

MENTAL HEALTH & LAW SERIES

Help! I Need A Lawyer!

Part 3: Accessing Criminal Law Services



Community and Legal Aid Services Programme (CLASP) and MDAO provide you with a series of articles describing the different types of legal services available in your communities. This installment will offer a brief overview of the options available if you have been charged with a criminal offence.

I'VE BEEN CHARGED WITH A CRIMINAL OFFENCE, WHAT SHOULD I DO?

Being charged with a criminal offence is a scary and confusing process for anyone, but a little information can make the process more manageable. One of the most important steps you can to make contact with the courts less scary is to know what services are available in your community. This article will provide a brief overview of the services available to persons charged with criminal offences in Ontario and what you can do to help yourself.

Your First Appearance

If you are charged with an offence and released by the police, you will likely have a first court appearance before you are able to hire a lawyer. While a court appearance will be a scary event, it is important to know that no important decisions will be made. Some things to remember if you are appearing alone on your first court date:

- When your name is called, go up to the desk where the Crown lawyer is standing and introduce yourself.
- The Judge will likely ask you if you have found a lawyer, if you have applied for Legal Aid, or to a legal clinic, tell the Judge this and ask to come back after your application has been reviewed.
- Ask the Crown lawyer for “disclosure”. This is a summary of the Crown’s case, and is required when applying to many legal clinics.
- If the Judge asks you additional questions, try to fully answer all of the questions, but don’t be afraid to say you don’t know if you really don’t know.
- Try not to be nervous! Although it will likely be a scary and confusing experience, the Crown and Judge know that you will be nervous and will likely make the process as straight forward as possible.

Duty Counsel

If you arrive at court and do not have a lawyer, you can also receive advice from the Duty Counsel. Duty Counsel are trained lawyers working at courthouses who can give you legal advice on the day of your appearance. To talk to a Duty Counsel, find the Duty Counsel desk and ask to have your name put on the waiting list and someone will be able to assist you shortly.

LEGAL AID CERTIFICATION ASSISTANCE

Before your first appearance you should visit a local Legal Aid office to apply for a “Certificate”, a document you can present to a lawyer to get free assistance. When visiting the Legal Aid office, be sure to take as much information as possible to allow the staff to assess your application quickly. You should be sure to bring:

- Photo ID

- Any court documents you have
- Proof of income
- Bank statements
- Proof of monthly expenses.

In order to qualify for a Legal Aid Certificate there is a two step process which must be met. First, you must be seeking assistance in an area of law which Legal Aid covers, and second you must meet the financial requirements. Legal Aid Ontario offers assistance for offences which would likely result in jail time (eg: assault with a weapon, sexual assault, robbery and trafficking in narcotics). It is important to remember that Legal Aid certificates are not available for applicants with less serious offences where there is no probability of going to jail.

When determining financial eligibility, Legal Aid staff will look at both your assets and income. When examining assets, they will look at whether you possess sufficient assets to fund a legal defense. Where applicants have assets, they may be expected to help pay for a lawyer. Second, Legal Aid will look at income, determining if after monthly expenses there is money to pay for a lawyer. Where a person has no income or is on social assistance, he or she will almost always meet the financial requirements. *For more information call Legal Aid at 1-800-668-8258 or visit them online: <http://www.legalaid.on.ca/>.*

If you are being held in custody, there is a free hotline that you can call for legal advice. The police must provide you with this phone number and private access to a telephone.

SERVICES ARE PROVIDED BY STUDENT LEGAL AID SOCIETIES

In Ontario there are also a number of Student Legal Aid Societies which offer free legal assistance to many people who are charged with offences not covered by Legal Aid. *These clinics can be found through the Legal Aid website at <http://www.legalaid.on.ca/en/student.asp>, or by phone at 1-800-668-8258.*

CLASP offers assistance with all summary conviction (less serious and with no risk of jail time) offences under the *Criminal Code*, provincial offences where race is a clear issue and civil claims against paralegals acting in the criminal area.

CLASP can be reached at (416) 736-5029,
or visit us online: www.yorku.ca/osgoode/clasp/ for further information.

If you do not qualify for free services, you will have to pay for the lawyer yourself. Many lawyers will arrange payment plans and will reduce the retainer. Ask on your first visit if this is available.

FINDING A CRIMINAL LAWYER

Once you have obtained a Legal Aid Certificate, you will have to find a lawyer to represent you. There are a number of lawyer referral services, including the legal aid office itself which will have a list of lawyers in your area. Another great resource for finding criminal lawyers is the website for the *Criminal Lawyer's Association* at www.criminallawyers.ca. If you don't have Internet access, legal aid clinics will generally be able to refer you to a lawyer that meets your needs. This can be done over the phone and does not require that you meet the financial criteria. Finally, be sure to ask other service providers you are in contact with for good criminal lawyers, since they might be able to offer referrals to lawyers that have been successful in the past.

The next article in this series will cover services available to people are victims of criminal offences in Ontario.