



Character witnesses – providing character evidence at trial

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When a person charged with a criminal offence seeks to rely upon character evidence, it usually falls into one of two categories.

First, those intending to plead guilty will often obtain a number of character references to provide to the sentencing court to demonstrate, for example, that their offending conduct was out of character.

The second category of character evidence (which this article will focus upon) is a form of evidence that someone charged with an offence may rely upon at trial in the defence of the allegations.

This type of character evidence does not directly relate to the alleged offence. Put simply, this evidence relates to the accused's general reputation.

The introduction of 'reasonable doubt'

It is evidence from which a jury or magistrate might infer it unlikely that the defendant is a person who would commit the alleged offence. That is, the behaviour is out of character. This type of character evidence is evidence from which a "reasonable doubt" may be formed, of the defendant's guilt.

If a jury or magistrate has such reasonable doubt, they are then duty-bound to find the defendant not guilty of the charge.

What can a character witness say about me?

A character witness will usually provide evidence about the following:

- A brief description of their own background, work history, etc.
- A description of their relationship with the person charged, including how long they have known each other and how they came to know each other.
- A description of the “*circle*” of people that the witness and accused form part of. In other words, who are the group of people that they mutually associate with?
- The witness's observations as to the accused's “*general reputation*” within that particular group of associates. This might include, for example, that the person is known within that group “*for their honesty and integrity*”, “*as being calm and even tempered*” or “*for not being someone who engages in violence*”.

It is important to note that character evidence is not a personal reference as such; the witness cannot give evidence of their personal opinion of the accused. Rather, it is evidence of the general reputation of the accused held by others with whom the accused interacts. In other words, the witness is really giving evidence of what others think of the accused, rather than what they personally think of the accused.

How do I obtain character evidence to rely upon at trial?

In the months prior to trial, a person accused of a criminal offence should speak with their lawyer about possible character witnesses. In preparing for trial, their lawyers can contact possible character witnesses and obtain statements.

What are the benefits of calling character evidence at trial?

The decision whether or not to call character evidence at trial is one that should be made by the client after obtaining advice from an experienced criminal lawyer. [Choosing the right criminal lawyer to assist you is critical.](#)

The benefits to relying upon character evidence are that it allows the defendant to have their reputation taken into account by the jury or magistrate, and it is evidence from which they can be acquitted of the charge. However, there are risks in relying on character evidence.

What are the risks of relying on character evidence at trial?

This is a question to be discussed with lawyers in advance of trial.

The main reasons lawyers may advise against relying upon character evidence include:

1. If, and usually only if, a defendant relies upon character evidence, the prosecution can seek to introduce evidence that goes against the defendant's character. That may include the defendant's criminal history. If a jury learns that the person on trial already has a criminal history or criminal record, this can be very prejudicial to the chance of a not guilty verdict.
2. The calling of any evidence at trial impacts the order in which the defence and prosecution lawyers give final addresses to the jury or magistrate. Many consider that the order of addresses is a particularly powerful factor in how a jury or magistrate approaches the trial evidence. Accordingly, this is a factor that should be considered in determining whether or not to call character evidence at trial.
3. Character evidence can become a distraction. It may be that there is other helpful evidence that the defence lawyers want the jury to really focus upon; such evidence may have less impact if the jury is also required to consider whether or not they accept that the defendant is of good character.

In summary

The question of whether or not to call character evidence, and indeed any other evidence, is an important one.

Decisions that are made can impact the course of trial and in particular, a person's prospects of being found not guilty.

For that and many other reasons, anyone charged with a criminal offence should immediately obtain advice from an experienced criminal lawyer.

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