

Prosecutors and defence counsel are officers of the Court and their function as such is to assist the presiding Justice to arrive at the truth—to see justice is done. In this sense, Court appearances should never be viewed as a debate, but rather, a search for truth. Police should not regard defence lawyers as their “opponents” in the literary sense. The human fallibility factor is always present, often making it difficult to remain emotionally aloof. If the prosecutor does not remain clinical and objective, he runs the risk of an emotional presentation and biased interpretation of the evidence.

Knowledge attained through study and experience is a prime requisite for the police prosecutor. He should have a thorough acquaintance with the Statutes and the rules regarding the admissibility of evidence. Study is essential; the finest advocates never complete their studies. The policeman should attend Court as frequently as his duties allow in order to observe the officers of the Court in their respective roles. The peace officer should take advantage of every opportunity in order to gain additional knowledge.

The prosecutor should have a complete knowledge of the facts to be presented. Witnesses should be interviewed and a Court “brief” prepared. The simplest brief is a sheet of paper listing the “essential elements” to be proven. In serious cases a more elaborate brief is essential. The brief should contain:

1. Essential elements of the offence.
2. Copies of all legal documents pertaining to the case.
3. A short narrative of the facts.
4. A list of witnesses.
5. Evidence of witnesses in order of their appearance.
6. List of exhibits, showing which witnesses will enter them, and continuity of possession.
7. Descriptions of motor vehicles, persons, wearing apparel, or other pertinent articles.

8. Statute sections applicable, points of law which may arise and authorities on which to base arguments.

Law is in constant change in its pursuit of perfection. It is not implied that the sections and acts are altering to any great degree. But what is under constant review is the *interpretation* and *application* of the law. To say, “the law means what it says”, is over-simplification. This is where “case law” comes into the picture—a nemesis to some. Case law is simply the reported cases of judicial decisions on different sections; acts, words, phrases, evidence and so forth. It is to be used as a guide in the administration of justice. It is a decided asset to the police prosecutor to be aware of the latest judicial decisions in this sphere. He will then present his cases with confidence. If possible, the defence should be anticipated. The legal questions which might arise should be studied. Arguments should be based upon the interpretation of the facts according to the law and reason.

Occasionally, the police are accused of “persecuting” an individual by the laying of several charges against him. Often facts are revealed on an investigation of a set of circumstances which indicate more than one offence has been committed. If more than one charge is contemplated against a person, they should properly be sworn at the same time. This will alleviate criticism at a future date should the first charge result in an acquittal. To some the situation would appear suspicious if the police promptly laid additional charges on the dismissal of the original.

There is diverse opinion on the ethical aspect of defence counsel interviewing Crown witnesses prior to the trial. Many policemen have the impression that this conduct is unethical. However, there does not appear to be any rule of law prohibiting this procedure. On the contrary, in an Ontario case, *R. v. Gibbons*, 86 C.C.C. 28, McRuer, C.J.H.C., stated:

“I do not know of any rule that a