

Representing Yourself in a Criminal Trial

This booklet explains what can happen when you plead not guilty to a summary offence.

It doesn't try to cover every trial situation. For detailed information, speak to a lawyer about your case.

Legal Aid BC



April 2022

© 2022 Legal Services Society, BC

Tenth edition: April 2022

First edition: 1996

ISSN 1929-9117 (Print)

ISSN 1929-9125 (Online)

Published on the traditional unceded territory of the Coast Salish peoples, including the territories of the xʷməθkʷəy̓əm (Musqueam), Skwxwú7mesh (Squamish), and səliłwətaʔ/Selilwitulh (Tsleil-Waututh) Nations.

Acknowledgements

Editors: Jennifer Hepburn and Judy Clarke

Designers: Caitlan Kuo and Shelley Johnstone

Illustrations: Danette Byatt

Cover photo: Brian Goncalves

Legal reviewer: Camran Chaichian

Development coordinator: Patricia Lim

This publication may not be commercially reproduced, but copying for other purposes, with credit, is encouraged.

Representing Yourself in a Criminal Trial is published by Legal Aid BC, a non-profit organization that provides legal aid to British Columbians. Legal Aid BC is separate from the BC government, its primary funder. It also receives grants from the Law Foundation and the Notary Foundation (of BC).



This publication explains the law and court procedures in general. It isn't intended to give you legal advice on your particular problem. Because each person's case is different, you may need to get legal help. The information in this publication is up to date as of April 2022.

After you've been charged: A step-by-step chart

The flowchart under this flap shows how you can get help after you've been charged with a crime, including the free legal aid publications to help you at each stage.

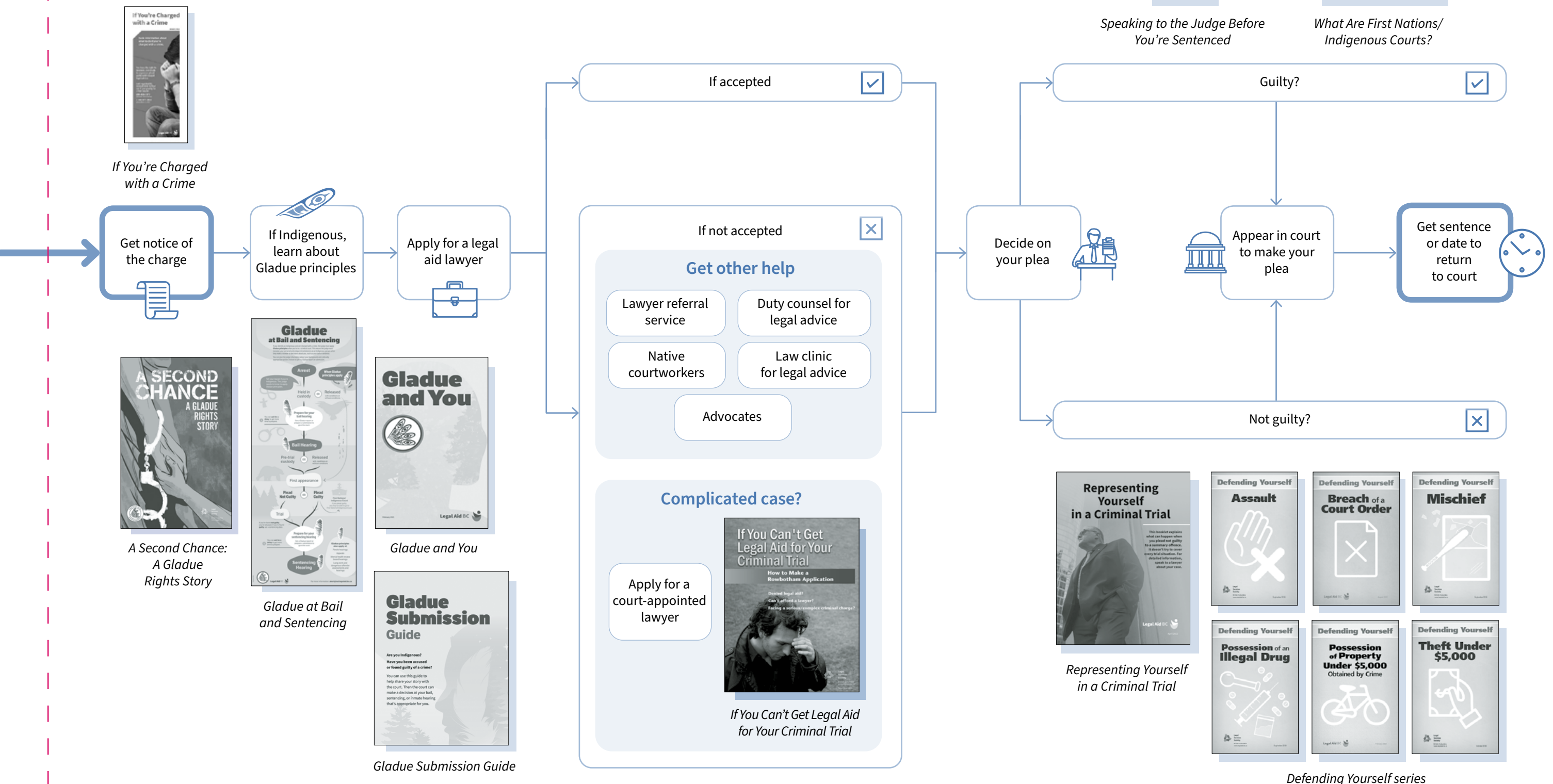
Read these publications before you go to court. You can read all of them online at **legalaid.bc.ca/read**. For some of them, you can order free printed copies (see the back cover).



Legal Aid BC publications to help you



From your criminal charge to your trial



Contents



Introduction 1

Who is this booklet for?	1
Who is this booklet not for?	1
Where can I get legal help?	2
What this booklet is about	3
What other information will I need?	3
Your language rights.....	4
Your court information.....	4



Before your trial 5

What am I charged with?	5
What are my rights?	6
What can a lawyer do?	6
How can I get information about my case?	7
When should I go to court?	8
Who are the people in court?	8
What will happen when I go to court?	10

☒ **Checklist: Before your trial 18**



At your trial 20

What will happen at my trial?	20
-------------------------------------	----

☒ **Checklist: At your trial 28**

Appendix 1: Court process — Before your trial..... 29

Appendix 2: Court process — At your trial..... 30

Appendix 3: Sample letter..... 31



Glossary 32



Are you Indigenous?

Indigenous peoples include First Nations, Métis, and Inuit. If you're Indigenous and charged with a crime, the judge must apply Gladue principles when sentencing you. This means the judge must consider your personal and unique circumstances as an Indigenous person and options other than jail. Gladue principles apply to *all* Indigenous peoples. They also apply whether you are status or non-status, or whether you live on or off reserve.

If you want Gladue applied to your case, you must tell the court that you're Indigenous *as soon as possible*. The judge will want to know about you, your family, and your community. You can tell this information to the court yourself, give it to the court in a Gladue submission, or get a **Gladue report**. If you want a Gladue report, you can ask a lawyer, Native courtworker, or duty counsel for help contacting the **BC First Nations Justice Council** (see page 2).

The judge must consider Gladue principles even if you don't have a lawyer or can't prepare a Gladue submission or get a Gladue report. For more information, see **aboriginal.legalaid.bc.ca**. (Click Courts & criminal cases then Gladue principles.)

If you're pleading guilty, you may be able to have your bail or sentencing hearing in a **First Nations/Indigenous Court**. At First Nations/Indigenous Court, the judge, your lawyer, the Crown prosecutor, Indigenous community members, and your family will work with you to come up with a healing plan.

For more information, see **aboriginal.legalaid.bc.ca** (click Courts & criminal cases then First Nations Courts). Or call First Nations Court duty counsel at **604-601-6074** (Greater Vancouver) or **1-877-601-6066** (elsewhere in BC).

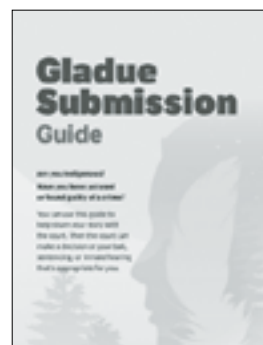
You can also get support from a Native courtworker. The Native Courtworker and Counselling Association of BC helps Indigenous people involved in the criminal justice system. Call **604-985-5355** (Greater Vancouver) or **1-877-811-1190** (elsewhere in BC).



Gladue at Bail and Sentencing



Gladue and You



Gladue Submission Guide



What Are First Nations/Indigenous Courts?



*A Second Chance:
A Gladue Rights Story*



Introduction

Who is this booklet for?

This booklet can help you if:

- you're an adult facing a criminal charge,
- **you've been denied legal aid**,
- the Crown prosecutor *isn't* asking for a jail sentence (if you're found guilty),
- you can't afford to pay for a lawyer, and
- you decide to represent yourself in court.



Remember: A conviction on any criminal charge will lead to a criminal record. If you have a criminal record, it can limit the kinds of jobs you can get and where you can travel to.

What you're charged with is called an **offence**. A conviction on any criminal charge is a serious matter. If you're found guilty, you'll end up with a criminal record, have to pay a fine, or go to jail. Also, some offences carry mandatory minimum sentences. If you're convicted of one of these offences, the judge can't give you a lighter sentence.

A criminal conviction can also affect your job, your ability to travel, and your ability to support yourself and your family. If you're found guilty of certain offences, you can have your fishing, hunting, or driver's licence taken away for months or years — or even for the rest of your life.

Before deciding to plead guilty, think over what you did — and what you're charged with. Are they the same? Can you explain why the offence happened? Don't plead guilty just because you want to get things over with. Plead guilty only if you're sure that you want to say, "Yes, I did it, and I intended to do it." Plead guilty only after you've spoken to a lawyer and confirmed that you don't have defences against the charge.

If you find yourself saying, "Yes, I did it ... *but*," get some legal advice. If you can't afford a lawyer, you can ask to talk to duty counsel at the courthouse where you're charged. Duty counsel are lawyers who provide free summary legal help to in- and out-of-custody accused people in Provincial Court. See Where can I get legal help? on page 2 for more information about free advice.



Note: Legal terms in text are in **blue** the first time they appear in the booklet. See the glossary on page 32 for a list of these words and their meanings.

Who is this booklet *not* for?

This booklet *can't* help you if you've been:

- **charged with a serious offence** (which means the Crown prosecutor is asking for a jail sentence if you're found guilty), and
- denied legal aid because of your income level.

Get legal help. You can get some free legal advice even if you've been denied legal aid. See Where can I get legal help? on page 2.

Where can I get legal help?

It's a good idea to talk to a lawyer before you decide how you'll plead (guilty or not guilty), or whether you'll choose to explore other options. A lawyer can explain any options and help you understand your legal documents.

Even if you've been denied legal aid, you can get some free legal advice. The following help may be available to you.

- **Duty counsel:** If you don't have your own lawyer, see when duty counsel will be at the courthouse where you're charged. Duty counsel are lawyers who can give you free brief advice *before your trial*. When available, they can give you advice about the charges against you, court procedures, and your legal rights. They can't give advice on how to run your trial or help you at your trial. They *can* speak on your behalf the first time you appear in court, but can't act as your permanent lawyer. Usually, they'll be available on your scheduled court dates.
Call Legal Aid BC at **604-408-2172** (Greater Vancouver) or **1-866-577-2525** (elsewhere in BC), or your local courthouse to find out when duty counsel will be there. (See the Provincial Court of BC website at www.provincialcourt.bc.ca/locations-contacts for links to courthouse locations.)
- **Lawyer Referral Service:** You can get the name of a local lawyer to talk to for half an hour for free, to briefly describe your issue and find out whether they can help you. You can find out what they'd charge if you need more help and decide whether you want to hire them. Call **604-687-3221** (Greater Vancouver) or **1-800-663-1919** (elsewhere in BC).
- **Access Pro Bono clinics:** You can also get brief legal help from pro bono (free) clinics. Call **604-878-7400** (Greater Vancouver) or **1-877-762-6664** (elsewhere in BC).
- **BC First Nations Justice Council:** If you're Indigenous, you can access legal services, including justice centres and a Gladue program. See bcfnjc.com or call **1-877-602-4858**.
- **Native Courtworker and Counselling Association of BC (NCCABC):** If you're Indigenous, NCCABC may be able to help you get legal information and a lawyer. Call **604-985-5355** (Greater Vancouver) or **1-877-811-1190** (elsewhere in BC).
- **UBC Indigenous Community Legal Clinic:** If you're Indigenous and can't afford a lawyer, you can get free legal help. Call **604-822-5421** (Greater Vancouver). See allard.ubc.ca/community-clinics/indigenous-community-legal-clinic.
- **Law Centre:** If you live in Victoria, the Law Centre may be able to help you. For information, call **250-385-1221** or see thelawcentre.ca.
- **Law Students' Legal Advice Program (LSLAP):** If you live in Greater Vancouver, you may be able to get help from LSLAP. You can get legal advice or assistance from LSLAP if you're charged with a summary offence and the Crown prosecutor isn't asking for a jail sentence if you're found guilty. Call **604-822-5791** to find the location of the nearest LSLAP clinic.
- **TRU Community Legal Clinic, Kamloops:** If you live in Kamloops, you can get free legal help and advice in a range of areas if you can't afford a lawyer. Call **778-471-8490** or see tru.ca/law/students/outreach/Legal_Clinic.html.
- **Private practice lawyer:** You can contact a lawyer in private practice for specific advice on how to handle your own case. Find out if the lawyer is willing to help and what it'll cost. One or two meetings with a private lawyer may cost less than hiring a lawyer to run your entire trial.

What this booklet is about

This booklet tells you what will happen *before your trial* and what will happen *at your trial*.

Before your trial (pages 5 – 19) explains:

- how to get the information that you'll need for your trial,
- who the people in the courtroom are and what they do, and
- the court procedures that will take place before your trial (your **first appearance** and **arraignment hearing**).

Use the checklist on page 18 to make sure that you're ready for trial. See the chart on page 29 (Appendix 1) to help you understand the court procedures that will take place before your trial. See the flowchart at the front of this booklet to find out about other publications that can help you through the process.

At your trial (pages 20 – 28) explains:

- the seven steps in every criminal trial, and
- what you need to do during your trial.

Use the checklist on page 28 to make sure that you do everything you need to do at your trial. Also use this checklist to see whether the prosecutor has proven all the necessary parts of the charge against you.

Use the chart on page 30 (Appendix 2) to help you understand the steps that will happen during your trial.

What other information will I need?

Take the time and make the effort to get as much information as you can so that you'll be able to represent yourself in the best way possible. For more information about the law, you can go to the library or look online. The website **clicklaw.bc.ca** is a great place to start. This website connects you to information on legal topics, including criminal law. It also has toll-free numbers for legal help.

You can also see the *Defending Yourself* series on what to do if you're charged with one of the following:

- Assault
- Breach of a court order
- Mischief
- Possession of an illegal drug
- Possession of property under \$5,000 obtained by crime
- Theft under \$5,000



Note: At any time, a legal advocate can help you. Find a local organization on the HelpMap at **clicklaw.bc.ca**.

This series from Legal Aid BC describes in detail how you can defend yourself against your particular charge. You can read them online at legalaid.bc.ca/read.



Your language rights

At any stage, you can ask for an interpreter to assist you in any language, including American Sign Language.

You can also ask to have your trial conducted in French and ask for the important documents related to your case to be translated into French. Make your request as early as possible, preferably at your first appearance. (See page 10 for more information on what happens at your first appearance.)

Your court information

Court Services Online is an online court registry for all BC Provincial Courts. You can look up your charge(s), court dates, and related information. Go to justice.gov.bc.ca/cso/index.do. Start by selecting Search Traffic/Criminal and click Participant Name.



Before your trial

There are several stages in the criminal court process before your actual trial. You need to get as much information as possible during this time so that you can defend yourself as well as possible.

This section has general information about different types of offences and the importance of getting legal advice. It explains the court procedures that will take place *before* your trial (your first appearance and arraignment hearing). It also outlines how to get information about the charge against you.

What am I charged with?

A document called the **Information** is the official court form listing your charge (offence) and the date and place it allegedly happened. It may contain more than one charge. The offence you're charged with may be different from what the police told you when you were arrested, and there may be *more* charges than what the police told you. In criminal cases, the Crown prosecutor (Crown counsel) decides what you're charged with.

Make sure you understand what kind of offence(s) you're charged with, and what the likely sentence will be (see page 7 for how to get the Information).

Summary offences

A summary offence is a less serious offence. You can sometimes be considered for **alternative measures** (also called diversion) for these types of crimes. (This means you may be able to avoid going to trial and won't have a criminal conviction. See page 15 for more details). The penalty for most summary offences is up to two years less one day in jail and/or up to a \$5,000 fine.

Indictable offences

An indictable offence is a more serious type of offence. Indictable offences range from theft of more than \$5,000 and break-and-enter to robbery, aggravated sexual assault, and murder.

If you're convicted of theft of more than \$5,000, you could be sentenced to up to 10 years in prison. Robbery or aggravated sexual assault could mean up to life in prison. The minimum penalty for certain offences involving the use of a firearm, even for the first offence, may be up to five years in jail in some cases. A conviction on a first-degree murder charge carries a mandatory minimum sentence of life in prison with no chance of parole for at least 25 years.



Note: "Hybrid" offences are ones that can be dealt with as either summary or indictable offences. If you've been charged with a hybrid offence and you hear that the prosecutor is planning to treat your crime as an indictable offence, get legal help immediately (see page 2).

What are my rights?

You have legal rights. If you're arrested or detained by police, the police must:

- tell you the charge you're being arrested or detained for,
- tell you that you have the right to talk to a lawyer as soon as possible, and
- give you the chance to speak to a lawyer on the phone. You may speak to any lawyer of your choice who'll accept your call (but may charge a fee). A free lawyer is also available on the Brydges Line phone service, 24 hours a day. The police should let you call the Brydges Line while you're in custody if you don't have or can't reach a lawyer of your choice.

You also have the right:

- to remain silent,
- to be presumed innocent until proven guilty in court,
- to get a fair trial, and
- to have your trial within a reasonable time.



Remember: It's up to the prosecutor to prove your guilt.

What can a lawyer do?

A lawyer can give you specific advice on:

- the **evidence** the Crown prosecutor plans to use and what they have to prove;
- whether talking with the Crown prosecutor about how you could plead will get you a better result than a trial;
- whether you can object to the use of any of the Crown prosecutor's evidence (see page 21);
- whether any of your rights under the Charter of Rights and Freedoms have been violated, and if so, how this might affect your trial (see page 22);
- how to present your evidence or gather further evidence, including expert evidence;
- legal arguments;
- options to consider for possible sentencing by the judge; and
- whether you should **testify** (tell your story).

A lawyer can also:

- explain the **disclosure** and the **Information** (see the next section),
- tell you about alternative measures (see page 15),
- help you get a stay of proceedings (see page 14), or
- help you **speak to sentence** (see page 27).

If you have questions about any of these matters, write them down as you prepare for your meeting with the lawyer. (Make sure to take notes *at* the meeting.)

Here are some other things you can do to prepare:

- Get a copy of the Information and the disclosure and read them carefully before you go to the lawyer.
- Write down what happened while it's still fresh in your mind.
- Read the rest of this booklet.

How can I get information about my case?

For each criminal case, the Crown prosecutor puts together the disclosure that will be used in the trial. In the disclosure, you should get:

- the Information (the document about the charge),
- the Crown's **initial sentencing position (you'll need this for your legal aid application)**,
- a summary of the Crown's case, and
- statements from witnesses.

The prosecutor puts the disclosure into a package and gives you a copy when you go to court. If you don't get the disclosure at your first appearance, ask the prosecutor how to get it.

If you want to try to get the disclosure before your first appearance, call the prosecutor's office (the Crown counsel office) and tell the receptionist that you would like "the disclosure, including any statements." Ask for a copy of the Information and the Crown's initial sentencing position (or ISP). Be sure to mention that you're going to court without a lawyer. You can also ask for the disclosure by writing an email or letter like the sample on page 31 (Appendix 3).

If you've asked for your trial to take place in French or you plan to do so, you can write to the Crown prosecutor's office in French and ask for a translation of the disclosure. You may have to ask the judge to order the prosecutor to give you a translation.

If the Crown prosecutor is asking for a jail sentence in their initial sentencing position, re-apply for legal aid. Be sure to tell the legal aid staff that the prosecutor is asking for jail.



When should I go to court?

You'll receive a notice that tells you

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

If you're arrested, the police will give you a notice called a "promise to appear" or an "undertaking to appear." Or a judge (or justice of the peace) will give you a "release order" after you're released from custody.

If you're charged with a crime but not arrested, you'll later get a summons. This is a document that orders you to appear in court.

You *must* go to court at the time and date on the notice or the summons.



Remember: If you don't show up in court when the document tells you to, you may be charged with another offence called "failure to appear." The court may also issue a "bench warrant" for your arrest. If you're arrested, you might not be released while you wait for your trial.

If you miss your court date, go to the registry as soon as you get to the courthouse. Explain to the staff there that you missed your court date, and they'll tell you what to do. If there's a warrant for your arrest because you missed your court date, it could take some time to deal with the situation. If duty counsel is available, ask for their help.

Who are the people in court?

This section describes the people you'll see in court and their jobs.

Judge

The judge sits at the front of the room at a raised desk. They usually wear a black legal robe and face you. Always call the judge "Your Honour."

The judge decides if you're guilty or not. If you plead guilty or are found guilty after a trial, the judge also decides your sentence (punishment).

Judicial case manager

The judicial case manager (also called a JCM) sits at the front of the courtroom. A judicial case manager will likely be in charge at your first appearance and your arraignment hearing. While they don't have all of the same powers as a judge, the judicial case manager can issue warrants, record not guilty pleas, and fix trial dates.

The judicial case manager may also be a justice of the peace.

Prosecutor (the "Crown")

The Crown prosecutor (also called Crown counsel) presents the case against you. They usually sit at a table at the right-hand side of the courtroom, facing the judge or judicial case manager. The prosecutor is called the Crown and the case they present is often called the Crown's case.

Court clerk

The court clerk sits in front of the judge or judicial case manager. The court clerk calls the court to order, hands exhibits (physical evidence, such as papers) to the judge or judicial case manager, calls the witnesses, and writes down court orders.

Sheriff

Sheriffs make sure courtrooms are safe. At every appearance, introduce yourself to the sheriff when you arrive. Later, the sheriff will likely be the one to call your name and let you know when it's your turn to come forward.

You (the accused)

In the courtroom you may be called the accused instead of by your name. When your case is called, you sit at a table facing the judge or judicial case manager. Usually, the table is on the left-hand side of the courtroom.

Witnesses

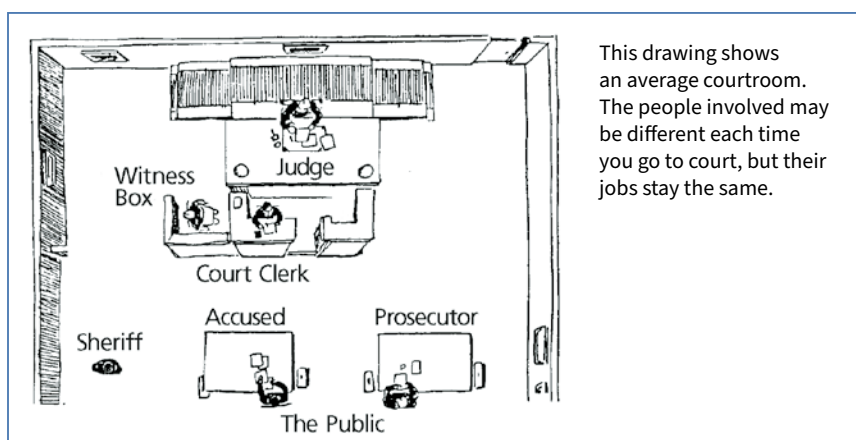
The first times you go to court, there won't be any witnesses. Later, if there's a trial, there'll be witnesses brought to court by the prosecutor (Crown witnesses), and defence witnesses that you bring to court. Witnesses for both the Crown and defence are brought to court to tell what they know about the circumstances leading to the charge. What they say under oath is called their evidence.

During a trial, witnesses may be directed to leave the courtroom until it's time for them to give evidence. If no one else requests this, you may ask the judge to "exclude the witnesses." This means all witnesses are asked to stay outside the courtroom until it's their turn to testify. As the accused, you have the right to be in the courtroom at all times, even if you're going to be a witness yourself.

Witnesses sit in a waiting area until they're called into the courtroom. Witnesses give evidence from the witness box at the front of the courtroom. The witnesses can sit in the public seats when they've finished. If you give evidence, you also use the witness box.

Public

Members of the public are allowed to come and watch trials. There are rows of seats for them at the back of the courtroom. Before your case comes up, you can go to a courtroom and watch a trial so that you'll have an idea of what to expect when it's your turn to go to court.





Judges and other court staff expect you to be prepared for your court appearances. Here are some tips on how to act in court:

- Be quiet (and tell your witnesses to be quiet too).
- Arrive on time.
- Don't chew gum.
- Dress as though you're going to an important job interview.
- Turn off any mobile devices.
- Speak clearly and loudly enough to be heard.
- Stay calm.
- Be polite.
- Be respectful towards the judge and other court staff.
- Call the judge "Your Honour."

Always stand when you speak to the judge or when the judge speaks to you.

What will happen when I go to court?



Remember: If you don't show up in court when you're supposed to, a "bench warrant" may be issued for your arrest and you may be charged with another offence called "failure to appear."

There are two main steps in the Provincial Court criminal process *before* the trial:

- A. First (or initial) appearance
- B. Arraignment hearing

Sometimes, an appearance before a judge may be held after the arraignment hearing. This is described in:

- C. Other appearances

All these steps are explained below. A chart showing the steps before a trial is on page 29 (Appendix 1).

A: First (or "initial") appearance



Your first appearance isn't a trial — it's a starting point for dealing with the charge against you.

Your first appearance will usually take place in front of a judicial case manager in an initial appearance room. The Crown prosecutor will also be present. You must tell the judicial case manager what you plan to do about the charge against you:

- You can say you plan to plead *not guilty* (and whether you plan to represent yourself or get a lawyer);
- You can say you plan to plead *guilty* (**do this only after talking to a lawyer**);
- You can say you need more time before you plead to apply for legal aid, speak to a lawyer, or review the disclosure (this is called an **adjournment** — see the next two sections); or
- You can ask for more information (disclosure) from the Crown prosecutor.

The prosecutor may also ask for an adjournment.

What should I do at my first appearance?

1. Go to the room listed on your appearance notice. There may be a line of other people waiting outside the room for their first appearances. Give your name to the sheriff or clerk and wait for your case to be called. In some courthouses, you may be able to go right into the courtroom to wait for your name to be called.
2. When your name is called, go into the room. If you need an interpreter, say so right away. The judicial case manager will ask you if you understand the charge against you and if you've talked to Legal Aid BC or plan to get a lawyer. If you aren't sure what you want to do and want more time to try to get a lawyer or talk to a legal adviser, ask for an adjournment.
3. Ask the prosecutor to give you the disclosure if you don't have a copy already (see page 6). The prosecutor must give you any information that the Crown has relating to your case. If you get the disclosure at your first appearance, check whether the Crown prosecutor is asking for a jail sentence if you're *found* guilty or if you plead guilty. This will be on a form called the Crown's initial sentencing position (see page 7). When you get this piece of paper, ask the judicial case manager to explain anything in it that you don't understand.
4. **If the prosecutor is asking for a jail sentence if you plead guilty or if you're found guilty, ask for an adjournment so you can re-apply for legal aid. Be sure to tell the legal aid staff that the prosecutor is asking for a jail sentence.**
5. The judicial case manager may ask if you intend to plead guilty. *You don't have to make a decision at this stage*, and you shouldn't unless you know the Crown's position on sentencing and you've spoken to a lawyer.
6. If you're sure you want to plead *guilty* and deal with sentencing right away, tell the judicial case manager and your case will be transferred to a courtroom that day if a judge is available. If a judge isn't available, or if you want more time to prepare for sentencing, the judicial case manager will set another court date for you to enter your guilty plea and receive your sentence from the judge. For more information on pleading guilty and sentencing, see page 13. **Don't plead guilty before speaking to a lawyer.**
7. If you plan to plead *not guilty*, tell the judicial case manager that you want to set a date for an arraignment hearing, where you'll plan a date for your trial. (See B: Arraignment hearing on page 15.)
8. You might do this 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 are free to come back to court for the arraignment hearing.
9. Tell the judicial case manager if you want your trial to be conducted in French instead of English. They should tell you at your first appearance that you have this option. You should also indicate if you or any witness needs an interpreter for any other language, including American Sign Language.

Can I ask for more time?

If you want more time to get legal advice or information, ask the judicial case manager for an adjournment at your first appearance. The judicial case manager can adjourn (postpone) your hearing to give you time to see Legal Aid BC or talk to a lawyer.

If the judicial case manager orders an adjournment, your next court date could be up to a week or two later. You must come back to court at the date and time set for your next appearance.

You can also ask for an adjournment at a later court appearance, but this may be harder to get. Usually a judicial case manager or judge will only grant you an adjournment at a later stage in the court process if:

- you want to discuss your case with a lawyer, or if you think that you'll get a lawyer;
- you've found out that the prosecutor is asking for a jail sentence if you're found guilty. If this happens, ask for an adjournment to have Legal Aid BC reconsider your application; or
- you've applied for legal aid but haven't heard back yet, or you've been approved for legal aid but haven't yet spoken to the lawyer.

Ask the prosecutor for a record of the fact that they're asking for a jail sentence, called an initial sentencing position. Take that information to Legal Aid BC.



If you're Indigenous

Remember: You can ask the judge for time to have a Gladue report prepared for you. See *Are you Indigenous?* at the start of this booklet.

What if I want to plead guilty?

Usually you shouldn't plead guilty before you have a chance to review the Crown's case against you and have spoken to a lawyer. A guilty plea means that:

- you accept responsibility for the offence you're charged with,
- you agree with the prosecutor's summary of the facts of the offence, and
- you understand the consequences of pleading guilty.

Be sure you understand the different penalties you may face. If you have any questions about the charge or the potential penalties, speak to a lawyer.

You can plead guilty although you disagree with the prosecutor's summary of the facts: for example, you agree you're guilty of an assault by a push, but the prosecutor says it was a punch. Even though both are an assault, one could mean a stricter sentence. If you plead guilty but say you disagree with the prosecutor, the judge will ask for evidence and decide whose version is right before sentencing you.

Speak to the Crown prosecutor first

To help you decide on a plea, you can ask the Crown prosecutor what sentence they'll ask for if you plead guilty. This information will be in the Crown's initial sentencing position (see page 7).

Sometimes the prosecutor will change the Crown's position on sentencing if you can give good reasons why you should get a different sentence.

For instance, if you need to look after your family and you have a job, the prosecutor might agree to a sentence that wouldn't interfere with your work. Or if you're charged with more than one offence, the prosecutor may agree to drop some of the charges if you plead guilty to other charges.

You can ask about these things by contacting the prosecutor's office (the Crown counsel office) or by speaking to the Crown prosecutor in person before your next court appearance. You're allowed to call the Crown counsel office at any time. But speak to a lawyer before speaking to Crown counsel.



Remember, the judge makes the final decision about what sentence you receive, and it may be different from the Crown prosecutor's recommendation.

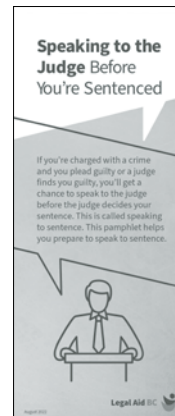
Speak to the judge in court

If you're going to plead guilty, be prepared to speak to sentence. See *Speaking to the Judge Before You're Sentenced* to help you with this process. (See the back cover to find out how to read this online.)

Here's what you need to do when you plead guilty:

1. Go to the courtroom you were told to go to.
2. When your case is called, go to the accused's table.
3. When the judge asks if you're prepared to plead, say that you're ready.
4. Plead guilty. (Note: The prosecutor will tell the judge about the facts of the case, and say whether you have a previous history of criminal offences.)
5. Speak to sentence: tell the judge about yourself and what you think the appropriate penalty for the offence should be.

After you've pleaded guilty and been given the chance to speak to sentence, the judge will sentence you. You'll have to go to the registry office and sign a copy of the order.



If you're Indigenous

Remember: You can ask to be sentenced in a First Nations/Indigenous Court. See *What Are First Nations/Indigenous Courts?* at aboriginal.legalaid.bc.ca (click Courts & Criminal Cases then First Nations Courts) for more information.

What if I change my mind?

It's always possible to change your plea from not guilty to guilty. However, *once you plead guilty, you may not be able to change your plea.*

If you've entered a guilty plea but haven't been sentenced, you can ask the judge to let you withdraw your guilty plea. However, your request may be refused. After sentencing, the only way to change your guilty plea is through an appeal, and it'll be hard to do.



Remember: At any point in the court process you can decide to plead guilty or ask for an adjournment. When you first find out that you've been charged with an offence, you may also be able to get a stay of proceedings or alternative measures (see below).

Can I avoid going to trial?

In some instances, you may be able to get a "stay of proceedings." This means that the judge or the prosecutor stops the case from going ahead.

A stay of proceedings happens only for certain reasons — for instance, if the police somehow violated your Charter rights or the prosecutor decides that prosecution isn't in the public interest. Talk to a lawyer for more information about getting a stay of proceedings.

Can I avoid getting a criminal record?

Sometimes cases are dealt with through alternative measures (also called diversion). Instead of going to trial, you report to a probation office and follow a program set out for you.

If you follow through with the program, you won't face criminal penalties or get a criminal conviction because the charges will be withdrawn by the Crown.

You may be eligible for alternative measures if:

- the charge against you is minor (especially if it's your first offence),
- you take responsibility for your actions and don't deny your role in the offence,
- you're aware of your rights and willingly agree to participate in the alternative measures, and
- you don't want to deal with the charges in court.

If the prosecutor agrees to recommend you for alternative measures and the probation office accepts you, you'll need to successfully carry out the conditions of an alternative measures contract. This may include community service work or counselling. *You must go to all your court appearances until you're told you no longer have to come back.* If you don't successfully finish your alternative measures program, the prosecutor can restart the case against you.

B: Arraignment hearing

At the arraignment hearing, some of the things that'll be discussed are:

- whether the prosecutor is proceeding summarily or by indictment;
- whether the prosecutor has made full disclosure (given you all of the information you need, like witnesses' statements);
- the number of police, expert, and other witnesses that the prosecutor plans to call if your case goes to trial;
- the time estimate for the prosecutor's case; and
- whether an interpreter is needed.



Even though you're representing yourself, try to get some legal help. A lawyer can help you understand what your options are. See page 2 for information about getting free legal help.

The arraignment hearing will likely be handled by a judicial case manager. At the hearing, the judicial case manager will ask you how you want to plead. At this point, you have three options. You can:

- plead guilty (before a judge),
- plead not guilty and set a date for your trial, or
- ask for an adjournment.

What should I do at my arraignment hearing?

1. Go to the courtroom listed on the slip you received at your first appearance. Bring paper and a pen or pencil. Tell the sheriff that you're present. When your name is called and you're told that your case is next, go to the accused's table (see the drawing on page 9).
2. The judicial case manager will ask you if you understand the charge. If you don't understand, ask for an explanation. If you need an interpreter, ask for one now. If you have any other questions, you can ask the judicial case manager.

The judicial case manager will ask if you have a lawyer or if you plan to get one. The judicial case manager can adjourn the hearing to give you more time to talk to a lawyer.

3. The judicial case manager will ask the prosecutor for information about the case. You may want to make notes about what the prosecutor says. If you have any questions about what the prosecutor says, ask the judicial case manager. For example, if you think the prosecutor hasn't given you all of the information about the case, you can tell the judicial case manager that you want further disclosure.
4. The judicial case manager will ask you questions about what you plan to do. This may or may not include your plea. You have the right to know the evidence against you before you decide how to respond. If you're asked for your plea and you're still not sure what you want to do, ask for an adjournment so you can speak to a lawyer.
5. If you want to plead *guilty*, a judge may take your plea and deal with sentencing right away. Or the judicial case manager may tell you to come back another day for plea and sentencing in front of a judge. For more information on pleading guilty and sentencing, see page 13.
6. If you want to plead *not guilty* (and have your case go to trial), the judicial case manager may ask you some questions, such as whether you plan to call witnesses and how many.

If you or a witness need an interpreter at the trial, confirm that one will be provided. If you've asked to have your trial take place in French, confirm that a French-speaking judge and prosecutor will be assigned.

This hearing deals only with basic things such as witnesses, interpreters, how long the trial might take, etc. You shouldn't have to discuss your evidence or the facts of your case.

The judicial case manager may ask if you're willing to admit any of the points the prosecutor must prove as part of the Crown's case. (If you admit one of these points — called admissions — the prosecutor doesn't need to call evidence to prove it.) It's best not to admit to anything unless you've spoken to a lawyer.

You have the right to not give any answers that could work against you. Don't say anything that might later be held against you. If you're unsure about whether or not to answer a question, ask to speak to a lawyer.



Remember: Don't admit to anything without talking to a lawyer. You have the right to remain silent and the right to consult a lawyer in confidence.

7. If the judicial case manager thinks the case is ready for trial, a trial date will be set. This may be done in court, or you may be told to go to the judicial case manager's office to get a date when a judge and a prosecutor are available.

You have the right to have your trial within a reasonable time. When the trial date is given to you, you have to provide a response. You can reply with the statement, “Without giving away my right to object to a delay in the future, if that is the earliest date the court has available, I agree.” This statement is especially important if the trial date is a long time in the future. By giving this response, you aren’t agreeing that the trial date is reasonable, in case you want to object later. (Be sure to write down the date.)

You must return to court for your trial on that day.

C: Other appearances

The judicial case manager may decide that it’s necessary to have a pre-trial conference. This is an “interim” appearance before a judge before the trial date to confirm that everything is ready for the trial. The date for this type of appearance would be set at the arraignment hearing.

Or, after the arraignment hearing, the prosecutor may be concerned if the trial is delayed or may have concerns about some other issue. The judicial case manager may agree that an appearance before a judge is necessary to deal with those concerns. You’ll be contacted and given a date if you have to come back to court for this type of appearance.

There’ll only be a trial if you want to plead not guilty.



Checklist: Before your trial

Use this checklist to prepare for each of the court appearances *before* your trial. See the chart on page 29 (Appendix 1) to help you understand this court process.

You can ask for an adjournment at any court appearance — but the judicial case manager (or a judge) will only grant this if you have a good reason for the request. The closer you are to trial, the harder it'll be to get an adjournment.



Remember: If you don't show up in court, a “bench warrant” may be issued for your arrest and you may be charged with another offence called “failure to appear.”

At your first appearance

- ☐ Get the following documents from the prosecutor and read them carefully:
 - the disclosure, including
 - the Information, and
 - the Crown's initial sentencing position.
- ☐ Tell the court that you want to plead not guilty.
- ☐ Ask the judicial case manager to set a date for the arraignment hearing. (You may need to come back to court to do this.)
- ☐ Ask for an interpreter — or tell the court that you want your trial to be conducted in French instead of English — if this applies to you.

Before your arraignment hearing

- ☐ Ask for a list of the prosecutor's witnesses (if you don't have this yet).
- ☐ Start to think about what evidence you'll use to support your side of the story. (There may be information for your particular charge in the *Defending Yourself* series. See page 4.)
- ☐ Decide if you have witnesses that can help you. Make plans to get your witnesses to come to trial. See page 25.

At your arraignment hearing

- ☐ Take notes when the prosecutor presents information about your case.
- ☐ Answer the judicial case manager's minor procedural (“housekeeping”) questions about what you plan to do at your trial. Remember that you don't need to offer any information that could work against you.
- ☐ Answer the judicial case manager's questions about how you've prepared for your trial. Remember that you don't have to discuss your innocence and shouldn't admit to anything before speaking to a lawyer.

- ☐ Ask the judicial case manager to order the prosecutor to give you any documents relevant to your case that they have but haven't yet provided to you.
- ☐ Tell the judicial case manager you want to set a date for your trial.

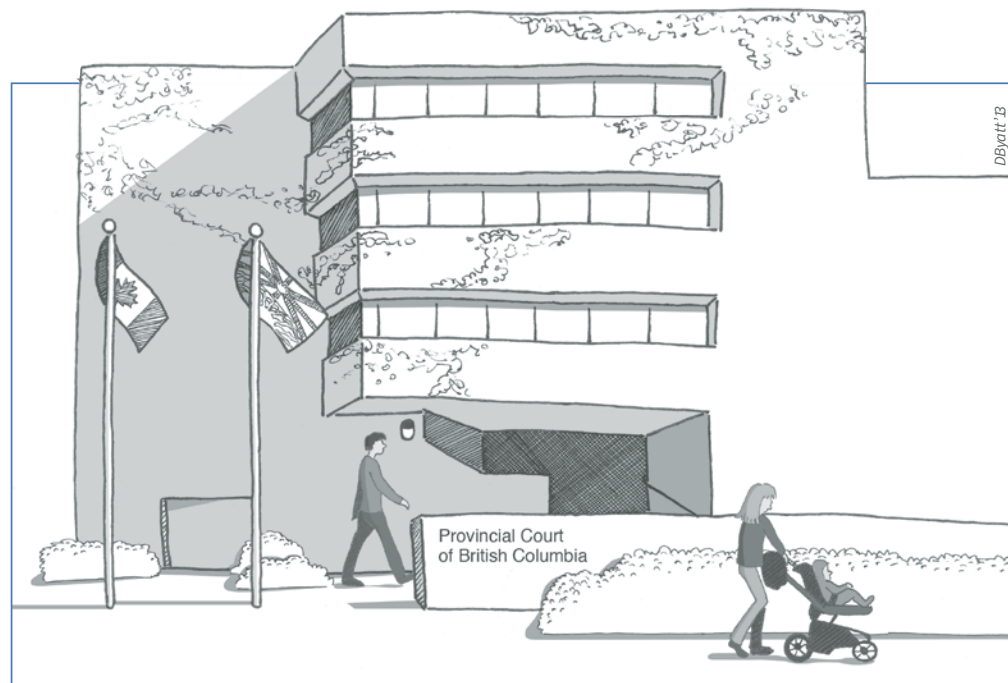
Before your trial

- ☐ Talk to a lawyer to get advice about your case. Ask the lawyer about the prosecutor's evidence and whether you can object to it (challenge it) before it's submitted. See page 21.
- ☐ Think about what questions you might ask each Crown witness. See page 22.
- ☐ Get advice from a lawyer about whether you should testify (speak yourself). See page 23.
- ☐ Think about what questions you'll ask your own witnesses, and make notes of which to ask whom. See page 25.
- ☐ Tell your witnesses what to expect at the trial but *don't tell them what to say*. (You can't "tamper" with a witness's evidence.) Make sure they know where to go and how to get there. If necessary, **subpoena** your witnesses (order them to come to court). See page 25.
- ☐ Get advice about what written evidence or documents might be useful. See page 26.

Get legal help first

Remember that even if you've been denied legal aid, the following legal help may be available to you. See page 2 for more information.

- Duty counsel
- Pro bono programs
- Law clinics
- Lawyer Referral Service
- Native Courtworker and Counselling Association of BC
- Private practice lawyer





At your trial

Your trial is the next step in the criminal court process, after you've:

- been to your first appearance and arraignment hearing, and
- contacted a lawyer for legal advice.

This section explains what you need to do during your trial. To find out about defending yourself, see if there's information about your particular charge in the series on page 4.



Before your trial date arrives, you can go to court and watch some other cases. You'll see how the court works, where everybody sits, and what different people say and do. If you visit the court before you have to appear yourself, you'll be less nervous when you go to court for your own case.

What will happen at my trial?

A trial is held if you say that you're not guilty. Remember that you're innocent until proven guilty beyond a reasonable doubt. It's up to the prosecutor to prove your guilt. If the prosecutor doesn't do this, the judge will acquit you (make a legal decision that you're not guilty).

You have the right to a fair trial. Listen carefully and ask the judge to explain anything you don't understand. The judge has a duty to help you understand the process to ensure a fair trial, but the judge can't be your lawyer.

The following section outlines the steps involved in Provincial Court trials. See page 30 (Appendix 2) for a chart that shows these steps.

There are seven steps in every criminal trial:

1. The case is called.
2. The trial begins.
3. The judge makes the "exclusion of witness order" if asked by either the Crown or you.
4. The Crown prosecutor presents the Crown's case. You may **cross-examine** (question) each witness called by the prosecutor.
5. You present your case by calling your witnesses and possibly speaking yourself (testify). (You're now called "the defence.") You don't have to testify as your own witness and give evidence; ask a lawyer whether you should do this. The prosecutor can cross-examine your witnesses.
6. Both you and the prosecutor make closing **submissions** to the judge. This is where you argue why you should be acquitted (declared not guilty).
7. The judge makes a decision.

The next section tells you how to prepare for each step.

1. The case is called

You sit in the public seating at the back of the courtroom, along with any witnesses that you bring. The prosecutor calls your name. You stand and go to the accused's table (see the drawing on page 9). You introduce yourself to the court.

2. The trial begins

The judge asks you if you're ready to begin the trial. You stand and say, "Yes, Your Honour." The judge asks the prosecutor the same question. If you're both ready, the trial begins. You can sit down.

Sometimes the prosecutor isn't ready to start the trial. For example, maybe a key Crown witness didn't come to court. The prosecutor may ask the judge to adjourn the trial. If this happens, you shouldn't agree to an adjournment. Instead, ask the judge to dismiss the charges. The judge may or may not agree with you.

3. Judge makes an exclusion order

The prosecutor usually reminds the judge to make an exclusion of witness order. This means that all of the witnesses wait outside the courtroom. This is to make sure that witnesses won't hear what other witnesses say (and maybe change their own story, even without realizing).

Tell your witnesses ahead of time about the exclusion order so that they'll know what to expect. If you decide to testify as your own witness, the exclusion order doesn't apply to you. As the accused, you have the right to remain in the courtroom to hear all the evidence.

If the prosecutor doesn't ask for the exclusion order, you can ask for one by saying, "Your Honour, I ask for an exclusion order." It's usually a good idea to do this.

4. The prosecutor presents the Crown's case

The prosecutor presents the Crown's case. To convince the judge that you're guilty, the prosecutor must prove that:

- you're the person charged,
- you committed the offence,
- you intended to do it, and
- the offence took place within the court's jurisdiction.

Remember that the prosecutor is counting on the evidence of the Crown's witnesses to try to prove that you're guilty.

The prosecutor might also use written evidence, such as a breathalyzer test certificate, a drug analysis certificate, or other documents. Before your trial, ask a lawyer if you can expect this kind of evidence and what, if anything, you should do about it.

Each witness for the prosecutor stands in the witness box and swears or affirms to tell the truth. Then the prosecutor asks them questions. Often, the main Crown witnesses are the complainant (the "victim") and the police officer who handled the investigation.

Write down the main points each witness makes. Note anything that you want to question later when you get to ask the witness questions.

Sometimes, the police don't follow the rules and end up violating your Charter rights. For example, they might have taken your statement or collected a breath sample before they let you talk to a lawyer. Or they might have searched you without a legal reason to do so, or searched your house without a warrant. If this happened, you can object to the evidence that the police collected because they violated your rights.

The judge may decide to hold a mini-trial within the trial to deal with the issue. This is called a "voir-dire." You may need to call witnesses or testify yourself at the voir-dire. **It's important to talk to a lawyer before the trial if you plan to say your Charter rights were violated,** because you need to tell the prosecutor about it ahead of time. If the judge excludes (throws out) the evidence at the voir-dire, it's as though the witness didn't testify and the evidence doesn't exist. No one can refer to the evidence.

Can I question the Crown's witnesses?

As each Crown witness finishes giving evidence, you have a chance to ask them questions (cross-examine).

Whether you should cross-examine each witness depends on what evidence the witness gives when questioned by the prosecutor. You don't have to cross-examine the Crown's witnesses. In fact, if you agree with the witness, it's best not to cross-examine. But if you think it's going to help your case, you can cross-examine any Crown witness.

Here are some examples of when you might want to cross-examine a witness:

- If the witness said something you don't agree with.
- If the witness didn't mention something that you know would help your case.
- If the witness gave a different version of the events in a statement to a police officer or any other person.
- If you think the witness wasn't sure of the facts or that the evidence given was weak.
- If you think the witness may have made a mistake.
- If the witness said things that are different from the information you have in the disclosure.



There are some important things to remember when you cross-examine:

- Think carefully about the questions you'll ask. Make sure they're related to what you're charged with.
- Don't argue — losing your temper or being rude to a witness won't help your case.
- Tell your version of what happened to a witness who contradicts your version.

When you cross-examine a witness, how you word your questions is very important. When the prosecutor questions their *own* witness, the question can't suggest what kind of answer the prosecutor would like. For example, the prosecutor must say, "At what time did you see the offence occur?" and not "You saw the offence take place at 9 a.m., didn't you?" This is called a leading question and you can object if the Crown prosecutor uses one.

However, when *you* cross-examine them, you can express your question to try to get the answer you want. For example, you could say, "It was dark at 10 p.m. on August 19, wasn't it?" Leading questions are allowed in cross-examination.

But be careful to use cross-examination only to point out weak spots. You don't want to get witnesses to repeat evidence that hurts your case, that they're sure of.

In some cases, the judge won't allow an accused to cross-examine a witness who is the alleged victim. If this happens, the court will appoint a lawyer to cross-examine that witness at no financial cost to you, the accused.

How do I prepare my questions?

The disclosure tells you the basic facts that the prosecutor will use in court. Think about the offence you're charged with. Who was there? What could each person see or hear?

Review the prosecutor's list of witnesses or make a list of possible witnesses and write down what they each saw and did at the time of the offence. Don't forget police officers. If they were involved, the prosecutor will certainly use them as Crown witnesses.

Think about what each witness could say about the offence and make notes. Now think of questions that you can ask to point out any weak areas in the evidence. Be careful. Lawyers often say that asking too many questions in cross-examination is dangerous.

You may ask the Crown prosecutor to provide the criminal record of a Crown witness *if it's relevant to your defence* (for example, if it relates to their lack of credibility as a witness). Make sure to do this *before* your trial.

The prosecutor must try to prove to the judge that you're guilty beyond a reasonable doubt. If the judge has a reasonable doubt, you'll be found not guilty. You want to ask cross-examination questions that make the judge doubt the prosecutor's witnesses.



Remember: When you cross-examine the Crown witnesses, you can ask leading questions that suggest the answer you want.

5. You present your defence

So far in the trial, the judge has heard the prosecutor's side, and you've had a chance to cross-examine the Crown witnesses. Now you present the defence case with your own witnesses if you have them, any documents you have, and with your own testimony (if you wish to speak yourself). A document usually has to be presented to court by a witness to confirm that it's real. When you finish presenting your defence, the prosecutor has a chance to cross-examine your witnesses.

You may be able to use information from the *Defending Yourself* series to help you prepare your defence (see page 4).

Should I testify?

You have to decide whether to testify (speak). You should make this decision with the help of a lawyer before the trial. Remember that you have a right to remain silent and can't be made to testify — it's up to the prosecutor to try to prove that you're guilty. If the case against you isn't strong, there may be no need for you to give evidence. Remember that if you decide to testify as your own witness, you must speak under oath. This means you must tell the truth; lying in court is a criminal offence. Make sure you discuss this with a lawyer because sometimes testifying can hurt your case.

What are the advantages of testifying?

- It's your only chance to explain what happened. You may be the only witness who saw what happened.
- You may have seen something no one else saw or could see.
- You may know facts no one else knows.
- You can explain why you said or did something.
- You can show that you couldn't have committed the offence you're charged with. (This is called "alibi" evidence. You must tell Crown counsel about this evidence before your trial. If you plan to give alibi evidence at your trial, speak to a lawyer first.)
- What you say happened may be totally different from the version of events that the prosecutor's witnesses tell.

What are the disadvantages of testifying?

- The prosecutor can cross-examine you.
- The prosecutor will point out any weak spots in your evidence.
- If you have a criminal record, the prosecutor can ask you questions about it. (If you don't testify, the prosecutor can't ask you if you have a criminal record or mention it during the trial.)
- The prosecutor may ask you about things you don't want to talk about, and you'll have to answer.



Get legal advice about testifying, especially if you have a criminal record.



Can I use other witnesses?

You may want to call your own witnesses. If you do, you must question them without leading questions, which means your questions can't suggest that you want a particular answer (see also page 23). For example, you can ask, "Were you with anyone on the night of August 19?" but you can't ask, "We were together on August 19, weren't we?" You can ask, "How fast was I driving?" but not, "I wasn't driving over 50 kilometres per hour, was I?"

The prosecutor can cross-examine each witness after you've finished your questions. The prosecutor will try to show weak spots or points that your witnesses aren't sure of, just as you did with the Crown witnesses.

How do I prepare my own witnesses?

Before the trial date, talk to your witnesses separately about what happened and what you'll ask in court. Explain that while under oath, they must answer your questions truthfully and that you can't suggest what they should say.

Your witness must have actually seen or heard what happened. A witness can't just say what other people said. The court is interested only in facts, not the beliefs or opinions of the witness. A witness must have witnessed something and be prepared to give evidence, under oath, in court.



Remember: You can't ask your *own* witnesses leading questions. Each witness must give their own version of what happened, and this shouldn't be memorized.

If you have any doubt that your witnesses will show up on the trial day, you have the right to order them to come to court. Go to the sheriff's office at the courthouse at least three weeks before the trial. Ask for subpoenas (pronounced supEENaz) to give to your witnesses. A subpoena orders them to come to court at a specific time on the date of your trial. Many employers require their employees to have a subpoena before they're allowed to leave work to go to court.

Tell your witnesses that they'll be cross-examined by the prosecutor. Warn them that the prosecutor may confuse them or make them angry. Make sure they understand that this isn't personal, and that they should just stay calm, take their time, and answer truthfully. Remember to tell your witnesses that they'll be asked to leave the courtroom while the evidence of other witnesses is heard (see page 21).

How do I prepare my questions?

Make a list of your defence witnesses (just as you did for the Crown witnesses). What does each of your witnesses know? What can each of them tell the judge? Plan how to ask your questions. (Remember that you can't suggest the answers that you want to hear.)

Remember that the victim or "complainant" can't be your witness. But you or a court-appointed lawyer can cross-examine them after they testify. There's usually a court order that you can't communicate with the victim before the trial. If there's an order and you do contact them, you'll likely be arrested and charged with breach of bail.

Can I use documents as evidence?

Yes, you can use original documents as evidence. They should be common items such as government documents or business receipts. You may want to use a birth certificate, for example, or a receipt from a restaurant or store if a witness introduces the document. Ask a lawyer what written evidence might be useful and how you can use it in court. For some documents, you'll need a witness to testify that it's real before the court will accept it.

6. You and the prosecutor make submissions

When you've finished your case, both you and the prosecutor have a chance to say some final things to the judge (submissions). As the defence, if you decided to call witnesses (or use any documents) in your case, you'll give your submission first. If not, the Crown prosecutor will go first.

Here's what you need to do in your submission:

- Sum up all the points in your favour.
- Keep it brief.
- Don't bring up any new information. You can only speak about the evidence that was presented in court.
- Point out the weaknesses in the prosecutor's case, or if they failed to prove any of the required elements of the offence (see page 28). Remind the judge of any evidence the Crown witnesses seemed unsure about. Remind the judge if the Crown witnesses didn't agree with each other or contradicted themselves.
- Tell the judge why what your own witnesses said was more believable.

This is your last chance to show that the prosecutor hasn't proven that you're guilty beyond a reasonable doubt.

The prosecutor then makes their submission. They'll try to show the judge that you're guilty beyond a reasonable doubt.

How do I prepare my submission?

When you prepare your submission, think about what you'll tell the judge to show that you're not guilty. Write down the main points that you want to talk about in your submission. In court, remember to add any points that come up during the prosecutor's case.

7. The judge makes a decision

The judge considers all the evidence presented by both sides and then decides if you're guilty or not guilty. Sometimes the court adjourns for a few minutes or days before the judge gives the decision.

- If the judge says that you're not guilty, you're free to go.
- If the judge says that you're guilty, you've been convicted. The judge will then sentence you or adjourn the case to a later day to sentence you. This may happen if the Crown prosecutor, the judge, or you want a pre-sentence report. This report will provide more information about you, the accused.

You have the right to appeal your conviction. The appeal process has deadlines you have to meet, so speak to a lawyer immediately.



If you're Indigenous

Remember: Bring information that explains your circumstances. See the *Gladue Submission Guide* at aboriginal.legalaid.bc.ca for more information.

What can I do if I'm sentenced?

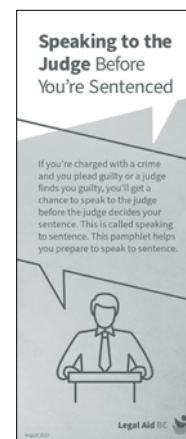
Before you're sentenced, you have a chance to speak. This part of the trial is called speaking to sentence. You and the Crown prosecutor will speak about what each of you thinks the sentence should be. When you speak to sentence, you tell the court anything about yourself and the offence that might convince the judge to give you a lighter sentence. This should include background information about yourself, such as:

- how old you are,
- where you live,
- your work experience, and
- anything else that shows your good character.

It makes sense to prepare to speak to sentence in case the judge decides that you're guilty. No matter how confident you are of winning your case, prepare what you would say if you were convicted and faced with sentencing.

If you're found guilty, you may be sentenced right after the trial. Be sure to read *Speaking to the Judge Before You're Sentenced* so that you'll know what to say if your trial reaches this point.

If you're convicted, you can ask for an adjournment to have the sentencing later that day or on another day. The judge doesn't have to give you an adjournment — so be ready to speak to sentence on the day of your trial.



Don't be discouraged, and don't plead guilty just to avoid a trial. Preparing your own trial is a lot of work, but you can do it and it's worth doing.

Checklist: At your trial

Use this checklist to guide you through your trial. Check off each item as you complete it. See page 30 for a chart that shows the court process at your trial.

To find out about defending yourself, read the *Defending Yourself* information about your particular charge (see page 4).

When the case is called

- ☐ If the prosecutor isn't ready to go to trial on the assigned date and requests an adjournment, ask the judge to dismiss the charges against you.

When the Crown presents its case

- ☐ Listen and take notes as the prosecutor presents the Crown's case.
- ☐ Write down any questions you may have about what the Crown's witnesses say.
- ☐ Cross-examine the Crown's witnesses (if you think that it'll help your case).
- ☐ Check whether the prosecutor has proven that:
 - through witness testimony, you're identified in court as the person who committed the offence,
 - you're the person charged,
 - you *intended* to do it, you *did* do it, and
 - the offence took place within the court's jurisdiction.

When you present your defence

- ☐ Testify (if you've decided to do this).
- ☐ Call your own witnesses for questioning.
- ☐ Use any documents that you've submitted as evidence.
- ☐ Present your submission.

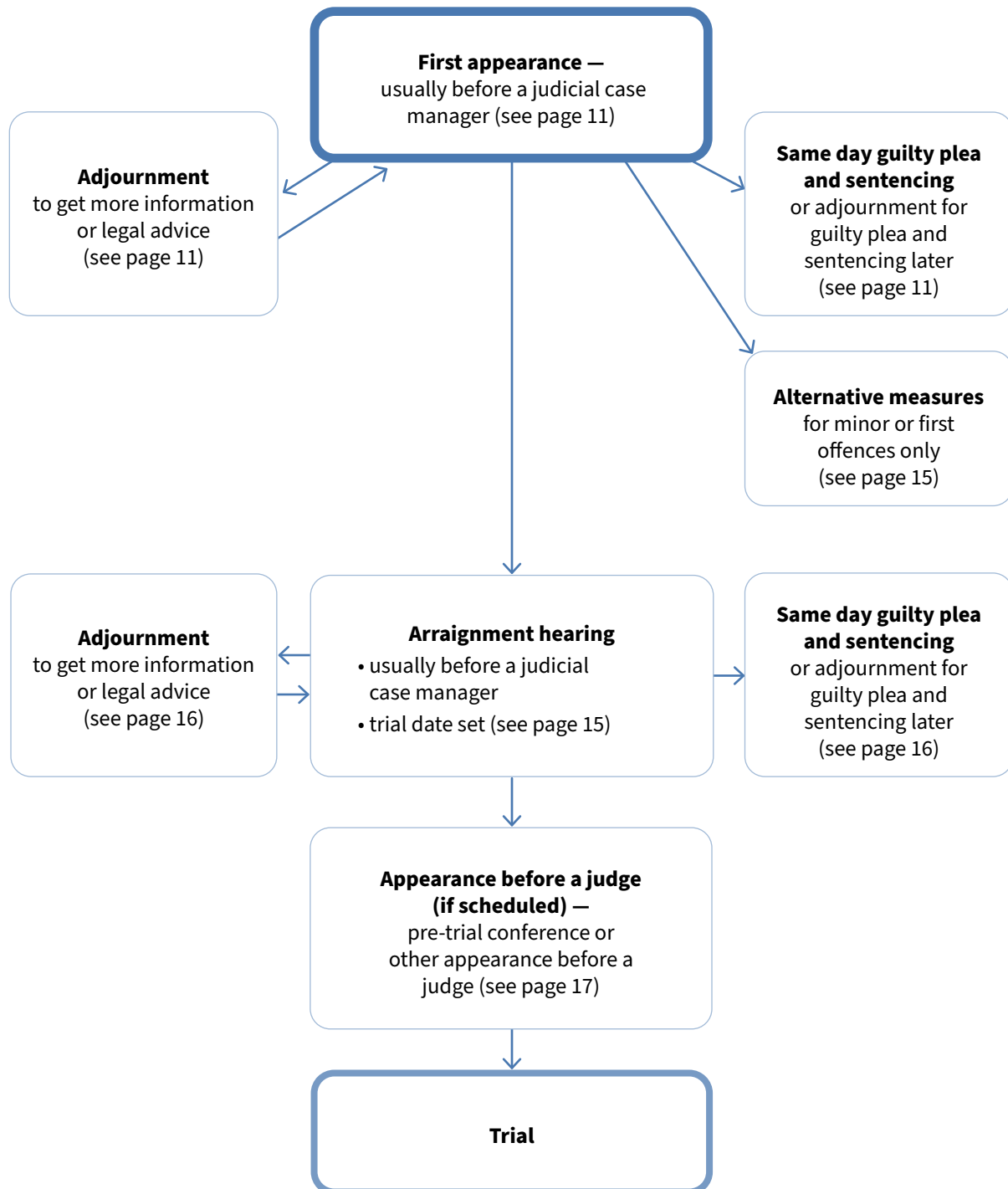
When the judge makes a decision

- ☐ If you're found guilty, speak to the judge before you're sentenced. To learn about this process, read *Speaking to the Judge Before You're Sentenced*.



Appendix 1

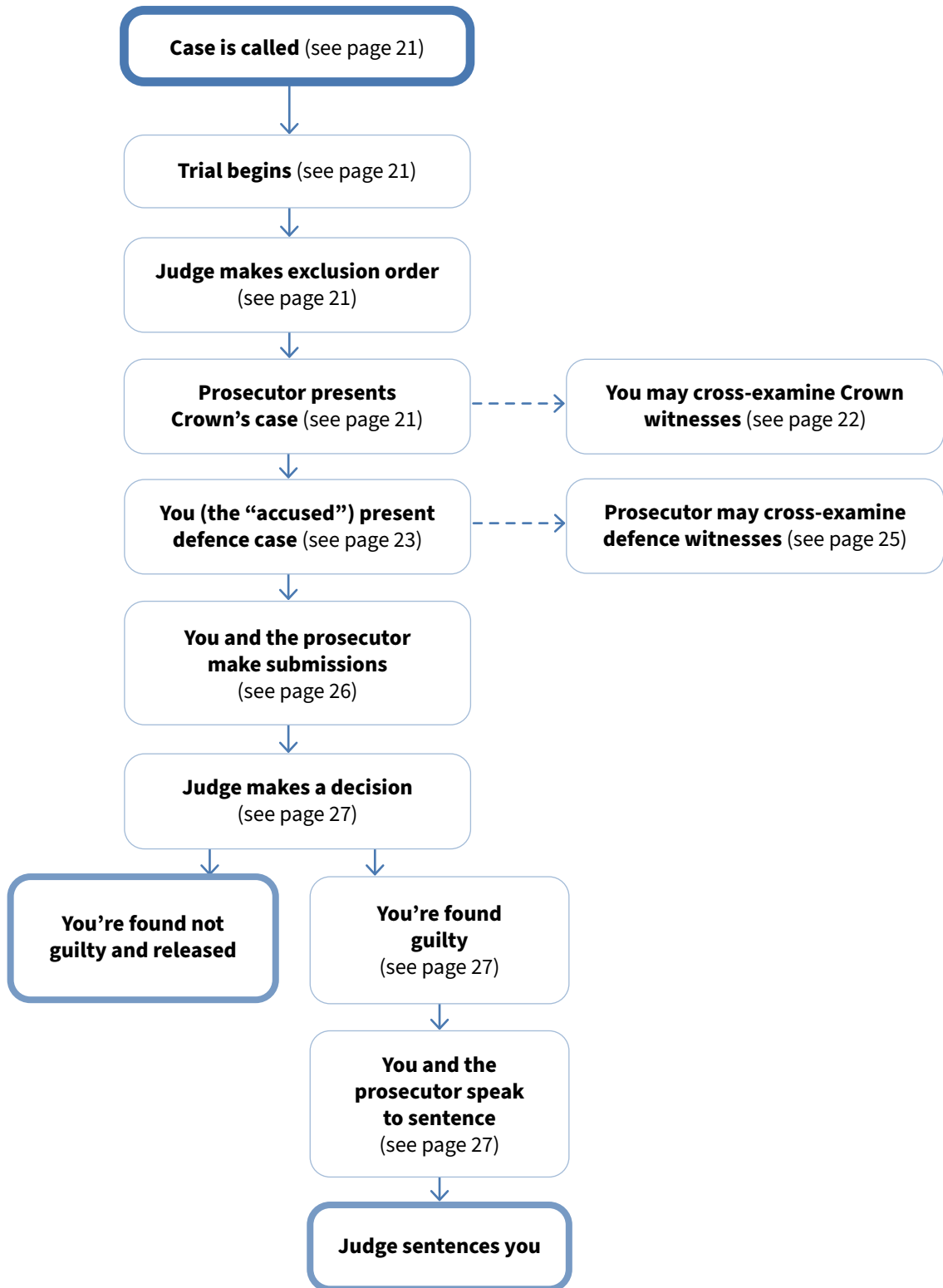
Court process — Before your trial





Appendix 2

Court process — At your trial





Appendix 3

Sample letter

[your name and address]

[date]

WITHOUT PREJUDICE

Crown Counsel

[add local courthouse address]

Dear Sir/Madam:

Re: Rex (the Crown) v. [your name]

Criminal charge: [write what you're charged with]

Court file #: [put in number from Information form]

I am the person named above and I am representing myself. According to section 7 of the Charter of Rights and Freedoms, I am entitled to receive information about my case. Please send me the following [if your trial will be conducted in French, write "translated in French" here]:

- A copy of the Information setting out the charge against me.
- A copy of any search warrant used in this matter, together with a copy of the information used to obtain the search warrant.
- A copy of any statement, confession, or admission allegedly made by me, whether written or oral, written down or summarized in police reports that the Crown has, has access to, knows about, or could find out about. This includes statements related to this case made to witnesses other than police officers at any time.
- Copies of written statements of anyone interviewed by the Crown or its agents in connection with this matter, whether or not the Crown intends to call them as witnesses in this case.
- The names of any witnesses the Crown intends to call in this case, including those who'll be either paid to testify or will receive some other benefit from the Crown in exchange for their testimony, and what that benefit will be.
- A copy of any alleged criminal record of mine and the criminal records of anyone the Crown plans to call as witnesses in this case.
- A copy of the Crown's initial sentencing position.
- Any material the Crown now has or obtains in the future from any source that could contradict the testimony of Crown witnesses, be favourable to me, become the foundation of a Charter rights argument, or affect the punishment.

I would appreciate receiving this information as soon as possible so that I can prepare for the trial.

Yours truly,

[your signature]



Glossary

adjournment

To postpone the court session so you have more time to get legal advice or information.

alternative measures

Also called diversion. Conditions set by the probation office that you agree to follow (instead of going to trial).

arraignment hearing

The court appearance where you tell the court how you plan to plead. If you plead not guilty at this hearing, you'll plan a date for your trial.

cross-examine

To ask witnesses questions after they've given evidence so you can point out weak spots or bring out a missed part.

disclosure

The information that will be used in the trial, including a summary of the Crown's case, what the Crown witnesses will probably say, and a copy of any statements made to the police (either spoken or written). Also includes the **Information** and the Crown's **initial sentencing position**.

evidence

A statement or object that provides information about the crime and is presented in court using witnesses, documents, audio or video recordings, and photographs.

first appearance

The first step in the court process before your trial, where you'll get information about your case.

Information

The official court document that states your charge, and the date and place the offence is said to have happened.

initial sentencing position (ISP)

A form that summarizes what sentence the prosecutor will suggest if you plead guilty at an early stage in the court process.

offence

The crime you're charged with. There are less serious offences (summary) and more serious types of offences (indictable). Some offences carry mandatory minimum sentences.

speak to sentence

Your chance to tell the judge anything about yourself that might help you get a lighter sentence.

submission

The summary you present to the judge at the end of your case saying why you think the prosecutor didn't prove that you're guilty beyond a reasonable doubt.

subpoena

A document that orders your witnesses to come to court.

testify

To appear as a witness in court to give evidence (to sit in the witness box and speak).

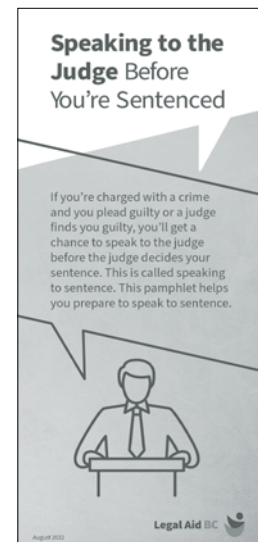
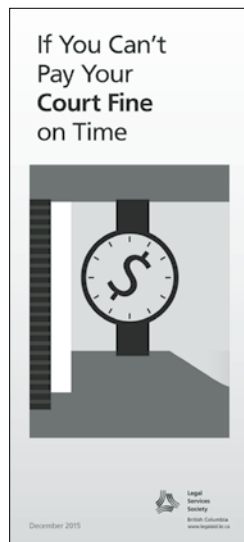
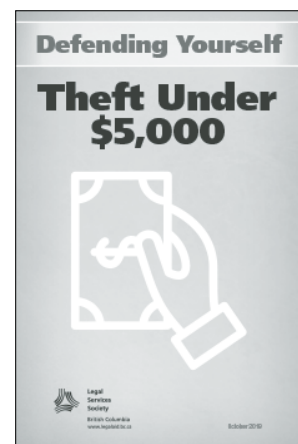
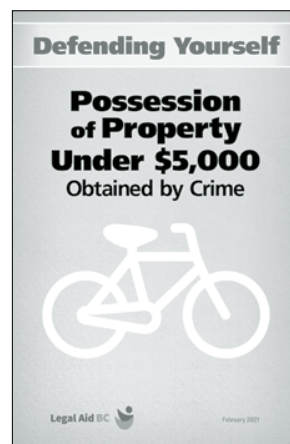
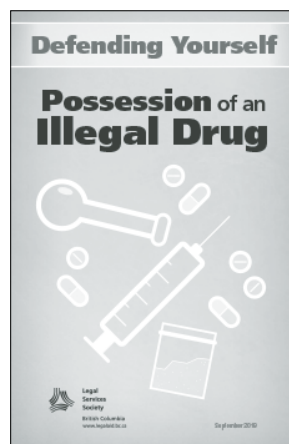
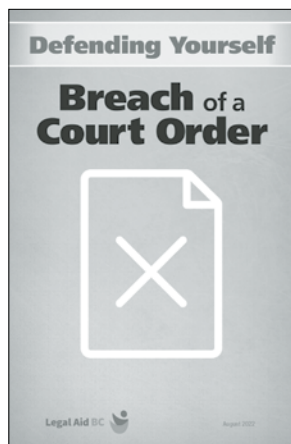
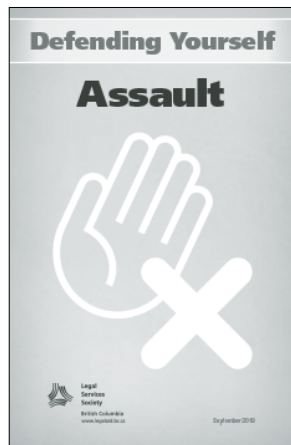
[illegible]

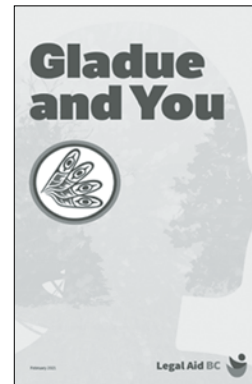
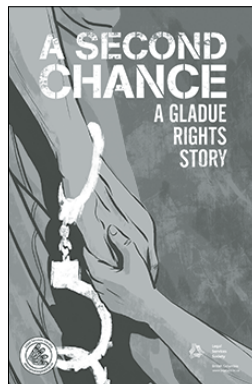
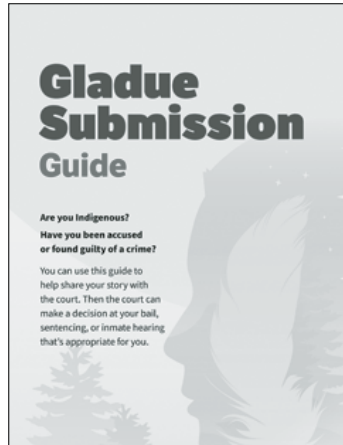
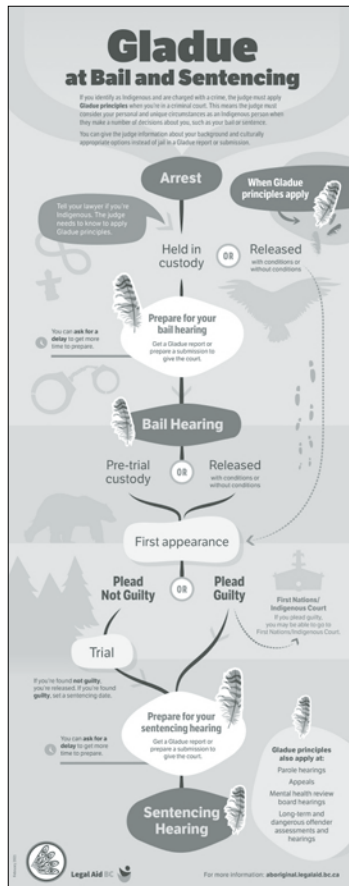
Also available

You can read all of these online at

legalaids.bc.ca/read

You can order free printed copies
where available.





Use this pocket to hold other publications and your court documents all in one place.





How to get free Legal Aid BC publications

Read or order

legalaid.bc.ca/read

Questions about ordering?

604-601-6000

distribution@legalaid.bc.ca

Feedback on this publication?

publications@legalaid.bc.ca



[@legalaidbc](https://www.facebook.com/legalaidbc)