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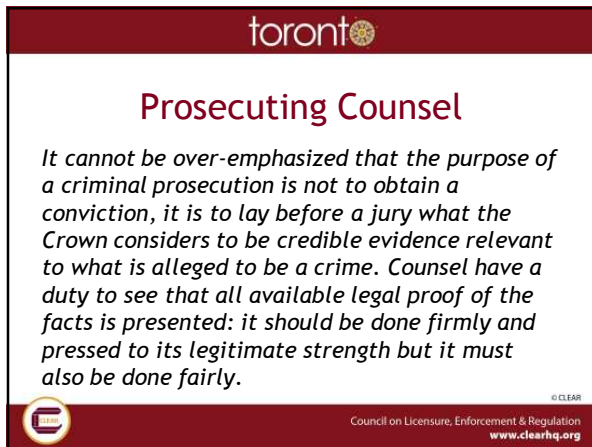
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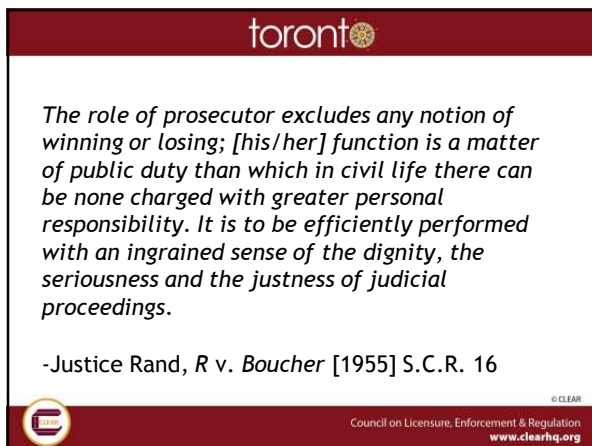
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### Typical Functions/Role

- Investigation Stage
  - consulting
  - prosecutorial viability opinions
- Pre-hearing
  - disclosure
  - preparing memo for Chair
  - presenting client's case

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### Typical Functions/Roles

- Hearing
  - interviewing witnesses
  - reviewing and mastering evidence
  - presenting case (findings/Order)
- Post-hearing
  - reviewing Decision and Reasons
  - appeal

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### Top 5 Challenges for Prosecutors

1. Learning the profession
  - scope of practice
  - standards
  - practice environment
  - culture

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### Top 5 Challenges for Prosecutors

2. Learning about your client

a) Processes

- instructions from Whom?
- how do they do things?
- division of labour
- how do they interpret the legislation?

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### Top 5 Challenges for Prosecutors

b) Culture of the organization

- How actively do they participate in legal decisions?
- What non-legal considerations influence decisions?
- What are their expectations?

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### Top 5 Challenges for Prosecutors

3. Defence counsel

- “dabble” in the area
- taking advantage of lay panel
- last-minute
- “demonizing” the regulator

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### Top 5 Challenges for Prosecutors

#### 4. Unrepresented Registrants/Members

- from cooperative to combative
- time and \$\$\$ for your client
- get LOTS of latitude
- generally don't know the law

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### Top 5 Challenges for Prosecutors

#### 5. Lay Panels

- different levels of training
- fear
  - of being appealed
  - of asking questions/looking foolish
- conduct during the hearing
- written reasons

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### Assessing the Case

- Do I have everything?
- How much detail?
- Expert opinion?
- Two part test:
  - Seriousness of allegations
  - Can the allegations be proven

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### Drafting Allegations

- Read the definitions of misconduct
- Break them down - can it all be proven?
  - “that is relevant to the practice”
  - “knew or ought to have known”
- Read the standards/guidelines
- Different characterizations of same conduct
- Format

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### Disclosure

- *Stinchcombe* standard
- “Relevant”
  - to prosecution
  - to defence
- Balance with privacy interests
- Ongoing

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### Pre-Hearings

- Backing position
- Not for litigating the case
- Additional investigation?
- Chance for both sides to hear other
- Pushing for dates
- Important role of Chair

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