Trial & Sentencing

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If you are being investigated or charged with a crime you should speak to a lawyer and seek legal representation. Being convicted of a crime can have wide ranging impacts on your life and you could go to jail. For this reason, it is important that you get advice from a lawyer. This Guidebook provides an overview of the adult criminal court process, but does not cover every situation. For more detailed information see the **Criminal Law Handbook for Self-Represented Litigants.**

NOTE: This Guidebook does not provide legal advice and must not be used as a substitute for the advice that a lawyer may provide. This Guidebook provides general information to help people with criminal matters in the BC Supreme Court.

The Case Against You

As the accused, you are innocent until proven guilty. It is the Crown's responsibility to prove you are guilty beyond a reasonable doubt. If the judge or jury has a reasonable doubt, they must find you not guilty. You are not required to present any evidence or defence at all if you do not want to. You may decide to argue that the prosecutor has not met the burden of proof. You may decide to present a specific defence. You are not required to do either, but you may wish to do one or both. To decide how to proceed, *you should get legal advice* and you should know what the Crown needs to prove.

Generally, the Crown needs to prove:

1. The time and location of the offence
2. The identity of the offender i.e. that it was actually you who committed the offence

3. That all the elements of the offence actually took place.

The Crown will try to prove their case by examining witnesses and presenting evidence to the court. Consider the strength of the Crown's case on all these points. Try to figure out what witnesses or evidence they will use to prove each point and whether there are any weaknesses, biases or inconsistencies. Think about how you can bring those weaknesses out in court.

Time and location

Time and location are usually straightforward to prove and just means that the Crown must show that the crime took place at the time and location stated in the **Information**.

Identity

The Crown must prove identity by showing that the person who committed the offence was actually you. This is often done through eye witnesses or video security tape. Consider the strength and reliability of the evidence. Did the witness have a good view? Do they need glasses but were not wearing them at the time? Is the video clear? Did they actually identify you, or did they simply see someone with the same general description? If there are questions on these points or others you can argue that there is not enough evidence to prove it was you beyond a reasonable doubt.

Providing an alibi witness is another effective way of raising a reasonable doubt as to the identity of the offender. An alibi is a witness who can say you were somewhere completely different at the time of the offence and so could not have committed it. If you intend to present an alibi witness you should get advice from a lawyer as you must let the prosecutor know ahead of time.

Elements of the offence

Each criminal offence can be broken down into essential elements that the Crown must prove beyond a reasonable doubt. Basically, they must show that the *act* of committing the crime took place, and that you had the right *mental state* to be

found guilty. What exactly this entails depends on the wording of the offence and the way the wording has been interpreted in past case law.

Crime	Mental State	Act
Assault s.265(1)(a) of the *Criminal Code*	The intentional	Use of force against another person, directly or indirectly, without that person's consent (agreement)
Possession of a controlled substance, s.4(1) of the *Controlled Substances Act*	Knowledge that they have a controlled substance in their possession	Has a controlled substance in their possession
Criminal negligence, s.219 of the *Criminal Code*	Shows wanton or reckless disregard for live or safety of others	Did anything or omitted to do something that it was their legal duty to do

Depending on the circumstances, you may try to raise a reasonable doubt in an assault case by arguing that it was an accidental use of force and not intentional. Or perhaps that the other person had in fact consented and it was a mutual fight. You may do this by questioning Crown witnesses or calling your own witnesses (including yourself if you choose).

Each offence is different so be sure to look up the offence you are charged with. The Information will tell you the act and section number for each of your charges.

DIY Tools

Legal Aid BC has publications on how to defend yourself against specific charges including assault, breaching a court order, and possession under $5000. See their **publications page** to find the guides.

Defences

Even if the Crown has proven all of the elements of the offence beyond a reasonable doubt, you may still be found not guilty if you can raise a defence. For example, you may be found not guilty of assault if you can show you assaulted the other person in self defence.

There are a number of defences, but whether they are available and how to raise them is complex. A defence lawyer will be able to help you understand if a particular defence may be useful in your case.

Go to **Legal Help** to find free and low-cost legal help options.

Defence witnesses

If you decide to call witnesses, they will be questioned by you or your lawyer, the Crown, and even the judge. If you want to present objects or documents as evidence, you may need a witness to confirm their authenticity.

Only call witnesses that will help your case or weaken the Crown's case. If possible, only call witnesses who are credible, articulate, and sincere. You cannot tell witnesses what to say, except to tell the truth. You may go over what questions you plan on asking them and record their answers. You may also go over what you think the Crown will ask.

To make sure your witnesses attend you can file and serve them with a subpoena. A subpoena is an order for them to attend court on a certain day. If they do not attend, a warrant for their arrest will be sent out.

Find the Form

Subpoena to a witness -Form 16

Charter violations

Evidence obtained as a result of a Charter violation may not be allowed to be presented at trial. Potential Charter violations include:

- Police not having sufficient grounds to arrest or detain the accused
- Waiting too long to get the accused in contact with a lawyer
- Police conducting an unlawful search
- Police failing or delaying to warn the accused about their rights

There are others. It is best to go over your disclosure with a lawyer who can help spot potential Charter violations. If you think there has been a violation then you can make a Charter application and a judge will decide whether to allow the evidence resulting from the violation into trial or not. For more serious Charter violations, the judge may decide to stay (stop) the proceedings all together and the trial will not continue.

You should get legal advice about how to proceed with a *Charter* application and you need to let the Crown know ahead of the trial.

See the **Legal Help** section.

Unreasonable delay: If it takes too long for your matter to go to trial, your right to trial within a reasonable time may be violated. The Supreme Court of Canada established that there is a presumptive ceiling for how much delay between when the charge is laid and the conclusion of the trial (not including any delay caused by defence) is presumed to be unreasonable delay:

Provincial Court trials: **18 months**

Supreme Court trials: **30 months**

All people involved in the court system have a responsibility to reduce unnecessary delay in court proceedings. If you are concerned about the length of time it is taking to take your matter to trial you should get legal advice.

Learn More

Section 11(b) - Trial within a reasonable time, Government of Canada

Preparing for Court

Write out what you plan to say: It is a good idea to try to write down what you plan to say. You can write an outline, or write every word. You probably will not end up saying exactly what you write, but trying to write it out is a good exercise. Take the time to actually say what you plan to say out loud.

Note all the important points you want to get from the witnesses

At least the day before:

At least the day before you go to Court, make sure that you have everything you need.

Decide what clothes you are going to wear: Court is a formal and serious setting, and you will make a better impression if you dress nicely. Above all, you want to let the Court know through how you dress that you respect the process and take it seriously.

Get your documents together: Make sure that you have all the documents that relate to your case. This will vary depending on where you are in the criminal process. Make sure your material is organized so you know what is where.

Get your supplies together: You need something to take notes. If you would like to use a laptop or tablet to take notes, that is also permitted (but be sure to turn sound off). However, everyone should bring paper and several pens as well.

Make a plan for how to get there: You should know how to get to Court, and also how long it is going to take you at the time of day you have to be there. If you have been making trips to the registry in the early afternoon, it could take much longer to get there during morning rush hour.

Plan your meals and snacks: You cannot eat in Court. However, you can eat outside Court on breaks. If you start getting low blood sugar, it can be very hard to concentrate. Also, you will probably have about an hour and a half for lunch. You may need this time to prepare, research, or just relax and recharge. It is a good idea not to have to be looking for food. You can drink water in Court and a water cup may be provided for you. Do not bring in other beverages, including coffee or tea.

The Morning Before Court

Set more than one alarm: You want to make sure that you get up in plenty of time to be ready for Court.

Shower, shave, dress: Spend enough time on your appearance that you feel confident and look respectful.

Consider exercising: If you have time, doing some light exercise may help sharpen you for the day.

Eat a good breakfast: Make sure to have a healthy breakfast that will give you the energy to get through the day.

Leave in plenty of time: Plan on arriving at Court at least half an hour before your scheduled time.

At the Courthouse

Find out what courtroom you are in: There will be a Court list in the lobby of the courthouse that tells you what courtroom to go to. If you cannot find it, ask a security guard and they can assist.

Arrive at the courtroom at least 15 minutes early: The courtroom will open up 15 minutes before your scheduled court time. You should be there when it opens.

Silence your cellphone: When you go into the courtroom, silence your cell phone and make sure the sound is off if you are using a laptop or tablet.

Be friendly to, or ignore, the Crown prosecutor: You will see the other side (government lawyers, also called the “Crown prosecutor”) inside or outside the courtroom. This may be the first time you have seen them in a while. You may feel angry towards them, but there is nothing to be gained by being rude or disrespectful. If you cannot speak to them with respect and courtesy, then just ignore them.

Check in with the Court clerk: Once the courtroom is open, there will be someone sitting in front of where the judge sits, by a computer screen. That is the

court clerk. You will need to “check in'' with that person. That means telling them what case you are there for, your name, and your role (the defendant).

Set up, or sit in the gallery: If yours is the only case being heard in that courtroom that day, then you can set up your material. You will see a podium in the centre of the front of the courtroom.

If there is another matter that is being heard before yours, find a seat in the gallery (the audience section of the courtroom) and wait your turn. It will be the same judge who hears the first matter that hears yours, so take some time to observe them. What are they like? Does something the parties in the earlier case do seem to work? To not work?

Steps in a trial

This is what a typical criminal trial in Canada looks like:

The Crown always presents first.

1. **Opening:** The Crown may present a brief summary of the charges and what they intend to prove.
2. **Crown Case:** The Crown presents their evidence by calling and questioning witnesses and presenting other evidence such as photos, recordings, or objects. After each witness, the Defence has the opportunity to cross examine the witness.
3. **Defence Case (optional):** After the Crown finishes their case, the Defence may, if they choose, present any additional evidence by having the accused or other witnesses testify. The Crown will be able to cross examine all defence witnesses. If the Defence brings up any new evidence, the Crown may have the opportunity to respond.
4. **Closing Argument:** Once both the Crown and the Defence are finished presenting evidence, they will take turns arguing why or why not the burden of proof was met.
5. **The Verdict:** The judge or jury give their decision.

When the Hearing Begins

- Stand when the judge enters: The Court clerk will say "Order in Court" when the judge is about to enter. Stand up. Stay standing until after the judge has sat down.
- The Court clerk will "call the case". This will mean he or she will say something like, for example: "In the Supreme Court of British Columbia, this 11th day of February 2020, calling the matter of R v. Jones".
- You and the other side will then introduce yourselves. You should stand, say your name, spell your last name, and say who you are (for example, you might say "[Madam/Mr. Justice XX], My name is John Jones, J-O-N-E-S, and I am the defendant. My pronouns are [insert your preferred pronouns]."
- Sit while the other side is talking, stand while you are talking: Unless you have a medical issue, you must stand when talking to the judge. When the other side is talking, remain sitting.
- Do not interrupt the judge: Always let a judge finish talking. A good tip is to wait at least 2 seconds after a judge has finished speaking to begin talking yourself.
- Witnesses: If you are coming to court with witnesses, inform your witnesses of these general tips.
- Listen carefully and take notes.

Learn More

Here is a useful resource on **Trial Preparation and Note Taking Skills**.

When it's Your Turn to Talk

- **Stay calm:** Stand up at the podium. Take a second and take a deep breath. Stay calm, even if you are angry.

- **Stand:** Always stand when you speak to the judge or when the judge speaks to you.

- **Speak slowly:** You need to speak at a pace that the judge can follow. Watch the judge. If they are taking notes, this is normal depending on the judge. If they are writing something, let them finish before moving on.
- **Speak to the judge or jury:** Everything you say should be directed at the judge or jury (if there is one). You do not speak directly to the other side.
- **Speak loudly:** Make sure that the judge can hear you.
- **Follow your notes or your outline:** Generally, it is a good idea to go through the submissions you have practiced and outlined first.
- **Answer the judge's questions:** If a judge asks you a question, try your best to answer it. If you cannot answer it, you may ask if you can come back to it after a break, if there is enough time. Sometimes you get a question that you will need to think about over the lunch break to answer fully. If you say you are going to come back to something, make sure you do.
- **Speak formally:** Talk in a respectful and formal way. Call people Mr. X or Ms. X, rather than by their first names (For example, say "Mr. Jones has provided no evidence" instead of "John has provided no evidence") Do not use slang. Do not swear.

Rules of Evidence

Evidence is defined as "the facts used to support an assertion or conclusion". The judge or jury will decide based on the evidence that is presented at trial. Only evidence that is relevant and material to your case is allowed to be presented in court.

Relevant: Evidence that relates directly to the issues in your case. For example, if you want to show a witness to a robbery is unreliable:

Relevant Evidence: the witness' history of lying (having a record for perjury or whose evidence was not accepted in a previous case.

Not Relevant Evidence: the witness' sexual history.

Material: Evidence that is important or essential to the issues in your case. For example, if you want to show that a Crown witness is unreliable:

Material Evidence: the witness has a conviction for perjury a year ago.

Not Material Evidence: the witness has a conviction record with a single instance of shoplifting 40 years ago.

Relevant and Material evidence may still be excluded from the trial if:

1. It is **privileged**, as in, there is a legal reason that this type of evidence is not allowed
2. It is too **prejudicial**, as in, the danger of the evidence causing confusion, unfair prejudice, or delay outweighs the usefulness of the evidence

If you think evidence presented by the Crown or their witnesses is irrelevant, immaterial, or prejudicial you can object when the evidence is brought up.
See **Objections below** for more information.

Voire Dire

There are rules about what kind of evidence is admissible (allowed) at trial. A *voire dire* is a mini-trial within the trial where a judge decides whether evidence will be allowed to be heard during the trial. Some reasons a *voire dire* might be held is to determine whether:

- Evidence was obtained because of a *Charter* violation,
- A proposed expert witness has sufficient qualifications to be an expert,
- The warrant that led to the evidence was valid.

If there is a jury, the judge will dismiss the jury for the *voire dire*. If it is a judge alone trial, the trial judge will only consider the evidence they decide is admissible in making their final decision.

Types of evidence

There are basically two types of evidence:

1. **"Real" evidence:** Things like physical or electronic documents, records, contracts, pictures, and videos, or objects like clothing, drugs, and weapons.
2. **Oral evidence**: Sworn testimony given in court by witnesses.
See **Witnesses** to learn more.

Entering Real Evidence

If you wish to enter a document, photograph or object as an exhibit, you must either have the agreement of the Crown or have a witness identify the thing. Identifying the thing means that the witness is able to say that they made, saw or had possession of the thing and that they recognize it.

Depending on the type of evidence that you want to rely on to support your case, you must prove that:

- It is accurate;
- It fairly represents the facts and is free of any intention to mislead; and
- It can be verified on oath or affirmation by a witness (the author or another person
- Capable of doing so).
- You can account for everything that happened to the object (called continuity) since you acquired it.
- It fairly represents the facts and are free of any intention to mislead through, for example, editing or camera angles

Ideally, it is best if you can put the original document or recording into evidence. However, if you cannot produce the original, you may be able to get someone to authenticate the copy if authentication is required.

The judge will consider whether to allow the evidence, and then enter it as an exhibit. If it is entered, the court clerk will then assign a number to the exhibit. You should make a list of the things that are entered into evidence and their exhibit number, or ask the court clerk for a copy of the exhibit list at the end of each court day.

Objections

There are many reasons you (or the Crown) may wish to object during a trial, but in general it is when you think the rules of evidence or court are not being followed. You may have seen lawyers on TV yelling “objection!” In real life, yelling is usually not necessary. To object:

1. Stand up and say "objection"
2. Wait for the Crown to stop talking and the judge to recognize you
3. Tell the judge what you object to an why
4. Sit down and listen to the Crown's response
5. Listen to the judge's decision

If you are talking and the Crown stands up to object:

1. Stop talking and sit down
2. Listen carefully to the reasons the Crown objects
3. When the Crown finishes, stand up and if you can, argue why the evidence or question should be allowed
4. Listen to the judge's decision

If you are a witness testifying and someone objects, stop talking and wait for the judge to make a decision. Follow the judge's directions. You may be asked to leave the room temporarily.

Below is a table that includes some types of objections:

Objection	**Reason**
Irrelevant or immaterial	Does not relate to an issue in the case or not important or essential to the issue in the case
Unfairly prejudicial	Creates unfairness by creating confusion or taking up too much time
Privileged	Communications protected by law such a attorney/client privilege
Improper opinion	A witness giving their opinion when they are not qualified as an expert on that point
Hearsay*	The witness did not have first hand knowledge (*there are exceptions)
Leading question	Asking a leading question in direct examination on issues in dispute
Repetitive	The witness has already answered a question

Assumes facts not in evidence	For example, asking a witness when they saw the black truck without first establishing *that they actually saw* the black truck
Improper characterization	Misrepresents what was said
Unreliable	The evidence being introduce came from an unknown source and is therefore unreliable

Hearsay is information learned by a witness from someone else, rather than witnessing it first hand themselves. Additionally, the statement being offered as evidence is being offered **for the truth of what was said**.

For example:

- **Witness: "Charlie said Ed left work early"** is hearsay if it is being offered as evidence that Ed left work early. If it is being used to establish a state of mind, rather than for the truth of what was said, then it may still be entered as evidence. For example, "Charlie said Ed left work early. I thought Ed was gone which is why I called his home to see where he was."
- **Witness: "I saw Ed leave work early"** is *not* hearsay, as it is first hand knowledge.

There are a number of exceptions to hearsay. It can be complicated and legal advice is recommended.

Learn More

Criminal Law Handbook for Self-Represented Litigants, Canadian Judicial Council

Witnesses

Witnesses are essential to a criminal trial. They are brought into court to say what they know about a matter based on their first-hand experience. Witnesses will be asked to swear an oath on the Bible or affirm (promise) to tell the truth. Most of the time, witnesses will testify while the accused is in the courtroom. For children or traumatized victims, the Crown may ask for accommodations to make testifying easier.

If you are a witness in a case you should not go into the courtroom before you are called in (unless you are the accused). This is so you are not influenced by other witnesses testifying. Once you are done testifying you are usually allowed to stay and watch if you choose.

Learn More

Testifying in Court - An Overview, BC Provincial Government

Expert Witnesses

Usually witnesses are not allowed to give their opinion when testifying. Expert witnesses are people with special knowledge and are brought in to help the court understand complicated issues that may be outside common knowledge. Experts can give their opinion on something within their field of expertise.

If the defence or Crown want to present expert evidence in court, they must:

1. Get the expert to prepare a written report;
2. Deliver this report to the other party before the trial;
3. Notify the expert to come to court in the same way as for other witnesses;
4. Pay any applicable fees or expenses for the expert witness; and
5. Have the court accept the witness as being an expert.

Either party may contest the qualification of the other's expert witness or argue about what they are allowed to give their opinion on. Ultimately, the judge decides whether the witness is qualified to be an expert and on what issues.

Should I testify in my own defence?

You have the right to remain silent. You do not have to testify. You do not have to provide any defence at all. Not testifying cannot be used against you. However, you may decide to testify. This is a major strategic decision in your case and *you should get legal advice*.

If you testify, the prosecutor can cross-examine you to try to show that you are not being honest or that you have changed your story. You will have to answer all the questions that the prosecutor asks you unless the judge decides the question is not proper. This cross-examination may include bringing out your criminal record and testing your credibility. The prosecutor may get evidence from you that can hurt your case. The prosecutor cannot cross-examine you if you do not testify.

Learn More

Tips for Testifying, Province of BC

Prepare your testimony. For each issue in your case think about and write down:

1. The issue
2. The point you want to establish
3. The evidence
4. The documents you want to present

If you testify you should:

- Tell the truth
- Carefully prepare how you will present your testimony
- Answer the Crown and judge's questions

You should avoid:

- Arguing your case or explaining your legal issues while you testify
- Lying or misleading
- Speaking about your good character (if you do not what to risk evidence of bad character being introduced)
- Talking about issues unrelated to the case

Cross-examination

This is a type of questioning during a trial when you ask questions to the prosecutor's witnesses. You can cross-examine Crown witnesses, and Crown can cross-examine your witnesses.

In cross -examination you can ask closed questions, meaning questions with a "yes" or "no" answer.

You can use cross-examination to try to show the following:

- That the prosecutor's witness is not believable or reliable. For example, you may be able to show a witness is:
    - **Biased—**if the witness is a friend of the victim or holds a grudge against you, you can argue that the witness may not be fair.
    - **Not credible**— If you have a copy of the witness's police statement in writing and the witness now tells a different story, you can point this out to the court.
    - **Unreliable**—you can question the witness about whether they wore glasses, drank alcohol, were close enough to see clearly, or whether it was too dark for them to see well.

- That the prosecutor's witness has evidence to support your case.
- That the story of a witness is different from the story that you will present:

If a witness says something you disagree with, then you must question the witness about it. If you don't, the judge will wonder why you did not ask such questions at the time and may not believe your evidence later.

Direct Examination

Direct Examination is the type of questioning you are allowed to use on your own witnesses. Unlike with cross-examination, you are only allowed to ask "open ended" questions, as in questions that do not suggest a "yes" or "no" answer. Open ended questions usually start with who, what, where, when, why, and how.

Open ended questions	Closed questions
What did you do next?	You went to the bar right after work, didn't you?
When did you arrive at the bar?	You arrived at the bar at 5:30pm, correct?
What did you see?	You couldn't actually see much, could you?

To prepare for direct examination you should consider:

1. What are the most important points you want to make with the witness?
2. What are the key facts you want the witness to testify to?
3. What questions will help you get to the key points and facts?
4. What do you expect the witness to say?

When your witness takes the witness stand, it is usually a good idea to ask them some basic questions about their background. This can help feel more comfortable. Ask questions that help the witness tell their story. Most people find that telling their story chronologically is more natural.

Learn More

Oral Evidence, Criminal Law Guidebook for Self-Represented Litigants, Canadian Judicial Council

Final Argument

After all the evidence is presented, you will be able to speak to the judge or jury to persuade them that you are not guilty. Both you and Crown will have the opportunity to summarize the evidence and make arguments (also known as "submissions"). Your closing arguments should be focused on how the Crown has failed to prove the case beyond a reasonable doubt and that they should find you not guilty. This could involve:

- Why some evidence is stronger or weaker
- Why a particular witness should or should not be believed
- Pointing to other weaknesses in the Crown's case

Your arguments must be based on the evidence or lack of evidence presented during your trial—you cannot use new evidence. If you presented evidence for your case, you will make your argument first, and the prosecutor will go second. If you did not present evidence, the Crown will go first.

The Verdict

The judge or jury decides if you are guilty after hearing all the evidence and the submissions. If it is a judge alone, the judge will explain their reasons for their decision. A jury will not give their reasons and only state whether they find you guilty or not guilty. If you are found not guilty (acquitted), you can leave. But if you are found guilty you will either have a sentencing hearing right away or your hearing will be delayed so you and the Crown can get ready. See **Sentencing**.

Appealing your conviction

You may have the right to appeal your conviction but you must act quickly. *You must file your Notice of Appeal **within 30 days** of the date that your sentence was imposed.* You should get legal advice as soon as possible. Go to **CourtofAppealBC.ca** to learn more about how to appeal your conviction.

Learn More

How to Appeal Your Conviction, CourtofAppealBC.ca

Find the Form

Form 2 Notice of Appeal/Leave to Appeal by Unrepresented Appellant

Sentencing

Someone convicted of a crime gains the stigma of a criminal record and may going to jail if found guilty. A criminal conviction can have a significant impact on the person's life both in the short term and long term, as their freedom, job prospects, immigration status, ability to travel and more may be affected. You should seek legal advice and representation if possible. See **Legal Help** for more information.

Learn More

Sentencing, Prosecution Services of BC

Sentencing Considerations

If you plead guilty or are found guilty after trial, a judge (not a jury) will decide your sentence after hearing from you and/or your lawyer and the Crown. In some cases the victims and other witnesses may give statements.

The judge will try to come up with a fair sentence by balancing:

1. The circumstances of the offence
2. The circumstances of the offender (including factors related to their background as an Aboriginal person if applicable)
3. The seriousness of the offence (including the impact on the victim)
4. The offender's degree of responsibility

Indigenous Offenders

If you identify as Indigenous, the judge must consider the unique circumstances and experiences of Indigenous peoples when determining a fit sentence. The unique challenges faced by Indigenous peoples in Canada are called Gladue factors and include:

- The ongoing effect of colonization on you and your community,
- Racism,
- Loss of language,
- The impacts of the residential school system and foster care system

Judges must consider sentences other than jail, such as restorative justice programs. They may still decide jail is an appropriate sentence.

Learn More

Gladue principles, Aboriginal Legal Aid in BC

Reports

To better understand the offender, the judge may request a pre-sentence report prepared by a probation officer. A pre-sentence report will give more information about the offender's background and current circumstances.

A Gladue report may be prepared for Indigenous offenders to help the judge understand the factors particular to Indigenous people that may have contributed to the offender ending up in court. See **Are you Indigenous?**

Learn More

Gladue Services: Information for the Public, BC First Nations Justice Council

A victim impact statement allows the victim to tell the offender and the court how the offender's action impacted them.

Learn More

Victim Impact Statement, BC Government

The main purpose of sentencing is to contribute to respect for the law and to a just, peaceful, and safe society by imposing fit sentences that have one or more of the following objectives:

- Denounce the unlawful conduct and harm to the victim;
- Deter (discourage) the offender and others from committing such crimes;
- Separate offenders from society when necessary;
- Assist in rehabilitating the offender;
- Provide reparations for harm done to the victim and the community; and
- Promote a sense of responsibility in offenders and acknowledgment of the harm done.

The sentence should match the offender's degree of responsibility for the offence.

Learn More

Sentencing, Provincial Court of BC

Sentencing - An Overview, Province of BC

Types of Sentence

Absolute or Conditional Discharge: For less serious offences only. If you are discharged, a conviction will not be registered on your criminal record. If you are given a conditional discharge you must agree to and follow certain conditions on a probation order for a certain amount of time before you are discharged. If you are given an absolute discharge, you are discharged right away and do not have to follow any conditions.

Suspended Sentence and Probation: If you are given a suspended sentence you will have to follow a probation order with conditions for a certain amount of time

up to 3 years. Unlike with a conditional discharge, a conviction will be recorded and you will have to apply for a pardon to remove it from your criminal record.

***Fine*:** A fine can be imposed on its own or in combination with imprisonment or probation. If you are convicted of a summary offence, the maximum fine is $5,000.

***Conditional Sentence*:** If the judge imposes a sentence of less than 2 years imprisonment, the judge may order that it be served in the community with conditions in some cases.

***Imprisonment*:** Imprisonment is the most serious penalty. The type of offence the offender is convicted of determines the range of prison time a judge can impose. Summary offence convictions have a maximum prison time of 6 months. Indictable offences can range all the way to life in prison without parole eligibility for 25 years.

- ***Intermittent Sentence:*** *If an offender is sentenced to less than 90 days in prison, a judge may order that they serve it blocks of time while being released on a probation order in between. This can allow an offender to continue to maintain work or take care of a child.*

- ***Dangerous offender*:** The Crown can apply for someone to be declared a dangerous offender. Dangerous offenders can be sentenced to an indeterminate (without an end date) length of time in prison. Their imprisonment will be reviewed every 7 years.

Learn More

How sentences are imposed, Government of Canada

How to Prepare for a Sentencing Hearing

Sentencing is an individualized process meaning the judge will want to know about you and your circumstances to come up with a fit sentence. They will consider your personal background and your criminal record. If you are an Indigenous person, they will consider

You may want to prepare documents to give the judge a better understanding of you you are and support a lower sentence such as:

- Letters of support from employers or agencies where you have volunteered
- Proof of a job or offers of a job
- Personal letters of reference
- Proof that you have enrolled in rehabilitation programs

Make the court aware of any obligations you have related to:

- Childcare
- Your job
- Going to school
- Taking care of your health

Appealing your Sentence

You can try to appeal your sentence but you must act quickly. *You must file your Notice of Appeal **within 30 days** of the date that your sentence was imposed*. You should get legal advice as soon as possible. See **Legal Help** for more information.

If you are **only** appealing your sentence, you must obtain leave (permission) to appeal. You have to show that your appeal is not frivolous and has a reasonable chance of success.

Go to **CourtofAppealBC.ca** to learn more about how to appeal your sentence.

Learn More

How to Appeal Your Sentence, CourtofAppealBC.ca

Find the Form

Form 2 Notice of Appeal/Leave to Appeal by Unrepresented Appellant