



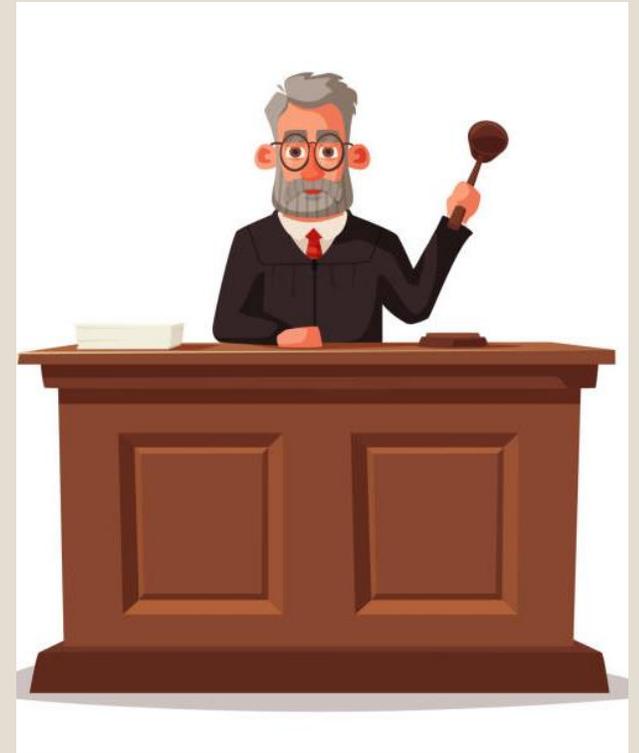
# MEMBERS OF TRIAL

# A Typical Courtroom



- **The Judge**

- Often referred to as “the Bench” or “the Court”
- Federal Government appoints all Judges except for provincial or territorial judges.
- Full control over the courtroom
- In non-jury trials the Judge decides if the defendant is guilty and sets the sentence.



- **The Crown Prosecutor**

- Hired by the government
- Must prove beyond a reasonable doubt that the accused committed the offence.
- Must present all available evidence
- Consult with police on cases and decide whether to lay criminal charges, and can also withdraw charges

- **The Defense Counsel**

- Represents the accused
- The accused can represent themselves, but it is wise to hire legal help
- The defense lawyer must defend the client to the best of their ability even if the crime is very offensive to the public.

- **The Court Clerk**

- Reads out the charge against the accused, swears in the witness, tags evidence, and handles a lot of the paper work.

- **The Court Recorder**

- Sits near the witness box to record, word for word, all evidence given and all questions made during trial.

- **The Sheriff**

- Ensure the accused appears in court
- To find prospective jurors
- Assist the judge



# Advantages of Jury vs Judge

- Advantages of Trial by Jury: a jury might be based on current social values, and less on strict legal precedent.
- Advantages of Trial by Judge: a trained decision process, and less on potential prejudice or judgement from jury.

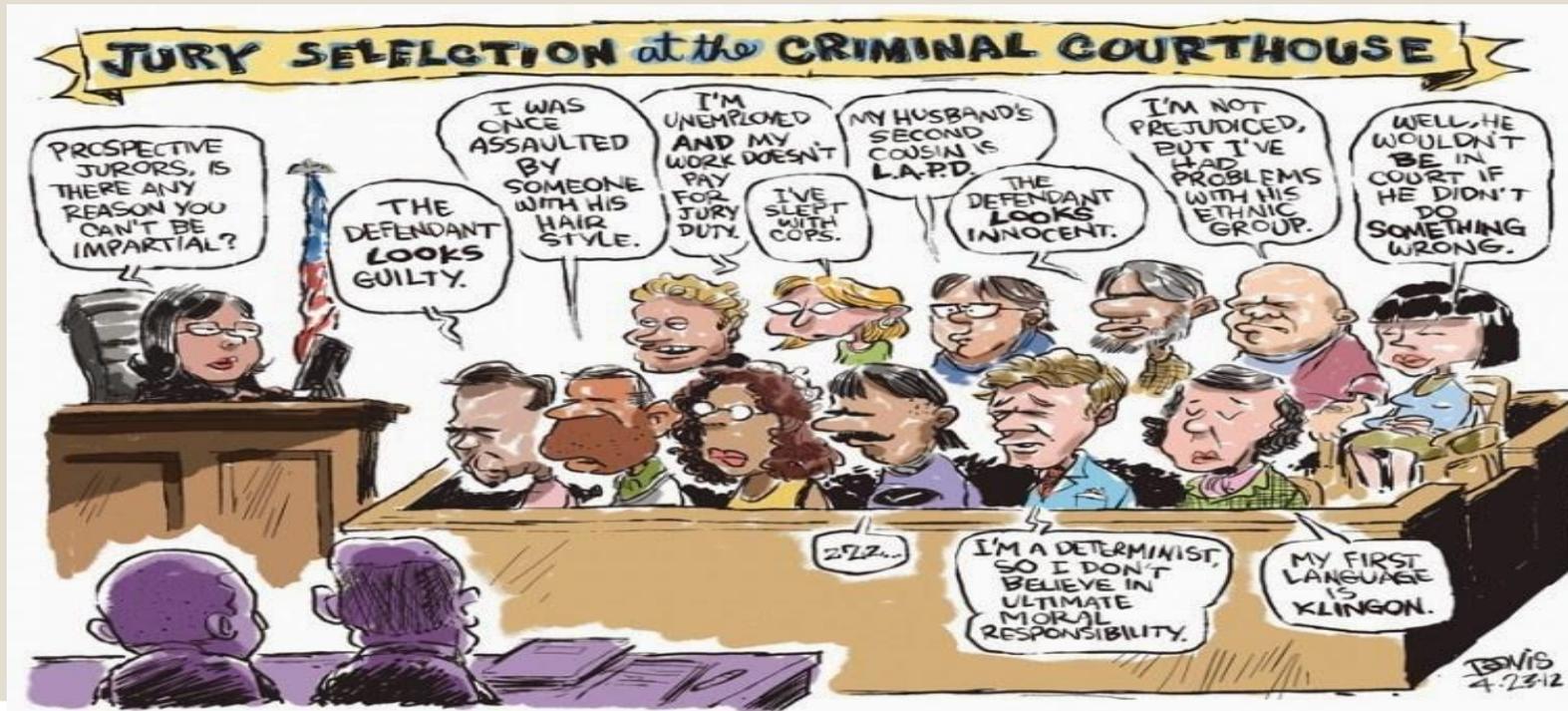


# Jury Selection

- Empaneling: the process of selecting 12 jurors
- A selection committee, headed by the sheriff, randomly selects 75-100 names from the list. The people selected, are summoned to appear at the court
- At start of trial, prospective jurors assemble in the courtroom. The judge may exempt you if you have:
  - Personal interest in case
  - Relationship with trial participant
  - Personal hardship



- Certain occupations will usually have you exempted from jury duty, such as, MPs, doctors, judges, anyone on a panel within the last two years, or anyone convicted of an indictable offence.
- Peremptory Challenge: allows both the defense and the Crown to eliminate a prospective juror without a given reason. Certain charges are allowed different challenges.



# Jury Duty

- They may or may not take notes, depending on the Judge
- Must not:
  - Discuss the case with anyone other than other jurors
  - Follow media reports about the case
  - Disclose any information from the jury discussions that is not revealed in open court
- During most trials, jurors go home at each day, however a judge may sequester the jury of the trial.
- Sequester: the jury is housed and fed away from home until they reach their verdict (formal decision)
- Jurors may also be paid a small token payment for their services.

# Witness

- Can be voluntary, or can be served a subpoena.
  - A witness who refuses to appear can be served with a warrant and receive 30-90 days.
- Each witness must take an oath (swear to tell the truth) on the bible or make an affirmation (a solemn and formal declaration) to tell the truth.
- A witness who knowingly gives false evidence attempting to mislead has committed perjury.
  - Max penalty for perjury is 14 years.
- The most important aspect of the witness testimony is its credibility.

