

Read this fact sheet if:

- your partner is charged with assault or another crime against you, and has to go to court;
- you think you may have to be a witness; and
- you have questions about the legal process.

See *Who Can Help?* for where to get legal advice.

What happens if your partner is charged?



After the police investigate the abuse, they report to **Crown counsel**, (the government lawyer). Crown counsel isn't *your* lawyer — they act for the public.

Only Crown counsel can approve or drop charges.

BC law says if there's evidence of assault or criminal harassment, the abuser must be charged with a criminal offence. If Crown counsel decides there is evidence and approves the charges, your partner has to go to court. At court, the judge will ask:

- if your partner has/plans to get a lawyer, and
- how your partner wants to **plead** (answer) to the criminal charge.

If your partner pleads **guilty**, there won't be a trial. Instead, the judge will decide the **sentence** (legal punishment) either that same day or later.

If your partner pleads **not guilty**, a trial will happen. If your partner is in jail, the judge may let them out until the trial. Your partner will have to agree to **bail conditions**, such as not contacting you, or not drinking alcohol.

You might not be notified when your partner gets out of jail. But you need to know what's happening and what the bail conditions are. Ask Crown counsel for a copy of the bail conditions and any no contact orders. Keep these with you *always* in case you need to call the police. If you need help getting the bail conditions, ask an advocate or victim service worker for help. To find a victim service worker, call VictimLinkBC at 1-800-563-0808.

If your partner **breaches** (disobeys) the bail conditions or no contact order, call the police. They can arrest and charge your partner with **breach of bail** or **breach of an order**.

Your partner can ask for an **adjournment** (court delay) for a good reason (like getting a lawyer).

You only have to go to court if you want to go or Crown counsel says you must be a witness.

Crown counsel might give you a **subpoena** (a legal document that says you must go to court).

What does a witness do?



If your partner pleads not guilty, you'll have to **testify** (tell the judge what happened to you).

Before the trial, Crown counsel will talk to you about the case. If you need an interpreter or help because you have a disability, tell Crown counsel before you meet. They can arrange this for you. Crown counsel:

- will talk to you about what you plan to say,
- may explain what'll happen in court, and
- may talk to you about making a **victim impact statement**.

If your partner is found guilty, your statement will help the judge decide their sentence. A victim service worker or advocate can help you fill out the statement form. Tell Crown counsel:

- if you're afraid for your or your children's safety,
- if your partner breached or disobeyed a bail or no contact order and how your partner breached the order, and
- if/when you had contact with a **probation officer**. Probation officers supervise people after they get out of jail, if they're on bail, or if their sentence includes probation.

If you don't want to be a witness

Tell Crown counsel. Ask if Crown counsel can ask the judge for a **peace bond** instead of having a trial. The peace bond says your partner must "be of good behaviour and keep the peace" for up to 12 months. It usually has other conditions too, such as no contact with you. If your partner follows it, they won't have a criminal record.

Even if you don't want to be a witness, the case may still go ahead. The judge may say you have to testify or you'll be arrested if you don't testify.

If that happens, explain why you don't want to be a witness. If you're afraid, the judge may allow you to testify on video or sit behind a screen. Ask an advocate or victim service worker about this.

What happens in a trial?



Before a trial, a victim service worker can explain the court process to you and may be able to go with you to court.

The Crown counsel in court may not be the same lawyer who approved the charges or interviewed you before the trial.

At the trial

1. Crown counsel presents evidence against your partner (the **accused**).
2. Crown counsel calls you as an important witness and asks you questions.
3. Crown counsel calls other witnesses, such as the police, your friends or neighbours, and maybe your doctor. Your children won't be witnesses unless it's necessary.
4. Crown counsel may present **physical evidence**, such as torn clothing, photos of injuries, a weapon, or medical records.
5. Your partner or their lawyer can **cross-examine** you (ask you questions). The judge and Crown counsel should make sure that the questions are appropriate. You could also ask for a screen or arrange to only look at the judge while answering questions.
6. After Crown counsel presents its case, your partner's lawyer presents the other side in the same way. Your partner may give evidence, but they don't have to.



Judge's decision

After hearing all facts, the judge decides if your partner is guilty or not guilty.

- If your partner is guilty, the judge will sentence them.
- If your partner is not guilty, the judge won't sentence them. This doesn't mean the judge didn't believe you. It means that the evidence didn't prove that your partner was guilty "beyond a reasonable doubt."

How the judge decides the sentence

The judge:

- thinks about what happened when you were abused;
- reads your victim impact statement. (If you wrote it a while ago, it helps to update it before the trial); and

- may ask for a pre-sentencing report from a probation officer. The probation officer may interview you to write this report, so be clear about your and your children's safety concerns.



Possible sentences

If the judge decides your partner is guilty, your partner will get one of the following sentences:

- **Conditional discharge:** Your partner must obey conditions for a period of time, like stay away from you and your children, or get counselling. If your partner obeys, they won't have a criminal record.
- **Suspended sentence:** For a period of time, your partner must obey all conditions the judge puts in the probation order. Usually, one condition is to report to a probation officer. The judge may also order your partner to go to a treatment program for abusive people, or for drug or alcohol addiction. The probation officer must tell you the conditions in the order. If your partner doesn't obey them, they can be arrested, charged, and face trial. If your partner is found guilty, they'll also be sentenced for breach of an order. They'll have a criminal record even if they obey all the conditions.
- **Time in jail:** If the assault was serious or if your partner committed criminal offences before, they may be sentenced to time in jail. After jail, your partner may be on probation and have to obey conditions. With this sentence, your partner will have a criminal record.

What about after the trial?

If your partner has a jail sentence, it's important to:

- Tell the parole board and corrections staff if your address/phone number changes. They can send you information about parole hearings and when your partner will get out of jail.
- Keep talking to your advocate or victim service worker for ongoing support and information.