

# If You're Charged with a Crime

January 2022

Basic information about what to do if you're charged with a crime.

You have the right to be silent. Don't talk to anyone or plead guilty until you get legal advice.

Call Legal Aid BC immediately to find out if you qualify for a free lawyer.

**604-408-2172**  
(Greater Vancouver)

**1-866-577-2525**  
(elsewhere in BC)

Legal Aid BC





**Don't plead guilty without getting legal advice. Call Legal Aid BC immediately to find out if you qualify for a free lawyer.**

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If you can't get a legal aid lawyer, most courthouses have lawyers called **duty counsel**. See page 9 for free legal help.

If you're arrested, detained, or in custody but not yet charged, and need emergency legal services, you have the right to talk to a free lawyer through the **Brydges Line**. The police should let you make the call to that line as soon as possible. They give you the phone number, or you can ask the police for the number. Don't make any statements to the police before you talk to a lawyer.



## **If You're Indigenous**

Indigenous or Aboriginal peoples include First Nations, Métis, and Inuit. If you identify as Indigenous and are charged with a crime, the judge must apply **Gladue principles** at your bail hearing or sentencing hearing. This means the judge must consider your personal and unique circumstances as an Indigenous person and options other than jail.

See pages 9, 10, and 11 for legal services for Indigenous people in BC. See page 13 for free publications about Gladue principles.

See **[aboriginal.legalaid.bc.ca](http://aboriginal.legalaid.bc.ca)**. Click Courts & Criminal Cases. Then click Gladue principles.



## What You Need to Do First

### 1. Talk to a lawyer



Remember, you have the right to remain silent when you're arrested or charged. Talk to a lawyer before you make a statement, admit to anything or plead guilty, and before you talk to **Crown counsel** (government lawyer).

See page 9 for where to get free legal help. Call Legal Aid BC immediately to find out if you qualify for a free lawyer.

A lawyer can tell you:

- about your legal rights
- what your defence may be
- how strong the case is against you
- if the government lawyer (called Crown or Crown counsel) may ask for a lesser charge
- what kind of sentence you may get if the judge finds you guilty
- if you can avoid a criminal record

A lawyer can also:

- **negotiate** (work out a plan for you) with Crown counsel
- defend you in court
- help you change the **conditions** (rules) of your bail

## 2. Learn your court date

If you're arrested, the police or court gives you a document. It may be an **appearance notice** or **promise/notice to appear**. If you aren't arrested, you get a **summons**.

- The document says what you're charged with and the type of offence. It also has the date, time, and place of your **first appearance** in court. You must go to court at that time and date.
- If you don't go to court when the document says, or you don't obey the conditions set out in it, the police can arrest you and take you to court. Crown counsel can charge you with **failure to appear** or a **breach** (disobeying conditions).

## 3. Get details of the charges

- Ask Crown counsel for a copy of the **disclosure** on your first court date. This is a package of documents that includes the charge and the Crown's evidence against you. Make sure the disclosure also includes the **Information**. It's the official court form with the date, place, and type of your offence.
- Also ask for a copy of the **initial sentencing position**. This is the sentence the Crown asks for you if you plead guilty. The judge decides your sentence. It may be different from the sentence the Crown asks for. Legal Aid BC needs this document if you apply for a legal aid lawyer.

- Read the documents. See if you think they're correct. For example, you may not agree with what the police say happened. Later on, you can tell the court what you don't agree with.

## 4. Decide how to plead



**Always talk to a lawyer before you make a statement, admit to anything, or plead guilty. Call Legal Aid BC immediately to find out if you qualify for a free lawyer.**

**604-408-2172** (Greater Vancouver)

**1-866-577-2525** (elsewhere in BC)

After you talk to a lawyer, you decide how to **plead** (respond to the charge against you).

- If you decide to plead **not guilty**, your case goes to trial at a future date.
- If you decide to plead **guilty**, you may have to pay a fine, be put on probation, or go to jail. You could get a criminal record. This may limit the jobs you can get and where you can travel. You may lose your fishing, hunting, or driver's licence for months, years, or the rest of your life. Having a criminal record could also affect your rights in a family dispute.



## What Happens at Court



The court process may be different depending on the seriousness of your crime.

See page 12 for free Legal Aid BC publications about what happens at court.

### Your first appearance

The first time you're in court is to find out more about the charge against you. Your first appearance (initial appearance) isn't a trial.

Usually, your first appearance is in front of a **judicial case manager**. The judicial case manager is like a judge. Crown counsel is also there.

The judicial case manager asks if you have a lawyer or talked to Legal Aid BC, and if you're ready to plead. At this stage, you have three choices.

#### You can say you intend to plead not guilty

If you decide to plead not guilty, Crown counsel, you, and your lawyer (if you have one) usually have an **arraignment hearing**. This hearing usually happens on another date. On that date you and your lawyer tell the judicial case manager how many witnesses you plan to call and how long the trial may take. Crown counsel does the same. The judicial case manager then sets the date and time for your trial.

## You can say you intend to plead guilty

If you decide to plead guilty, you go to a courtroom that day if a judge is available. You have to plead guilty in front of a judge for sentencing. If a judge isn't available that day, or you want more time to get ready for sentencing, the judicial case manager sets another date for you to plead guilty in front of a judge. *Be sure you talk to a lawyer before you decide to plead guilty.*

## You can ask for more time

If you don't have a lawyer yet, or you don't have all your documents from the Crown, you can ask for more time to decide how to plead. The judicial case manager can give you an **adjournment** (more time). Crown counsel can also ask for an adjournment. The judicial case manager says when you and Crown counsel have to return to court. At your next court appearance, you have to decide if you want to plead not guilty or guilty.

## Your trial

At your trial in front of a judge, Crown counsel and you (or your lawyer) call witnesses and present evidence. You can choose to testify or not testify. Get advice from a lawyer about whether you should testify or not. The judge decides if you're not guilty or guilty.

## Sentencing

If you decide to plead guilty, or you're found guilty after your trial, a judge sentences you. Crown counsel first tells the judge about the charge and facts of your case. Then the judge asks if you have anything to say. Now you can give the judge information that may help you to get a lighter sentence.



## Can You Avoid a Criminal Record?

### Alternative measures

The Crown may deal with your case through **alternative measures** (also called **diversion**) if:

- the charge against you is minor and your first offence
- you're willing to tell a probation officer you committed the offence
- you feel sorry about what you've done

You report to a probation office and follow a program set out for you. The program may include community service or counselling.

The Crown has to agree to the program, and the probation office has to accept you. If you're accepted into the program and complete it:

- your charge is **stayed** (the court doesn't convict or sentence you)
- you don't get a criminal conviction
- you must continue to appear on your court dates until the court says you no longer have to



## Absolute or conditional discharge

The court may give you an **absolute discharge** or **conditional discharge** if:

- the charge against you is minor and your first offence
- you plead guilty
- you feel sorry about what you've done
- it's in your interest and **not contrary to public interest** (not a problem for the public)

A conditional discharge includes a period of probation with conditions that you must obey. If you don't obey the conditions, you won't benefit from the discharge and you're charged with a new offence.

If you complete all conditions, the discharge is **deemed** (considered) not a conviction in Canada. But your discharge will be registered on various documents such as RCMP and other government records.



A diversion or absolute or conditional discharge may limit your travel outside of Canada or affect your employment and volunteering opportunities. Always talk to a lawyer before you admit to anything or plead guilty.



## Your Legal Rights

**Remember, you have legal rights. If you're arrested, the police must:**

- tell you the charge against you
- tell you that you have the right to remain silent and talk to a lawyer as soon as possible
- let you talk to a lawyer on the phone in private as soon as possible — a free lawyer is available through the Brydges Line 24 hours every day, province-wide

**You also have the right to:**

- remain silent
- have an interpreter if necessary
- be thought of as innocent until proven guilty in court
- have a fair trial

**Talk to a lawyer if you think any of your rights are ignored.**

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# Legal Aid and Other Free Help

## Legal Aid BC

**604-408-2172** (Greater Vancouver)

**1-866-577-2525** (elsewhere in BC)

**legalaid.bc.ca** (for Legal Aid BC locations)

If you might go to jail and your income is low, you may get a free lawyer from Legal Aid BC. Only certain offences are covered by legal aid. Call or go to the Legal Aid BC location near you.

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## Duty counsel

**gov.bc.ca/gov/content/justice/courthouse-services/courthouse-locations**

You can talk to duty counsel at the courthouse where your case is if they're available on your court day. They can give you free brief legal advice and speak for you the first time you go to court. But they can't be your permanent lawyer. Call Legal Aid BC or your local courthouse to ask when duty counsel are available.

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## BC First Nations Justice Council

**bcfnjc.com**

Offers legal services for Indigenous people in BC, including justice centres, a Gladue program, and support for complaints against police officers, judges, and lawyers.

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## Access Pro Bono

**604-878-7400** (Greater Vancouver)

**1-877-762-6664** (elsewhere in BC)

**accessprobono.ca**

Gives free legal advice to people who can't afford a lawyer. You can meet with a lawyer for free for half an hour at legal clinics across BC.

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## The Law Centre, Victoria

**250-385-1221**

**uvic.ca/law/about/centre/index.php**

Gives free legal help if you live in Victoria and can't afford a lawyer.

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## Native Courtworker and Counselling Association of BC

**604-985-5355** (Greater Vancouver)

**1-877-811-1190** (elsewhere in BC)

**nccabc.ca**

Provides culturally appropriate services to Indigenous people involved in the criminal justice system.

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## TRU Community Legal Clinic, Kamloops

**778-471-8490**

**tru.ca/law/students/outreach/Legal\_Clinic.html**

Gives free legal help and advice in a range of areas if you can't afford a lawyer.

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## UBC Indigenous Community Legal Clinic

**604-822-1311** (Greater Vancouver)

**1-888-684-7874** (elsewhere in BC)

**[allard.ubc.ca/community-clinics/  
indigenous-community-legal-clinic](http://allard.ubc.ca/community-clinics/indigenous-community-legal-clinic)**

Gives free legal help to Indigenous people who can't afford a lawyer.

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## UBC Law Students Legal Advice Program

**604-822-5791**

**[lslap.bc.ca](http://lslap.bc.ca)**

Gives free legal help if you live in Greater Vancouver. Law students can help if you're charged with a **summary offence** (a less serious crime) and likely won't get a jail sentence if you're convicted.

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# To Find a Lawyer

## Lawyer Referral Service

**604-687-3221** (Greater Vancouver)

**1-800-663-1919** (elsewhere in BC)

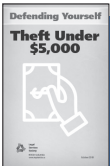
**[accessprobono.ca/our-programs/  
lawyer-referral-service](http://accessprobono.ca/our-programs/lawyer-referral-service)**

Call the Lawyer Referral Service to get the name of a lawyer. You can speak to the lawyer for 30 minutes for free to briefly describe your issue, find out how much they charge, and decide if you want to hire them. Or ask your friends or family for the name of a good lawyer.

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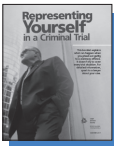
# Free Legal Aid BC Publications

Ask at your Legal Aid BC location for copies.  
See the back cover for how to order copies.



## *Defending Yourself (series)*

Explains what to say in court to defend yourself from the charge against you if you don't have a lawyer.



## *Representing Yourself in a Criminal Trial*

Helps you get ready for trial if you don't have a lawyer or don't qualify for legal aid.

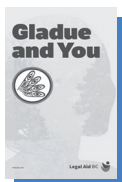


## *Speaking to the Judge Before You're Sentenced*

Describes what you can say to the judge before sentencing. Explains possible sentences.

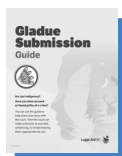
Legal Aid BC has the following free publications about Gladue principles and First Nations/Indigenous Court. For more information, see [aboriginal.legalaid.bc.ca](http://aboriginal.legalaid.bc.ca).

### *Gladue and You*



Explains that Gladue principles apply to all Indigenous peoples, whether you live on reserve or off reserve, and you can give the court your story in a Gladue submission or Gladue report.

### *Gladue Submission Guide*



Explains how to tell the judge about yourself, your family, and your community when you're before the court. Includes worksheets.

### *What's First Nations/Indigenous Court?*



Explains that if you plead guilty to a crime, you may be able to go to a First Nations/Indigenous Court for sentencing.



## How to Get Free Legal Aid BC Publications

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**Read: [legalaid.bc.ca/read](https://legalaid.bc.ca/read)**

**Order: [crownpub.bc.ca](https://crownpub.bc.ca)**

(under Quick Links, click BC Public  
Legal Education & Information)

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### Questions about ordering?

604-601-6000

[distribution@legalaid.bc.ca](mailto:distribution@legalaid.bc.ca)

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### Feedback on this publication?

[publications@legalaid.bc.ca](mailto:publications@legalaid.bc.ca)



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Selilwitulh (Tseil-Waututh) Nations.

**Legal Aid BC**

