CRIMINAL LAW in CANADA

LEGAL INFO NOVA SCOTIA









TABLE OF CONTENTS

Introduction to Criminal Law	1
Know Your Rights	2
Criminal Law and Young People	4
Restorative Justice	5
Going to Court	6
What Happens Next	7
Get Legal Help	8

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INTRODUCTION TO CRIMINAL LAW

Laws in Canada are made by the government and courts. Criminal law is a set of rules that tell us what we are allowed to do and what we must not do. They also tell us what can happen if we break the law.

The main source of criminal law is the Criminal Code of Canada. Canadian laws apply to everyone in Canada, even if you are not a permanent resident or citizen. Anyone who is stopped by the police or who is charged with a crime has rights.

Each province also makes laws related to driving and public safety. This includes rules about things like speed limits, using a cell phone while driving, or obeying traffic signs.

Police officers investigate crimes. If there is evidence that someone has committed a crime, they may charge the person. This means the police believe that person has broken the law. The accused person may have to go to court.

Crown Attorneys are lawyers who work for the government. Their job is to present the evidence the police have gathered to the judge.

A person accused of a crime must enter a plea. This means they will tell the court if they are guilty or not guilty. If the accused pleads guilty, the judge will decide what the sentence will be. A sentence cannot be more severe than what is allowed by the Criminal Code.

If the accused says they are not guilty, there will be a trial. The Crown Attorney and the accused will both explain their positions to a judge. A judge will hear the case and make a decision.



KNOW YOUR RIGHTS

When you talk to police or go to court, you have the right to have an interpreter. If a police officer stops you or arrests you, they must tell you why in a language you understand. If they use Google Translate or another electronic translator, you can tell them you want a real person to translate.

Police must not physically hurt you or use more force than necessary.

It is important to know that police are allowed to lie to you. They might say they have proof that you broke the law, or that someone you know has talked to them. This might not be true.

If you are questioned or arrested by police, you have the right to talk to a lawyer. If you tell the police that you want to talk with a lawyer, they cannot ask you more questions until you have talked to a lawyer.



Police must not search your home, car, or belongings unless they have a good reason to believe you have broken the law. If they ask you for permission to do a search, you can say no.

If the police charge you with a crime, they will give you a form that tells you when you must go to court.

If they think you might not go to court, or that you might harm yourself or someone else, they can hold you until the next business day and take you to court then. This means that if you are arrested on a weekend, police might hold you until Monday when court is open.

If police do not follow these rules, you can file a complaint or report them. Write down what happened and take photos if you have any bruises or injuries. Write down the date, time, location, and any details you remember about what happened.

CRIMINAL LAW AND YOUNG PEOPLE

People under age 18 have extra rights and protections when they are questioned by police or charged with a crime. These rights are created by a law called the Youth Criminal Justice Act.

Children under age 12 cannot be charged with a crime.

When a person aged 12-17 is charged with a crime, their parents or guardians must be told by the police. Young people have the right to speak to a lawyer at any time while talking to police or going to court.

When someone under 18 is charged with a crime, is a victim of crime, or is a witness to a crime, they have extra privacy rights. No one is allowed to share their name online or in the news.

If you go to school, you must also follow the school rules. If you are at school or a school event and a teacher or staff thinks you have broken a school rule, they can search you or your things. They must have a good reason to believe a search will help them learn the truth.

That reason might be information they get from other students or from a teacher or staff person. This could include things like smelling drugs or alcohol on you or your things, or someone saying they saw a weapon in your bag or your locker.



If the police or a judge say you must stay away from another student at your school, you can still go to school. If you see that person at school or in your community, you must stay away from them. If you need to change classes to stay away from them, the school will help you make that change.

RESTORATIVE JUSTICE

Restorative Justice is a program that helps people learn from mistakes and stay out of more serious trouble. If a person shows they are serious about making up for the harm they have caused to someone else or their community, Restorative Justice may result in a less serious sentence or a chance to avoid a criminal record.

A person can be referred to Restorative Justice by the police, Crown Attorneys, or a judge at any time. Agencies that work with victims can also refer someone. A referral can happen before someone is charged with a crime, after they go to court, or after they are sentenced.

A person cannot refer themselves to Restorative Justice, but they can request a referral. To participate in Restorative Justice, a person must accept "accountability". This means they must admit they have broken the law or caused harm to someone.

It is very important to talk to a lawyer before telling police you have broken the law or entering a plea in court.

Restorative Justice is an option for all types of cases, except sexual assault or family violence. This includes violence toward someone you are dating or have a romantic or sexual relationship with.



After a case is referred, a Restorative Justice worker will contact all of the people involved in the case. This can include the accused, victims, community members, and police. They will work together to understand what happened, how it affected everyone, and what must happen to ensure a fair outcome.

GOING TO COURT

When someone is charged with a crime, their first court appearance is called an **arraignment**. There will be a number of cases being dealt with by the court on the same day. Listen carefully so that you can hear when the court clerk calls your case. If you need an interpreter, tell the court as far in advance as possible.



When the clerk calls your name, you should walk to the front of the court where the judge can see you. The court clerk will read the charge against you. The judge will ask you if you understand the charge. Tell the judge if you do not understand and the judge will explain it to you.

The judge will ask if you will plead guilty or not guilty. If you plead not guilty, the judge will set a **trial** date. If you plead guilty, the judge will set a date for sentencing. If you are not sure what to say or you need more time to talk to a lawyer, ask for an **adjournment**. An adjournment means you will get a new court date.

You should get legal advice about your situation before you decide how to plead. It is important that you get **disclosure** from the Crown Attorney and review it with a lawyer, if possible, before you enter a plea.

Disclosure means the Crown Attorney must give you copies of all evidence relating to your case This includes police reports, witness statements, and any other documents.

WHAT HAPPENS NEXT

If you plead guilty or a judge decides you are guilty of a crime after a trial, you will have a **criminal record**. This can make it harder to get a job or become a permanent resident or citizen.

Being convicted of a crime does not mean you will go to jail, especially if it is your first offence and no one was badly hurt. You will be sentenced. This may mean you have to pay a fine, do work in your community, take classes, or go to counseling.

You must follow **conditions** if you are charged with a crime or convicted. These are rules put in place by police or a judge. They might tell you to stay away from a specific place, or not to have any contact with a specific person. You might have to be home by a certain time each night. If you break these conditions, you can be charged with another crime.

If you cannot follow your conditions because of school, work, or family responsibilities, you must apply to court to change your conditions. You can get a form from the Provincial Court to request changes. A judge must approve the changes. Otherwise, you must follow your conditions.



GET LEGAL HELP



If you are under 18, or if you are an adult and have a low income, you may be able to get free legal help from Nova Scotia Legal Aid. You can apply for Legal Aid online at **www.nslegalaid.ca** or at the Legal Aid office closest to you.

A staff lawyer from the Legal Aid office may be assigned to your case. They will give you legal advice and go to court with you.

If the Legal Aid office can't take your case, they may issue a **Legal Aid certificate**. This means they will pay for a private lawyer to work on your case. Legal Aid can give you a list of lawyers who take certificates, but you will need to call them yourself.

If you are arrested, the police must let you talk to a lawyer. You can call Legal Aid for advice. The police must give you the phone number and access to a phone. They must let you talk to the lawyer privately.

If you go to court and you don't have a lawyer, you can talk to the **duty counsel** lawyer. This is a lawyer who works for Legal Aid and gives people free, basic legal advice at court. They do not work on your entire case. They provide advice only for that court date.

Legal Aid only helps with family law and criminal law. They do not help with traffic tickets. If you have a different kind of legal problem, you will need to pay a lawyer or represent yourself.

The Legal Information Society of Nova Scotia can answer questions about the law. You can ask questions by email, live chat, text, or phone. They can help you understand your options and what the law says. They cannot give legal advice or go to court with you. Their website is **www.legalinfo.org**. Their phone number is 1-800-665-9779.