

CRIME

How to respond to unlawful behaviour

Crime is an undeniable part of our lives; unfortunately we may find ourselves victims, perpetrators or witnesses of illegal actions varying in severity. To better understand the legality of certain actions (and inactions) is to be able to make ethical decisions to improve the safety in our communities.

Are all crimes the same?

NO. There are two categories of offences in the Criminal Code: indictable and summary. The category determines the jurisdiction of trial courts (provincial or superior), the possibility of having a jury trial or a preliminary inquiry, the application of limitation periods and the default maximum penalties.

Summary offences are commonly known as the lesser offences. They carry a default maximum penalty (i.e. if not specified in the provision) of 6 months imprisonment and/or 5 000\$ fine. They are subject to a limitation period of 6 months to start the prosecution. Indictable offences are commonly known as the most serious offences. They carry a default maximum penalty of 5 years imprisonment. Subject to certain exceptions, there is no statute of limitations.

What do I do if I witness a crime?

Contact the police as early as possible. Write down any information you can remember to give a complete account to the police or in case you are called to testify at court. If you have any concerns, you should consult a lawyer.

What if I committed a crime but didn't know that it was illegal at the time?

As stated by s. 19 of the Criminal Code, "ignorance of the law by a person who commits an offence is not an excuse for committing that offence."

What if I just helped someone commit a crime? (i.e. lookout)

You can be charged with a criminal offence. If you participate in a crime in any way, such as aiding and abetting, common intention, or counselling, you have committed an offence. It is important to note that you can be charged and held liable even though the person whom you assist cannot be convicted of the offence.

What if I know someone committed a crime and don't tell anyone?

You could be charged for being an accessory after the fact. It depends on the extent of your knowledge and the specific circumstances. If you knew of the crime and didn't inform authorities you have committed a crime.

What is assault?

Assault is basically when a person intentionally applies force to someone else without their permission by hitting them with their bare hands, with an object, by slapping them, scratching them, pushing them or even just pinching them. Threatening to hurt someone is also assault if

the person has reason to believe that the threat is real and that the person threatening has the actual, present ability to hurt them. You could also be charged with assault if you accost someone or beg while openly showing a weapon or an imitation of a weapon.

What is bullying and is it a crime?

Even though bullying is not defined in the Criminal Code it represents a number of criminal offences. Bullying may take on many forms such as assault, spreading false rumours, stealing, uttering threats or even isolating a person. Depending on the degree and gravity of bullying, it may constitute a number of different criminal offences such as harassment, theft, assault and mischief. Bullying resulting in death may even lead to murder charges.

What is harassment and is it a crime?

You cannot engage in conduct that causes the other person to fear for their safety or for the safety of anyone known to them. You could be charged with harassing someone if you: repeatedly follow them or someone that they know from place to place, repeatedly communicate with them or someone that they know directly or indirectly, besetting or watching their dwelling house, place of work or any location they frequent on a regular basis or if you engage in threatening conduct directed at the person. If you are being harassed you can file a complaint at the police station and if you feel that your life is in immediate danger, you can call the police who can make an arrest.

Are prank calls legal? What can happen if I get caught?

Prank-calls are illegal. A person who makes harassing telephone calls is guilty of an offence punishable on summary conviction. A person who knowingly conveys a false message to another with the intent to injure or alarm that person is guilty of an indictable offence and liable to imprisonment for a term not exceeding 2 years.

What can happen if I make a threat to someone, even if I didn't mean it?

Uttering threats is a criminal offence. The extent of liability will depend on the consequences of those threats, for example bodily injury, death or damage to property.

What is a gang and is it illegal to be in one?

The Montréal Police Service describes a youth gang as being “an organized group of adolescents and/or young adults who rely on group intimidation and violence, and commit criminal acts in order to gain power and recognition and/or control certain areas of unlawful activity.” Participating in the activities of a criminal organization is illegal. If you wear any gang symbols, use gang signals, frequently hang around gang members, or receive any benefit from a gang the police might have grounds to arrest you for gang-related activities.

What is theft?

Theft is using or taking something (a physical object or a service) that does not belong to you, without the permission of its legal owner.

Is it legal for me to accept stolen property if it is offered to me?

It is illegal to accept stolen property or to have in your possession any property obtained by crime. It is your responsibility to inquire as to whether or not the property has been stolen. If you do not, you may still be charged with possession of stolen goods because wilful blindness, i.e. deliberate ignorance, is not a defense.

Can I keep something if I find it in a parking lot, library, mall etc.? What if someone leaves something at my house?

NO, not if the owner of the object has not given you permission to use it or keep it. You should always attempt to find the rightful owner (for example by contacting the person directly, by dropping off the object in lost and found services, or by contacting the police). Remember (especially in the case of larger and “more important” objects like identity cards, wallets and electronics) you may be found guilty of possessing stolen objects or of possessing items with the intent of committing a crime. The concept of possession in the criminal law is very complex and can easily lead to criminal liability. When in doubt, contact the authorities.

What is identity theft?

Identity theft is knowingly obtaining or possessing another person’s identity information in order to pass yourself off as that person. People who commit identity theft in order to commit fraud, deceit or a falsehood have committed an offense. Transmitting, making available, distributing, selling or offering for sale another person’s identity information is an offence.

What is littering?

Littering is leaving or abandoning any material in a place other than a place intended for receiving such a material; for example discarding gum wrappers on the sidewalk.

What if I was just borrowing something without permission? What if I return the stolen item, can I still get in trouble?

YES. Borrowing something without permission is theft. Even though you return the stolen item, you may still be charged with a criminal offence for the possession of the stolen item. However, the fact that you returned the item may help reduce your sentence.

What can a store owner or employee do if he or she catches me?

A store owner may report you to the police or even arrest you and deliver you to a peace officer if he/she catches you shoplifting.

What if I’m not shoplifting but just acting as a lookout?

The store owner can still have you arrested for aiding and abetting, counselling or having the common intention to commit a crime.

What if I’m not stealing but I’m with friends who are?

The store owner can still have you arrested for aiding and abetting, counselling or having the common intention to commit a crime.

What is criminal mischief?

You can be charged with a number of offences relating to mischief: public mischief or spreading false news. A person commits mischief when he or she wilfully damages property; renders property dangerous, or inoperative; interferes with the use of property; or interferes with any person in the use of property.

What is vandalism?

Vandalism is the wilful or malicious destruction or defacement of public or private property and it constitutes mischief.

What happens if I throw a rock or snowball at a car?

You could be charged with mischief if there are passengers in the car or if your action causes an accident, you could face multiple criminal charges and be liable to imprisonment for life.

What happens if I set fire to something?

What happens if I did it accidentally? You could be charged with arson and depending on the circumstances, you could be liable to imprisonment for life. If you set fire to something accidentally, you can still be charged if it is shown that you were reckless or negligent.

Being criminally negligent means doing something or failing to do something that any reasonable person would know to do or not do. Your actions or inactions need to show a marked difference from what most reasonable people would do to be considered negligent. If you are reckless, it means that you could foresee the consequences of your actions but continued despite the knowledge of these risks. So if you started a fire by leaving the oven on while you went to the store, you could be charged with negligence, and if you started a fire while playing with lighter fluid and matches just to see how long it takes to put out the fire, then you are likely going to be charged with recklessness.

Can I buy fireworks? If so, where am I allowed to use them?

The use of fireworks in Canada is regulated by the Explosives Act. You must follow your municipal laws regarding the purchase, possession and use of consumer fireworks. If tampered with or misused, fireworks can result in injury, property damage, or even death.

What is extortion?

Extortion is when someone uses fear, violence or their authority to get someone to hand over their money or property. For an extreme example, if a mafia member were to tell you to give them your 500\$ or you would get hurt, they would be committing extortion. A more common example of extortion would be the lunchtime bully who tells you to give them your snacks by threatening violence.

What are the park rules?

Park rules vary depending on the municipality in which the park is located. You will see signs posted at the entrance to each park indicating the rules applicable to that park.

For more detailed information about certain parks you could also visit <http://ville.montreal.qc.ca>

What is loitering?

Loitering is the act of remaining in a particular public place for a long amount of time for no apparent reason. Under certain circumstances, loitering may be illegal.

Can I “crash” someone’s party?

Showing up to a party uninvited is not illegal. However, if you are asked to leave by the hosts, you must respect their request or you are trespassing on private property. If the police are called, you will be removed from the premises, fined or arrested.

What is trespassing?

Trespassing is the unlawful intrusion or entry onto someone’s property. If you are unwelcome on someone’s property, they can ask you to leave whenever they want.

There are however exceptions to trespassing; certain civil servants, such as mailmen and policemen with warrants cannot be charged for trespassing while on the job.

What is animal cruelty?

Animal cruelty, according to the SPCA, could fall into the category of neglect or intentional cruelty. Neglect is the failure to provide adequate food, water, shelter or necessary care. On the other hand, intentional cruelty involved the deliberate physical harm or injury inflicted on an animal.

In Canada, it is an offence to intentionally cause unnecessary pain, suffering or injury to an animal. Poisoning animals is also prohibited. It is an offence to threaten to harm someone’s animal.

What rules should I remember if I plan on having a party?

If you plan on throwing a party there are a couple things you should keep in mind. Do try to keep the noise level to a minimum so as not to disturb your neighbours. You should also inform your guests of any parking restrictions in your neighbourhood.

Make sure to check the fire department safety regulations for your building to know the number of people you can legally accommodate in your home. Try not to have any garbage blocking the emergency exits and/or pathways. After the party, ensure that there is no garbage left on public property such as the public roads. If garbage ends up on public property, you could be fined.

If you will be serving alcohol at your party, do not serve alcohol to minors. As a host, you are responsible for making sure that those who get alcohol at your party are of legal drinking age.

Can I start a rumour about someone even if I know that it's not true?

You should not start a rumour about someone when you know that it's not true. In Canada, the law protects everyone's reputation against defamation. If you start a rumour about someone you will be committing the offence of libel or slander and if charged you could be asked to pay a fine or sentenced to jail.

If you post something online (Facebook, a blog, chat) or in print it is considered public. Also, if you print flyers with information that you know to be untrue and post them on the walls of the school, you are also committing an offence. You could be fined, sued and in more serious cases arrested.