

This book is about

Going to Court

if you've been abused



B.C. Self Advocacy Foundation

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Second Edition

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Illustration on page 22 copied from *The Courtwatcher's Manual*, Legal Services Society.

This booklet explains the law in general. It is not intended to give you legal advice on your particular problem. Because each person's case is different, you will need to get legal help.

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Who is this book for?

This book was written for people with developmental disabilities who have been abused. It will also be useful to anyone who has been abused and needs information and support about speaking up for themselves.

What is this book about?

Abuse

This book is about what happens when you go to court because you've been abused.

Abuse happens when someone hurts you. Sexual abuse is when someone touches your personal parts when you don't want them to, or when someone forces you to have sex.

People of all ages can be sexually abused. You may be an adult woman or man. You may be a teenager or a child.

Sexual abuse can happen anywhere. For example, it may happen in your home, at school, at work or at church.

The person who abused you could be your neighbour, your relative, or a stranger. They could be your care-giver or someone at work.

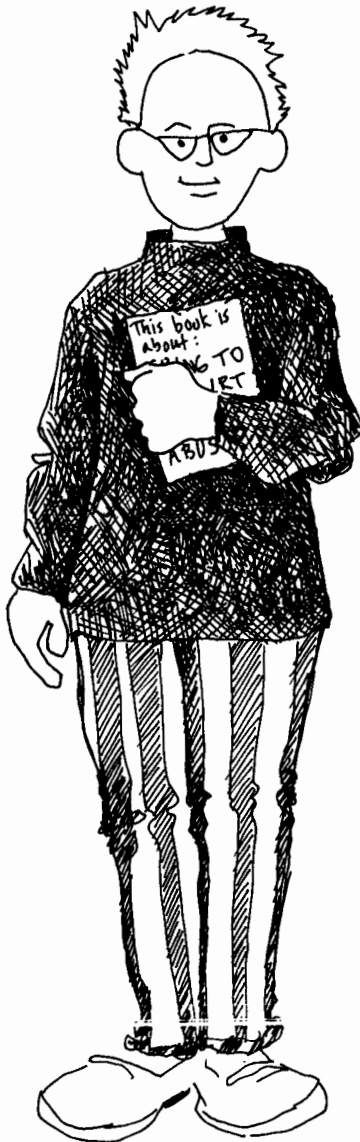
The abuse may have happened a long time ago and you have just remembered it. Or the abuse may be still happening.

When someone abuses you, they are breaking the law. If you have been abused, you need to talk to people you trust about what happened. You may want to tell the police, too. And you may have to go to court.

Going to court

This book tells you who can give you support and information if you go to court. It explains how the courts work. It tells you about the people who work there and what their jobs are.

This book can help you get ready to go to court, but it does not give you legal advice. Your friends and supporters can help you find other information you might need.



CHAPTER 1

What should
you do if
you've been abused?



Getting support

If the abuse happened a long time ago, you still need to deal with how it hurt you.

If the abuse is happening now, you need to stop it.

It is important to talk to people you trust. They can support you and help you understand your feelings. They can also help you decide if you want to tell the police.

You may feel very upset when you talk about what happened. You may feel very scared if the person who abused you is someone who has power over you, like your care-giver, or your landlord, or your relative. You may feel very confused if the person is your friend, or your neighbour, or someone you care about.



Who can support you?

You may want to talk to a friend you really trust. You may want to talk to your parents, or your sister or brother. You may want to talk to your best friend at work, or to your social worker or counsellor.

To help you decide who to talk to, ask yourself these questions:

- Will this person listen to me?
- Will this person stay calm when I tell them what happened?
- Will this person believe what I am saying?
- Who can give me information about the police and the courts?
- Who can help me if I decide to go to court?
- Who can help me understand my feelings?

You may want to talk to different people for different reasons. For example, a close friend can give you emotional support. Another person who knows a lot about abuse can be your “advocate,” someone who helps you protect your rights.

If you decide to go to court, you can ask the people you trust to be your Support Team.

It is also a good idea to talk to a counsellor. Or you may want to find a special counselling group where people who have been abused help each other. Sometimes a group can help you feel more comfortable when you talk about the abuse. A group can also help you get ready to go to court.

Reporting the abuse

Abuse is a crime. It is against the law. You have the right to report it to the police. You do not need your own lawyer when you talk to the police. But it is good to have someone you trust to go with you.

The police will ask you a lot of questions about the abuse. They will give this information to a lawyer called the Crown Counsel (the Crown, for short.) The Crown works with the courts and for the community. They will help you tell your side of the story in court.

The Crown will decide if there are enough facts to lay criminal charges against the person who abused you. These facts are called "evidence." If the Crown has enough evidence, there will be a criminal trial and you will go to court.

Is it confidential?

When you talk to the police about the abuse, what you say is not confidential. The police and the Crown need to talk to each other about what you told them. This is part of their job.

It is never confidential when you talk to the people who work in the court system.

Dealing with the person who abused you

You may be afraid of the person who abused you. You may not feel safe where you live or work, especially if the person who abused you is your relative or caregiver. You may be scared that they will hurt you again. Tell your Support Team about your fears.

When you first talk to the police, tell them if you are afraid of the person who abused you. Tell the police you do not want to see or talk to this person. The police can help you get a “no-contact order.” A no-contact order means that the person who abused you is not allowed to come near you. They are also not allowed to talk to you.

It is very important that you tell the police if you don't feel safe.

You can also ask your Support Team for help. For example, what if you need to find a new, safe place to live? Your Support Team can help you decide how to do this.



What happens at a trial?

At a trial, people talk in court about what happened. A judge (or a judge and a jury) listens to both sides of the story. They listen to all the facts (the evidence). The judge or jury then decides if the person who abused you is guilty of breaking the law, or if they are innocent.

At the trial, your job is to talk about what happened when you were abused. You will tell your side of the story. You are called a witness. You are a witness for yourself. When you talk in court, you are testifying. Your job is to tell the truth about what happened.

In court, the person who abused you is called the accused person. They will tell their side of the story, too. There is a rule that says the accused person is “innocent until proven guilty.” This means the accused person is seen as innocent until the judge (or the jury) decides there is enough evidence to prove they are guilty.

How do you feel?

It isn't easy to talk to people about abuse:

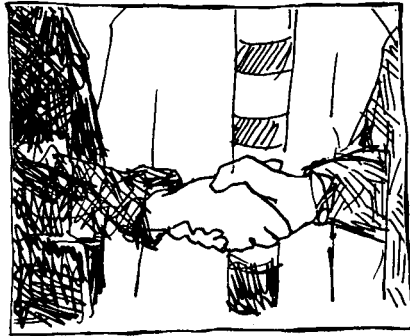
- You may feel scared.
- You may feel embarrassed.
- You may feel afraid that people won't believe you.
- You may think someone is mad at you for going to court.
- You may worry that you won't understand what is happening.

Your supporters can help you understand your feelings.

Remember: You didn't do anything wrong. It is very good that you told people someone abused you. It is very good that you are going to court so this person can't hurt you or someone else any more.

CHAPTER 2

Getting ready
to go to
court



Your Support Team

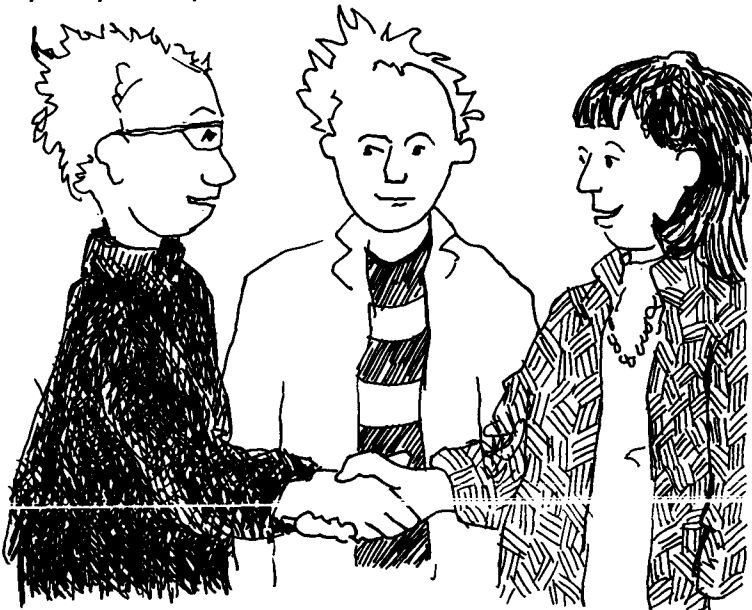
You will need lots of support if you are going to court. The people on your Support Team can help you. You can tell them about your feelings, and you can ask them to go to court with you.

Your case worker

There are people whose job is to help you get ready for court. They work at Victim Witness Services. When one of these people helps you, they are called your “case worker.”

If you want a woman case worker, say so. If you want a man, say so.

The case worker may come to your home to meet you. You will spend some time together, getting to know each other. You may want to go over this book with them and ask questions. Another time, your case worker may take you for interviews with the Crown. They may show you videos about how the courts work. They may take you to see a courtroom.



Your case worker knows a lot about what happens in court. They will help you get ready to be a witness at the trial. You can ask them for information about your case. You can also ask them for information about counselling services.

Your case worker works in the court system. When you talk to them, what you say isn't confidential.

Will you see the person who abused you in court?

You may be afraid to see the person who abused you when you go to court. If you are, tell your Support Team and your case worker. Tell them you want to testify behind a screen or in a separate room. That way, you won't have to see the person who abused you. Your Support Team and your case worker can help you ask the Crown for this. It isn't easy to get permission to testify behind a screen or in a separate room. But you have the right to ask for this.

Learning how to be a good witness

Before the trial, people like the Crown need to talk to you about what happened. Your case worker and someone else from your Support Team can go with you to these interviews.

The Crown may talk to you more than once. They may ask the same questions over and over again. This doesn't mean they don't believe you. They just need to have a very clear picture of what happened. They need to know what happened, where it happened, when it happened, and who did what. The Crown may tape record the interview so they can remember your answers.



The Crown's job is to make sure you get to talk in court about what happened. When you are interviewed by the Crown, you are practising to be a good witness for yourself.

It is very important to tell the truth. The Crown will ask you if you understand what it means to tell the truth. They will ask you to promise to tell the truth.

It is also important to tell everything you remember. If you leave something out on purpose, people may think you are not telling the truth about other things, too.

Do you want the Crown to know that you have a disability? There may be some support for people with disabilities that you can use. If you want the Crown to know about your disability, be sure to tell them.

How to answer the Crown's questions

- **What if you don't understand a question?**

You can say that you don't understand. You can tell the Crown to ask the question in a different way or to slow down.

- **What if you don't know the answer to a question?**

You can say that you don't know, or you're not sure. The Crown does not expect you to know all the answers to all of their questions.

- **What if you don't remember something?**

You can say that you don't remember. If you remember it later, be sure and tell the Crown.

- **What if you get confused and make a mistake?**

You can say that you're not sure about what you said. People often get confused when they try to remember things that hurt them.



- **What if you feel embarrassed about what happened?**

You may feel ashamed to say words that are bad or dirty. Try not to worry. The Crown has heard these words before and knows it might be hard for you to say them.

- **What if you get upset and start to cry?**

People often cry when they talk to the Crown. That's okay. Crying can sometimes make it easier for you to talk about what happened.

Talking to the Crown

You can ask the Crown for information, like:

- When is the trial?
- How long will the trial last?
- What questions will I be asked at the trial?

There are other important things you can talk to the Crown about:

- If you want to testify behind a screen or in a separate room, ask for this.
- When the abuse happened, you may not have talked to anybody about it. Maybe you were afraid or embarrassed. Maybe you did not understand that what happened was against the law. Maybe the accused person threatened to hurt you again if you talked. This is very common.

The Crown might ask you, "Did you talk to anybody about what happened?" or "Did anybody else see this happen?" Just tell them what happened.

- You may think that you won't be treated fairly in court. You may be worried that people won't believe you because you have a disability, or because you can't remember some things.

You have the right to be treated fairly in court. You have the right to be believed.

**Remember:
it isn't confidential**

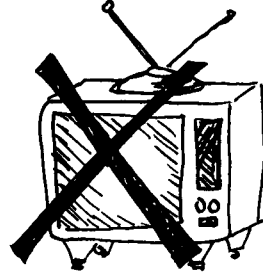
When you talk to the Crown, what you say is not confidential. They must tell the accused person's lawyer what you told them.

This is the law. Both sides have to know everything. This is supposed to make the trial fair for everybody. It means there will be no surprises when people testify in court. The judge might throw the case out of court if both sides haven't shared everything they know. Your case worker can tell you more about this.

Getting to know the courtroom

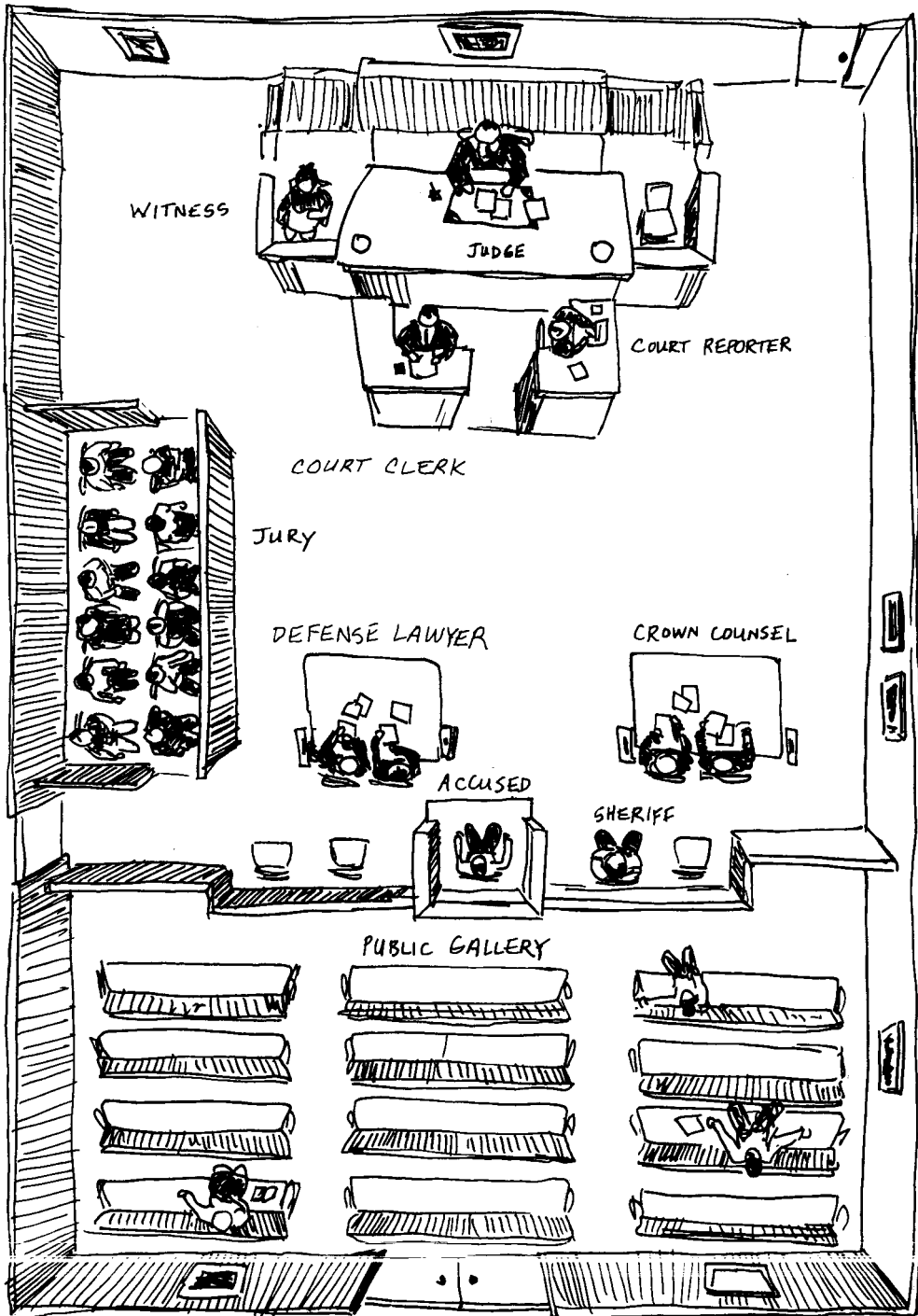
Many people have the wrong idea about courtrooms and trials. You may have seen TV shows where all the witnesses sit in the courtroom and listen to each other testify. This isn't what happens in real life, in Canada.

When you are a witness, you only go into the courtroom when it is your turn to testify. You aren't allowed in the courtroom the rest of the time. This is true for all the witnesses.



Before the trial, your case worker can take you to a courtroom to watch another trial. You will see how a real trial works. This will help you feel more comfortable when you come to testify. It will help you learn how to be a good witness.

There is a drawing of the courtroom on the next page.



Who's who in the courtroom

- **The witness**

They talk in court about what happened. You will be a witness.

- **The Crown Counsel**

The lawyer who works for the court.

- **The defense lawyer(s)**

The lawyer who works for the accused person.

- **The accused**

The person who hurt you.

- **The Court Clerk**

They handle the court papers, and swear in the witnesses.

- **The Court Reporter**

They write down what people say in court.

- **The Sheriff**

They make sure everybody is safe in the courtroom.

- **The judge**

They make decisions during the trial. They decide what should happen to the accused person.

- **The jury**

They decide if the accused person is guilty or not guilty.

Waiting for the trial

You usually have to wait a long time for the trial. Sometimes you wait for months, or even for years. You may also have to wait a long time for the police to charge the accused person. This is because the courts are very busy and slow.

Waiting can be very frustrating. If you feel upset or confused about what is happening, talk to your Support Team about your feelings.



Making a Victim Impact Statement

While you are waiting to go to court, you can make a Victim Impact Statement. A Victim Impact Statement explains how the accused person hurt you and how the abuse made you feel.

Think about how the abuse has affected your life, your feelings, and your body. Are you still hurting from the abuse? Has the abuse changed your personal relationships? Maybe you have trouble sleeping. Maybe you feel depressed or you don't trust other people. This is the kind of thing you can say in your Victim Impact Statement.

You don't need to be able to write to make a Victim Impact Statement. Your case worker and someone on your Support Team can help you write your statement. Your case worker will tell you how it is used in court.

You don't have to make a Victim Impact Statement, but you might feel better if you do. It is your choice.

Do you feel safe?

You might be afraid of the person who abused you. They might try to make you change your mind. They might call you a liar. Or someone else might do or say things that scare and threaten you. This is called harassment.

If you don't feel safe, make sure you tell the people you trust. Ask them to help you.

When someone threatens you or harasses you, you can ask the court for protection. Talk to the Crown. If you don't already have a no-contact order against the person who is threatening you, ask for one now.

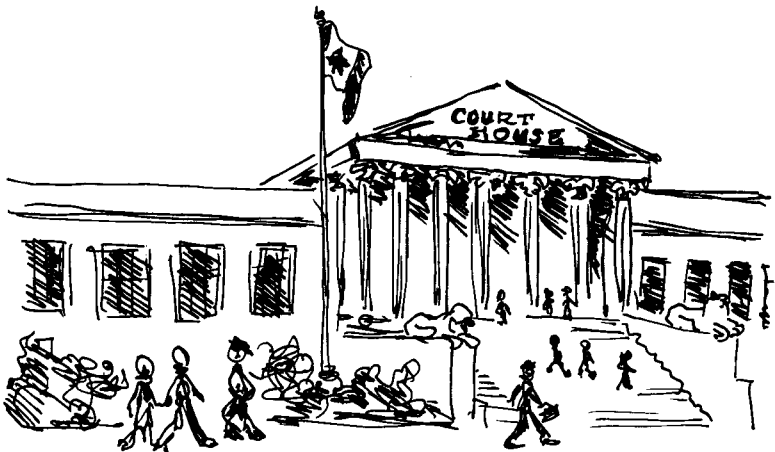
If someone threatens you, be sure to save the evidence. If they send you a nasty letter, save the letter. If they make a scary phone call, write down when it happened and what they said. Save the phone messages, too. If someone else hears the phone message, ask them to be your witness. Tell your Support Team and your case worker when these things happen.

You might also be worried that you got someone into trouble because you talked to the police and the Crown. Or you might be afraid of getting a bad recommendation from the place you live or the place you work.

Remember: You didn't do anything wrong. Nobody has the right to hurt you or abuse you.

CHAPTER 3

At the trial



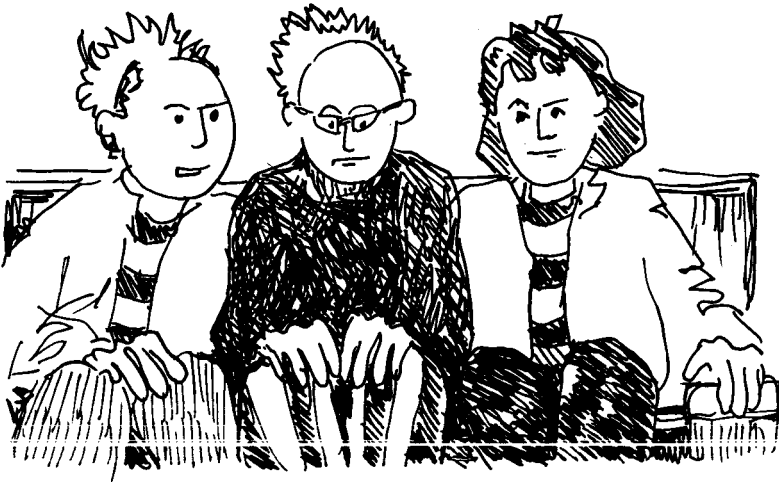
At last you are going to court!

Your case worker will tell you when and where to go. They will go with you. Other people on your Support Team can come too, so make sure they have the information. They can help you make plans to be away from work or from school.

You might have to go to court more than once. Sometimes there is a Preliminary Hearing. This is a short trial before the real trial. Your case worker can tell you how this works.

You and your Support people will wait outside the courtroom until it is your turn to testify. It may be a long wait, so bring something to do: a game, cards, a book, a Walkman. Bring something to eat and drink, too.

While you are waiting, other people are testifying about what happened. For example, the police who talked to you are telling the judge what they know. All these people tell the judge what they know. This information helps the judge get a very clear picture of what happened.



It's your turn to testify

Someone will come and tell you when it is your turn to testify. Inside the courtroom, you will go to the witness box and stand there. The judge will tell you when to sit down.

Your Support people will go into the courtroom, too. If you look around, you will see the judge, the Crown, other lawyers and the court workers.

You will also see the accused person, unless you have asked not to see them. If seeing them makes you feel bad, don't look at them. You can look at the Crown, or the judge, or someone on your Support Team.

You must promise to tell the truth

Before you testify, you must promise the judge you will tell the truth. The judge, the Crown or the defense lawyer may ask you some questions about what it means to tell the truth. Then the court clerk will ask you to promise to tell the truth, by swearing an oath on the Bible, or making an affirmation. (An affirmation is when you promise to tell the truth, but you don't swear on the Bible.)

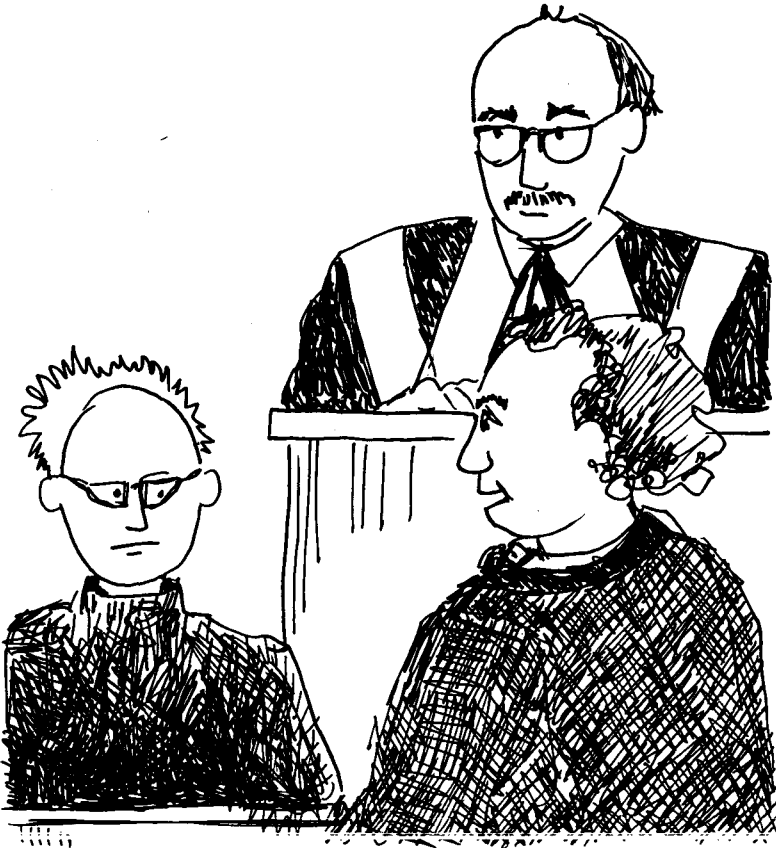
Then the Crown will ask you questions. The judge will listen carefully to your answers. The judge has never heard you talk before, so you have to tell them everything that happened. After that, the defense lawyer will also ask you questions.

What happens with the defense lawyer?

The defense lawyer's job is to show the accused person's side of the story.

The defense lawyer may ask you questions to show that you don't understand things. Or that you don't remember things. Or that you aren't telling the truth. This is their job.

Their questions might confuse or upset you. Try to listen very carefully to their questions. And remember how to be a good witness.



How to be a good witness

Remember what you learned about how to be a good witness for yourself:

- Tell the truth.
- Speak slowly. Take your time.
- Speak clearly and loudly. Don't just nod your head.
 - If you don't understand something, ask the person to say the question a different way. If you still don't understand, say "I don't understand."
 - If you can't remember something, say "I don't remember."
 - If you don't know the answer, say "I don't know."
 - If you aren't sure, say "I'm not sure."
 - If you are sure, say "I'm sure."
 - If you don't agree with something, say "I don't agree."

How do you feel when you testify?

Most people are nervous when they testify in court. You might also feel scared, or embarrassed, or frustrated. You might wonder why people are asking you the same questions all the time. You might wonder why people interrupt you sometimes. You might want it to be over. You might cry (it's good to have some Kleenex with you).

The judge needs to hear everything you say. You have to be patient. Testifying in court is hard work.

After you testify

After you testify, you must leave the courtroom. Outside, you can tell your Support people how you feel. You deserve lots of support because you did a hard job.

The trial will continue and other people will testify. It may take a few more days. Your case worker will tell you when the trial is over.



CHAPTER 4

After the trial



The trial is over when everybody has talked in court. The judge (or the jury) decides if the accused person is guilty or not guilty.

If the accused person is found “not guilty”

The judge may decide the accused person is not guilty. This doesn't mean the judge didn't believe you. It means there was not enough proof. Maybe some of the facts were not really clear. When there is not enough proof, the judge cannot be completely sure the accused person broke the law. This is called “reasonable doubt.”

Even if the accused person is found not guilty, it is still very important that you went to court.

If the accused person is found “guilty”

The judge may decide the accused person is guilty. This means the person will be punished. They may pay a fine. They may go to jail. There are other kinds of punishment, too. The Crown will tell you what will happen to the accused person.

Remember your Victim Impact Statement, when you explained how you felt about being abused? If the accused person is guilty, the judge will think about what you said in your statement when they decide on the punishment.

What do you need after the trial?

When the trial is over, you will still have lots of feelings. You will still need lots of support.

What if the accused person was found not guilty? This doesn't mean you weren't abused. It doesn't mean the accused person didn't do it. But you might feel upset or angry that they aren't going to be punished. You can talk to your Support Team about your feelings.

What if the accused person was found guilty? You may have different feelings. Some people feel sad, some people feel strong, some people feel tired.

If you still feel unsafe or afraid of the accused person (or someone else), tell your Support Team and your case worker. Ask them for help.

Do you have questions about what happened in court? You can ask your case worker and your Support Team to explain what happened. You can also tell them how you're feeling. They will be proud of you for going to court. You should be proud of yourself, too.



CHAPTER 5

Other things you can do

If you have been abused, you can get different kinds of help. You can go to court and you can ask for these other things, too. This chapter gives a little information about what is available for people who have been abused.

Counselling

You may want to see a counsellor or go to a support group, even after the trial is over. In some places, there are counsellors and groups for people who have been sexually abused.

Your Support Team and your case worker can help you find the right counsellor or support group. They will try to find you free counselling. But most counsellors cost money. There is information on the next pages about how to get money to pay for counselling.

Criminal Injury Compensation

You can get money from the B.C. government if you were abused. This money is called “Criminal Injury Compensation.” Some people call it “victim’s compensation.” You can use the money to pay for counselling, for example.

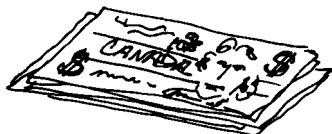
You have to apply for Criminal Injury Compensation by filling out a special form. You usually need to tell the police about the abuse first. What if you didn’t tell the police when the abuse happened, because you were really young or because of your disability? In these cases, you may still be able to get Criminal Injury Compensation.

Your case worker can tell you more about Criminal Injury Compensation. They will help you apply for the money.

For more information, you can phone the Workers’ Compensation Board. They run the Criminal Injury Compensation program.

In the Lower Mainland phone: 244-6400 (ask for Criminal Injury Compensation).

In the rest of British Columbia, phone toll-free: 1-800-661-2112 (ask for Criminal Injury Compensation).



Residential Historical Abuse Program

When you were a child or a teenager, were you abused in a group home, institution or foster home run by the B.C. government? This might have happened a long time ago. If you were, you can get money for counselling from the Residential Historical Abuse Program.

To be eligible for this money, you must have been under 19 years old when the abuse happened. You do not need to have told the police about the abuse.

Your Support Team can help you apply for the counselling money.

For more information, phone toll-free: 1-800-663-0686 (ask for the Residential Historical Abuse Program).

Well-Being Program

Are you a person with a hearing or a hearing/seeing disability? If you are, you may be able to get free counselling if you were abused. The Well-Being Program is for people with these kinds of disabilities who were abused.

For more information, phone: (604) 732-7656 or TTY: (604) 732-7549.

Jericho Individual Compensation Program

Were you abused while going to Jericho Hill School in Vancouver (for deaf, hard of hearing and deaf-blind children)? If you were, you can phone this program and make a claim for compensation. You do not have to have a court case to do this. This program only exists until November 30, 1997.

In Vancouver phone: 660-0300, TTY: 660-0319.

In other parts of British Columbia, phone:
1-888-311-2211 or TTY: 1-888-711-2211.

Suing the person who hurt you

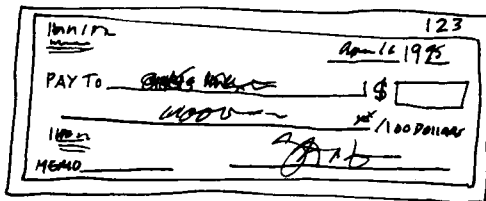
You may want to sue the person who hurt you. This means you will go to court for a civil trial. A civil trial is different from a criminal trial.

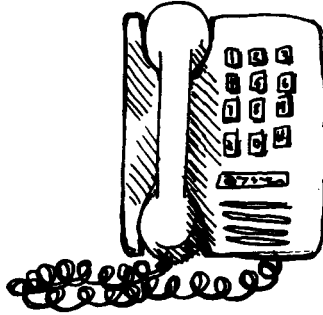
If you win a civil trial, the person who hurt you will have to give you money. You may want to sue them because you need the money for counselling. Or you may want to sue them because you hope to feel stronger and safer if you win.

You can sue the person who hurt you even if the police or the Crown decided there wasn't enough evidence for a criminal trial. You can also sue them even if they were found "not guilty" in a criminal trial.

You need to hire your own lawyer when you sue someone. Your lawyer will give you legal advice about whether you have a good case against the person who hurt you.

A civil trial can be long and difficult. It could cost you a lot of money. The decision to sue someone is not easy. You will need lots of support and advice from your Support Team before making this decision.





For more information

Victims Information Line

The people at the Victims Information Line can tell you where to find help if you have been sexually abused. They know about the police, counsellors and support groups in your town or city.

In the Lower Mainland, phone: 665-2187. This will connect you with Victim Services at the Vancouver Police Department.

In the rest of British Columbia, phone toll-free: 1-800-563-0808.

B.C. Association for Community Living and B.C. Self Advocacy Foundation

The people in these organizations work with self advocates and their families. They can tell you where to find support and services in your community.

#300 - 30 East 6th Avenue
Vancouver, BC V5T 4P4
Phone: (604) 875-1119

Advocacy Access Program

The people in this program do advocacy work for people with disabilities. They are part of the B.C. Coalition of People with Disabilities.

#204 - 456 West Broadway Avenue
Vancouver, BC V5Y 1R3

In the Lower Mainland, phone: 872-1278 or
TTY: 875-8835.

In the rest of British Columbia, phone toll-free:
1-800-663-1278.



Lawyer Referral Service

This organization can give you the names of lawyers in your community. You will need a lawyer if you are thinking about suing the person who hurt you.

(Remember: you do not need a lawyer if you are a witness in a criminal trial.)

These lawyers are not free. They will charge \$10 for the first half-hour you talk to them. After that, you can decide if you want to hire them.

In the Lower Mainland, phone: 687-3221.

In the rest of British Columbia, phone toll-free:
1-800-663-1919.

Legal Aid (Legal Services Society)

Do you want to know more about the courts? These people can tell you where to find information about the law and the courts.

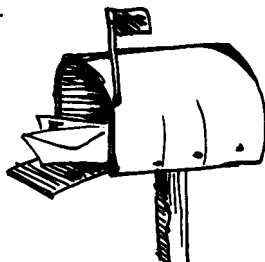
To find your local Legal Aid office, look in the white pages of the phone book under "Legal Aid - Legal Services Society," or look in the Yellow Pages under "Lawyers - Legal Aid - Legal Services Society."

If you cannot find it, call the Victims Information Line at 1-800-563-0808. They can help you find the Legal Aid office near where you live.

B.C. Human Rights Coalition

Do you think someone is not treating you fairly? Do you want to know your rights? The people in this organization can tell you about your rights. They can help you if someone is discriminating against you.

#718 - 744 West Hastings Street
Vancouver, BC V6C 2A5
Phone: (604)689-8474



Lower Mainland Community Based Services Society

This organization has a helpful booklet called *Sexual Abuse: A Resource Guide for Adults With Disabilities*. The booklet explains what sexual abuse is, and tells you where to find help.

#240 - 4664 Lougheed Highway
Vancouver, BC V5C 5T5
Phone: (604) 299-6397

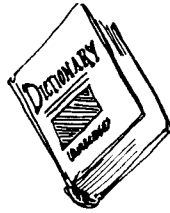
Who else can help?

The following groups can help you in different ways. To find their phone numbers, look inside the front page of your phone book.

Crisis Centre: You can phone these people if you are having an emotional crisis.

Rape Crisis Centre: You can phone these people if you have been sexually abused.





What the words mean

- **The accused:** The person who hurt you and was charged with breaking the law.
- **The case worker:** The person who helps you get ready for court. The case worker is also called a Victim Services Worker.
- **The Crown Counsel:** The lawyer who works with the court and for the community. Their job is to try and prove the accused person is guilty.
- **Compensation:** Money or free counselling you can get if you have been abused. An example is Criminal Injury Compensation.
- **Confidential:** When a person agrees not to tell anybody else what you have said to them, unless they get your permission.
- **The defense lawyer:** The lawyer who works for the accused person. Their job is to try and prove the accused person is not guilty.
- **Evidence:** The facts or proof about what happened when you were abused.

- **Harassment:** When someone threatens you by doing or saying things that scare you.
- **The judge:** The person who listens to what everybody says at the trial. They make important decisions during the trial.
- **The jury:** The group of twelve people who listen to what everybody says at the trial. They decide if the accused person is guilty or not guilty.
- **Oath:** When you say that you promise to tell the truth in court.
- **Sue:** When you go to court for a civil trial to try and get money from the person who hurt you.
- **Testify:** When you tell your side of the story in court. This is your “testimony.”
- **Victim Impact Statement:** When you make a statement for the judge about how the abuse hurt you, and how the abuse made you feel.
- **Trial:** When people go to court to talk about what happened. A decision is made about whether the accused person is guilty or not guilty.
- **Witness:** When you testify in court about what happened. If you were abused, you will be a witness for yourself.

Things to Remember

You can use these pages to keep track of important information.

The people on my Support Team are:

Name: _____

Phone: _____

Name: _____

Phone: _____

Name: _____

Phone: _____

Name: _____

Phone: _____

The people at court

My case worker's name:

My case worker's phone:

My Crown Counsel's name:

My Crown Counsel's phone:

Things to remember on court day

My court date:

The courtroom address:

Courtroom number _____

Things to take to court

- A snack
- Things for waiting, like a book, cards or a game
- Anything the Crown asked me to bring:

B.C. Self Advocacy Foundation

30 East 6th Avenue, 3rd Floor
Vancouver, B.C. V5T 4P4

(604) 875-1119



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