

Criminal Law

This pamphlet explains the laws which control acts that threaten public safety and personal well-being.

information

Start with LISNS' online legal information. You'll find the answers to many legal questions: www.legalinfo.org

Call our **Legal Information Line** at 1-800-665-9779 or 455-3135 to get free legal information.

Need a lawyer? Call our **Lawyer Referral Service** at 1-800-665-9779 or 455-3135 to request a lawyer referral. You can plan a 30-minute meeting with a lawyer for \$20 + HST. This will give you answers to important questions. If you are in police custody or criminal court, you can get free interpretation services.

Just want to listen to a recorded message on a particular legal topic? Call **Dial-a-law** at 420-1888.

Here is a list of **Legal Aid** offices: www.nslegalaid.ca/contact.php

The police and RCMP have Complaints Commissioner's Offices which look into complaints:

Police Complaints Commissioner's Office

Phone: 902-424-3246

E-mail: polcom@gov.ns.ca

Commission for Public Complaints Against the RCMP

By e-mail: org@cpc-cpp.gc.ca

Free long distance from anywhere in Canada: 1-800-665-6878

<http://www.cpc-cpp.gc.ca/index-eng.aspx>

If you have a legal problem, you should talk with a lawyer. This pamphlet contains general legal information. It does not provide legal advice.

LEGAL **Information**
SOCIETY OF NOVA SCOTIA

5523 B Young Street
Halifax, Nova Scotia
Canada B3K 1Z7

NOVA SCOTIA

With the support of the
Province of Nova Scotia

March 2012

Having a driver's licence is a privilege. You can lose this privilege if you are not a responsible and safe driver.

Tickets should not be ignored. You can decide to go to court if you disagree with a fine because you think that you did not break the law.

● How can I get free Legal Aid?

Nova Scotia has a Legal Aid plan that gives free legal help to people who have been charged with a criminal offence which could result in them being put in police custody or in prison and who can't afford to pay a lawyer. Legal Aid is also for some family law cases and some poverty law cases. To qualify for Legal Aid, you must be receiving Income Assistance or have a very low income. You can apply by calling or visiting your local Nova Scotia Legal Aid office.

You will have to give Legal Aid the following information:

- A pay stub and copy of your most recent Income Tax Return or Notice of Assessment
- Court documents, papers regarding criminal charge and court orders related to your case
- Proof of your identity, such as your Health Card or your driver's licence

● What help is there for victims of crime?

There are many agencies that help victims of crime, depending on where you are in Nova Scotia and the type of crime. A good place to start is the Victim Services Program of the Nova Scotia Department of Justice. It has four regional offices. They provide information and assistance to victims, their spouses and relatives about the court process, preparing to give evidence in court, and referrals to other agencies who can help you. Website: http://gov.ns.ca/just/victim_Services/programs.asp

● Who decides if I am guilty of a crime?

A judge decides if you are guilty or not guilty after there has been a trial or you plead guilty. If the police charge you with a crime, you will be given a date to go to court. You should get legal advice before you go to court. The lawyer can explain what will happen in court and what the penalties are if you plead or are found guilty.

If you cannot afford a lawyer, you may qualify for Legal Aid. You should contact Legal Aid before you go to court.

If you are not able to talk with a lawyer before your first court date, you can tell the judge and ask him or her to allow you time to get a lawyer.

If you need the help of an interpreter in court, tell your lawyer or, if you do not have a lawyer, tell the judge when you go to court.

● Will I have a criminal record?

You will only get a criminal record if you are found guilty of a criminal offence. Even then, there are some sentences that will not result in a criminal record. You should talk with your lawyer about this. You will not get a criminal record for provincial or municipal offences, such as a speeding ticket.

● Will having a criminal record affect my immigration status?

It may affect your status, particularly if you are found guilty of a serious offence. Every situation is different. You should get legal advice from your lawyer about your situation, and ask him or her if you should talk to an immigration lawyer.

● What are the penalties for traffic tickets?

You will have to pay a fine for a traffic offence, such as a parking violation. For more serious offences in the Motor Vehicles Act, you will also receive points on your driver's record. The points usually stay on your driver's record for two years following the date you are convicted for the traffic offence. For some offences, your driver's licence could be suspended or taken away for six months. The penalties for new drivers are more severe.

Criminal law is a set of laws which sets out actions that threaten public safety and personal well-being. The purpose of criminal law is to protect everyone living in Canada from acts that threaten, harm or put their safety or well-being in danger. These acts are called crimes or offences. Criminal laws also set out punishment for these crimes. In Canada, criminal laws are made by the Federal government.

Provincial and municipal governments also make laws to protect people's safety and well-being. Examples of provincial and municipal laws are speeding, underage drinking, and excess noise by-laws. These are not criminal offences but there are penalties for breaking these laws, such as a fine or suspension of your driver's licence.

● What is the role of the police?

The police have an important role in the criminal justice system. They help prevent crime; help create safer communities; enforce the law; investigate crimes; collect evidence; lay charges if there is evidence that a person committed a crime; and help victims of crime. The police also enforce provincial and municipal laws such as traffic, noise, and liquor control laws. Police are well-trained and must follow a high professional standard. They are required to treat everyone fairly. If you feel that the police have not treated you fairly, you can make a complaint.

● What happens when police are called?

The police may speak with witnesses, take written statements and visit the place where the crime took place to get evidence. How much time the police spend on the crime will depend on how serious it is. For example, crimes involving violence or weapons, where someone is hurt, or involving harm to a child will take police more time than other crimes, such as theft of a bicycle.

● Do I have to answer a police officer's questions?

You do not have to answer any police questions but what you decide to do should depend on the situation. If you are the person reporting a crime, or if they want to write you a ticket or give you a notice to appear in court, you should give your name and address. While you do not have to help the police, you may want to cooperate if their request is reasonable.

If you are being treated as a suspect, you should talk with a lawyer before you give a verbal or written statement to the police.

● What happens if the police suspect that I have committed a crime?

The police can ask you to go with them to the police station. You do not have to go unless they have arrested you. The police can arrest you for one of the following reasons:

- They have a warrant. A warrant is a paper from the court that gives permission for police to arrest you.
- They believe you have broken the law, are breaking the law, or are about to break the law.

● What happens if I'm arrested?

If you are arrested, you may be taken to a police station and charged, given a warning, or released within 24 hours of your arrest. You might also be given a notice to appear in court. If the police want to keep you for longer than 24 hours, they have to bring you before a judge who will decide whether you should be released or kept in police custody until your court date.

The police have rules that they have to follow when they arrest someone. The police must tell you who they are and show you identification. They must also tell you that:

- you are under arrest and why you have been arrested;
- you have a right to speak with a lawyer and give you time to contact a lawyer;

- you can get free legal advice and give you the number to call; and
- you do not have to say anything but that anything you do say may be used as evidence in court.

The police must allow you to call a lawyer. You have a legal right to speak with a lawyer and you should use that right before you answer police questions or make a verbal or written statement. If you do not know any lawyers to call, the police will give the number for Duty Counsel. A Duty Counsel lawyer is available for free to arrested or detained persons in Nova Scotia 24 hours a day, 7 days a week.

● Can I have an interpreter?

Yes, if you need the help of an interpreter, the police must provide one.

● What happens if my child is arrested?

The police must let you know that your child has been arrested. The police must tell your child his or her rights and make sure the child understands them. They must allow the child to call a lawyer and a parent or adult friend. The child can have the lawyer and a parent or adult friend with him or her when the police are asking questions. The child does not have to answer police questions but if he or she does it's called "giving a statement."

If the child is under age 12, the police will not arrest the child but they may bring the child to your home, or ask you to come to the police station to pick up the child. They may contact Child Protection Services if they are not able to reach you or they believe you are not protecting your child from harm.

● Will my child have to go to court?

No, your child may not have to go to court. When dealing with a young person between ages 12 and 17, the police can:

- decide to take no further action;
- give a verbal warning;
- give a formal caution – this is a letter that warns the young person to stay out of trouble;
- send the young person to a program like Restorative Justice; or
- charge the young person with an offence.

Children under 12 cannot be charged with a criminal offence.

● What is Restorative Justice?

Restorative Justice is the process in which youth at risk are held accountable for their actions and are responsible for repairing the harm they have caused to their victims and their community.

Specifically, the offender makes amends through a face-to-face meeting with the victim and community members. The offender takes responsibility for his or her actions in a safe environment that stresses accountability. He or she will be an active participant in determining how to begin repairing the harm done to the victim and the community affected. The offender also hears first-hand how his or her behaviour has impacted real people in real terms. He or she can ask for help with problems that may have contributed to the wrongdoing.

Young offenders are often referred to the restorative justice process by a police officer or the RCMP before they are charged with the crime. To learn more about restorative justice and for a list of Restorative Justice organizations in Nova Scotia, visit: www.gov.ns.ca/just/rj/programs.asp