

Abuse and Neglect of seniors and the Criminal Justice System

Information for seniors



This is one of a series of information sheets for seniors. The others are :

- ▲ *Abuse and Neglect of Seniors — Is it a Crime?*
- ▲ *Reporting Crimes to the Police and What Happens When You Make A Report*
- ▲ *Reporting Abuse and Neglect Under Part 3 Adult Guardianship Act*
- ▲ *Where to Get Legal Help*
- ▲ *Giving Other People Authority to Help You Manage Your Affairs*

More situations involving crimes against seniors are being reported to the police. In part, this is because police and people in communities are working together to make sure that older people are protected when they are in danger.

Understandably, there are questions about how the justice system works.

ROLE OF POLICE

Police investigate:

- ▲ reports about safety issues, especially if the person who is in danger is unable to get help for him or herself;
- ▲ reports about crimes; and
- ▲ suspicious activities that cause the police to believe that a crime may have been committed.

> What does a police investigation usually involve?

A police investigation usually involves:

- ▲ interviewing the person who has been victimized, and any witnesses, to take a report;

- ▲ gathering evidence;
- ▲ obtaining statements from the victim and witnesses;
- ▲ arranging to get medical forensic evidence (forensic evidence is used in law courts);
- ▲ “keeping the crime scene” as it is, also called preserving the crime scene; and
- ▲ interviewing the suspected offender and, in some cases, arresting him or her.

> When do the police make an arrest?

If there is enough evidence that a crime has been committed, the police will arrest a suspected offender. This arrest may be made to make sure of the identity of the suspect, to stop the offence from continuing or to make sure the victim will be safe.

> What happens if an offender is arrested?

When an offender is arrested the police will:

1. keep that person in custody if they believe that he or she is a risk to others or may not attend court as required. The Crown counsel will conduct a “show



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cause hearing” to give reasons for not releasing the accused until a preliminary inquiry or trial; or

2. let the person go with conditions attached to the release.

> **police prepare a report for Crown Counsel**

If police believe that a crime has been committed, they will prepare a report for Crown counsel suggesting that charges be laid.

This report is called a **Report to Crown Counsel** (RTCC). It is also sometimes referred to as “particulars” of charge. The report includes information or facts learned from the police investigations and circumstances of the charge and arrest.

ROLE OF THE CROWN COUNSEL

The Crown counsel looks at the report from the police and decides if a suspected offender should be charged. This decision by the Crown counsel is based on whether there is enough evidence to convict a person of the crime. The Crown counsel will also think about whether it is in the public interest to charge the person. He or she will consider the circumstances of the case and the concerns of the local community in deciding about public interest.

In making a decision about laying a charge, the Crown counsel also weighs:

- ▲ the seriousness of the charges;
- ▲ whether considerable harm was caused to the person who is the victim of the crime;
- ▲ if a weapon was used;
- ▲ whether the victim of the crime is in a vulnerable situation;
- ▲ if the accused person has been convicted of previous crimes;
- ▲ whether the accused person was in a position of trust;

- ▲ whether the offence was motivated by the victim’s race, origin, colour, religion, sex, age, mental or physical disability, political views, or sexual orientation;
- ▲ whether there is a significant difference between the actual or mental age of the accused and the person who is the victim;
- ▲ whether the offence was committed while the alleged offender was under an order of the court; and
- ▲ whether the crime, although not serious itself, is widespread in the area where it was committed.

> **laying a charge**

If Crown counsel decides that an accused person should be charged, an Information is prepared which states what the charges are. A justice of the peace will have a police officer “swear the information.”

It is important to remember that the person who is charged with a crime needs to get a lawyer to deal with the charges in criminal court. The victim does not need a lawyer to press charges against the accused. The Crown counsel will prosecute the accused on behalf of the state.

ROLE OF VICTIM SERVICE WORKERS

Victim service workers offer victims of crime the information, practical assistance and emotional support they need to deal with the justice system. These government-supported programs work together with the police and the community.

A victim service worker can assist victims to get information about their case from the police and the Crown counsel. Victim service workers can also provide information about the special needs and concerns of the victim to the police or Crown counsel.

- ▲ **Community-based Victim Service Programs** — These programs are provided through community



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agencies across the province. Some specialize in family and sexual violence and others specialize in serving people from aboriginal or various diverse cultural backgrounds.

- ▲ **Police-based Victim Service Programs** — These programs, which are usually located in police detachments of many communities across BC, work with victims of any crime, whether against property or persons, and are usually involved from the time the crime is reported to police.
- ▲ **VictimLINK** — This is a provincial toll-free telephone service that provides information and referral services to all victims of crime and immediate crisis support to victims of family and sexual violence. Call 1-800-563-0808 toll free 24 hours a day and 7 days a week. This is a multilingual and TTY service. Deaf and hard of hearing people can call TTY at 604-875-0885.

COMPENSATION OR GETTING BACK PROPERTY TAKEN BY CRIME

The *Criminal Code* says that an offender can be ordered to pay compensation to a victim and to return any property obtained by the crime. In some cases, repayment can be part of a probation or restitution order. This can only be done if there has been a direct theft and there is no doubt or confusion about the amount of the loss or a dispute about the value.

In British Columbia a victim of crime may be entitled to financial compensation even if there are no charges laid. Contact the **Crime Victim Assistance Program** at 604-660-3888 or toll free at 1-866-3888 for more information about making a claim.

Compensation or recovery of goods may also be obtained from an abuser through civil action or a lawsuit. There are some time limitations involved, so obtain legal advice as soon as possible.

COMPLAINTS OR APPEALS

> about the police

In British Columbia, there are two main types of police forces: the RCMP and municipal police. Some communities also have a First Nations policing force.

If you have questions or concerns about how police have handled a matter, first try talking to the officer or his/her superior officer. Many misunderstandings or miscommunications can be cleared up at this level.

If the problem is not resolved and the complaint is about municipal police or First Nations police, contact the Police Complaint Commissioner. Call 604-660-2385 in Vancouver. For more information on the complaint process, refer to the brochure *If You Have a Complaint Against the Police in BC*. For a complaint against a member of the Royal Canadian Mounted Police, contact the Commission for Public Complaints Against the RCMP. Call toll free: 1-800-665-6878. For more information, refer to the brochure *The Commission for Public Complaints Against the RCMP*.

> about Crown counsel

If Crown counsel has made a decision to not lay charges when you believe there is good reason to do so, you can ask Crown counsel for an explanation under the *Victims of Crime Act*. Or, if you are supporting a senior who cannot ask for an explanation, you may make this request on the senior's behalf.

To learn more about the law and your rights, telephone **BC CEAS at 604-437-1940** if you live in the Lower Mainland or toll free from the rest of the province at **1-866-437-1940**.



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