Trial Procedures:

Principles of the Criminal Justice System:

In the Canadian criminal justice system, the burden of proof rests with the Crown. This means it is up to the Crown to prove, beyond a reasonable doubt, (not any doubt, but a *reasonable* doubt) that the accused is guilty. Under the Canadian system, the accused is presumed innocent until proven guilty. If the Crown is unable to prove that the accused is guilty, then the accused must be acquitted or declared not guilty. These principles are the cornerstone of the Canadian legal system and form the foundation of criminal trial proceedings.

Criminal Trial Process

Most criminal trials are held before a judge without a jury. In these cases, it is up to the judge to hear the facts and decide the law. The Crown presents its evidence first, as it is presumed that the accused is innocent. It is up to the Crown to prove its case against the accused. The Crown must provide the defence with all relevant information regarding the offence. This procedure ensures that a defence can be made regarding the accusations. It is then the role of the defence to produce evidence that would raise a reasonable doubt as to whether or not the accused actually committed the offence. The judge listens to both sides and then makes a decision in the case based on the facts presented. If at the end of the trial there is a reasonable doubt existing on any element of the crime, then the accused must be acquitted.

In the criminal trial procedure, the accused must be informed of the charges. The trial must be held within a reasonable amount of time. The longer the delay in the trial the more damage that is done to one’s reputation and the more likely inaccurate recollections may occur from witness testimony.

Roles in the Courtroom

The judge is a key participant in the criminal trial process and must remain impartial at all times. In a trial without a jury, it is the role of the judge to listen to the facts, to determine the creditably of the evidence, and to make a decision based on the Crown and defence presentations. The role of the Crown is to present a case that adheres to the rules and procedures governing the Canadian judicial system. The defence counsel is to provide the best legal defence for the accused.

The Jury

An accused can choose a trial by jury for certain indictable offences. In Canada, the jury consists of twelve individuals who represent a cross-section of Canadian society. Names of potential jurors are picked randomly from the voters’ list and those selected must complete a questionnaire. Under the Ontario *Juries* Act, jurors must be Canadian citizens who are 18 years of age or older, who have no prior conviction of an indictable offence. Police officers, lawyers, medical doctors, veterinarians, law students, or anyone in the law enforcement profession cannot be considered for jury duty. The jury is selected by the Crown, the defence, and the accused.

Both the defence and the Crown have a right to challenge potential jurors. The purpose of challenges is to create an impartial jury. There are two types of challenges: challenges for cause and peremptory challenges. In challenge for cause, a juror could be challenged for bias. It is believed that either the juror knows the accused or has already made up his mind regarding the case, due to prior knowledge or media coverage of the event.

In a preemptory challenge, the juror can be dismissed from jury duty without any explanation. There are a limited number of peremptory challenges available to the Crown and the defence depending on the seriousness of the crime.

Once the jury is selected, it will be its job to listen to the evidence, assess the credibility of the evidence, and weigh the facts presented. Before the jury leaves to deliberate or decide on the verdict of the case, the judge must charge or instruct the jury on the law and how it applies to the facts presented.

Helpful External Links:

1. [Criminal Trial Procedures](http://www.thecanadianencyclopedia.com/index.cfm?PgNm=TCE&Params=A1ARTA0002023)
2. [Jury System](http://www.attorneygeneral.jus.gov.on.ca/english/courts/jury/geninfo.asp)