

STREET LAW SMARTS #1

WHERE TO GET LEGAL HELP?

The Street Youth Legal Services (SYLS) Lawyer at Justice for Children and Youth can assist you with advice, referrals, or representation. The lawyer attends the following locations weekly:

Every other Tuesday	12noon-1:30pm	YMCA Drop-in 7 Vanauley Street
	12noon-1:30pm	Native Child and Family Services Drop-in 655 Bloor Street West
Tuesday	2pm – 3:30pm	Queen West Community Heath Centre 168 Bathurst Street
Thursday	1:00pm – 2:30pm	Evergreen Centre for Street Youth 381 Yonge Street

You can also contact the SYLS lawyer at Justice for Children and Youth:

Justice for Children and Youth
Street Youth Legal Services Lawyer
55 University Avenue, Suite 1500
Toronto, Ontario, M5J 2H7
Tel. 416.920.1633, Fax. 416.920.5855
www.jfcy.org

Legal Aid Ontario Client Services Centre: 1 (800) 668-8258

(Monday to Friday, 8:00am – 5:00pm)

Legal Aid Ontario provides services to low-income individuals for certain legal issues. All legal aid services have the same financial eligibility requirements, but have different processes for accessing services. The Legal Aid Ontario website provides an overview of all of their services, www.legalaid.on.ca/en/getting

Community based Legal Aid Clinics

Community-based legal aid clinics provide services to low-income people and communities. These clinics help with different legal issues, including:

- Tenant Rights
- Ontario Works and Welfare
- Ontario Disability Support Program
- Government Pensions
- Immigration
- Workers' Compensation

Even if the clinic can't serve your exact needs, they may be able to direct you to someone who can. There are 80 clinics across the province. To find contact information for clinic, or to find the clinic for your area, call 1 (800) 668-8258 or go to: <http://www.legalaid.on.ca/en/contact/contact.asp?type=cl>

Specialty Clinics

There are many specialty clinics across the province, which focus on a specific area of law, or specific individuals. Unlike the community legal clinics, specialty clinics are not limited to their local area, and may assist people anywhere in the province. Some of these clinics are:

- Aboriginal Legal Services of Toronto
- Advocacy Centre for Tenants Ontario
- African Canadian Legal Clinic
- Centre for Spanish-Speaking Peoples
- Disability Law Centre - ARCH
- HIV and AIDS Legal Clinic (Ontario)
- Income Security Advocacy Centre
- **Justice for Children and Youth**
- Metro Toronto Chinese & Southeast Asian Legal Clinic
- Toronto Workers' Health and Safety Legal Clinic

To find contact information for clinic, call 1 (800) 668-8258 or go to: <http://www.legalaid.on.ca/en/contact/contact.asp?type=cl>

Certificates

Legal aid certificates can be used to obtain a lawyer for certain types of matters, including: some criminal, family, or immigration law matters, or matters before certain boards or tribunals. Usually, you apply for a legal aid certificate by telephoning the Legal Aid Ontario Client Services Centre: 1 (800) 668-8258. Sometimes you can apply at a legal aid office or at the courthouse you are appearing at.

Once you are approved for a certificate, you can ask for a list of lawyers in your area that accept legal aid certificates. Whether you qualify for a legal aid certificate depends on the legal issue and financial eligibility. If you are denied legal aid, you have a right to appeal.

To find a legal aid office in your area, go to: <http://www.legalaid.on.ca>

Duty Counsel

Duty counsel lawyers are at each courthouse. They can help people with matters in court that day. Duty counsel help people that don't have lawyers by giving them advice and helping them with the court process. Duty counsel cannot represent anyone in a trial. Types of duty counsel include:

- Criminal court duty counsel
- Family court duty counsel
- Mental health duty counsel
- Small Claims court duty counsel
- Tenant duty counsel

Legal help is also available through Family Law Information Centres (FLIC) and Family Law Service Centres at select courthouses. Centres will provide advice and brief services about custody, support, separation, and other family law matters. Free advice lawyers are available for people whose matter is not in court that day. Law Help Ontario also provides free legal services at Toronto's Superior Court.

Family Law Information Centres (FLICs):

- 311 Jarvis Street, (416)-326-1694
- 47 Sheppard Avenue East, (416)-326-1233
- 393 University Avenue 9th Fl., (416)-327-2064

Toronto Central Family Law Service Centre:

20 Dundas Street West Ste 201, (416)-348-0001

Eligibility for Legal Aid

There are strict financial eligibility limits to qualify for legal aid. Eligibility depends on assets and income. They also look at your expenses, and the other people in your household. Clients may be asked to contribute to the cost of their legal fees. The same financial restrictions apply for all legal aid services, but you can talk to duty counsel or to legal aid clinics without first applying for legal aid approval.

Eligibility will also depend upon the type of legal issue, including the seriousness of the legal issue, and whether it poses a jeopardy to your personal liberty.

Hiring a private lawyer

If you have a lawyer in mind, or one has been recommended to you, you can talk to them about hiring them to take on your case. Different lawyers charge different rates, usually based on their level of experience. They may charge a set fee for some things, or they might bill by the hour.

If you have a lawyer's name but need their contact information, go to the Law Society Lawyer and Paralegal Directory, at:

<http://www1.lsuc.on.ca/LawyerParalegalDirectory/index.jsp>

Pro Bono Law Ontario

Pro Bono Law Ontario is a service that provides up to 30 minutes of free legal advice to individuals requiring assistance on select legal areas. These include: small claims, employment law, wills and estates, loan or credit card default, and contract matters, among others.

To receive assistance from Pro Bono Law Ontario in the Toronto or Ottawa areas, you must complete a form and meet financial eligibility requirements. The form can be found at: <https://www.lawhelpontario.org/legal-advice-in-person/>

Once you have completed the form, you may attend one of Pro Bono Law Ontario's Walk-In Centres to receive assistance. Walk-in centre locations are:

- 393 University Avenue, Suite 110, Toronto, Ontario (office is located behind the elevators in the same building as the Superior Court of Justice)
- 47 Sheppard Avenue East, Room 305, Toronto, Ontario – for Small Claims Court matters only (office is located on the 3rd floor, in the same building as the Toronto Small Claims Court)
- 161 Elgin, Street, Room 5027, Ottawa, Ontario (office is located on the 5th floor beside courtroom 52)

You may call Pro Bono Law Ontario at: 1-855-255-7256 for questions or further assistance, or see: <https://www.lawhelpontario.org/>

Law Society Referral Service (416) 947-3330 or 1 (800) 268-8326

If you need help finding a lawyer, you can try the Law Society's Lawyer Referral Service (LRS). The service can help you find a lawyer that meets your needs, such as area of law, location and language. You will receive a ½ hour consultation for free.

Other Legal Clinics

Barbara Schlifer Commemorative Clinic

(416) 323-9149

The Barbara Schlifer Clinic provides legal information and referral service for women who are survivors of violence. www.schliferclinic.com

Community Legal Assistance Program

(416) 736-5030, press '4'

Osgoode Hall Law School program provides a variety of free legal services to low-income clients. www.osgoode.yorku.ca/clasp

Downtown Legal Services

(416) 978-6447

University of Toronto's Law School student clinic provides a variety of free legal services to low-income clients. dis.sa.utoronto.ca

Human Rights Legal Support Centre

1 (866) 625-5179

The centre provides advice, advocacy, and representation in human rights claims. www.hrlsc.on.ca

STREET LAW SMARTS #2

EVIDENCE TIPS



After a negative experience, regardless of what actions you want to take or how you plan to deal with the problem, **evidence is essential!** (e.g: broken toilet which the landlord has not fixed; being verbally or physically abused; not being paid minimum wage; being discriminated against; any type of accident you have been involved with).

Examples of Evidence

- identifying notes
- pictures and videos
- witnesses
- medical reports
- police reports
- estimates (i.e. clothing or furniture repair costs)

Evidence Tips: *Identifying Notes*

Right after the incident, write down **all** the details you can remember.

- Date and time
- Location
- All details of what happened
- Witnesses
- Appearance of the person (height, hair style, weight)?

Evidence Tips: *Witnesses*

Get the **name, address, phone number, and email address** of anyone who saw the incident.

Ask any witnesses to write down what they saw right away so they don't forget the details (make sure **they date and sign** their notes).

Make **a copy** of the witnesses' notes. Ask the witness to keep one copy, and keep one for yourself.

Evidence Tips: *Medical Records*

- If injured (even a scrape or bruise), have a doctor **examine** the injuries
- Tell the doctor what happened (all injuries) and that you need a copy of his or her notes
- Ask the doctor to **photocopy** the notes taken during the appointment so they can be used in the case
- **Keep** receipts if medical service was paid for
- If injuries don't get better or get worse, **keep going back** to the doctor to document them

Evidence Tips: *Pictures & Videos*

- It is best to use a camera that puts **a date** on the images
- It could be a picture or recording of the injury caused to the body or property, or the place where the problem happened
- Take pictures **from a few different angles** of the area where the problem happened
- Take pictures of all the injuries (it is best if the person taking the pictures can come to court/tribunal)
- Ask any nearby stores or businesses if they have a **security camera** (do this quickly because some are destroyed within 24 hours). Write a dated, signed letter asking them to save the tapes and explain why. Keep a copy of the letter for your records.

STREET LAW SMARTS #3

LEAVING HOME, RETRIEVING YOUR BELONGINGS, and CHILD SUPPORT

Leaving home under age 16

In Ontario, if you leave home before you are 16, your parent(s)/guardian(s) can get a warrant from the police to have you returned home. Also, child protection workers (e.g. Children's Aid Society - CAS) can apprehend you (pick you up) and take you to a safe place, such as a foster home or a group home.

If you are leaving home because your parents mistreat you, you may be considered a child in need of protection and you may be put into the care of a CAS.

If you have a safe and responsible place to stay, the CAS may allow you to stay there. A judge will then decide whether you will be in the care of the CAS.

If you are under 16 and do not have a relative or responsible friend to stay with, you may seek the help of the CAS by your own wishes.

Leaving home at 16 or older

In Ontario, there is no such thing as legal emancipation or “divorcing” your parent(s)/guardian(s). At age 16 or older, you can leave home without the permission of your parent(s) or a judge.

If you left home at age 16 or 17 and have special needs, like a physical or mental disability or illness, you may contact the CAS and ask them for help. They may be able to help you live in a foster home or care for you. Otherwise, the CAS will likely not get involved in your care.

Child Support

Generally, your parent(s)/guardian(s) must financially support you until you are 18 or longer if you are in school full-time. Someone who has treated you like a child of their family has the obligation to financially support you in the same way legal parent(s)/guardian(s) must.

If you are 16 or older and you leave home voluntarily, your parent(s)/guardian(s) do not have to continue to support you, but if you leave because the conditions at home were intolerable or unsafe, your leaving may not be considered involuntary and you could be entitled to financial support from your parent(s)/guardian(s).

If you are 16 or older and you have been forced to leave home, your parent(s)/guardian(s) may still have to support you. Examples of situations where a person is forced to leave home include being kicked out by parent(s)/guardian(s) without good reason or experiencing abuse or neglect at home.

Each of your parents or guardians has an independent obligation to support you. They are each only required to support you as much as they are financially able to. There is a chart (called the Child Support Guidelines) that sets out how much parent(s)/guardian(s) usually have to pay based on their income.

The court may also order your parent(s)/guardian(s) to keep medical or dental insurance coverage for you, or decide if there are special costs that they should pay for things like post-secondary school, or sports and activities.

Your possessions – over or under age 16

You are entitled to all personal items belonging to you that are at the home of your parent(s)/guardian(s), including personal identification and gifts. This is true at any age. You can ask the police to help you get your belongings back, but your parent(s)/guardian(s) may not let them in, so you may need other help.

The police should help you if you left home to escape from violence or physical abuse. You may also get the help of a youth worker or CAS worker by having them telephone your parent(s)/guardian(s) to talk to them.

The letter below is one that a youth worker could help you send to your parent(s)/guardian(s) in order to get your belongings back. Call Justice for Children and Youth for a lawyer's help. Your parent(s)/guardian(s) could be taken to court for not returning your personal belongings.

Sample letter for recovery of possessions from a parent's home

(insert date)

Dear _____,

I am _____. I was consulted by _____ regarding his personal belongings that are currently in your possession. On their behalf, I request return of the following items:

1. Ontario Health Insurance Card (OHIP)
2. Social insurance number (SIN) card

These items are their legal property. You have no legal authority to withhold them from them. It is especially important that they have possession of their identity documents including their SIN card for many reasons.

We ask that you arrange to have _____'s documents securely returned to this address: (list address)

If we do not hear from you by _____ (insert date) I will be contacting a lawyer to give _____ legal advice in respect of the legal actions available to him for the return of his property.

Yours,

STREET LAW SMARTS #4

Ontario Works & ODSP

In Ontario there are two basic types of social assistance (welfare): Ontario Works (OW) and Ontario Disability Support Program (ODSP). OW provides income and employment assistance to people in temporary financial need while ODSP provides income and employment assistance to eligible people with disabilities.

There are two parts to welfare: shelter allowance and personal needs (or living) allowance. If you are living in a shelter, you will only get the personal needs allowance.

OW and ODSP

For OW, you can apply in person, online, or by telephone. In Toronto, the number is 1-888-465-4478.

For ODSP, you can apply at your local Ministry of Community and Social Services office. To apply online or find your office, go to:

http://www.mcscs.gov.on.ca/en/mcscs/programs/social/odsp/income_support/IS_Application.aspx

OW and ODSP when 18 year olds and older

If you are 18 or older, you have a right to apply for social assistance, and should insist on proceeding with the application process even if the intake worker says you will not qualify. If they will not let you apply, tell them right away that you do not agree.

OW workers are not allowed to refuse to take your application. If you do not apply, then you cannot appeal the decision to say that you were wrongfully denied social assistance.

If a person applying recently held employment and quit their job without reasonable grounds, or was fired with cause, they may still apply for social assistance but may be subject to a three month or six month waiting period penalty.

You may qualify for ODSP if:

- you have physical or mental health problems which affect your ability to work or function within the community; **OR**
- you have physical or mental health problems which affect your ability to care for yourself; **AND**
- this problem will likely last longer than one year.

You may also qualify if you live in a psychiatric or developmental institution or housing. In the short term, if you need funds, you can apply for OW while you undergo the ODSP application process.

OW and ODSP for 16 and 17 year olds

OW

If you are 16 or 17 you may qualify for OW if you have special circumstances. For example, if you did not leave home voluntarily because you were told to leave without a good reason or were abused, then you may qualify for assistance. You must be registered in school full-time and follow other rules in order to be eligible. You may also qualify if you have a child living with you.

You should ask a school counsellor or social worker to write a letter to the welfare worker explaining that you are on your own and in need of assistance and that despite what your parents say, it is not appropriate for you to return home. You should insist on making the application even if the intake worker says that you are not eligible or do not qualify. Get the help of a housing worker or counsellor, or call JFCY for assistance.

Your OW case manager may phone your parents and ask them if you can return home. Just because your parent says that you can return home does not mean that you must do so, or that you will not be eligible for OW. If you are in danger if your parents found out where you were, the OW worker may use discretion to not contact your parents.

ODSP

You are only eligible for employment support through ODSP (not income support).

What to do if your application is denied

If you are turned down for either OW or ODSP, you should receive written notification within 30 days of your request. You have **30 days** from the date of getting the notification to tell them in writing that you disagree. The office will then conduct an internal review. If they turn you down again, they must notify you in writing. You then have **30 days** to ask for an appeal. If you are turned down, **contact your local community legal clinic immediately.**

Working while on OW or ODSP

You may be able to work while you are on OW or ODSP subject to strict rules. You should speak to your worker or a legal clinic to find out how much you can make and what effect working will have on your eligibility.

STREET LAW SMARTS #5

SHELTERS

What are emergency shelters?

Emergency shelters are run by charities, not-for-profits, and businesses. In the City of Toronto, a department of the City called Hostel Services provides shelter and assistance to homeless individuals including youth. Meals and basic necessities are provided in a secure environment, as well as case management, counselling, and support programs for adults and children. Housing workers help clients in pursuing permanent housing opportunities.

Shelters in Toronto must abide by the City of Toronto's Shelter Standards. In addition to the internal rules and rights provided for at each shelter, the questions and answers below apply to shelters in Toronto abiding by the Shelter Standards.

What are my responsibilities in a shelter?

While staying in a shelter, you are responsible to treat shelter staff and other shelter residents respectfully. You are to respect the private property and belonging of the shelter and other shelter residents and to improve your housing situation if possible.

What are your privacy rights while staying in a shelter?

Every shelter must have a written policy saying that they will not disclose personal information they have collected about you without your consent. However, there are some exceptions when a shelter can disclose information without your consent, including: when refusing or neglecting to provide the information could put staff or other residents in danger; where disclosure is required under the *Child and Family Services Act* (reporting concern about a child at risk of danger); or where disclosure is required by a court order or subpoena.

What are the health and safety standards in a shelter?

The shelter must provide you with access to bathing and where possible, laundry facilities. Soap, shampoo, razors, and feminine hygiene products should also be provided in emergency circumstances and/or if you have no income. Weapons and illegal drugs are not allowed in the shelter or on shelter property. If you take prescription medication, the shelter must store it in a secure location that is locked at all times.

How does discharge from a shelter work?

There is no standard length of stay in a shelter, how long you stay will depend on your specific circumstances. If you are being discharged from a shelter, you and the shelter must have first worked out a plan for your future. There are some cases where a shelter can discharge you without a plan. These include if you were involved in: an assault on

staff or other residents, or other violent behaviour; possession of weapons; trafficking of illegal drugs, or any other serious behaviour that comprises the health and safety of the other residents and/or staff.

Where can I call for concerns or complaints?

All shelters must have an internal process for resolving complaints and they must inform all residents of the process. All shelters will also keep a written record of formal complaints and a written record of the resolution.

If your shelter worker is unable to help you with your concerns, or you want to appeal a decision by your shelter provider, you may contact the Hostel Services at 416-392-8741. Your call will be directed to a supervisor. The shelter will be investigated to ensure that services are provided in accordance with Toronto Shelter Standards.

I need an emergency shelter:

If you are in need of an emergency shelter you can call any of the below numbers:

- City of Toronto helpline: 3-1-1
- Toronto Shelters Central Intake: 416-338-4766 or 1-877-338-3398
- Kids Help Phone: 1-800-668-6868

This is a listing of emergency youth shelters in Toronto. Most shelters take youth between ages 16-24. Intake procedures are different at each shelter. Contact the shelter in your area or the Toronto Shelters Central Intake for more information: (416) 338-4766 or 1-877-338-3398.

Name of Shelter	Phone Number	Address
Covenant House	416-598-4898	20 Gerrard Street East
Eva's Place	416-441-1414	360 Lesmill Road
Eva's Satellite	416-229-1874	25 Canterbury Place
Horizons for Youth	416-781-9898	422 Gilbert Avenue
Turning Point Emergency Shelter - Men Only	416-925-9250	95 Wellesley Street East
YMCA House Men Only	416-504-9700	485 Queen Street West
Youth Without Shelter	416-748-0110	6 Warrendale Court
YWCA First Stop Woodlawn - Women Only	416-922-3271	80 Woodlawn Avenue East
Kennedy House	416-421-7776	1076 Pape Avenue

Additional Resources

- Streets to Homes Assessment and Referral Centre
129 Peter Street Phone: 416-392-0090
- Guide to Services for People who are Homeless
<http://www.toronto.ca/housing/pdf/guidetoservices.pdf>

STREET LAW SMARTS #6

TENANT RIGHTS

Most rental units are covered by the *Residential Tenancies Act, 2006 (RTA)* and tenancy disputes will be dealt with by the Landlord and Tenant Board. The *RTA* sets out the rights and responsibilities of landlords and tenants.

Rental units that are not covered by the *RTA* are subject to contract law, (the agreed upon terms between the people signing or orally agreeing to the contract or lease agreement) and disputes can be dealt with in Small Claims Court.

Human rights complaints, depending on the circumstances, can be made to the Human Rights Tribunal of Ontario. The Landlord Tenant Board can address some human rights issues as well.

Getting housing

It is difficult finding affordable housing in Ontario. You should get the help of a housing worker to support you in your search, and explore options in supportive or co-op housing. The housing worker may also assist you to apply for different subsidized housing programs, depending on your needs.

Discrimination by potential landlords is a major barrier to getting housed. The Ontario Human Rights Code applies to landlord tenant relationships, including finding and keeping rental units.

The law prohibits landlords and potential landlords from discriminating on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, age, marital status, family status, disability, or the receipt of public assistance. Age, for the purposes of housing, is defined as over age 16.

If you feel that you are being treated differently based on a protected ground, you and your housing worker can negotiate with the landlord, or speak to your local legal aid clinic, the Human Rights Legal Support Centre, or the Centre for Equality Rights in Accommodation for problem solving. See the resources section for contact information.

Is my rental unit covered by the *RTA*?

While most rental units are covered by the *RTA*, it does not apply in a number of situations, including, but not limited to where:

- you are required to share a bathroom and/or kitchen with the owner, or certain family members of the owner;
- your unit is used on a temporary or seasonal basis (e.g. motel);
- your unit is in a non-profit housing co-operative;
- your unit is provided by an educational institution; or

-
- your accommodation is short-term in an emergency shelter.

Co-ops are governed by the *Co-operative Corporations Act*. Non-profit or social housing is covered by the *RTA* but they are exempt from the rental increase provisions. Depending on the specific facility, a supported housing arrangement may or may not qualify as being governed by the *RTA*.

What are my landlord's responsibilities under the *RTA*?

A landlord must:

- supply vital services – fuel, hydro, gas, hot and cold water. In Toronto, units must be heated to a minimum of 21 degrees Celsius
- maintain residence in a good state of repair
- comply with local health, safety, and property standards and bylaws
- upon request, provide receipts for payment (free of charge)
- ensure you have the right to reasonable enjoyment of your unit

A landlord must NOT:

- Collect a deposit greater than one month's rent. The landlord must pay interest on the deposit, and apply the deposit to the tenant's last month's rent
- change locks without giving tenants a key
- enter the unit without permission or 24 hours notice, unless in an emergency
- harass tenants or interfere with their quiet enjoyment of their home
- raise rent improperly
- Seize a tenant's property. The landlord can remove property of the tenant under and eviction order (with the Sheriff) or if a tenant abandons a unit (and the landlord gives 30 days notice)
- stop tenants from sub-letting when the tenant has made a reasonable request in writing

What can I do if my landlord does not meet their responsibilities?

- 1) Collect any evidence of the wrong-doing that you have experienced, including any discriminatory conduct. See **Street Law Smarts #2: Evidence Tips**. If you are negotiating with your landlord, get the help of your housing worker, if you have one.
- 2) Make a report to the Inspection and Enforcement Branch of the Ministry of Housing. For some problems related to vital services and repairs, they should come and do an inspection.
- 3) Call your local legal aid clinic for assistance and advice. They will give you advice and may represent you if you go to the Landlord Tenant Board. See *Street Law Smarts #1 – Where to Get Legal Help*, for links to legal aid clinics in Toronto.

- 4) In urgent matters, you can telephone the police to ask if they will assist you to enter your unit (e.g. illegal lockout). Get a friend's or housing worker's help if you have one.
- 5) Make a T2 or T6 application to the Landlord Tenant Board. The Board can order the landlord to: repay rents, reduce rents, or give you compensation for loss or damages; order the landlord to stop the conduct that you are complaining about; fine the landlord; and/or terminate the tenancy.

What are my responsibilities under the RTA?

- Pay rent on time
- Keep your unit clean
- Report maintenance or repair problems
- Repair or pay for damage you caused in a timely way
- NOT to interfere with the reasonable enjoyment of the landlord's or other tenant's use of the property
- NOT to perform illegal actions on the premises

If you do not meet your responsibilities, you are at risk of being evicted. You are also at risk of eviction if the landlord needs the unit for their own use, or the use of their immediate family members, even if you have done nothing wrong.

Evictions

A landlord must follow certain rules and procedures for eviction. They must either reach an agreement with you, or get an order from the Landlord and Tenant Board. If a landlord wants to evict you, they must serve you with the proper notices. You have a right to remedy your wrongs or have a Tribunal hearing to explain your side of the story.

You do not have to move out just because you received a notice. In this circumstance, you should contact Legal Aid Ontario immediately to get the help of your local legal aid clinic.

What happens when my rental agreement ends?

Unless your landlord has grounds for an eviction, you do not have to move out or sign a new agreement at the end of the lease term. The rental agreement is automatically renewed on a month-to-month basis (if rent is paid monthly) or a week-to-week basis (if rent is paid weekly). The same terms of the former agreement apply to the tenancy, subject to any permitted rental increases. If you want to move out, usually you must give at least 60 days written notice.

Can my landlord lock me out or seize my belongings?

In most cases, it is illegal for your landlord to lock you out or take your belongings. Your landlord cannot lock you out or take your belongings even if you didn't pay your rent, broke a tenant law (e.g. you made excessive noise, dealt drugs in your unit) or broke one of the landlord's rules.

Even if you have been legally evicted (the Sheriff has changed your locks), you have the next 72 hours (between the hours of 8 a.m. and 8 p.m.) after the legal eviction to

remove your belongings. If the landlord does not allow you to remove your belongings, you can make an urgent application to the Board. Seek legal advice.

However, if your landlord thinks that you have moved without giving notice or making an agreement, your place might be considered abandoned. In this case, the landlord may be able to dispose of your things after making an application to the landlord and Tenant Board and waiting 30 days. If you are going to be away for a long time, make sure that you let your landlord know that you have not moved out. If your rent has been paid, your place cannot be considered abandoned.

If your place is not covered by the *RTA* (e.g. you live in your parents' home, crashed with friends, or paid your rent to another tenant) and the person you were living with won't let you pick up your things, you can call the police for assistance and they should allow you in to retrieve your belongings.

If you have been assaulted by someone you were living with, you should call the police so that they can accompany you to pick up your things. The police are allowed to enter in an emergency situation to allow you to obtain your personal belongings.

Information and resources

It is important to act quickly in landlord tenant disputes. Remember to always collect evidence when you think you have a problem – from a leaky tap to being discriminated against to being locked out. **See Street Law Smarts #2 for Evidence Tips**. Knowing how the law applies to you and your options for problem solving and how to get help will assist you if you have any problems. Here are some further resources and contact information for help.

Advocacy Centre for Tenants of Ontario (ACTO) (416) 597-5855, Toll-free 1(866) 245-4182, www.acto.org Information and education on housing in Ontario

Centre for Equality Rights in Accommodation (CERA) (416) 944-0097 or 1-800-263-1139
<http://www.equalityrights.org/cera> Promoting human rights in housing and ending housing discrimination

Human Rights Legal Support Centre (HRLSC) (416) 597-4900 or 1-866-625-5179 Human rights legal services to individuals in Ontario

Investigation and Enforcement Unit of the Ministry of Municipal Affairs and Housing (IEU)
(416) 585-7214, Toll-free 1 (888) 772-9277

Landlord and Tenant Board (416) 645-8080 Toll-free 1 (888) 332-3234
All tenant application forms are available at: http://www.ltb.gov.on.ca/en/Forms/STEL02_111308.html

Step-by-step instructions and information on choosing the right application, filing the application, the hearing and the order can be found at: http://www.ltb.gov.on.ca/en/Application/STEL01_079130.html

Legal Aid Ontario (416) 598-0200 or 1-800-668-8258. www.legalaid.on.ca Call Legal Aid Ontario, they will redirect you to your local legal aid clinic.

Tenant Hotline (416) 921-9494 www.torontotenants.org By the Federation of Metro Tenants' Associations

STREET LAW SMARTS #7

SMALL CLAIMS COURT

What is Small Claims Court?

Small Claims Court is a branch of the Superior Court of Justice. It deals with civil disputes and has a monetary value limit of \$25,000 for claims. It has simplified rules and procedures and also has a user-friendly website with an assortment of guides that help walk you through the Small Claims Court process. These guides are accessible at <http://www.attorneygeneral.jus.gov.on.ca/english/courts/guides/>, and the websites for the individual guides can be found below.

1.1.1

1.1.2 What types of cases go to Small Claims Court?

Small Claims Court can deal with any action for the payment of money or the recovery of personal property, with a limit of \$25,000. Examples of typical Small Claims Court cases include claims for money owed under an agreement (e.g. unpaid accounts, unpaid loans, unpaid rent, NSF cheques, etc.) and claims for damages (e.g. property damage, personal injuries, breach of contract, etc.).

1.1.3 How much do Small Claims Court claims cost?

It really varies. Most steps in a Small Claims Court proceeding will require you pay a fee, but if you are unable to pay these fees you can request a fee waiver. Also, if you are successful you can ask for the other party to pay your fees, but they can also do the same if you are unsuccessful.

1.1.4 Who can represent a party in Small Claims Court?

While many people represent themselves in Small Claims Court, you can also be represented by a lawyer, a law student, or a paralegal. Lawyers can be found through the Law Society of Upper Canada's Lawyer Referral Service, which will provide you with the name of a lawyer in your area and allows for a free consultation of up to 30 minutes. This service can be reached at 1-800-268-8326 or 416-947-3330, and a list of lawyers in Ontario and their contact information can also be accessed at: www.lsuc.on.ca.

1.1.5 Limitation periods

There may be a time limit on how long you have to make your claim, so you should know when the event giving rise to the dispute took place. You may need to get legal advice on whether you are too late to make a claim.

See the above information on who can represent a party in Small Claims Court and

Street Law Smarts #1: Where to get legal help.

General steps in a Small Claims Court dispute

1. Plaintiff fills out the claim form

- The plaintiff writes the reasons for their claim, the amount they are claiming, and attaches any documents that will help prove their side of the story.

2. Plaintiff files the claim at the Small Claims Court

- The plaintiff should take both the original and a copy of the claim to the court, plus two copies of the supporting documents.
- The plaintiff should make sure they are filing, and enough photocopies of the stamped claim to serve on each defendant.

3. Plaintiff serves (gives) a copy of the claim on each defendant

4. Defendant has 20 days to file their defence

- If the defence is not filed after 20 days, the plaintiff can request the clerk to note the defendant in default.
- If the defendant is noted in default, the defendant has 15 days to pay.

5. If the defendant files their defence, the dispute moves forward to a settlement conference (see the step below)

- If the defendant makes a claim of their own in addition to filing their defence, the plaintiff must file their own defence.

6. Settlement Conference

- A private discussion between the parties with the assistance of a judge.
- The purpose of a settlement conference is to encourage settlement, resolve the dispute faster, and provide full disclosure of the relevant facts between the parties. If the parties are unable to reach a resolution, the settlement conference will also assist the parties with trial preparation.
- If the claim is for less than \$2,500, the parties can agree to a judgment at the Settlement Conference.

7. Trial

- A public process where each party explains their side of the dispute to a judge, who then makes a judgment on the issues.

8. Collection of money

- A judgment in court is not a guarantee of payment, and so both successful and unsuccessful parties will likely have some post-judgment options.
- If the debtor (unsuccessful party) is not paying, then the creditor (successful party) has a variety of options to pursue.

1.1.6 Important tips for Small Claims Court forms

- Be neat: delays are frequently caused by forms that cannot be read. Forms are available at both the court offices themselves and on <http://www.ontariocourtforms.on.ca/english/scc>
- At the top of the forms, if you are filing you should fill in the name and address of the court where you are filing
- Court staff will provide you with a court file number, which should then be written on the top right corner of all of the documents
- Make a sufficient number of copies for all completed forms
- For some documents, court fees must be paid in order to file them. Fees are payable in Canadian funds in cash, cheque, or money order payable to the Minister of Finance. If you cannot afford to pay court filing or enforcement fees, you can request a fee waiver
- An affidavit can be sworn before:
 - A Small Claims Court employee who has been appointed a commissioner for taking affidavits;
 - A lawyer who is allowed to practice law in Ontario;
 - A notary public; or
 - Any other person who has been appointed a commissioner for taking affidavits.

It is a criminal offence to knowingly swear or affirm a false affidavit, and affidavits must be signed in the presence of the person before whom it is sworn or affirmed

- Counting days for timelines: Exclude the first day and include the last day of the time period. If the final day of the period occurs on a holiday, the period ends on the next day that is not a holiday
- If your address for service changes, you must provide written notice of the change to the court and all other parties within seven (7) days after the change takes place
- You should dress appropriately and leave plenty of time to get to the location for both settlement conferences and trials

1.1.7 Internet resources

- Small Claims Court Forms <http://www.ontariocourtforms.on.ca/english/scc>
- Small Claims Court Guides
<http://www.attorneygeneral.jus.gov.on.ca/english/courts/guides>

1.1.8 Court locations

- 47 Sheppard Ave. East
Toronto, ON M2N 5N1
Hours: Monday-Friday 8:30-5:00
Phone Number: (416) 326-3554
- 855 Major Mackenzie Dr. E.
Richmond Hill, ON L4B 4C6
Hours: Monday-Friday 8:30-5:00
Phone Number: (905) 737-4416

STREET LAW SMARTS #8

IF YOU HAVE BEEN A VICTIM OF A CRIME

Emergency help

If you are a victim of a crime, you can telephone the police at 9-1-1 to get immediate help. There are also many help lines that you can call for assistance during or after reporting a crime. For example, the Toronto Police Service has a 'Special Victims Section' for victims of sex crimes. There are also specialized agencies to assist preparing young persons for court.

Help Lines

Assaulted Women's Help Line

Tel: 416.863.0511, Toll-free: 1.866.863.0511, www.awhl.org or #SAFE (#7233) on your Bell, Rogers, Fido or Telus mobile phone

Service: 24 hour counselling and referral services by telephone

Kids Help Phone: 1.800.668.6868, www.kidshelpphone.ca

Toronto Police Service

Emergency Tel: 9-1-1, Non-emergency: 416.808.2222

Toronto Police Service Sex Crimes Unit- Special Victims Section

416-808-7474 www.torontopolice.on.ca/sexcrimes/

Toronto Rape Crisis Centre

Crisis Tel: 416.597.8808, General Tel: 416.597.1171

Email: info@trccmwar.ca, Website: www.trccmwar.ca

Service: 24-hour counselling by phone, short-term 1:1 counselling and court support.

Appearing in criminal court

As a victim of a crime, you may be requested to come to court to give testimony against the accused in your case. The Crown Prosecutor or defence counsel may subpoena you so that you must come to court. If you are subpoenaed and you do not go to court, a witness warrant may be issued against you and you can be arrested and brought into court by the police.

If you are testifying, you must tell the truth, or risk being charged with perjury for lying under oath. Importantly, nothing you say while testifying on the stand can be used as evidence against you criminally. For example: You were selling drugs in an alleyway and the person buying the drugs from you robbed you - beat you up and stole your wallet. You are now testifying as the victim of the robbery. The Crown Prosecutor asked you what you were doing in the alleyway – and you answered that you were selling drugs. Even though you admitted in court that you were doing an illegal activity,

you could not later be prosecuted for trafficking drugs because you were forced (subpoenaed) to go to court that day and answer questions about the incident.

Civil suits

You can sue someone that hurt you. Superior court claims are for damages over \$25,000. Small claims court, for claims under \$25,000, provides a simplified procedure you to make a legal action against somebody who harmed you. **See Street Law Smarts #7 for more information on small claims court.**

Criminal Injuries Compensation Board

If you have suffered injury as a victim of a crime in Ontario, you may make a claim for compensation at the Criminal Injuries Compensation Board.

There is a two year time limit from the date of the injury to lodge a claim. The claim may take one to a few years to settle, and you must be prepared to submit documentary evidence that confirms your injury through medical and police reports. You may be required to attend a hearing to verify the evidence presented.

Conviction on the accused in your case is not required to claim for compensation. Police records and reports are also not required, but are helpful evidence to prove your case. Claims for injuries resulting from motor vehicle accidents will not be accepted. Contact the Criminal Injuries Compensation Board for more information, forms and guides.

Criminal Injuries Compensation Board

439 University Avenue, 4th Floor, Toronto, Ontario, M5G 1Y8

Tel: 416.326.2900, Toll-free: 1.800.372.7463, <http://www.cicb.gov.on.ca/en/index.htm>

Victims Services

Barbara Schlifer Commemorative Clinic

Tel: 416.323.9149, www.schliferclinic.com

Legal information and referral service for women who are survivors of violence

Boost Child Abuse Prevention and Intervention

Tel: 416.515.1100 ext. 331, Toll Free: 1-855-424-1100, www.boostforkids.org

Child abuse prevention and intervention services; support for child witnesses in court

Ministry of the Attorney General's Victim Crisis Assistance and Referral Services (VCARS)

Tel: 416.314.2447, Toll-free: 1.877.579.2888, www.attorneygeneral.jus.gov.on.ca/english/ovss

Services: 8am-10pm Victim Support line, 7 days a week

Sexual Assault/Domestic Violence Care Centre (SA/DVCC)

Tel: 416.323.-6400, www.satcontario.com

The Sexual Assault Care Centre can collect medical and legal evidence at your request.

Toronto Police Service Victim Services

Tel: 416.808.7066, www.victimservicestoronto.com

STREET LAW SMARTS #9

IMMIGRATION

Status

Individuals present in Canada often have an immigration “status”. For example, someone may be a Canadian Citizen, a Permanent Resident, a Foreign National (meaning they are in Canada on a temporary visa like a Work Permit or Visitor’s Visa), or they could be a Protected Person.

There are also individuals without status. This means they have no legal right to stay in Canada. These people could be detained by the Canada Border Services Agency (CBSA) and removed from Canada against their will.

If you have questions about your status, or are unsure what your status is, you should talk to a lawyer for assistance: See **Street Law Smarts #1**

How to Get Status

There may be several options available to you if you do not have status. One such option could be what is called a Humanitarian and Compassionate (H&C) application. This is when you can ask Citizenship and Immigration Canada (CIC) for Permanent Residence based on humanitarian and compassionate reasons. Such reasons may include: your establishment in Canada (i.e. you have been present in Canada for a long time, or you have family or many friends here), your activities in Canada, or your volunteer work. You may also include information about the hardship that you will face should you have to go back to your home country.

Completing a well-done H&C application requires a lot of work and is time consuming. There are some Legal Aid Clinics where you can receive assistance completing your application. It is best to call Legal Aid Ontario at 1-800-668-8258 to find a Clinic near you that can help. See also **Street Law Smarts #1**.

Is it possible to lose your status?

Yes, unless you were born in Canada, it is possible to lose your status.

You could lose your status if you or your sponsor/family member lied about any fact on your immigration application (even if you have already received your Canadian Citizenship).

You could also lose your status if you are a Permanent Resident or Foreign National **and** you have received a criminal conviction.

The law regarding immigration status and criminal convictions is very complicated. If you are a Permanent Resident or Foreign National and you have been charged with a criminal offence you should talk to a lawyer right away. A lawyer may help you negotiate in court so that you are able to safely stay in Canada.

For how to find a lawyer see **Street Law Smarts #1.**

Sponsorship breakdown

One of the many ways a new immigrant receives permanent residence in Canada is through sponsorship by a family member. It is important for a sponsored person to know what it means to be sponsored to Canada and what rights a sponsored person holds.

What does it mean to be sponsored?

Sponsorship is a legally binding promise that a sponsor will “provide for the essential needs” of the sponsored person and their dependents for a specific period of time. If you have been granted permanent residence status in Canada, the sponsorship promise cannot be taken back and you can only lose your permanent residence status in exceptional circumstances.

Sponsored individuals have many rights in Canada:

Once a sponsorship application is accepted, sponsored people are considered Permanent Residents. If you have been sponsored by a spouse, your permanent residency may be “conditional” for two years. As a Permanent Resident or Conditional Permanent Resident you enjoy the following rights:

- a)** Access to health care insurance coverage (OHIP);
- b)** Ability to live/work/study anywhere in Canada;
- c)** Ability to leave and re-enter Canada;
- d)** Protection under Canadian law and the *Charter of Rights and Freedoms*; and
- e)** Ability to apply for citizenship if/when you meet the requirements.

It is important for a sponsored person to know that they have every right to notify the police of any threat to their safety from anyone including their sponsor and it should not impact their status in Canada.

How long does the sponsorship promise last?

The period of time is dependent on the age of the sponsored person and their relationship to the sponsor.

If sponsoring:	Sponsorship agreements signed on or after June 28, 2002
Spouse, common-law partner or conjugal partner	Sponsor must provide financial support for 3 years from the date that person became a Permanent Resident
	<p><u>AFTER OCTOBER 25, 2012</u></p> <p>Change in the law - If the person applied for spousal sponsorship after October 2012, then they may have “Conditional Permanent Residence” for two years. If they leave their sponsor, they could lose their Permanent Resident status and face removal from Canada. There are exceptions if a person has a child with the sponsor, or if they leave their sponsor due to violence, but they will have to prove that they left because of violence (police, medical, shelter report).**See below for more information</p>
Dependent child who is less than 19 years of age on the date they received their Permanent Residency	Sponsor must provide financial support for 10 years from the date that person became a Permanent Resident <u>OR</u> until the child turns 22 years of age, whichever comes first.
Dependent child who is 19 years of age or older on the date they received their Permanent Residency	Sponsor must provide financial support for 3 years from the date that person became a Permanent Resident
Any person not mentioned above	Sponsor must provide financial support for 10 years from the date that person became a Permanent Resident

The sponsor's obligation to provide for the basic requirements of the sponsored person continues for the full sponsorship period even if the sponsored person becomes a Canadian Citizen.

What does it mean for a sponsor to provide for the sponsored person's essential needs?

The sponsor is required to care for the basic needs of the sponsored person for the duration of their promise.

What happens to a sponsored person if they are unable to maintain a relationship with their sponsor?

Sometimes a sponsorship relationship breaks down and/or the sponsor stops financially supporting the sponsored person. This leaves the sponsored person feeling vulnerable and unsure of what their rights are within Canada.

What are a sponsored person's rights if their sponsor does not financially support them?

A sponsor is required to care for the people they sponsor for the duration of their promise regardless of whether a sponsorship relationship breaks down. If, however, a sponsorship relationship breaks down and a sponsor does not financially support the sponsored person, then the sponsored person can apply for social assistance. A sponsored person always has to disclose that they have been sponsored.

If a sponsored person goes on social assistance during the period of their sponsor's promise, then the government will ask the sponsor to pay back all money the sponsored person receives from social assistance.

The government will notify a sponsor if a sponsored person is seeking social assistance. The government may hold off on notifying a sponsor that someone is seeking social assistance in certain limited circumstances, namely if the sponsor was abusive, is eligible for social assistance themselves, is incarcerated, or their whereabouts are unknown. In any case, however, the debt will be kept on record and cannot be erased.

What are a sponsored person's rights if their relationship with their sponsor breaks down due to violence or abuse?

If a sponsored person has left their sponsor due to abuse and applies for Ontario Works because they are unable to financially support themselves, they must indicate on their application that:

- a) they were sponsored, and;
- b) they have been subjected to physical, emotional, or verbal abuse. The applicant will be asked to provide proof of the violence or abuse such as a police report or a letter from a third party (e.g. a lawyer, community worker, or health care professional).

If the sponsored person tells the Ontario Works office that they were in an abusive relationship, the government WILL NOT inform the sponsor that they have broken their sponsorship promise and are in debt.

Every dollar a sponsored person receives during the sponsorship undertaking is considered a debt of the sponsor. The sponsor will be registered with immigration as failing to fulfill their promise to provide for the basic needs of the people they sponsored and will be barred from future sponsorships until any debt is paid off.

It is important to know, however, that a sponsor can contact the Ministry of Community and Social Services (responsible for social assistance) to ask whether they are in debt and the Ministry is obligated to answer truthfully.

If there has been abuse, the Ministry of Community and Social Services will wait to collect their debt. The length of time the Ministry waits to collect the debt depends on whether there is evidence provided to the sponsored person's social assistance worker to suggest there is an ongoing risk of violence or abuse. It is therefore important that a sponsored person express any concerns they may have for their safety to their social assistance worker, both when they first apply, annually while receiving social assistance, and when they stop receiving social assistance.

A sponsored person has the right to seek financial support from their sponsor by applying for spousal or child support in Family Court. Ontario Works, however, should not force a sponsored person to apply for support if they were a victim of abuse.

Can a sponsored person lose their permanent residence?

The risk of losing permanent residence because of a sponsorship breakdown is dependent on whether the sponsored person was given Conditional Permanent Residence. Conditional Permanent Residence only occurs in cases of Spousal, Common-Law or Conjugal Partner Sponsorships.

If a spouse, common-law or conjugal partner was sponsored before October 20th, 2012, they cannot lose their permanent residence status due to a sponsorship breakdown.

If an individual was sponsored **as a spouse, common-law or conjugal partner after October 2012**, they could lose their permanent residence in the first two years after receiving it in limited circumstances.

If a spousal, common-law or conjugal partner sponsorship breaks down and the sponsored person has been a permanent resident for less than two years, they should contact a lawyer immediately to get information about whether or not they are at risk of losing their permanent residency.

If an individual with Conditional Permanent Residency was a victim of abuse/neglect or their sponsor has died, they must show evidence of this to Citizenship and Immigration Canada in order to protect their status.

NOTE: This area of law is complicated, it is best that you consult a lawyer with questions you may have about your specific situation. Lawyers cannot notify immigration of the details of your situation without your permission.

STREET LAW SMARTS #10

MENTAL HEALTH

Ontario Disability Support Program

The Ontario Disability Support Program (ODSP) is a type of social assistance available to you if you have a disability. See **Street Law Smarts #4 – OW and ODSP** for more information on how to qualify for ODSP.

Sometimes, an ODSP worker can appoint a person or an organization to manage ODSP money on your behalf. This person is called a trustee. This is different from having a power of attorney, and it does not necessarily mean that you are “incapable” under the law.

A trustee is usually appointed because the ODSP worker becomes aware that you may need help managing ODSP payments. The ODSP employee should inform you in writing of the decision to appoint a trustee for you. The role of the trustee is to manage ODSP income for your benefit.

You should have a cooperative relationship with your trustee and they should have your best interests in mind. ODSP is required to periodically review the decision to appoint a trustee, and a review will be conducted if a family member, friend, representative, the trustee, or ODSP worker asks for it.

If you do not agree with the decision to appoint a trustee, you can ask in writing for a review of the decision. If you are not successful with the review, you can appeal the decision to the Social Benefits Tribunal. There are short timelines for both the review and the appeal, so you should get legal advice as soon as possible.

Contact Legal Aid Ontario: 1 (800) 668-8258 to find your nearest legal aid clinic to help you. Most legal aid clinics will help you make an appeal if your ODSP application is denied.

Hospitalization

If you are having a mental health problem, there are different ways that you can be admitted to hospital. You can either be admitted voluntarily, by going to the hospital and asking to be admitted, or involuntarily, against your will. A voluntary hospitalization can change to an involuntary one, and vice versa, if your condition changes. Ways to be involuntarily hospitalized include:

- a) Form 1 - A Doctor Applies for Psychiatric Assessment

One path to involuntary hospitalization is through a Form 1. Form 1 is an Application for Psychiatric Assessment, which is a form signed by any doctor (not just a psychiatrist). The form must be signed within seven days of the doctor seeing you. Once it is signed, it is valid for seven days.

Within those 7 days a police officer has the authority to take you immediately to a psychiatric hospital. The Form 1 does not allow anyone to detain you in jail or in any other institution other than a psychiatric hospital. The Form 1 allows a doctor to hold you in a hospital for up to 72 hours to complete a psychiatric assessment.

The physician must have reasonable cause to believe that you are suffering from a mental illness and that:

- You are in danger of causing serious harm to yourself, another person, or may unintentionally injure yourself; or
- You have previously received treatment for the same mental problem.

The physician must provide you with written reasons for the hospitalization, and must inform you of your right to consult a lawyer.

Once the assessment is completed you must be released, admitted as a voluntary or informal patient, or admitted as an involuntary patient. If the doctor decides to admit you as an involuntary patient, you will be placed on a Form 3. See more information below.

In some cases, such as emergencies or to prevent you from hurting yourself or others, medical staff can administer treatment to you even if you don't want treatment. For more on the test that must be met for a doctor to sign a Form 1, see section 15 of the Mental Health Act.

b) Form 2 - Justice of the Peace Orders an Examination

Another way you may be hospitalized involuntarily is through a Form 2. A person who believes that you are danger for serious harm to yourself or others or that you have a previous mental disorder and are suffering serious physical impairment or substantial mental or physical deterioration may appear in front of a Justice of the Peace and ask them to issue a Form 2. This form is valid for 7 days and orders that you be examined by a physician.

The Form 2 gives authority to the police to detain and take you to an appropriate place to be examined by a physician - usually an emergency room, or a clinic. The physician will then issue a Form 1 if they believe the relevant criteria have been met.

If you are brought to a psychiatric facility on Form 2, the Form does not authorize your detention at the facility after an examination unless a Form 1 application for psychiatric assessment is then completed by a physician.

c) Apprehension by the Police

A police officer may take you to be examined by a physician without first obtaining a Form 2 when they have reasonable or probable grounds to believe that you are acting in or have acted in a disorderly manner and they have reasonable cause to believe that you are threatening or are attempting to cause bodily harm to yourself, acting violently towards another person, or is showing a lack of competence to care for yourself. The police officer must also believe that it would be dangerous to proceed by getting a Form 2 order.

Once you are admitted to the hospital

You may be detained for 72 hours for purposes of psychiatric assessment. If you are examined and found to have met the criteria for involuntary admission, a Certificate of Involuntary Admission (Form 3) may be issued. The Certificate is valid for two weeks.

The doctor must think:

- (1) you are a danger to yourself, another person, or may unintentionally hurt yourself, or
- (2) your condition is deteriorating and they require hospitalization.

The certificate may be renewed if those criteria continue to be met. The doctor must examine you again in order to decide this. The length of stay for renewed certificates are:

- First renewal -valid for one month
- Second renewal- two months
- Third renewal- three months

The doctor may also let you leave if they feel that you should no longer be involuntarily hospitalized.

At each renewal, the physician must issue a written notice telling you why you are being detained, that you are entitled to a hearing before the Consent and Capacity Board, and that you have the right to have a lawyer. After the fourth renewal you will have an automatic hearing before the Board.

Consent and capacity

Once you are in the hospital, you will be asked if you consent to treatment. There is a presumption that you have the capacity to consent to treatment, even if you are under age 18.

The Health Care Consent Act says that you are capable with respect to health care decisions if you understand the information that is relevant to make a decision about your health care choices and are able to understand the consequences of the decisions you make.

If it is determined that you are incapable of consenting to treatment, you will be declared incapable and a Substitute Decision Maker will be appointed to make treatment decisions for you. For more information on this, see the PPAO Information Guide on Substitute Decision Makers at:

http://www.sse.gov.on.ca/mohltc/PPAO/en/Pages/InfoGuides/TreatmentIssues_B.aspx?openMenu=smenu_TreatmentIssues.

A finding of incapacity may be challenged at the Consent and Capacity Board.

If a doctor has decided that you are incapable of making decisions, or if the doctor wants to administer treatment against your will, you should ask to speak to the Rights Advisor, and you should ask them to help you with an appeal of the decision.

The Consent and Capacity Board

Every patient who is involuntarily hospitalized has a right to challenge their detention in the hospital. This is done by applying for a hearing at the Consent and Capacity Board.

At every fourth renewal of detention, a hearing will take place automatically. You have a right to participate, but you are not required to participate. The Board will either:

- Confirm your detention, or
- Disagree with the doctor and revoke your involuntary status. You will then be a voluntary patient and do not have to stay at the facility if you don't want to.

Rights Advisor

When a Certificate of Involuntary Admission is issued or renewed, the hospital is required to provide a Rights Advisor for all patients over age 14.

The Rights Advisor will discuss why the Certificate was issued and inform you of your rights, including rights to a consent and capacity board hearing. Rights Advisors are also knowledgeable about how to get legal services and Legal Aid. For more information about your rights, contact:

Psychiatric Patient Advocate Office

1-800-578-2343 or 416-327-7000

www.ppao.gov.on.ca

Mental health in criminal courts

If you are facing a criminal charge, you may be eligible for a program called mental health diversion. If the prosecutor agrees, you can be diverted out of the criminal court system and into the mental health system if the offence that you committed was influenced by your mental health problem. When this happens, you will meet with a diversion worker who will design a program for you that might include a psychiatric assessment, help with meeting basic needs, and getting short and long-term supports in place.

You can decide not to continue the diversion program and can choose instead to defend yourself in the regular criminal process.

If you complete the diversion program, the charges against you will may be withdrawn, and you will not have a criminal conviction. However, you a record will be kept about the charge. Police records and criminal records are a complicated legal topic. Consult a lawyer for further information.

If you have a mental health problem and are charged with a criminal offence, you should explain your mental health issue with your lawyer and ask if mental health diversion is possible. If you do not have a lawyer, you can speak to the duty counsel, and ask for help with mental health diversion.

You should not talk to the mental health court worker, the crown/prosecutor, or the police about what happened in the incident where you were charged, without talking to a lawyer first. See **Street Law Smarts #1: Where to get legal help** for information on finding a lawyer.

There are also provisions in the Criminal Code about being found unfit to stand trial or not criminally responsible for reasons of mental disorder. Before making any decisions about using these provisions, it is very important to speak to a lawyer.

To get a lawyer, call Legal Aid Ontario: 1 (800) 668-8258 or talk to the duty counsel at the courthouse.

STREET LAW SMARTS #11

EDUCATION

The right of young people to go to school

In Ontario, young people have a right to free education. Only people who are visiting in Ontario do not have a right to attend school.

You have a right to seven years of secondary school. However, if you have been in high school for seven years or more, or you are 20 years old or older and have not been in school for the last four years, you might have to pay a fee to attend school.

Schools in Ontario are located in specific school board districts. You have a right to go to a school in your district, but you don't necessarily get to choose which school. Your district will be decided on where your parent or guardian lives. After age 16, you do not need a parent or guardian to be in school. You have a right to attend school in the district where you live. You may need to write a letter to the school or principle to make sure that you are signed up independently, especially if you want your school information to be kept private from your parent/guardian. Here is a sample letter:

To PRINCIPAL'S NAME,

My name is BLANK and my date of birth is BLANK. This letter is in reference to my decision to withdraw from parental control. I am living separately and independently of my parents: NAME (parent #1) and NAME (parent #2). (delete parent #2- if only one parent)

My current address is:

Previously, I was attending BLANK school at BLANK School Board.

BLANK is my de-facto guardian for the purposes of my education. **Or (delete either first or second statement)** From this date forward, I would like to act as my own legal guardian and have the rights that are given to an eighteen year old as detailed in the *Education Act*.

Optional Statement:

Additionally, I want to ensure that the details of my education are kept private and confidential from my parents. I do not want them to know which school I am attending or the details of my academics. I do not want my parents to have any access to my private records, or to private information, including my Ontario Student Record.

I have sought legal advice from Justice for Children and Youth and they have informed me that I have the right to withdraw from parental control at the age of 16. I also have the right to attend school without my parents' consent or involvement. If you have any questions about my legal position, please call them at 1-866-999-5329 or 1-416-920-1633.

Thank you, Signed - Signature

Everyone **must** attend school until their 18th birthday, unless you have a legal reason not to go to school. Examples of legal reasons are: you are home-schooled, sick, or have already graduated from high school.

If you are having difficulty attending school, there may be special schools called alternative schools/programs that you may attend. Some have combined education/employment training programs that you may benefit from (especially if you are age 18 or older).

Newcomers

Children under 18 are entitled to go to school in Ontario regardless of their immigration status in Canada - this includes non-Canadians and non-Permanent Residents. However, you will have to pay a fee if you are visiting. You may also have to pay a fee in other circumstances. If you are unable to pay the fee set out, this does not constitute a reason why you should not be enrolled. You may need to obtain legal advice to advocate for the fee to be waived.

You do not need to take any immigration documents with you to enroll in a school and the school cannot demand to see any. You should take some identification, proof of your date of birth, and all of your education related documents and records to the school that you will be attending.

If you do not have permanent residence and you turn 18, you are no longer entitled to study in Canada without a study permit. You must apply for a study permit from Citizenship and Immigration Canada. This application should be filled out before you turn eighteen using the "Application to Change Conditions or Extend Your Stay in Canada." You may be exempt from the fee for study and may wish to seek legal advice. **Contact Justice for Children and Youth at (416) 920-1633 or 1 (866) 999-5329.**

For more information on your rights at school, see JFCY's publications at www.jfcy.org.

STREET LAW SMARTS #12

STOPS AND SEARCHES BY POLICE

When can the police stop me?

A police officer can stop and ask you questions at any time, but unless they are arresting you, detaining you to investigate you for a crime, or writing you a ticket, they must let you go if you do not want to talk with them.

- Ask - Am I free to go?
- Ask - Why are you questioning me?
- If being searched and you think it is unlawful, say, "I do not consent to the search". Do NOT physically resist.
- Say - I want to speak to a lawyer (ask to make the telephone call right then if you have a cell phone).

Do I have to give my name and address?

There are some situations where you must tell the police your name and address. An example is when you are driving a car or bicycle and the police stop you. Other times, you have no legal obligation to give your name and address, but there is a risk that you may be charged with obstructing justice if the police had a right to know your name and you did not give it.

If the police have lawful authority to request your name and you give an incorrect name, then you could be charged with obstructing justice.

You do not have to answer any other questions, and you have a right to say nothing further to the police. Be careful about providing any information beyond your name because anything that you say can be used against you.

How do I know if I am detained by the police?

Detention is when the police lawfully hold you by taking away your freedom, making it so you cannot walk away. You can be physically and/or psychologically detained by the police. This means that you do not need to be handcuffed or placed in the backseat of a police cruiser to be detained. If you are no longer free to go, you are being detained.

It is important for you to know if the police are investigating you and whether or not you are free to go. If you are unclear, you should ask the police officer, "am I free to go?" If

the officer tells you that you are free to go, then you can decide to keep talking with the police, or to go on your way.

Can I be detained for any reason?

The police may only detain you if they believe that you are connected to a recent or ongoing criminal offence and that detaining you is necessary. Your detention should be as brief as possible. If there is not a clear connection between you and the crime, then the police officer may be detaining you “arbitrarily” (without good reason). This type of detention is unlawful.

Getting arrested?

An arrest by an officer could include any of the following:

- they inform you that you’re under arrest
- they touch you in a way that exerts some force
- they create a situation where you are unable to leave

What are my rights when being detained or arrested?

The police must tell you of your rights immediately upon detention. The police must tell you why you are being detained, and that you can get legal advice from a lawyer. If you don’t know why you are being detained, you should ask, “why am I being detained?”

You can tell the police that you do not want to speak to them until you have the chance to talk to a lawyer. If the police continue to question you, you should not say anything and ask again to speak to a lawyer.

Not everyone has a criminal lawyer that they know, so the police have an obligation to tell you about a free criminal lawyer service, called Duty Counsel. Duty Counsel is available to you 24 hours a day and 365 days a year. The police must provide you with the phone number for Duty Counsel and a phone where you can speak to the lawyer in private.

When the police ask you if you want to speak with a lawyer, you should always answer ‘yes.’ If you are taken to a police station, the police should take you to a private room so you can call your lawyer or the Duty Counsel.

It is not clear how the police help you talk to a lawyer when they are detaining you but not taking you to the police station. You may want to ask if you can call a lawyer on your cell phone, but the law is not clear on how your right can be respected in these circumstances.

The biggest thing to remember is that anything you say to the police can be used against you, and that you have the right to say nothing except identify yourself and ask to speak to a lawyer.

When can I be searched by the police?

The police may only search you in four situations:

- (1) If the police have a search warrant;
- (2) If you are being detained and investigated by the police for a criminal offence (safety search only);
- (3) If you are being arrested by the police for allegedly committing offence; and/or
- (4) If you give your permission to the police.

Search warrants

Usually, a search warrant allows the police to search a place (for example, an apartment or a storage locker), but the police could also get a warrant to get DNA (in other words, a blood, hair, or saliva sample). If the police come to your place with a search warrant, you should ask to see the warrant and check for certain things. Make sure that:

- the address on the warrant is your address
- the police are at your house at a time the warrant says they can be there
- the warrant is signed by a judge or a justice of the peace
- the police only check in places where the item(s) they are allowed to look for could actually be (e.g.: they cannot search for a stolen piano in a cookie jar)

Search on detention

If the police are detaining you and have a reasonable suspicion that their safety or the safety of others is at risk, then they may search you. A safety search is usually a pat-down of your clothing to feel for weapons, but sometimes it is also lawful for the police to search through your bag.

Search on arrest

If you are being arrested, then the police may search you and your property for safety reasons and also to gather evidence linked to the crime.

If the police unlawfully search you and find illegal things, then you can tell a judge that the illegal things found should not be used as evidence against you in court because the police used illegal practices to find the items.

Search with your permission

If you give the police permission to search you and it was found that you were not detained, then you can be charged for any illegal items they find on you.

Do not physically resist

If you don't want the police to search you, **you should tell them that you do not consent to the search.** However, even if you believe that the police are illegally detaining or searching you, you should not resist. If you physically resist, you may be charged with resisting arrest or assaulting a police officer.

Your rights violated?

If you believe that a police officer has violated your rights or acted improperly, you should collect as much information about the incident as possible and speak to a lawyer for advice. For more information, see:

Street Law Smarts #2: Evidence Tips on collecting evidence related to the incident.

Street Law Smarts #23: Police Complaints about making a complaint against a police officer.

Statements to the police

The most important piece of advice that a lawyer will give you is to not make statements to the police. The police can record anything you say. The police are also allowed to use tricks, such as lying to you, in order to convince you to provide a statement.

Any statements you provide can be used as evidence at your trial. It is better to review the evidence against you, consult with a lawyer and then determine if you wish to give a statement at all.

It can be a stressful and intimidating experience to deal with the police when they are investigating you for an offence and you should usually not give a statement at that point.

See also:

Street Law Smarts #1: Where to get legal help?

Street Law Smarts #22: Appearing in criminal court.

STREET LAW SMARTS #13

SECURITY GUARDS

Security guards are privately employed by individuals, companies or organizations and are usually responsible for protecting persons and property (e.g. at a shopping mall or apartment building). They are not members of the local police and their powers are more limited. However, they do have the authority in certain circumstances to:

- ask you to leave from private property;
- arrest you for certain offences; or
- detain or search you.

Security guards are not allowed to use unnecessary force and, in the vast majority of circumstances, are not permitted to carry or use a handgun. Security guards may use a baton and handcuffs but a baton may only be used by security guards for defensive purposes. The company they work for must be licensed for this and the individual security guard must be trained.

Asking you to leave private property

Under the *Trespass to Property Act*, security guards can ask you to leave specific privately-owned property. They can also ask you to stop doing prohibited acts on the property. If you fail to abide by either request, you can be arrested by the security guard and given a ticket under the *Trespass to Property Act*. Security guards do not have to give a reason to ask you to leave the private property. However, they are not allowed to ask you to leave based on discriminatory reasons (for example, on the basis of race or religion or age).

Powers of arrest

In addition to making an arrest for trespassing under the *Trespass to Property Act*, security guards can also make a “citizen’s arrest” under certain circumstances such as:

- If they see you committing an indictable offence (includes all but the most minor criminal offences);
- If they see you commit a criminal offence on or against the property (e.g. shoplifting, destruction to property or graffiti, causing a disturbance on the property); or
- If they see you being chased by someone whom they believe has the authority to arrest you.

Security guards can use reasonable force to arrest you and to hold you until the police arrive. Once a security guard has arrested you, they cannot change their mind and "unarrest" you. When possible, they must give you notice by informing you of the reason for the arrest. They must turn you over to the police as soon as possible.

An arrest by a security guard could include any of the following:

- they inform you that you're under arrest;
- they touch you in a way that exerts some force (does not have to be excessive); or
- they create a situation where you are unable to leave.

If you leave after being arrested, you could be charged with resisting arrest.

Investigated but not arrested?

Unless you have been placed under arrest, a security guard cannot generally detain you for questioning or further investigation. If a security guard detains you without arresting you, this may be false imprisonment.

Statements to security guards

You do not have to give your name or show identification to a security guard. They must give you an opportunity to leave the property before arresting you for trespassing.

Statements on arrest

Be careful about what you say and do when arrested or detained by a security guard. There is a risk that any statement you make or evidence gathered by security guards during your arrest may be used against you in court. Ask if you can speak to a lawyer, and if you are not given the opportunity to speak to a lawyer, then wait until the police arrive and immediately ask to speak to a lawyer.

Searches

A security guard can only search you if they arrest you or if they have your permission.

Upon arrest

Upon arrest, security guards can only search you if it is done reasonably and if:

- guards think you pose a danger and are searching to ensure have no weapons; or
- it is being done to stop you from destroying evidence.

Security guards' powers to search are much more limited than those of police officers. In most cases, even if you stole something, the guard should wait until the police arrive and let them conduct a search. You should always discuss the circumstances of a search with your lawyer.

After you give permission

If there are signs in a store stating that people who enter the store are consenting to having their bags searched and you enter the store, then security guards may assume that you agreed to a search.

Security guards cannot threaten you in order to carry out a search. If a security guard searches you illegally but does not arrest you, the evidence can probably still be used against you.

Security guards can also search lockers on private property (e.g. a bus station) without getting a warrant or the consent of the person that rented the locker.

For information related to security guards, see:

Street Law Smarts #12: Stops and searches by police

Street Law Smarts #14: Tickets

Street Law Smarts #17: Trespassing

Complaints

Complaints about the conduct of security guards can be made to the Private Security and Investigative Services Branch of the Ontario government.

You can also make a complaint with the security company that employs the security guard and/or the company that is employing the security company.

Complaints to the Private Security and Investigative Services Branch can be made for allegations where the security guard breached the Code of Conduct or other requirements under the *Private Security and Investigative Services Act* and its regulations.

You should file your complaint within 90 days after the incident happens. Complaints may be filed after this date but you must obtain consent from the Registrar to do so.

To make a complaint, you must complete and sign a public complaint form and send it to the Private Security and Investigative Services Branch of the Ministry of Community Safety and Correctional Services. A public complaint form is available at:

http://www.mcscs.jus.gov.on.ca/english/PSIS/PublicComplaints/PSIS_complaints.html.

To obtain more information on this process, contact:

Private Security and Investigative Services Branch

416-212-1650 (Toronto area) or 1 (866) 767-7454

http://www.mcscs.jus.gov.on.ca/english/PSIS/PSIS_main.html

STREET LAW SMARTS #14

TICKETS

A police officer or other authorized official can give you a ticket if they think that you have broken a provincial law or municipal bylaw. These are non-criminal charges for breaking laws such as:

- *Liquor License Act* (e.g. being intoxicated in a public place)
- *Trespass to Property Act* (e.g. entering premises when entry is not allowed)
- *Safe Streets Act* (e.g. squeegeeing, aggressive panhandling)
- *Municipal Act* (e.g. spitting, smoking in prohibited places)
- *Highway Traffic Act* (e.g. jaywalking, driving violations)

If you are over the age of 16, you are considered an 'adult' for the purposes of dealing with your ticket. If you are between the ages of 12 and 16, then you are considered a young person. There are some extra procedures that must be followed when a ticket is issued against a young person, such as notifying their parents in some circumstances. Police usually issue these tickets, but they can also be issued by T.T.C. Special Constables, members of the Toronto Fire Department, and other agencies.

I've received a ticket – what next?

If you get a ticket stating that you must pay a fine, you have 3 options (which are listed on the back of your ticket). You must choose one of these options within 15 days (otherwise you are not disputing the charges and you will be convicted):

1. **Plead guilty and pay the fine:** You can do this by mailing it to the address on the ticket or by going to the provincial court in person. You must pay the "total payment" in full. If you need more time to pay the fine, you can go to the court office listed on the back of your ticket, at the time specified on the back of your ticket, and ask the court to give you an extension of time for payment. Paying a fine means that you are pleading guilty.
2. **Plead Not Guilty:** If you are pleading not guilty, you will schedule a trial. You or your "agent" (e.g. caseworker or lawyer) must go to the office listed, at the time or times listed, on the back of your ticket and fill out a Notice of Intention to Appear. The court will send you a notice by mail giving you a date when you should come back to court for your trial.
3. **Plead guilty with an explanation:** There are two ways you can plead guilty with an explanation. You can i) request a meeting with a prosecutor by indicating that request on the back of your ticket and delivering the ticket to the court office

specified on it within 15 days of receiving the ticket, or ii) you can attend at the time and place specified on the ticket and tell them you are pleading guilty with an explanation. Both options allow you to tell your side of the story and have the fine reduced (sometimes to zero). For example, if you jumped a TTC turnstile because you had no money for fare, you can explain this.

You can also provide evidence that you cannot pay the fine. Take any evidence that will support this. If you live in a shelter, get a letter from the shelter stating how much PNA (if any) you get. If you are on welfare, take your most recent stubs. If you are employed, take your most recent pay stubs. If you do not have any documents, it is still important to tell the official your story and to let them know that you are unable to pay. Sometimes the court will reduce the fine significantly or set up a payment plan.

What happens when you do NOT pay the fine

If you don't choose option 2 or 3 within 15 days and you don't pay the fine, the court will find you guilty and order you to pay the fine. Any unpaid fines will result in several penalties, including that you may be unable to get or renew a driver's license until the fine is paid.

However, even if you have defaulted payment, the justice can grant an extension of time to pay the fine, set a fine payment schedule or, in exceptional cases, reduce the amount of the fine or order that the fine doesn't need to be paid. A warrant for your arrest may be issued if you have been repeatedly warned to pay fines. This warrant will require you to be brought before the court and, if you are over the age of 16, may result in imprisonment.

I've received a summons – what next?

In some circumstances, a police officer may give you a summons to appear in court instead of a ticket. They are usually issued by police but they can also, in certain circumstances, be issued by T.T.C. Special Constables, members of the fire department and other agencies.

A summons is a legal document that requires you to appear before a court on a certain date. When you first go to court, you should ask the prosecutor for disclosure. If you don't show up on your court date a justice of the peace may issue a warrant for your arrest. If you are over the age of 16 the court may convict you in your absence.

Getting arrested?

If arrested, you should immediately ask to speak to a lawyer or duty counsel. You should not make any statement before you have had the opportunity to speak with a lawyer. Your rights when placed under arrest will depend on what you are being arrested for, and whether you have been arrested by the police or by a civilian.

Where to go for help with tickets in Toronto

Fair Change Community Services provides assistance in determining what tickets are registered against a person and information on how to fight or appeal tickets.

Drop-in at **Fred Victor Centre**, 145 Queen Street East, **Friday's** 12-4pm
<https://fairchangeccs.wordpress.com>

You can also contact the Street Youth Legal Services lawyer for advice, brief services, and representation on provincial offence or bylaw infraction trials and appeals.

Provincial Offences office

The Provincial Offences office is your first stop for pleading guilty with an explanation or scheduling a trial.

Provincial Offences Office

137 Edward Street, 2nd Floor
 (416) 338-7320 (press 3)

For information related to getting a ticket, see the following Street Law Smarts Fact Sheets:

Street Law Smarts #12: Stops and searches by police

Street Law Smarts #13: Security guards

Street Law Smarts #23: Police complaints

Street Law Smarts #24: Warrants

For more information on specific violations, see the following Street Law Smarts Fact Sheets:

Street Law Smarts #15: Panhandling

Street Law Smarts #16: Parks

Street Law Smarts #17: Trespassing

Street Law Smarts #18: Streets and Sidewalks

Street Law Smarts #19: Alcohol

STREET LAW SMARTS #15

PANHANDLING

There are two main offences under the *Safe Streets Act* (SSA): solicitation in an “aggressive manner” and solicitation of a “captive audience”. Soliciting means to request money or anything else of value from someone, whether or not you provide any services in return. You can request by asking, putting up a sign, making a gesture --- anything, and it can be considered soliciting. Panhandling and squeegeeing are examples of solicitation.

Aggressive solicitation

In general, panhandling is not illegal. Examples of this include holding out your hand or requesting spare change. Aggressive panhandling, however, is illegal.

Soliciting in an aggressive manner includes anything that is likely to cause a person to be concerned for his or her safety or security. Examples of behaviours that are considered aggressive include:

- threatening a person with physical harm, by word, gesture or other means;
- obstructing the path of the person;
- using abusive language;
- following the person;
- soliciting while intoxicated by alcohol or drugs; and
- continuing to solicit in a persistent manner after the person has responded negatively to the solicitation.

These types of behaviour are prohibited not only during any solicitation but also after the person solicited responds or fails to respond. Soliciting while intoxicated by alcohol could also result in a ticket under the *Liquor Licence Act* for being intoxicated in a public place. It is a defence to these offences to show the court that the person was not actually being aggressive.

Soliciting a captive audience

It is also illegal to solicit “a captive audience”, that is, people who are preoccupied. It doesn’t matter whether the soliciting is done in an aggressive manner. This ban on “soliciting a captive audience” makes it illegal to solicit a person that is:

- using, waiting for, or leaving an ATM;
- using or waiting to use a pay phone or public toilet;
- waiting at a taxi stand or public transit stop;
- in or on a public transit vehicle

- is in a parking lot or in the process of getting in or out of a vehicle; or
- is in a stopped, standing or parked vehicle on a roadway.

The last example makes it illegal for a person to squeegee. There is a complete ban on squeegeeing on a public roadway under the *Highway Traffic Act*.

Getting arrested?

You can only be arrested under the SSA if the police reasonably believe that you have contravened the SSA and (a) the police officer warned you prior to the incident not to engage in that activity or (b) the officer reasonably thinks that the arrest is necessary to establish your identity or to prevent more violations of the SSA.

If arrested, you should immediately ask to speak to a lawyer or duty counsel. You should not make any statement before you have had the opportunity to speak with a lawyer. For more information, see:

Street Law Smarts #12: Stops and searches by police

Street Law Smarts #22: Appearing in criminal court

Penalties

Tickets for SSA violations usually attract a penalty of about \$65. These tickets can be taken to the Court Services Office at the address on the back of the ticket if you want to fight the ticket or have the fine reduced. For more information, see: **Street Law Smarts #14: Tickets**

If you have been ticketed before, then the police may instead give you a summons to appear in court on a specific day. If you do not go to court, a warrant could be issued for your arrest to bring you to court.

Confiscation of Your Property by Police

The police can take your possessions as evidence if you are suspected of using them to commit a crime. For example, the police may take your squeegee if they believe it is stolen or has been used as a weapon.

Officers should not take your property just because you have used it to squeegee for money. If taken from you, your possessions must generally be returned to you within **three months** unless a justice of the peace orders that they be kept for a longer period. You should write down the badge number of the officer who takes your stuff, so that it will be easier to get your things back.

You will probably have to ask for your possessions back (the police may not do it automatically).

Contact: Toronto Police Service - Property and Evidence Management- (416) 808-3750

STREET LAW SMARTS #16

PARKS

All property belongs to someone. Public property belongs to the city, to the province or to the federal government.

The owner or occupier of property (e.g. manager, tenant, employee or other authorized person) can make rules not only about *who* can use their property, but also *what* can be done on that property.

City parks

Parks that are within a city (e.g. Grange Park, Alexandra Park in Toronto) are usually owned by the local municipality and governed by their specific park by-laws. While each by-law is different, they usually prohibit the same type of conduct and give the police and municipal by-law officers the power to issue tickets. In the city of Toronto for example, the following activities are prohibited in city parks:

- swearing
- throwing things (e.g. beer bottles)
- creating a nuisance by frightening, annoying, disturbing others or loitering
- injuring trees
- setting up a tent without a permit
- dwelling, camping or lodging in a park without a permit
- doing anything violent, threatening or illegal
- setting off fireworks
- being too loud
- drinking alcohol

The City of Toronto by-law also makes it illegal to be in a Toronto park between the hours of midnight and 5:30a.m., unless you have a permit.

Generally, people are allowed to be in public spaces. However, dwelling in a park without a permit is prohibited. Accidentally falling asleep or having a nap is probably not dwelling in a park. If you get a ticket for violating a park rule, you should consider fighting the charge or asking for a fine reduction. See **Tickets**, below, for more information.

Provincial parks

Some parks are owned by the province (e.g., Algonquin Park). Provincial laws for these parks make it illegal to beg or solicit, litter, create a disturbance, camp overnight without a permit, and trespass unlawfully by being in the park after closing hours.

Tickets

Any police officer, provincial offences officer, or municipal employee can order you to stop a prohibited activity or to leave the park. You must obey or you will lose your permission to stay in the park and you could also get a trespassing ticket. If you are drinking in the park, you may get a ticket under the *Liquor Licence Act*.

See Street Law Smarts #14: Tickets

Getting arrested?

If arrested, you should immediately ask to speak to a lawyer or duty counsel. You should not make any statement before you have had the opportunity to speak with a lawyer. Your rights when you are placed under arrest will depend on what you are being arrested for, and whether you have been arrested by the police or by a civilian.

For more information, see:

Street Law Smarts #12: Stops and searches by police

For more information on specific offences, see:

Street Law Smarts #17: Trespassing

Street Law Smarts #19: Alcohol

STREET LAW SMARTS #17

TRESPASSING

It is an offence to trespass on public and private property in Ontario. Under the *Trespass to Property Act*, you commit trespassing when you:

- 1) go onto another person's property where it is prohibited with notice in writing (can be a sign stating 'NO ENTRY');
- 2) do something on another person's property that is prohibited. Things that are prohibited are listed on a sign; or
- 3) do not leave the property immediately after being told to do so by the owner or a person authorized by the owner.

If you can show that you thought that you had permission to be on the property, then you have a defence to a trespassing charge. It is up to you to convince the court that your belief was reasonable. Permission can be withdrawn at any time and it would be trespassing if you were asked to leave the premises and refused to do so. However, you cannot be asked to leave based on discriminatory reasons (for example, on the basis of race or religion or age).

A police officer or someone who is legally occupying the property can arrest you without a warrant while you are still on the premises if they have reason to believe that you are trespassing. Once you have left the property, a police officer can only arrest you without a warrant if he or she has reason to believe that you were trespassing and they must establish your correct name and address.

If you receive a ticket for trespassing under the *Trespass to Property Act* and cannot afford to pay the fine, then follow the direction on the back of your ticket to bring it to court and ask to have it reduced to something you can afford to pay. See **Street Law Smarts #14: Tickets.**

Cities and towns in Ontario are private property owners. They have a right to issue trespass orders under the *Trespass to Property Act (TPA)* if you illegally occupy the property. For example, Nathan Phillips Square and Metro Hall are the property of the City of Toronto, and officials can exercise their discretion in prohibiting people from being at the Square. You are protected by Ontario's Human Rights Code. It is unlawful for officials to ask you to leave due to factors such as your age, race, or sexual orientation.

Squatting

You are squatting if you live in an unoccupied building or house that you do not own, rent or otherwise have permission from the owner to use. Squatting itself is not an

offence but, depending on the circumstances, you could be fined for trespassing or charged with several *Criminal Code* offences.

For example:

- trespassing at night - loitering or prowling near a dwelling house at night
- breaking and entering
- being unlawfully in a dwelling house
- mischief.

Trespassing at night - loitering or prowling near a dwelling house at night while on someone else's property is illegal and you may be criminally charged unless you can show you had a lawful excuse to be there. The trespass must happen between 9pm and 6am. Usually, near a house means on the property or lingering outside a window.

Breaking and entering occurs when you enter a place through a permanent or temporary opening and you have the intent to commit an offence (e.g. theft). Again, it is up to you to show a lawful excuse if charged. If you are found guilty of breaking and entering a dwelling house, it can be a serious offence.

If you illegally enter a dwelling house with the intent of committing an offence inside, then you are guilty of being unlawfully in a dwelling house. Again, it is up to you to show that you didn't intend to commit a crime or that you had a lawful reason to be there.

For each of these offences, the dwelling house must be "kept or occupied". You may have a defence to the charge if the dwelling house has been abandoned for a long time.

Finally, squatting may result in charges of mischief if you intentionally, and without lawful excuse, damage property, make property useless or dangerous, interfere with the lawful use of property, or interfere with anyone in their lawful use and enjoyment of property (E.g. drawing graffiti on abandoned buildings, burning another person's property or using utilities without permission).

Getting arrested?

If arrested, you should immediately ask to speak to a lawyer or duty counsel. You should not make any statement before you have had the opportunity to speak with a lawyer. Your rights when you are placed under arrest will depend on what you are being arrested for, and whether you have been arrested by the police or by a civilian.

For more information, see:

Street Law Smarts #12: Stops and searches by police

Street Law Smarts #13: Security guards.

STREET LAW SMARTS #18

STREETS AND SIDEWALKS

Bicycles

The *Highway Traffic Act* and Toronto city by-laws have several rules for cyclists. Some relate to the equipment that is required. Bicycles are required to have:

- a) a working bell or horn;
- b) working brakes; and
- c) if cycling after dark, a light and white reflector strips on the front, and either a light or a reflector and red reflector strips on the back of the bike;

Other rules deal with how to ride a bike. If you are a cyclist under 18 years old, you are required to wear a helmet. Also, with the exception of small children's bicycles, you are not allowed to ride on sidewalks, along crosswalks or on areas in intersections marked specifically for pedestrians to cross.

A police officer can stop you if they suspect you of breaking any of the above rules. You must provide your name and address to the officer if asked for identification.

Pedestrians

Pedestrians are expected to follow rules on the street, just like drivers and cyclists. When crossing a street, if there are portions of a road marked for pedestrian crossing, then you are required to cross the street at those crossings. You also cannot cross the road at a red or yellow light, or when the "don't walk" signal is flashing (even if the counter is still counting down). If you break these rules, you can get a ticket and be fined.

Use of public spaces

Streets and sidewalks are public spaces and are subject to regulation by the *Criminal Code of Canada*, provincial laws, and City by-laws. You can be charged with a criminal offence if you cause a disturbance in or near a public place. Examples of causing a disturbance include:

- fighting;
- shouting, screaming, swearing or using obscene language;
- being drunk; or
- loitering in a public place that obstructs people.

There are also provincial laws regarding panhandling and alcohol in public spaces.. See **Street Law Smarts #15: Panhandling**, and **Street Law Smarts #19: Alcohol**.

Although still accessible to the public, some areas like store entrances are private property, not public spaces. If you enter or engage in activities after being told not to in these areas, you may be charged with offences under the *Trespass to Property Act*.

Some parks may be considered City of Toronto property, and city officials may issue trespass tickets. Toronto Community Housing and Toronto Transit Commission properties are other areas where you could be ticketed for engaging in activities that are prohibited or for not leaving when you are asked to leave an area. For more information on trespassing and parks, see **Street Law Smarts #16: Parks and #17: Trespassing.**

Streets and sidewalks by-law in Toronto

The Toronto Municipal Code has a Chapter titled 'Streets and Sidewalks'. The Chapter makes rules about what can occur on City of Toronto's streets and sidewalks.. It is prohibited to obstruct , encumber, camp, dwell, or lodge on a sidewalk.

The City of Toronto's Interdepartmental Protocol for Homeless People Camping in Public Spaces requires that enforcement officers work with different City departments and service providers to assist you before enforcing the by-law.

The Protocol outlines a process to limit enforcement: If an enforcement officer (police or city official) receives a complaint under this by-law, they are to contact the Shelter, Housing and Support (SHS) department of the City of Toronto. The SHS is responsible for taking the lead in co-ordinating outreach services. Enforcement officers are not to approach individuals on their own, but should be accompanied by SHS outreach staff.

If enforcement is necessary, you must be given 14 days notice. Enforcement involves removing your belongings, and you can be issued a fine for the removal of your belongings. If personal items are removed, they are held for 60 days and can be reclaimed, but there will be storage and retrieval fees.

For more information on what to do if you get a ticket for any of the above infractions, see **Street Law Smarts #14: Tickets**, and contact JFCY for assistance.

STREET LAW SMARTS #19

ALCOHOL

The *Liquor Licence Act (LLA)* makes rules about the use of alcohol in Ontario. Here are the most important things to know about the rules in the *LLA*:

- If you are over the age of 19, you can legally consume alcohol, subject to the exception described below.
- If you are under the age of 19, you can consume alcohol only if it is supplied to you by your parent or legal guardian, and if it is consumed in your home in the presence of the parent or legal guardian.
- You must be over 18 years old to be employed to sell or serve alcohol .
- It is illegal to sell alcohol products to someone under age 19.
- It is illegal to use a fake ID to obtain alcohol. It is also illegal to use someone else's ID as your own to obtain alcohol.
- You cannot have an opened bottle of liquor in a public place.
- You cannot be intoxicated in a public place.

If you break any of these laws, you may receive a ticket. Ticket amounts vary widely depending on the incident,. If you receive a ticket under the *Liquor Licence Act* and you cannot afford to pay the fine, then follow the instructions on the back of your ticket for how to bring the ticket to court and ask to have it reduced to something you can afford to pay. See **Street Law Smarts #14: Tickets**.

Police powers to take alcohol

A police officer may take anything he or she believes to be evidence of a *LLA* offence. This may include empty bottles and drinking glasses that have been used for drinking alcohol.

The officer can also take things used in committing the offence if it is necessary to prevent their further use, for example, alcohol that is being provided to underage persons. Any proceeds gained from the offence, such as money from selling liquor without a licence, can also be taken.

Getting arrested?

You can be arrested under the *LLA* if the police feel that they need to find out your correct name and address, or if you are intoxicated in public or a place “used in common by others”, and it is necessary for the safety of any person.

If arrested, you should immediately ask to speak to a lawyer or duty counsel. You should not make any statements before you have had the opportunity to speak with a lawyer. For more information, see:

Street Law Smarts #12: Stops and searches by police

Street Law Smarts #22: Appearing in criminal court

STREET LAW SMARTS #20

MARIJUANA

Possession of marijuana

Possession of any amount of marijuana is a criminal offence under the *Controlled Drugs and Substances Act*. You don't have to own the marijuana to be charged, you just need to have it in your possession. This includes dried marijuana, seeds, hash and hash oil. It is legal to possess hemp.

The Crown prosecutor must prove two things beyond a reasonable doubt to convict you of marijuana possession:

- (1) you were in control of the marijuana, which means you had the marijuana with you or you placed the marijuana in a location you control (e.g. your car, bag, bedroom etc.); and
- (2) you knew the marijuana was there.

Having any amount of marijuana is illegal, but the more you have increases the likelihood of having a more serious penalty if you are found guilty, and raises your likelihood of being charged with trafficking.

What the police will do

Although they do not always charge you for smoking or having marijuana, the police can charge you for possession of marijuana no matter how small the amount (for example: they can charge you even if you just have a roach or a seed).

Trafficking or possessing marijuana for the purpose of trafficking

Trafficking marijuana, or possessing marijuana for the purpose of trafficking, is a more serious criminal offence than possessing marijuana for personal use. Penalties for trafficking marijuana can be much higher, all the way up to life imprisonment.

Trafficking marijuana means to sell it, distribute it, or to make it available to others. Money does not have to be exchanged for you to be found guilty of trafficking marijuana. You may be charged with trafficking marijuana if the police catch you selling or distributing marijuana to other people.

You may be charged with possessing marijuana for the purpose of trafficking if you are found with a large amount of marijuana. For example, if you consume a few grams of marijuana per day but are found with 10 pounds of marijuana, it will be difficult for you to prove that you were intending to use all 10 pounds on your own. If you are carrying little baggies that are typically used to distribute marijuana, or if you are carrying a scale

used to weigh marijuana, you may also be charged with possessing marijuana for the purpose of trafficking.

Recent changes to the *Controlled Drugs and Substances Act* have raised mandatory minimum sentences for trafficking and possession for the purpose of trafficking. If you are found guilty of trafficking or possessing for the purpose of trafficking more than 3kg of marijuana and certain aggravating circumstances exist (e.g. it is your second offence or you committed the offence near a school or with a young person under age 18), then you may face a minimum of one or two years jail time.

Getting arrested?

If arrested, you should immediately ask to speak to a lawyer or duty counsel. You should not make any statement before you have had the opportunity to speak with a lawyer. For more information, see:

Street Law Smarts #12: Stops and searches by police

Street Law Smarts #22: Appearing in criminal court

Street Law Smarts #1: Where to get legal help

Medical marijuana

There is a law that allows you to possess marijuana for medical purposes. But this law only applies if you get an exemption from the government, which is like a licence to use pot for medical reasons. You must get an exemption before you buy the marijuana. You cannot just tell the police that you use marijuana because you are ill or because you have a letter from your doctor.

To get an exemption, you must submit an application to the Federal Government's Department of Health. You can find information about the application process on their website, <http://www.hc-sc.gc.ca/>

As part of your application, you have to get a doctor to fill out a form saying that you need marijuana for medical reasons. Many doctors are unwilling to sign such forms because they don't believe there is sufficient scientific research about the benefits and dangers of marijuana.

STREET LAW SMARTS #21

WARRANTS

Warrants for your arrest must include certain information, such as your name or a description of you and a brief description of the offence you've been charged with. It's the duty of the police officer arresting you to have a copy of the warrant and, where it's feasible, to show it to you.

Some warrants are Canada-wide. If there is a Canada-wide warrant for your arrest, you can be arrested by any police officer in the country.

If a warrant has been issued by a judge or a justice of the peace for not attending court (sometimes called a bench warrant), then any police officer in Ontario can arrest you and transfer you to the city where the warrant was issued.

Whether or not the police will transfer you to the city your warrant is from will depend on a number of factors including the nature of the offence. While they are unlikely to transfer you from Toronto to Timmins on a shoplifting charge, they will probably transfer you for a serious charge of attempted murder. If your warrant is from another province for a minor offence, the police from the other province will not usually come to Toronto to get you. However, this is not a guarantee.

Dealing with warrants

Warrants do **NOT** "expire" after a certain period of time. They exist until you deal with them.

It is always better to turn yourself in than to be picked up by the police. The courts will usually look at you more favourably because they consider turning yourself in evidence that you are taking responsibility. If your warrant is in Toronto, then you can turn yourself in to any division of the Toronto Police Service. It is a good idea to turn yourself in at 7:00 a.m. on any day from Monday to Thursday. This increases the likelihood that you will be taken to court that day for a bail hearing and possibly released. If you turn yourself in on a Friday, you may be held throughout the weekend until they can take you to court on Monday morning.

It is a good idea to contact a lawyer before turning yourself into the police so that the lawyer can be at your bail hearing. Sometimes a lawyer can call the police ahead of time and arrange for you to turn yourself in.

Warrants outside Toronto

If your warrant is outside Toronto or in another province, you have two options:

1. If you want to plead **not guilty** to the charge(s), then you must return to the city that issued the warrant and turn yourself in. The courts in Toronto cannot deal with your case.
2. If you want to plead **guilty** to the charge(s), then you can request that your charges be transferred to Toronto. You will be required to sign a form promising (an undertaking) that you will plead guilty to the charges. This form is then sent to the Crown office (prosecutor) in the other city where they will decide whether to transfer your charges to Toronto. If they agree to transfer your charges, a date will be set at a court in Toronto for you to plead guilty and receive your sentence. If they refuse to transfer your charges to Toronto, you will have to return to that city to deal with your outstanding charges.
 - It is very important that you not plead guilty to offences that you did not commit or to which you have a legal defence. If you are unsure, speak with a lawyer.
 - If you want to apply for a transfer of your charges to Toronto, speak with a lawyer at Street Youth Legal Services, who can assist you with the process.

Warrant checks

If you think there may be a warrant for your arrest but you are unsure, you can speak with a lawyer. The lawyer can call the police and ask if there is a warrant for your arrest without letting them know where you are.

Police entering private property to arrest

Generally, the police must have a warrant to arrest you on private property (e.g. a shelter or drop-in centre). They can arrest you on private property without a warrant if they are trying to prevent you from hurting or killing someone, or to prevent you from destroying evidence. Usually, the police officers must identify themselves before entering the premises.

Getting arrested?

Remember that once you are arrested or detained, you have a number of legal rights including the right to remain silent, be told why you have been arrested or detained, be informed of your right to speak to a lawyer and be given an opportunity to speak to a lawyer as soon as possible.

The police may continue to question you even after you speak to a lawyer. In this situation, it is important that you continue to remain silent or risk that what you say can be used against you as evidence. For more information, see **Street Law Smarts #12: Stops and searches by police.**

STREET LAW SMARTS #22

APPEARING IN CRIMINAL COURT

After being charged by a police officer and being taken to the police station or jail, there are a number of ways that you may be released from jail. Before releasing you, the main issues that a police officer, Justice of the Peace, or Judge must decide are:

- If you will come to court for the required appearances, and
- If you pose a safety risk to the community or a risk of committing a criminal offence.

Getting released from the police station

If the police think that you will come to court and don't pose a risk to the community or risk of committing an offence, then you may be released directly from police custody and ordered to come to court by way of a "Promise to Appear", "Criminal Summons", "Recognizance", or "Undertaking". If released by an Undertaking, you may have agreed to abide by conditions such as a curfew or to not go to a certain location in the city.

The police officers will provide you, the 'Accused', with a date to appear at the police station for fingerprints and photographs, usually about one month after release. They will also give you a date to appear in court, usually about six weeks after release. Failure to appear at these dates can result in new criminal charges.

You will be directed to attend the courthouse located closest to where the incident took place. If at anytime you forget what courthouse you need to attend or what date you should attend, you should contact a courthouse and ask the clerk's desk when and where your next appearance is.

Getting released from court – bail hearings

If the police officers do not think that you will come to court, or think that you may pose a safety risk, then you will be held overnight to appear in court for a bail hearing. You have the right to appear before a Justice of the Peace within 24 hours of arrest (this includes weekends and statutory holidays).

Usually, it is up to the Crown Prosecutor to prove to the Judge or Justice of the Peace why you should be kept in jail awaiting trial. This is called the Crown Prosecutor 'showing cause' for your further detention. Bail hearings are also called 'show cause' hearings.

Sometimes, you must ‘show cause’ for why you should be released. Examples of when you must prove why you should be released are: if you are charged with certain drug or weapons offences or if you are charged while already out on bail conditions.

The Crown Prosecutor may consent to your release upon certain conditions. If you have other outstanding charges, the Prosecutor may request that you stay in custody for up to three further days so all of the charges can be before the court at the hearing.

It is highly recommended that you do not rush into having your hearing and that you take the time to get the help of a lawyer before agreeing to hold your bail hearing.

The Duty Counsel lawyer is able to assist you in the bail courtroom at any time. Whether with the help of duty counsel or another lawyer, it is important that you create a reasonable release plan. Your lawyer can tell the Justice of the Peace or the Judge how you will be properly supervised to make sure that you come to court and that the public is protected from any criminal activity.

Sureties

People taking on a legal obligation to supervise you are called sureties. In addition to agreeing to supervise you, sureties will be asked to pledge an amount of money that they can lose if you breach any of the conditions.

Even if you can't get someone to act as your surety, you should seek out any help from supportive or stable people in your life.

Letters of support or personal appearances at court from community support workers, mental health professionals, employment counsellors, housing workers, religious leaders, social workers, or guidance teachers are extremely helpful to show the court the network of support that you have. If you are a staff attending court to assist a youth, please be sure to introduce yourself to the Duty Counsel lawyer.

If the Justice of the Peace or Judge feels that you are suitable for release then they will determine appropriate conditions and the amount of money the sureties will need to pledge. If detained, you have a right to review of the decision.

Bail Program

The Bail Program at Toronto courthouses is also helpful when you are charged with a non-violent offence and you cannot get a surety. Instead, a regular reporting requirement is put in place for bail to be granted.

First appearances

The first court appearance is usually six weeks after you are charged. At this time, you may get your disclosure package from the Crown Prosecutor.

The disclosure includes the information against you that the Crown will use against you to prove that you are guilty. Generally, a charge screening form will be attached to the disclosure. This form shows what sentence the Crown is suggesting if you decide to plead guilty.

The charge screening form will also tell you if the Crown is offering you a diversion program or peace bond in exchange for the charges to be “stayed” or “withdrawn”. A lawyer may be able to help give reasons why the Crown should change their mind if they have not yet offered diversion or a peace bond.

Diversion

Diversion is a program where, if you complete certain requirements (community service, counselling, or donating to a charity), the Crown will “withdraw” or “stay” a charge. Operation Springboard runs the diversion program at many of the Toronto courthouses.

The main things that may lead to acceptance to a diversion program are:

- a non-violent offence
- no record or an old criminal record
- no outstanding charges
- that you feel bad, and
- that you would suffer harmful consequences of a record.

To enter the program, you agree that you are taking responsibility for your actions leading to the charge. You do not plead guilty when entering into a diversion program. If you fail to complete the program requirements, you can still set a date for trial on the charge.

If suffering from a mental illness, you may also be diverted through the mental health diversion court program.

For more information, see: **Street Law Smarts #10: Mental Health.**

Peace bonds

A peace bond is when you enter into a recognizance, or a promise to the court, to keep the peace and be of good behaviour.

If the court decides, you may have other conditions to abide by such as not to communicate directly or indirectly with the complainant. A peace bond is usually for 12 months. Peace bonds carry no criminal record and are not a finding of guilt, but there could be employment and travel consequences. For more information, see:

Street Law Smarts #24: Youth Records

Street Law Smarts #25: Adult Police Records

Getting a lawyer

If there is no resolution to your charges after a few court appearances, the Justice of the Peace or the Judge will urge you to hire a lawyer or apply for legal aid. Once you chose a lawyer, the lawyer can help make sure that disclosure is complete, have pre-trial meetings with the Crown, and set dates for a trial or guilty plea.

Legal Aid Ontario Client Services Centre: 1 (800) 668-8258

If you do not get a lawyer, the Justice of the Peace or the Judge will allow Duty Counsel to continue to help you and may permit you to carry on without a lawyer.

It is highly recommended that you get a lawyer to represent you on criminal charges. If denied legal aid because the charges are not serious enough and you live in Toronto, contact the Street Youth Legal Services lawyer at JFCY, the Community Legal Assistance Program (CLASP), or Downtown Legal Services (DLS) for assistance.

If you are denied legal aid for financial ineligibility, you may appeal the decision. Consult with the Lawyer Referral System, CLASP program, DLS program, or the Street Youth Legal Services lawyer at JFCY.

JFCY, Street Youth Legal Services lawyer: 416.920.1633

Community Legal Assistance Program (CLASP): (416) 736-5030, press '4'

Downtown Legal Services (DLS): (416) 736-5029

Lawyer Referral Service: (416) 947-3330 or 1 (800) 268-8326

STREET LAW SMARTS #23

POLICE COMPLAINTS

If you experience harassment, discrimination, or violence by police, talk to a lawyer about what happened. The lawyer can give you advice on your options and help you make a complaint, make an application to the Human Rights Tribunal, sue the police for damages (money), or report the incident as a crime.

For information on how to find a lawyer, see **Street Law Smart #1: Where to get legal help?**

If you have suffered serious injury by the police, the Special Investigations Unit will carry out a criminal investigation. The Special Investigations Unit has the power to lay criminal charges against the offending police officer.

Evidence

You should immediately get and keep as much information about the incident as possible. Try to get the officer's badge number and division number, and write down the date, time, and location of the incident. If you are injured, you should get pictures taken of the injuries and get medical attention. Keep going back for medical and counseling appointments if your mental or physical injuries continue.

Even if you are unsure about what options you have or whether you want to take any action, you should record what happened and any ongoing problems related to the incident (e.g., if you had to miss work and/or have continued injuries). Write 'for my lawyer' at the top of any documents related to the incident.

For information on collecting evidence, see **Street Law Smart #2: Evidence Tips.**

Office of the Independent Police Review Director (OIPRD)

If you would like to complain about an incident involving an Ontario police officer that occurred after October 19, 2009, then you can make a complaint directly to the police service where you experienced the incident, or directly to the Office of the Independent Police Review Director (OIPRD).

The purpose of the OIPRD is to provide an oversight mechanism for policing in Ontario. The OIPRD carries out case-by-case investigations, systematic reviews, education, and outreach on police complaints.

What can you complaint about?

Complaints can be made about a police officer's conduct, or about a police department's policies or services.

For complaints about a police officer's conduct, the OIPRD investigates complaints and decides whether disciplinary action should be taken against an officer. The Police Services Act Code of Conduct outlines activities that are considered police misconduct and attract disciplinary action. Examples of conduct contrary to the Code of Conduct include the use of:

- Excessive force
- Unlawful searches
- Profane, abusive, or disrespectful language
- Discriminatory conduct
- Neglect of duty
- Deceit
- Other discreditable conduct

If the OIPRD finds police officer misconduct, they can request that the police officer be reprimanded, suspended, or dismissed.

Who can make a complaint?

You are able to make a complaint if you have experienced it yourself, witnessed it, or know a lot of reliable information about the substance of the complaint.

Timing

Your complaint must be made **within six months** of the incident which led to the complaint. However, the OIPRD sometimes permits a complaint to proceed after the six month time limit expires. If you are beyond the time limit, you should ask the OIPRD for permission and explain why you are late (e.g., you were sick and/or did not know that the OIPRD existed).

Were you arrested or charged criminally?

If the incident resulted in you being arrested and/or charged criminally, be careful about making a complaint. Information written in the complaint that mentions you doing any criminal activity can be used against you in court. If you are at risk of, or have been charged with offences related to the incident, ask the OIPRD if you can file your complaint after your criminal proceedings are complete, even if it is beyond the six month time limit.

How to make a complaint?

Your complaint to the OIPRD must be in writing and be signed. Your complaint can be submitted by mail, fax, or by filling out the online form on the OIPRD's website.

Office of the Independent Police Review Director

655 Bay Street, 10th Floor

Toronto, Ontario, M5G 2K4

Tel: 416-246-7071, Toll-free: 1-877-411-4773, TTY: 1-877-414-4773

Fax: 416-327-8332, Toll-free fax: 1-877-415-4773

www.oiprd.on.ca

You have the right to get somebody's help to make a complaint and represent you as your agent through the complaint process.

Your privacy

The OIPRD and staff administering your complaint are bound by strict confidentiality requirements to not share information relating your complaint to anyone EXCEPT:

- those helping process your complaint;
- legal counsel;
- police for law enforcement purposes; and
- anyone you consent to sharing the information with.

The officer that you are complaining about will usually be given a copy of the complaint and know that you made a complaint about them. They require this information so that they may defend themselves in any disciplinary proceedings.

It is an offence under the *Police Services Act* for any officer to retaliate against an individual that complains about their conduct.

If you are fearful of your identify being shared with the officer you are complaining about, you may request to have your personal information kept private. The OIPRD may or may not be able to grant your request. If they refuse to grant your request, you may want to withdraw your complaint.

What will happen to your complaint?

Depending on the circumstances, complaints made to the OIPRD about a police officer's conduct will either be:

- referred to the local chief of police in the region where the complaint originated;
- referred to the local chief of police outside the region where the complaint originated; or
- kept by the OIPRD for further investigation.

Complaints made to the OIPRD about policies or services will be referred to the local chief of police in the region where the complaint originated. The chief (or their designate) will then investigate the complaint.

Each local chief of police must report in writing their decision for resolution of your complaint and give it to you within 60 days of receiving the complaint from the OIPRD.

If you wish, you may be offered to participate in an informal resolution of your complaint by meeting with the OIPRD and police officer involved. Informal resolution will only be offered for less serious complaints and will likely not be offered as an option to resolve complaints relating to criminal activities or the use of excessive force.

Your complaint may result in the police officer receiving disciplinary action. There may be a disciplinary hearing that you are asked to attend and give evidence at. You may be cross-examined by the police officer's counsel about the accuracy of what happened. After a disciplinary hearing, the officer may receive disciplinary action taken against them, such as a reprimand, suspension, or dismissal.

A complaint that is unsubstantiated means that there was not enough evidence to prove that misconduct occurred. After investigation, if the local police service finds that your complaint is unsubstantiated, you may appeal the decision to the OIPRD. There is a 30 day time limit to file for review. If the OIPRD finds that your complaint is unsubstantiated, there is no review of the decision. If you are unsatisfied with the complaints process, or for advice on any further legal steps, contact a lawyer.

For information on how to find a lawyer, see **Street Law Smart #1: Where to get legal help?**

Pros and Cons about making a complaint

Pros

- Your complaint is on file and builds on the number of complaints already made.
- Steps may be taken. For example, the police officer may be reprimanded, suspended, or dismissed.
- You have spoken out about a harm suffered by you.

Cons

- You may not want to take further time and energy to deal with the harm you have suffered.
- You and/or your friends and family may be fearful of having your identities known to the police officer that you are complaining about.
- You may be requested to face the police officer in an adversarial-type of proceeding (a disciplinary hearing). You may feel re-victimized when being questioned on the truthfulness of the accounts of the incident you are complaining about.

STREET LAW SMARTS #24

YOUTH RECORDS

Youth records are different from adult criminal records. Youth records are those linked to if you were a suspect or an accused in the youth criminal justice system when you were under age 18.

Information kept in your youth record includes any reports that have been prepared for the court, charges that have been laid and any history of being found guilty by the court and sentences you have received. The rules on youth records are laid out in the *Youth Criminal Justice Act*.

How long will your youth record last?

A youth record does NOT automatically disappear when you turn 18. Instead, the law sets out a period of time when your record is open and can be accessed by certain people. How long your youth record lasts depends on three things:

- ◆ the seriousness of the crime;
- ◆ the sentence you were given; and
- ◆ whether you commit another crime while your record is open.

If you were...	... your record can be accessed for
Given an extrajudicial sanction, like diversion	2 years after you agree to participate in the program
Acquitted (found not guilty)	2 months after the appeal period ends if there is no appeal or 3 months after your appeal is finished if the appeal court agrees with the not guilty finding
Found guilty and received a reprimand, or your charge was withdrawn, or your charge was dismissed but you were not acquitted	2 months after you are reprimanded or the charge is withdrawn or dismissed
Found guilty and received an absolute discharge	1 year after you are found guilty
Found guilty and received a conditional discharge	3 years after you are found guilty
Found guilty and sentenced for a summary conviction offence (a low level offence)	3 years after you completed your sentence
Found guilty and sentenced for an indictable offence (a more serious offence)	5 years after you completed your sentence

Found guilty and sentenced for murder, attempted murder, manslaughter, or aggravated sexual assault	Potentially permanent
---	-----------------------

If you commit another crime before your record is closed, the time limit to access the record will extend to the longest time period and all of your other records will remain open.

You do not need to apply for a record suspension for a youth record because it will be destroyed or sealed automatically. **BUT**, if you receive an adult conviction – JM check this conviction only or discharge too? for another offence while your youth record is open, your youth records becomes part of your adult record and neither will go away without a record suspension. For more information, see **Street Law Smarts #26: Record Suspensions (previously pardons)**.

Access and disclosure of your youth record

Both access and disclosure of your record, before and after the access periods, are strictly limited. It is illegal to disclose your youth record to a third party, and someone that unlawfully discloses your youth record can be charged with an offence under the *Youth Criminal Justice Act*.

Who can see your record when it is open?

During the access period, the law limits who can see or “access” your record. People who can access the record include:

- You, your lawyer, your parents, or other adults that the court says can assist you in the court proceedings
- The Crown Prosecutor
- A coroner or ombudsman
- The judge, court or any commission dealing with proceedings against you
- Certain government employees (e.g., if they are helping to administer your sentence)
- Police officers who are accessing the record for law enforcement purposes
- The Director of the Correctional Facility where you serve your sentence
- The victim of the offence
- The lawyer of another accused who needs your record in order to mount a defence (e.g., if another youth claims that you were an accomplice to their crime, then their lawyer can access your record and your lawyer can access theirs)
- A government organization, during a hiring process

Your record might also be accessed by any other person who successfully proves to a judge that she has an interest in the matter and that accessing the file is in the interest of justice. This requires a special court order.

What happens to your youth record after the access period?

After the access period, your record is sealed. It will be permanently archived or physically destroyed. You should make sure that this is done by confirming with your local police that the RCMP and the local police have both sealed your record(s).

Police records

Police might also keep records of their interactions with you. Police records contain information about contact you have had with the police and can include:

- ◆ information about any arrests
- ◆ suspected criminal activity
- ◆ findings of guilt (youth) and convictions (adults)
- ◆ fingerprints and photographs
- ◆ 911 calls
- ◆ Interviews
- ◆ witnesses and victim reports
- ◆ other non-criminal activity based information (for example: incidents or detainments under the *Mental Health Act* where police were involved)

Some police records will be related to incidents that led you to be dealt with under the *Youth Criminal Justice Act*. Those police records will be subject to the same access and sealing provisions as youth records.

BUT, other police records not related to your involvement under the *Youth Criminal Justice Act* may not get sealed and can be kept by the local police force for as long as the local police service's record keeping rules say.

If you are having problems with an outstanding police record, contact JFCY for help. JFCY is working to make sure that all local police force record keeping rules go along with the ideas and strict access rules from the *YCJA*.

Employment

Many job applications ask: "Do you have a criminal record?" or "Have you ever been convicted of a criminal offence?"

If you only have a youth record, you can honestly answer "No" to these questions. **Your record is a "youth record", not a "criminal record" and youth are "found guilty", not "convicted".** The words are different on purpose to protect your reputation.

Employers may also ask for your consent to do a background check during your application process. The depth of the record check will depend upon the type of job that you are applying for, and each police service has a different procedure for disclosing records they have. Although it is illegal for an employer to ask about your youth record,

the police may disclose information to you with your consent. It is then up to you whether you want to give it to a potential employer.

JFCY believes that this disclosure is contrary to the rules in the Youth Criminal Justice Act. People might assume that you are voluntarily giving consent to access and subsequently disclose your record, when in fact, to be considered for gainful employment, you do not have a choice but to consent.

If you are having problems with or are concerned about records disclosed on a police records search that you requested, contact JFCY for help.

For more information on the access, disclosure, and destruction of records held by the police, see:

Street Law Smarts #25: Adult Police Records

Street Law Smarts #26: Record Suspensions (previously pardons)

STREET LAW SMARTS #25

ADULT RECORDS

There are different types of records or background checks that you may request. Which request you make depends on your own reasons for requesting it - i.e. for personal or employment purposes, or for a position as a volunteer.

For employment or volunteer situations, the depth of the record check will depend upon the type of job that you are applying for, and each police service has a different procedure for disclosing records they have. Employers may ask for your consent to do a background check during a job application process. Your **consent** is required for the police to disclose these records to your employer.

Below are the procedures to request access and disclosure of some types of records held by either the RCMP or your local police service, specifically the Toronto Police Service.

Types of Records and Background Checks

Police Records

Police officers keep records of their interactions with you. A Police Record is not necessarily a “Criminal Record.” Police Records contain information about contact you have had with the police, which can include:

- ◆ information about any arrests
- ◆ suspected criminal activity
- ◆ findings of guilt (youth) and convictions (adults)
- ◆ fingerprints and photographs
- ◆ 911 calls
- ◆ interviews
- ◆ witnesses and victim reports, and
- ◆ other non-criminal activity based information (for example: incidents or detainments under the *Mental Health Act* where police were involved)

Accessing your Police Record

To obtain access to records about you that are kept by the police, contact your local police service and ask for their procedures.

In Toronto, the Toronto Police Service’s Access and Privacy Section manages all personal information requests. You will be asked to fill out a form that is available on the website listed below. It costs \$5 for an initial request. The cost for copies of the record is \$.20 per page. The Toronto Police will inform you of the costs associated with your

request. This information request will cover all involvement with the Toronto Police Service, and is not a 'Criminal Record Check' as required for some employment purposes.

You must present identification in order to make a request through this section. Some information from the request may be taken out of the record you are given for the protection of other individuals' privacy. For more information and for a copy of the form you must fill out, see <http://www.torontopolice.on.ca/aps>.

Criminal Record

There is no set definition of "Criminal Record". The term is confusing, and the Criminal Records Act does **NOT** define what a criminal record is.

Many people use the term "Criminal Record" to describe the record of conviction received after you have been convicted of a criminal offence as an adult. However, the term may also be described as other information a law enforcement agency has collected about you, including both conviction and non-conviction incidents and offences.

Accessing a "Criminal Record Check"

You may request a copy of your record of conviction from the Royal Canadian Mounted Police (RCMP). To obtain a Criminal Record Check from the RCMP you must submit a full set of all ten fingerprints. As of July, 2014 you must submit these fingerprints electronically for any civil matters.

To get a copy of your electronic fingerprints, you may go to your local police service or to an accredited company (note: these companies will charge a fee to take your fingerprints, so best to check with your local police service first to see if they can do this at a lesser cost).

Once you have your fingerprints the local police service may submit the Criminal Record Check Application for you. You should check with them when you are obtaining your fingerprints.

There may or may not be a cost to the Criminal Record Check itself, on top of any local service fees required for fingerprinting. Some Criminal Record [applications are processed for free](#) (for example, if you require the check for a volunteer position) while others are subject to a \$25 CAN fee.

For more information see: <http://www.rcmp-grc.gc.ca/cr-cj/steps-etapes-eng.htm>

Other Types of Records and Background Checks

a) Toronto Police Service - Clearance Letters

You may request a Clearance Letter from the Toronto Police Service. A Clearance Letter will be issued if you have no record of criminal conviction on the National Repository of Criminal Records, as maintained by the RCMP, or any outstanding criminal charges before the courts.

A Criminal Conviction includes a finding of guilt for which you were put on probation, served a sentence, paid a fine, or a combination of. The Toronto Police Service does not release “non-conviction” findings as part of a record of conviction release. Non-convictions, which will not appear on a Clearance Letter, include court dispositions such as: withdrawn, dismissed, not guilty, stayed, acquittal, discharge, diversion or absolute/conditional discharges when all conditions have been met.

If you have any criminal history, you may be required to submit fingerprints in order to verify that you do not have a criminal conviction on record.

Clearance Letter requests cost \$20.00. See the Toronto Police Service website for more information: <http://www.torontopolice.on.ca/recordsmanagement/clearance.php>

b) Vulnerable Sector (VS) Check

If you are seeking employment or volunteering opportunities working with a vulnerable population, then you may require a “Vulnerable Sector Check”. A vulnerable sector of the population includes children and other young persons, the elderly, or any other group that are at a higher risk than the general population of being harmed by a person in a position of authority or trust.

The Vulnerable Sector Check will include any record of criminal conviction, outstanding charges, probation information (including peace bonds, restraining orders, and reporting conditions), any prohibition you may have (for example, prohibition to have weapons), and information on whether you are suspected of committing a criminal offence. The VS Check will include information on contacts you have had with the police under the Mental Health Act, namely, if you have been transported to a medical facility due to a mental illness.

In addition, the VS Check will include information on any past allegations or charges related to sexual offences, even if you were a minor when those allegations took place. If you are concerned about this, or have had such an occurrence appear on a VS Check, contact Justice for Children and Youth for assistance.

You must seek the Vulnerable Sector Check through your local police service. In Toronto, a Vulnerable Sector Check report is available through the Police Reference Check Program. You must consent to the disclosure of any record.

Importantly, you must give your consent to mental health records being divulged to a potential employer specifically indicating if you agree to have such records included. For more information, see the Toronto Police Service website: <http://www.torontopolice.on.ca/prcp> **How do I ask for my records to be destroyed?**

Suspending Records of Conviction

If you have been convicted of a criminal offence as an adult you can get your record of conviction suspended by applying to the Parole Board of Canada. For more information, see: **Street Law Smarts #26: Record Suspensions (previously pardons)**.

All other records - Destruction

Non-conviction criminal records related to your interactions with the criminal justice system or law enforcement agents may be held by local police services and/or the RCMP databases. You can request the destruction of your records at both the local police service and/or directly with the RCMP. If your request is denied, you can usually ask for the service to review or appeal the decision. Procedures are different for each police service.

If you are having problems getting your records destroyed, contact a lawyer for more information. Contact the Street Youth Legal Services lawyer at JFCY or see: **Street Law Smarts #1: Where to get Legal Help?**

Toronto Police Service Fingerprint, Photograph, and Record of Disposition Destruction

The Toronto Police Service provides a policy and procedure to request for fingerprint and photograph destruction for adult non-conviction dispositions. See the Toronto Police Service website www.torontopolice.on.ca for the forms required to make the request.

The following conditions generally apply before your request is granted:

- a) you must be at least 18 years of age at the date of arrest
- b) you cannot have any criminal convictions
- c) you cannot have any outstanding criminal charges
- d) the alleged offence cannot be a primary designated offence, outlined at s. 487.04 of the Criminal Code
- e) any peace bond must be expired at the time of request
- f) disposition of all charges must be either: withdraw, acquittal, quashed, stayed (Crown attorney stay = 5 months expiry must have passed prior to application, Judicial stay = 1 year), or discharged (Absolute discharge = 1 year must have passed prior to application, Conditional discharge = 3 years)

The Toronto Police Service will request that the RCMP destroy the fingerprint and photographs they have on record in the national database. You have a right to appeal if your destruction request is denied.

Obtaining a destruction of fingerprints and photographs does not automatically erase all police information held by the police about you. Destruction of local police records follows local municipal file retention schedules. For the Toronto Police Service Records Retention Schedule, see the *City of Toronto Municipal Code, Chapter 219, Article 1* at www.toronto.ca/legdocs/bylaws.

Below is a sample letter requesting destruction of photographs and fingerprints. Please note that this letter is to be submitted with the Toronto Police Service application form for destruction of fingerprints and photographs.

Sample Fingerprint Destruction Letter

XXXXXXXX, XX, XXXX

WITHOUT PREJUDICE

Toronto Police Service - Criminal Records
40 College Street
Toronto, Ontario, M5G 2J3

Attn: CRIMINAL RECORDS

Re: Name - [REDACTED]

DOB – XXXXX, XX, xxxx

Suspected offence – xx

Date of withdrawal – xxxxxxxx at Old City Hall Courthouse

Please find enclosed the completed Fingerprint and Photograph Destruction Application form for _____

This letter requests the timely destruction of _____'s fingerprints and photographs. _____ meets the criteria required for fingerprint and photograph file destruction, as outlined in the Toronto Police Service Fingerprint and Photograph Destruction Policy.

_____ is XX years of age and does not have any criminal convictions or outstanding charges before the courts. **Insert some explanation here**

_____ is a friendly and conscientious young woman, who takes her life responsibilities seriously. _____ aspires to work in XXXXXXXXXXXX **Insert relevant background/current life updates here**

_____ is concerned that having her fingerprints and photographs on the police system may cause her difficulty for present or future employment screenings.

In light of _____'s personal circumstances and qualifications under the Toronto Police Service Policy, please grant their request for destruction of their fingerprints and photographs.

Please inform me at your earliest convenience of the status of _____'s request.

Regards,

STREET LAW SMARTS #26

RECORD SUSPENSIONS (PREVIOUSLY PARDONS)

The Criminal Records Act was changed in 2012 and pardons no longer exist. Now, if you have been convicted of a criminal offence as an adult, but you have completed your sentence and have been law-abiding since your conviction, then you may apply to the Parole Board of Canada to have the record of your criminal conviction suspended.

What does it mean to get a Record Suspension?

A Record Suspension does not change or erase the fact that you were convicted of a criminal offence. If you receive a Record Suspension, you cannot say that you do not have a criminal record. You can, however, say that you have been convicted of a criminal offence and that you have received a Record Suspension.

A Record Suspension will mean that your record will be kept separate from any other criminal records at the RCMP or any other government department, and that it cannot be disclosed to any person without the approval of the Minister of Public Safety and Emergency Preparedness.

However, even if you get a Record Suspension, the police may have access to the record of your name, date of birth, and last known address if they are investigating you at the scene of a crime.

If you received a sentence that included a driving or firearms prohibition and you get a Record Suspension, it does not cancel the prohibition.

Can you travel after you get a Record Suspension?

A Record Suspension does not guarantee that you will be able to enter the United States or receive a visa to enter another country. Many foreign countries, including the USA, do not recognize Canadian Record Suspensions (or previously – Pardons).

If you have a criminal conviction or any other type of criminal record and you want to travel to the USA, you should consider applying for a "Waiver of Grounds of Inadmissibility". There is a \$585 USD fee and it may take several months to be processed. The waiver is valid indefinitely. This procedure may require the disclosure of the suspended criminal record for review by American officials, as well as other personal information. An "Application for Waiver of Grounds of Inadmissibility" form can be found at <http://www.uscis.gov/i-601>

For more information on cross-border travel to the United States, see:

- The Department of Homeland Security website: www.DHS.gov

- Consulate General of the United States of America: (416) 595-1700
360 University Avenue, Toronto, Ontario. <http://toronto.usconsulate.gov>

Who does not need to apply for a Record Suspension?

You do not have to apply for a Record Suspension if you have not been convicted of a criminal offence (e.g. charges have been withdrawn or stayed).

You do not have to apply for a Record Suspension if you were found guilty of an offence but received an absolute or conditional discharge. After a certain length of time, your absolute or conditional discharge will automatically be purged from the automated Criminal Conviction Records Retrieval System (commonly known as CPIC) maintained by the Royal Canadian Mounted Police.

If you received an absolute discharge, your record will be purged 1 year after the court ordered your absolute discharge. If you received a conditional discharge, your record will be purged 3 years after the court ordered your conditional discharge.

However, even once your discharge is purged, the police may have access to the record of your name, date of birth, and last known address if they are investigating you at the scene of a crime.

You also do not have to apply for a Record Suspension if you have a youth record. For more information on youth records, see **Street Law Smarts #24: Youth Records**.

Who can apply for a Record Suspension?

You can apply for a Record Suspension regardless of citizenship or residence. You are eligible to apply for a Record Suspension when:

1. You have completed all parts of your sentence. This includes:
 - ♦ paying all court-ordered fines and monetary orders in full;
 - ♦ serving all of your time, including parole; and/or
 - ♦ completing all probation requirements.

AND

2. You have waited the required time period:
 - ♦ Summary offences: **5 years** after finishing sentence, or
 - ♦ Indictable offences: **10 years** after finishing sentence.

When a Record Suspension can be denied or revoked

You are ineligible for a Record Suspension if you were convicted of certain serious offences. Specifically, you will not be given a Record Suspension if you have been convicted of certain sexual offences involving children, or if you have been convicted of 3 or more indictable offences, each with a prison sentence of two or more years.

You will be denied a Record Suspension if you have been convicted of another offence during this 5 or 10 year waiting period.

You may also be denied a Record Suspension if you have not been "of good conduct". If your application is refused, you may reapply after 1 year.

The Parole Board of Canada may revoke a Record Suspension if you are later convicted of a summary or indictable offence, they find that you are no longer of good conduct, or they learn that either a false statement was made or important information was concealed when you applied.

How to apply for a Record Suspension?

You apply for a Record Suspension by submitting a written application to the Parole Board of Canada (PBC) with the required documentation and fee. To apply, there is a lot of documentation that you must collect (e.g. certified copy of criminal record, local police checks, court information, military records, etc.).

The application fee is \$631. There may also be other costs associated in the application process. For example, the cost of obtaining a copy of your criminal record from the RCMP or for obtaining records from the courts.

You can get a Record Suspension application form and guide from the Parole Board of Canada. It is also available online at <http://pbc-clcc.gc.ca/prdons/pardon-eng.shtml>.

For help, call the Clemency and Records Suspension Division of the Parole Board of Canada at 1-800-874-2652.

Employment

The Ontario Human Rights Code protects you from discrimination in employment opportunities if you have a record of conviction and have received a *pardon*. The Code is not updated to substitute the term Record Suspension for Pardon. If the Code is updated, then a person that has received a Record Suspension will not be able to be discriminated against (e.g. being denied a job because of having a Record Suspension). A person with a criminal record who has not received a Record Suspension or Pardon would not have this legal protection.

Contact the Human Rights Legal Support Centre: 1(866) 625-5179 or the Street Youth Legal Services lawyer at JFCY for more information about your rights under the *Human Rights Code* when applying for a job.

Employers may also ask for your consent to do a background check during your application process. The depth of the record check will depend upon the type of job that you are applying for, and each police service has a different procedure for disclosing records they have. You must consent to the disclosure of the records requested.

For more information on the access, disclosure and destruction of records held by the police, see:

Street Law Smarts #24: Youth Records

Street Law Smarts #25: Adult Records