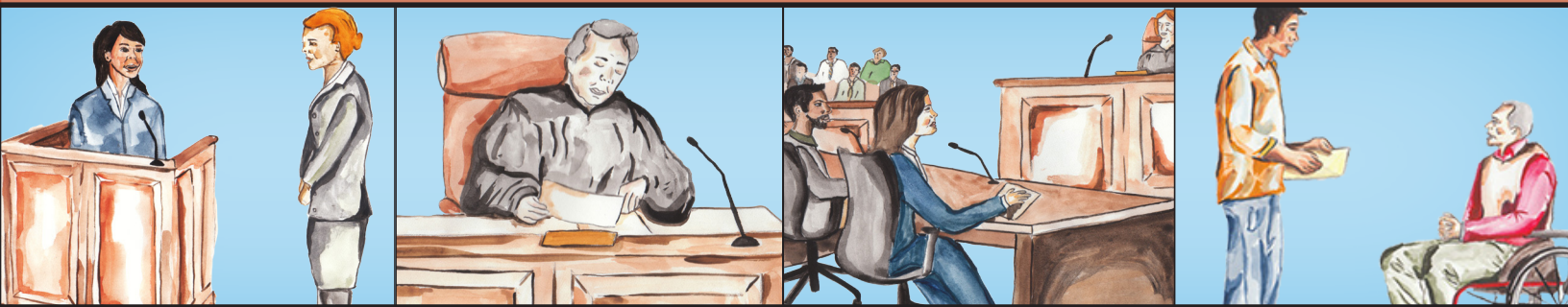


# Going to Court and Being a Witness



HELP FOR VICTIMS OF CRIME

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#### PROJECT VIDEOS

How to Report a Crime When You Have a Communication Disability

How to Report a Crime to Police

What to do if You Have Been Sexually Assaulted

Being a Witness and Testifying in Court

How to Write Your Victim Impact Statement

What Happens When You Go to Court

What Happens When You Report Being a Victim of a Crime (Sign Language Series Videos)

#### PROJECT HELP SHEETS

How to Report a Crime to Police

What to do if You Have Been Sexually Assaulted

Going to Court and Being a Witness

How to Write Your Victim Impact Statement

#### ORIGINAL PROJECT ILLUSTRATIONS

Ellen Lee missellenlee.com

#### FOR MORE INFORMATION

Disability Alliance BC

204-456 W. Broadway,  
Vancouver, BC V5Y 1R3

T: 604-875-0188 F: 604-875-9227

[www.disabilityalliancebc.org](http://www.disabilityalliancebc.org)

[karen@disabilityalliancebc.org](mailto:karen@disabilityalliancebc.org)



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Canada

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Canada

When a crime has happened, the government prosecutes the person accused of doing the crime. This means the government puts the person on trial.

The Crown Counsel decides whether a person should be charged with a crime and what the charge or charges will be. For example, someone could be charged with assault or robbery.

It's the Crown Counsel's job to defend the law. This is why the Crown Counsel will prosecute a crime, even if the victim doesn't want them to.



## What is a Witness?

A witness is a person who can give information about a crime in court. You'll be a witness if the crime that happened to you goes to court.

You'll get a letter (called a subpoena) that tells you when to come to court to testify (which means to tell your information to the court). It will also tell you the name of the Crown Counsel lawyer who is asking you to testify.



The Crown Counsel will contact you for an interview before the trial starts. This interview helps Crown Counsel prepare the case and helps you get ready to be a witness at the trial.

You can take a friend or advocate with you. You have a right to a sign language interpreter.

During the interview, Crown Counsel might:

- ✓ Go over with you your statement to the police.
- ✓ Ask you questions about the crime or attack to see if you're ready to be a witness.
- ✓ Give you examples of the type of questions you might be asked in court. They can't tell you how to answer any questions.
- ✓ Go over your Victim Impact Statement, if you made one.
- ✓ Answer questions you might have.



## What If I Don't Want to Testify?

You must go to court to testify if you get a subpoena. If you don't, you could get a fine or even go to jail.

The law says all employers must let their employees take time off work to go to court, if they get a subpoena. But they don't have to pay you for the time away from work.

Ask about the Victim Assistance Program. Most courts in Canada have Victim-Witness Assistance Programs that can answer your questions about how a trial works and give support.

## How Do I Prepare for Court?

You can get ready by:

- ✓ Going over the details of the crime.
- ✓ Checking the date, time and where you need to go to be a witness.
- ✓ Checking that there will be a sign language interpreter for when you are in court.



## What To Do On the Day of Court

On the day you go to court:

- ✓ Bring all of the documents that are mentioned in the subpoena.
- ✓ Bring your own notes, if it's allowed.
- ✓ Get to court early and be ready to wait for your turn. It can sometimes be a long wait before you are called into the court room.



## Innocent Until Proven Guilty

Canadian law says a person is innocent until they are proven guilty in court. The Crown Counsel must prove the accused person is guilty “beyond a reasonable doubt.” This means there is strong evidence (information given in court about the crime) that the person did the crime.

## What Will Happen in Court?

The Crown Counsel will go first in the trial. They will:

- ✓ Tell the court about the crime.
- ✓ Call you as a witness and ask you questions about what happened.
- ✓ Call other witnesses, like the police officers who investigated the crime or doctors or nurses who treated you at the hospital.
- ✓ Give evidence that helps the Crown's case, like photographs of injuries, medical records or laboratory test results.

The Judge can also ask questions.





When it's your turn to testify:

- ✓ Someone will tell you when it's your turn. This person will walk you to the courtroom.
- ✓ The court clerk will ask you to take an oath to promise to tell the truth.
- ✓ If the judge says it's ok, your support person can be there to help you.
- ✓ You will be asked to say your first and last name, and spell your last name.



Then you'll give your testimony which usually has 3 parts:

- ✓ The Crown Counsel will ask you questions.
- ✓ The defense lawyer will ask you questions.
- ✓ Crown Counsel will sometimes ask you more questions.

## Tips to Help You Testify

- ✓ You have a right to give and get testimony in ways you understand, such as sign language
- ✓ It's OK to ask for a break if you're confused or upset.
- ✓ If you don't understand a question, ask the lawyer to repeat it or explain it.
- ✓ Think about each question before you answer. Give an honest and full answer.
- ✓ Try not to use words like "I think" or "I guess." But, it's okay to say "I don't know" or "I don't remember."
- ✓ Only tell the court what you're sure you saw or heard yourself-not what someone else told you.

## Always Tell the Truth

It's important to always tell the truth when you testify. If you don't, you can be fined and even go to jail.

You have to answer all of the questions from both lawyers. If the Judge thinks a question is wrong to ask, he or she will tell you that you don't need to answer.



If you want to stay in the courtroom to hear other witnesses after you have testified (told your story), ask the Crown Counsel if you can stay. Sometimes this is allowed and sometimes you need to go outside the court room. You will often have to wait outside because you might be called back in to talk to the court again.

After the Crown has finished talking about the crime, the defense lawyer gives their case for the accused. They may follow the same steps as the Crown Counsel, by giving evidence and questioning witnesses. Or, the defense lawyer may not call any witnesses and say there is not enough evidence to prove the accused did the crime.

The accused does not have to testify. The Crown and the Judge can ask defense witnesses questions.

All witnesses, except some children and some adults with special needs, must testify in court when the accused (the person who has been charged with the crime) is in court.

Remember that many steps have been taken for the safety of everyone in the courtroom.

## Final Statements and Sentencing

After all the witnesses have given their information, the Crown Counsel and defense lawyer will make final statements about what has been said so far.

If there is a jury, they will leave the courtroom to talk about the case. When the jury has decided if the accused is guilty or not, they come back into the courtroom.

If there is no jury, the Judge can make a decision right away or make a decision days or weeks later. The trial is then over.

If the accused is found guilty, the Judge will decide the sentence right away or at a later time.

If the accused is found not guilty, it doesn't mean the Judge (or jury) didn't believe you or that it was wrong to contact the police. It means there was not enough evidence to prove it "beyond a reasonable doubt."

A "not guilty" decision does not mean the attack didn't happen or the trial was useless.



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## Do You Need a Communication Intermediary?

Communication Disabilities Access Canada has a Canada-wide list of communication intermediaries. See their list at: <http://www.access-to-justice.org/>