medical Examination by - Examen médical par _____ Y-A M D-J _____ HH:MM _____ Fit for incarceration - Able à l'incarcération <input checked="" type="checkbox"/> YES / OUI <input type="checkbox"/> NO / NON					
DATE TIME - DATE ET HEURE 1st Appear - 1re comparution _____ Acquired - Acquité _____ Committed - Incarcéré _____ Sentenced - Condamné _____					
Escorts from - Escorté de _____ by - par _____ Unit - Service _____ Y-A M D-J _____ Destination _____					
Person taking over - Remis à la charge de _____ Det. or inst. - Dét. ou établi _____ Y-A M D-J _____ HH:MM _____					
BOOKED IN MIS AU ECROUX Y-A M D-J 2014/10/03 16:38 Reason - Raison THEFT/WARRANT Y-A M D-J _____ HH:MM _____ Reason - Raison _____ Init. _____					
Supervisor signature - Signature du superviseur H. BOSANGE REG # 48 Y-A M D-J OCT 03					

**Report to Crown Counsel
ATTACHMENT(S)**

Police File Number: 401:19-67173

Court File Number:

NAME OF ACCUSED(S): Young, Michael David	
Attachment List:	
Are there any attachments for this report: Yes	
If yes, list all attachments that will accompany this report.	
Description	# of Pages
1 CPIC Information	
<p>=====</p> <p>CAUTION: THIS RECORD MAY OR MAY NOT PERTAIN TO THE SUBJECT OF YOUR ENQUIRY. POSITIVE IDENTIFICATION CAN ONLY BE CONFIRMED THROUGH SUBMISSION OF FINGERPRINTS.</p> <p>=====</p> <p>*ROYAL CANADIAN MOUNTED POLICE - IDENTIFICATION SERVICES</p> <p>*RESTRICTED - INFORMATION SUPPORTED BY FINGERPRINTS SUBMITTED BY LAW</p> <p>*ENFORCEMENT AGENCIES - DISTRIBUTION TO AUTHORIZED AGENCIES ONLY.</p> <p>*SENTENCING ONLY - FOR CRIMINAL RECORD UPDATE</p> <p>*SEND FPS# AND SENTENCING DATE TO V2</p> <p>FPS: [REDACTED]</p> <p>[REDACTED]</p> <p>*CRIMINAL CONVICTIONS CONDITIONAL AND ABSOLUTE DISCHARGES</p> <p>*AND RELATED INFORMATION</p> <p>2006-11-27 (1) DRIVING WHILE ABILITY (1) \$750 I-D 12 DAYS SASKATOON SASK IMPAIRED SEC 253(A) CC & PROH DRI 1 YR (2) FAIL TO APPEAR (2) \$100 I-D 1 DAY SEC 145(5) CC (SASKATOON PS 79478)</p> <p>2011-06-07 (1) ASSAULT WITH INTENT TO (1) \$400 I-D 5 DAYS SASKATOON SK RESIST ARREST SEC 270(1)(B) CC (2) FAIL TO COMPLY WITH (2) \$100 I-D 1 DAY RECOGNIZANCE</p>	

Criminal Record

- from CPIC - not always updated properly

JUSTIN Conviction Summary Report

- Often more up to date than CPIC
- Only BC matters

Ministry of Attorney General JUSTIN Conviction List

Accused: Young, Michael David

DOB: 13-APR-1984

FPS Number: 150888F

CS #: 07695448

Alias: Robertson, Parker

Filters Applied Exclude Youth: Include 524: Include 810: Include MVA: Include NCR:
Include Non-Disclosure: Include Unknown Statutes:

File Number	Charge	Offence Date	Disposition Date	Disposition Type	Sentence
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This report may contain information regarding youth matters provided to you pursuant to Sections 124 and 125 of the *Youth Criminal Justice Act (Canada)*. Disclosure of this information to other parties may be subject to Sections 119 and 123 of the *Youth Criminal Justice Act (Canada)*.

This report does not contain information about any offences for which a pardon has been granted.

This report does not contain any information about orders or obligations under the *Sex Offender Information Registration Act*.

Disclosed evidence

- Receipt from the Store

REAL CANADIAN
Superstore*

RCSS - 7550 King George Blvd
604-599-3721
Big on Fresh, Low on Price

***** VOID *****
TRAINING MODE

***** DUPLICATE RECEIPT *****

36-HOME MEAL REPLACEMENT			
67045210721	SPCY CAL RLL CLB	6R	5.49
42-ENTERTAINMENT			
09600942422	ECHO 3 SYNC AND	GPR	6.99
09600942712	ECHO USB WALL CH	GPR	6.99
SUBTOTAL			19.47
G-BST 5%	19.47 @ 5.000%		0.97
P-PST 7%	13.98 @ 7.000%		0.98
TOTAL			21.42
CASH			21.42

***** VOID *****
TRAINING MODE

You could have earned 210
PC points with President's Choice
Financial MasterCard. Apply Today
Visit pcfinancial.ca

GST # 12223-5922 RT0001

***** DUPLICATE RECEIPT *****
THANK YOU FOR SHOPPING Superstore
MANAGER NAME: Don
Thank You, Come Again!
USE YOUR PCF CARD
TO COLLECT POINTS!!
REDEEM HERE FOR FREE GROCERIES
2014/10/03
CARRIE 400

16:55
30 9493

File Management

- **Everything should be attached to the file - there should never be any loose papers!**
- Common way of arranging a file: disclosure on the right side; correspondence & notes in reverse chronological order on the left side
- Flag important documents with sticky tabs or post-it notes
- **Take notes of ABSOLUTELY everything !!!:** conversations with your client, with Crown or with Andy. Write a typewritten memo to file if something significant happened
- **PLACE ALL NOTES IN THE FILE IMMEDIATELY**
- Cover your ass –BY NOTE TAKING

Dealing with Crown Counsel

- Communication is key
- Be professional and ethical
- Be polite and respectful
- Know the file and the law, and know what you want before discussing the case with Crown.
- Be considerate. While you may have only one file or one trial that day, a Crown may have 3 or 4 trials on the same day, 3 or 4 days that week, and your trial might be the least of his or her worries
- You might not want to get on the Crown's radar. In other words, think before you discuss the case with Crown as you may not want Crown speaking to their witnesses in advance of the court date.
- **Do not discuss the file with Crown – take notes and tell them you will get back to them after you have spoken with your supervising lawyer**
- REMEMBER – You are not lawyers - YET

What is the “Bar”?

Where & How do I Bow?

- The term “Bar” refers to the imagined line which separates the parts of the courtroom reserved for the public from the part reserved for lawyers.
- In most Courts the bar is represented by a physical partition: a railing or other physical barrier.
- You can bow at the “Bar” or at the entrance/exit or both.
- Bow at the waist. Do not simply nod your head as some senior counsel do –You are not senior counsel YET.

Ethics & Professionalism

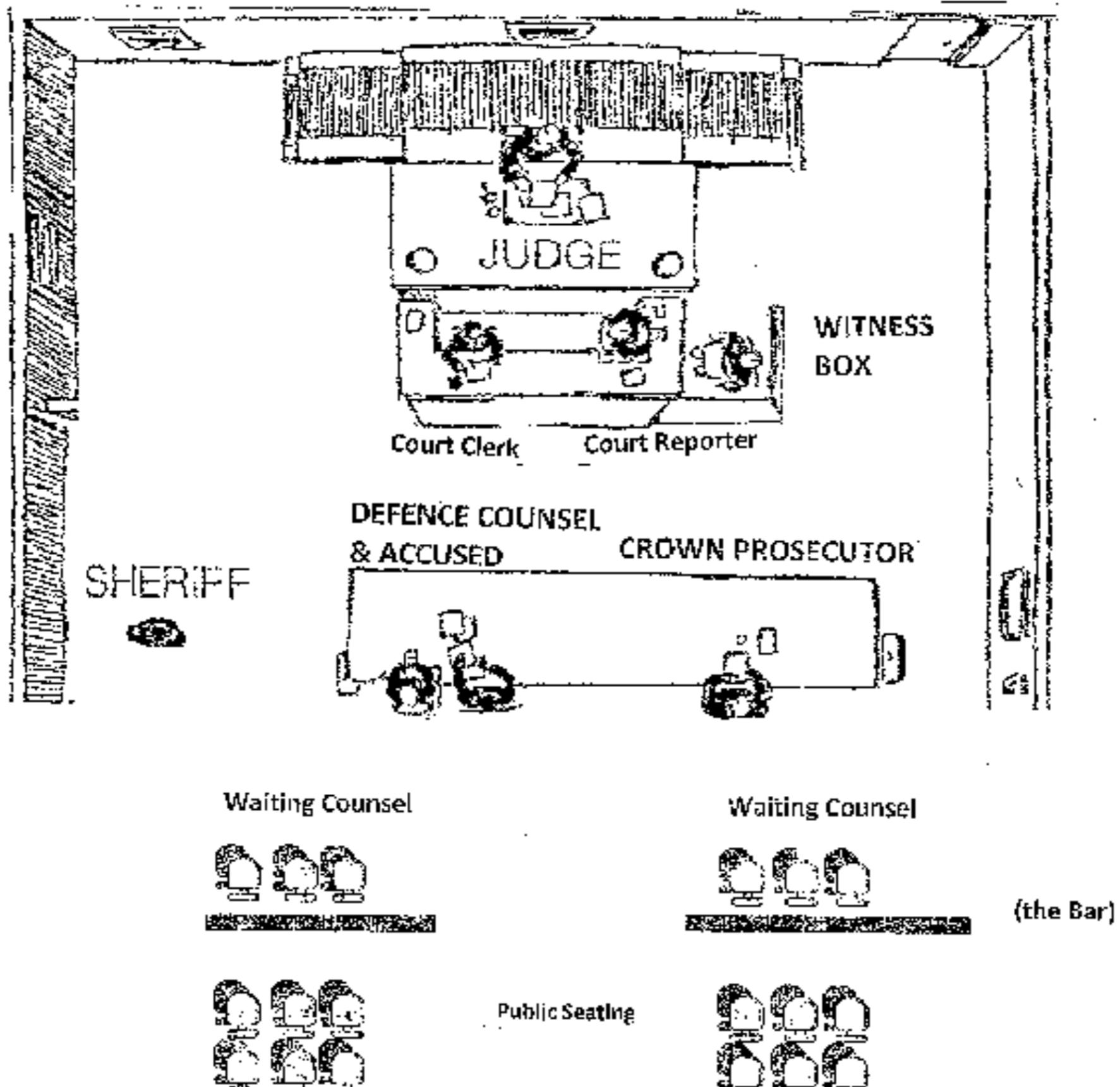
- Your appearance and your work product reflects on both you and LSLAP, so:
- Dress the part! Be neat, be clean; the time to be on the edge of fashion is *after* you get called, not while you're in LSLAP
- Be organized
- Proofread
- Take good, verbatim notes. Never, ever, misstate or misquote someone, whether it's a conversation you had with Crown or a witness in testimony.

Appearing in Court - Court Protocol

- Know whether you are appearing in front of a Judge or a Justice of the Peace (JP)? **The easiest way is to look at what the person is wearing.**
- Provincial Court Judges wear a black robe with a red sash & a JP wears a suit.
- Judges are addressed as “Your Honour” – JP’s are addressed as “Your Worship”
- Stand when the Judge/JP enters or exits the courtroom
- Bow when you enter or exit the courtroom. You can bow at the “bar” or the door (or both). Bow from the waist
- Stand when you are speaking to the Judge or when the Judge is speaking to you
- Only one counsel should be on their feet at a time (If Crown is speaking, you should be sitting)

If you have any questions about these things; ASK SOMEONE!

APPEARING IN COURT



Appearing in court - How to introduce Yourself

- Crown calls the case -
- Introduce yourself – walk up to counsel table and motion for your client to stand beside you –
“Your Honour, my name is Jane Doe, last named spelled D O E. I am a law student with the UBC Law Students’ Legal Advice Program and with the court’s leave I represent John Smith, who is present before the court.” Make sure your client is standing beside you.
- Why are you here? – **“Your Honour, this matter is before the Court today for..... “**
- Stand when you are speaking – sit when the Crown is speaking

Appearing in Court - What to Wear

Be well groomed and well dressed. As a law student you must wear a suit or some other professional business attire.

“Lawyers may be gifted with the best advocacy skills on the planet, but if they argue their case in a baggy, wrinkled suit or five-inch heels they can barely walk in, their ensemble can quickly steal the show — and even hurt their case”.

“Lawyers have to make sure that their clothes don't speak louder than they do”.

Remember that you are there as a representative of the client and LSLAP.

Courtroom Demeanour

- Address the court in a loud clear voice. Most microphones in courts are for recording, not amplification.
- Speak calmly & clearly – **DO NOT INTERRUPT OTHERS**
- Always identify yourself as a student with LSLAP. Introduce yourself by stating your name for the record and spelling your surname. Always introduce your client.
- **If you have a supervising lawyer present, ALWAYS introduce your supervising lawyer**
- Stand and bow when the judge enters or leaves the courtroom.
- Stand when addressing the Court, being addressed by the Court, objecting and responding to objections. Stand when your client enters a guilty plea, is being sentenced or convicted, or being spoken to by the judge.
- **Stand on the other side of the podium from Crown Counsel and furthest away from the witness box**
- Maintain an attitude of confidence, politeness and courtesy to all court personnel and opposing Counsel
- Be punctual. Don't waste the Court's time
- Be well prepared. Know the factual basis of your file, the applicable law and the relevant procedural rules. This means being able to answer questions from the Court
- Be respectful in your comments. In your dealings with the Court, adopt a formal approach which reflects courtesy and respect for the authority of the Court. Common phrases used when communicating with the judge include: "May it please the Court", "With Your Honour's leave (or permission)". Listen to the judge and don't interrupt
- Never mislead the Court.

Court room Demeanour #2

Questions to Crown Counsel -

Ask these questions to the Judge. For example, “Your Honour If I could have a moment please as I have a question for the Crown”

DO NOT talk directly to the Crown or a witness (without asking for permission from the Judge)

DO NOT USE SLANG unless it is a direct quote from the evidence and necessary for your submission.

DO NOT make facial expressions or gesture.

DO NOT argue with the Judge.

If you do not understand something tell the Judge; he/she will explain the procedure.

Guilty Pleas & other Dispositions

- Diversion / Alternative Measures - This option allows for a first time offender to be "diverted away" from the court system. Although referred to as "diversion," the program's official name is Alternative Measures (*Criminal Code*, s 717).
- Peace Bond (s 810) - A peace bond is a court order requiring a specific individual to "keep the peace and be of good behaviour". A peace bond is not a conviction or a guilty plea, however, the accused must admit his/her actions. Under section 810 of the *Criminal Code* the accused enters into a recognizance with conditions.
- A Guilty Plea is ONLY appropriate when:
 - diversion is not granted,
 - a peace bond is not appropriate,
 - the accused admits guilt, AND IS ACTUALLY GUILTY
 - it appears that the Crown will be able to prove its case BRD, and
 - the accused wishes to plead guilty.
- **JOINT SUBMISSIONS-DISPUTED FACTS- **WRITTEN INSTRUCTIONS****

Conducting A Sentencing Hearing

- **Conducting a Sentencing Hearing? (After a guilty plea)**
- Crown Counsel will speak first at the sentencing hearing, and will advise the judge of the facts as set out in the particulars - whether your client has a criminal record – the sentence they are seeking.
- **After the Crown has made submissions:**
 1. Tell the judge what you are seeking in terms of a sentence
 2. Tell the judge whether you are in agreement with the Crown's version of the facts AND their sentencing position in terms of the sentence, the length, & conditions
 3. If you are not in complete agreement with the Crown position tell the judge:
 - Which facts are in dispute
 - Which portions of the Crown sentencing position are in dispute (such as the sentence, length & conditions).
 4. Briefly review the client's background (use the client questionnaire as a starting point)
 5. Briefly discuss the effect of the crime on your client and the changes made as a result
 6. Review why some of the conditions sought by Crown may not be necessary
 7. Tell the judge your client is extremely remorseful and embarrassed by the incident (if you have instructions from the client to say that)
 8. Review what you are seeking and why it satisfies the principles of sentencing as set out in section 718.
 9. Consider whether Gladue is applicable (if your client is Indigenous)
- **SENTENCING PROVISIONS - SECTION 718-718.2 Criminal Code**
- **ABSOLUTE/CONDITIONAL DISCHARGE** - In the client's best interest/Not contrary to the public interest

How to Manage a Trial file

ONCE YOUR TRIAL DATE HAS BEEN SET:

Inform (GRACE and the Current PR Director) of your trial date!

Confirm (In writing) the dates you obtained with your client, and let them know that they **MUST** attend all court appearances, the PTC and the.

Trial Supervision:

When your Trial Supervising lawyer is assigned, you will get an e-mail from Our PR director.

Please contact the Supervising lawyer by email or phone immediately to introduce yourself:

Thank them for volunteering and give them an overview of the matter.

Enquire what level of involvement they wish to participate in, and update them frequently on the file and ask if they would like a copy of the particulars (e-mailed or faxed to them)

Trial Preparation (6 weeks before Trial Date):

IMPORTANT: MEET WITH ANDY 1 WEEK BEFORE THE PTC date.

*Official Trial Preparation (4 weeks before Trial Date):

BOOK your 1st Trial Prep (of many) with Andy. (30 minutes to start).

Book another at the same time for a few days later. Book ahead until the Trial date.

Preparing for Trial & The Trial Binder

- The goal of defence counsel at trial is *not* to find the truth or to seek justice. The goal of defence counsel is to test the Crown's case and to present evidence where appropriate, in order to either show that the evidence as a whole fails to prove the accused's guilt beyond a reasonable doubt, or to raise a reasonable doubt as to the guilt of the accused.
- The questions you should ask yourself are:
 1. What conclusion do I want the judge to draw from the evidence? and
 2. What evidence do they need to do it?
- Trial preparation can be summarized as follows:
 1. Interview- interview - interview
 2. **develop the theory of the defence for your case**
 3. outline the elements that you need to prove to be successful in your case
 4. outline a draft closing argument
 5. outline draft cross examinations of the Crown witnesses
 6. outline draft direct examinations of defence witnesses

Preparing for Trial & The Trial Binder #2

WHY CROSS EXAMINE?

Cross-examination is done with the principal purpose of giving you a basis for the arguments you will make in closing/summation at the end of the case.

There are at least two different types of cross-examination:

(1) *Supportive (Concession Based) Cross-Examination*: This type of cross-examination is employed when you want to ask questions and get answers that support and advance your case. **Often the style of questioning is similar to a direct examination**

(2) *Discrediting Cross-Examination*: This type of cross-examination occurs when you attempt to discredit the believability of a witness by showing that it doesn't accord with common sense and/or with what others say. **You do this by asking leading questions – that is, give the witness the answer you are looking for in your question.**

SAMPLE LEADING QUESTIONS (Cross-examination)

1. You drove a white car
2. You are currently unemployed
3. You often consume alcohol to the point of passing out

SAMPLE NON-LEADING QUESTIONS (Direct Examination)

1. What colour car did you drive
2. Are you currently working
3. Do you consume alcohol - have you ever passed out from alcohol

TRIAL BINDER

TRIAL BINDER

1. Information(Charging document)

2. Report to Crown Counsel

Particulars, Report to Crown Counsel Summary/Synopsis

3. Police Witness Statements

(Separate each witness with a coloured sheet and/or post it note)

Include Police Statements & Police notes together

4. Civilian Witness Statements

(Separate each witness with a coloured sheet and/or post it note)

Include all statements, notes, 911 recordings etc. for each witness together

5. Submissions/Closing Arguments

6. Case Law & Exhibits

(3 copies of each case)

1 for you, Crown & Judge

7. Sentencing Submission

Always be prepared to speak to sentence in case the accused is found guilty

-Use background interview sheet for client information

8. Draft Cross Examination notes of each Crown witness

Draft Direct Examination notes of each Defence Witness

(Separate each witness with a coloured sheet and/or post it note)

You should have a separate binder or notebook to make notes of the evidence during trial.

Make a 2 inch margin on the right of each page. Use the margin to star or highlight areas

you will want to return to during your cross-examination

Conducting A Trial

STEPS

1. Crown counsel, will call witnesses to testify and say what they know about the matter.
2. All witness must swear a religious oath or make a non-religious solemn affirmation before testifying. When children testify they simply promise to tell the truth.
3. After Crown counsel asks each witness questions, the lawyer **may** cross-examine the witness on matters they consider helpful.
4. After all Crown witnesses have been heard, the accused may testify and call witnesses, but is not obliged to do either.
5. Crown counsel may cross examine each defence witness.
6. The evidence in the trial consists of the witnesses' testimony and any photographs, documents or other items adequately identified by a witness (EXHIBITS).
7. After all the evidence has been heard, both Crown and defence sum up their positions in closing argument.

Conducting A Trial #2

Framing questions.

- **DIRECT EXAMINATION** Careful question construction—with special attention to first words—can avert most “leading” objections:

- Who
- What
- Where
- When
- Why
- How
- Describe

-

Conducting a Trial #3

- **CROSS-EXAMINATION** - Cross-examination's role is damage control.
(?#@\$^%&*>?)
- The two most difficult tasks facing us in cross-examination are eliminating wiggle room in our questions and knowing when to stop. Wiggle room is available to the hostile witness whenever the question asks too much. We should avoid wiggle room by asking questions that can be answered only "yes" or "no"
- Superb cross-examinations have been compromised when the examiner did not know when to stop. Gauging when to sit down is often the most important power tool in the cross-examiner's tool box.
- No or Insufficient evidence motions - Entering exhibits - Closing submissions – *R v WD*

Conducting a Trial #4

Closing Submissions

- get to the point - tell the judge what you will (or won't) be arguing
- explain case law and/or legal test
- relate the evidence heard at trial to the applicable test
- DO NOT misstate evidence
- Bring it all together with your theory of the case
- Tell (ask) the Judge to acquit and explain why they should
- Be prepared to answer any and all questions to the best of your ability
- expect to do your best to sell your case.

Ethics & Practice Management

1. The client who admits to Counsel that he or she is guilty, but is determined to plead not guilty
 - i. The Prosecution is put to the proof of its case
 - ii. The client cannot take the stand and testify that he or she is not guilty
2. The client who maintains his or her innocence but wishes to plead guilty
 - i. The lawyer cannot plead a client guilty unless the client admits to guilt on all elements of the offence
3. Disclosure – Given the adversarial nature of criminal proceedings, counsel is under no obligation to disclose material which is adverse to the client and of which the Prosecution is not aware. **It is unethical for Counsel to do so unless the client instructs otherwise.**
 - i. Criminal Record – if the Crown does not have the complete record
4. The duty not to mislead the Court
 - i. Counsel are officers of the court and have an ethical duty not to mislead the court

Defence Counsel - Questions asked & Answered

Both Crown Counsel & Defence Counsel are officers of the Court.

Defence counsel are professionally bound to advance all arguments ethically permitted on behalf of the accused. - The duty to defend only has two limits. The limits of honesty and integrity. (ethically & professionally)

Defence Counsel are often asked how can you defend those people. "How can you act for a guilty person?" The simple answer is:

- The concept of the right to counsel is one of the most important principles in our society.

To paraphrase & quote Edward Greenspan Q.C.

“Our Charter of Rights and Freedoms says an accused person has the right to retain and instruct counsel. It does not say every accused except gamblers, thieves and robbers. It does not say every accused except communists, members of organized crime and narcotics offenders. The right to counsel is an absolute right which extends to every person charged with a crime, no matter how socially or politically obnoxious he may be, no matter how unorthodox his thinking or his conduct or how unpopular his cause or, yes, no matter how strongly the finger of guilt may point at him.”

Defence Counsel - Questions asked & Answered

- **To the Question - How do we represent a guilty person?**
 - There is a simple, quick and complete answer.
“Our whole system of criminal justice is built on the basic premise that every man is presumed innocent until he is proven guilty beyond a reasonable doubt. His guilt must be shown by evidence produced by a prosecutor in a courtroom-not in a newspaper or broadcast.” (anonymous)
 - “Guilty” within criminal law is not a moral term. It is a legal term. No one is legally guilty until the court has made a finding of guilt.**
- **The lawyer is neither expected nor qualified to make a moral judgment on whether the person is guilty or not. (Or on whether the client is telling the truth or not)**
- Moral guilt or innocence is no more within the province of the lawyer than within the jurisdiction of the court. The accused is entitled to have a trial and to have his legal guilt proven beyond a reasonable doubt.
- The term "truth" can makes the lawyer's professional role difficult because it is a word easily used but difficult to define in the context of representation of a client. The concept of truth is often very subjective.
- Whenever a lawyer communicates-whether it is to the court, to an opposing party or other lawyer, or even to a client - **that communication must be honest.**

Things I'm Glad Someone Told me (or wish someone had) when I started

1. Don't do this for the thanks
2. Don't try to save the world
3. Don't compromise your ethics
4. Don't allow yourself to be bullied
5. You are not your client's mouthpiece
6. Be prepared
 - a. Know all of the material in your file
 - b. Read & know the case law relevant to your matter
 - c. **Know more about your case than anyone in the courtroom**
7. Manage your clients expectations
 - a. You are not a magician
 - b. Regular doses of reality checking is essential to keeping a client happy and reducing the likelihood of a complaint
8. **DO NOT RAISE YOUR VOICE AT THE JUDGE**
9. Always have a case theory
10. Think Carefully before you speak

Things I'm Glad Someone Told me (or wish someone had) when I started

12. You will make mistakes
13. You are not alone – help is one telephone call away
14. Take breaks & holidays
15. Don't count your wins & losses – most cases win or lose themselves; ask yourself: “could I have done anything differently or better?”
16. Don't let your ego get in the way
17. **Don't run anyone down - you never know who knows who and who might get insulted or never forget.**
18. Keep good files – concise file notes will make a big difference
19. Always know what you want to say in closing but know that things rarely go according to plan
20. Consider the viewpoint of the person you want to persuade
21. Attitude is everything