

What you need to do

1 Go to court at the right time

If you were arrested, either the police or a justice of the peace will give you a document (it might be called an appearance notice, promise to appear, undertaking to appear, or recognizance). If you were not arrested but have been charged with a crime, you will get a letter called a summons. No matter which document you have, it will tell you:

- what you have been charged with,
- what kind of offence it is, and
- the date, time, and place of your first court appearance.

You *must* go to court at the time and date the notice says.

If you do not go to court when the document tells you to, the judge can order the police to arrest you and bring you to court. You can be charged with another offence if that happens, called failure to appear.

2 Get the details of the charges against you

Ask the prosecutor for a copy of the **disclosure** (an outline of the charges against you and the evidence the prosecutor has to support the charges). Make sure that a copy of the **information** (the official court form listing the date, time, place, and type of offence) is included. Read these documents carefully and see whether you think they are correct. (For instance, you may disagree with what the police say happened.) Also

ask for a copy of the prosecutor's **initial sentencing position** (it says what sentence the prosecutor will ask the judge to give you, but only *if you plead guilty*). Be aware that the prosecutor cannot guarantee this sentence. The judge makes the final decision and it may be different from what the prosecutor suggests.

3 Talk to a lawyer

It is very important to talk to a lawyer as soon as you know you have been charged with an offence. A lawyer can explain your options and help you understand your legal documents. If you do not have your own lawyer, see the back of this brochure for help in finding one.

4 Consider the consequences and decide how to plead

After you have talked with a lawyer, you must decide how you want to **plead** (respond to the charges against you):

- not guilty (and have your case proceed to trial), or
- guilty (and accept the penalty for the crime you have committed).

Can your case be diverted?

If the charge against you is minor or your first offence, and you admit that you are guilty and feel sorry for what you have done, your case may be dealt with through **alternative measures** (also known as **diversion**). That means that, instead of going to jail, you report to a probation office and follow a program they set out. This could include community work service or counselling. If you follow through with the program, you will not face criminal penalties

or get a criminal record. You can qualify for alternative measures if the prosecutor agrees to recommend you and the probation office accepts you.

However, it is important to talk to a lawyer before you plead guilty. If you are found guilty, you may have to pay a fine or go to jail. You could get a criminal record, which may limit the kinds of jobs you can get and where you can travel. You can also have your fishing, hunting, or driver's licence taken away for months or years — or even for the rest of your life.

Going to court: Your first appearance

Your first appearance is not a trial — it is a starting point for dealing with the charge against you.

You will appear in front of a justice of the peace in a place called an initial appearance room. (In smaller communities, you may appear before a judge.) The prosecutor (sometimes called **Crown counsel**) will also be there. The justice of the peace will ask you if you have a lawyer or if you have talked to legal aid, and whether you are ready to plead. He or she may ask the prosecutor some questions too. You can ask that your trial be carried out in French if that is your wish. At this stage, you have three choices:

You can ask for more time

The justice of the peace will agree to give you more time (an **adjournment**) if the prosecutor needs more time to prepare or if you do not have a lawyer and have not explored your legal aid options. The justice of the peace will give you and the prosecutor a date when you have to return to court.

You can say you will plead not guilty

You will be asked to set another date for a hearing in front of a judge (called an **arraignment hearing**) where you will plan a date for your trial. You might set the date in the initial appearance room, or you might be asked to go to the judicial case manager's office to find a time when you and the prosecutor (and your lawyer, if you have one) are free to come back to court.

You can say you will plead guilty

Your case will be transferred to a courtroom that day if a judge is available. If a judge is not available, you will arrange another court date to enter your guilty plea and receive your sentence. *Be sure to talk to a lawyer before you plead guilty.*

After your first appearance

Once your case is before a judge, you (or your lawyer) will tell the judge how you are going to plead. You have three choices:

You can plead not guilty

If you plead not guilty, the judge will ask you or your lawyer to set a date for your trial confirmation hearing (the last step before the trial itself). If you do not have a lawyer and you do not qualify for legal aid, ask for a copy of *Representing Yourself in a Criminal Trial* from your local legal aid office to help you prepare for the trial.

You can plead guilty

If you plead guilty, the judge will ask you if you have anything to say.

This is your chance to give the judge information that might help you get a lighter sentence. For more information, get

the free pamphlet called *Speaking to the Judge Before You Are Sentenced* from your local legal aid office.

You can ask for more time

To get the judge to grant you an adjournment *after* your first appearance, you will need a good reason — for example, that you are still looking for a lawyer or that you do not yet have all the documents describing the case against you.

At this point, you should have a copy of the information, the disclosure, the Crown's initial sentencing position, and the **arraignment report** (a report that gives more information about the prosecutor's case). If you do not have these documents, tell the judge what you are missing.

What a lawyer can do

A lawyer can explain the charges against you, and tell you:

- if your rights have been violated,
- how strong the prosecutor's case is,
- if there is a lesser charge the prosecutor might consider,
- what kind of a sentence you might get if you are convicted,
- what defences you have, and
- whether you can avoid a criminal record through alternative measures (diversion).

A lawyer can also negotiate with the prosecutor for you and defend you in court.

To find a lawyer

Ask your friends or family to recommend a good lawyer, or call the Lawyer Referral Service at 604-687-3221 (in the Lower Mainland) or 1-800-663-1919 (elsewhere in BC). They will give you the contact information for lawyers in your area. For a \$25 fee, you can speak to any of those lawyers for 30 minutes to see if you want to hire them. You can also find a lawyer in the yellow pages under "Lawyers."

Legal aid and other help

If you might go to jail if convicted and you have a very low income, you may get legal aid. You have to be charged with certain offences to be eligible for this service. For more information, contact the Legal Services Society (LSS) at 604-408-2172 (in the Lower Mainland) or at 1-800-663-1919 (elsewhere in BC), or visit the office nearest you. See www.lss.bc.ca for locations.

You can also call LSS to see if there is a duty counsel lawyer available at the courthouse. **Duty counsel** are legal aid lawyers who may be able to give you free advice or represent you at your first appearance (if your income is low enough).

If you live in the Lower Mainland, you may be able to get help from the University of British Columbia's Law Students' Legal Advice Program (LSLAP). You can get legal advice or assistance from LSLAP if you are charged with a summary offence and are not likely to receive a jail sentence if convicted. Call 604-822-5791 to make an appointment.

In Victoria, the Law Centre may be able to help you. Call 250-385-1221 for information.

Remember: You have legal rights. If you are arrested, the police must:

- tell you the charge you are being arrested for,
- tell you that you have the right to talk to a lawyer as soon as possible, and
- give you the chance to speak with a lawyer on the phone. A free lawyer is available 24 hours a day for this purpose.

You also have the right:

- to be presumed innocent until proven guilty in court,
- to a fair trial, and
- to remain silent.

Talk to a lawyer if you think that any of your rights have been violated.

For more information, ask your local legal aid office for a free copy of *Representing Yourself in a Criminal Trial* and *Speaking to the Judge Before You Are Sentenced*, or find them online: www.lss.bc.ca/publications

If You Are Charged with a Crime

This pamphlet provides basic information on what to do if you are charged with an offence.

Remember: Anything you say can be used as evidence against you. Do not talk to anyone about the charges against you until you have spoken with a lawyer.



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