



## An Overview of Courts Available in British Columbia

Women often possess digital evidence of technology-facilitated violence before knowing how the evidence can be used to hold perpetrators accountable. This evidence could be messages sent by the perpetrator, such as text messages on her phone, voice-mails sent by the perpetrator, or posts on her social media. It could also be evidence that she has been purposely collecting, such as screenshots of the abuse, photos of her injuries, or video recordings of the abusive behaviour. Often, women will collect this information to share with trusted people to tell them about the abuse, but some collect it in case they need it for a legal matter.

When a woman collects this type of information, she may be considering whether she will involve law enforcement to pursue criminal charges for technology-facilitated crimes. These crimes can include threats, criminal harassment, defamation, impersonation, coercion, extortion, the non-consensual distribution of intimate images, and [voyeurism](#).<sup>1</sup> She may also wish to preserve evidence for safekeeping in preparation for civil proceedings, such as applying for a family law protection order, engaging in guardianship and parental responsibility agreement hearings, enforcing her rights under privacy or copyright laws, or suing the perpetrator in civil court.

Whenever possible, women are encouraged to contact law enforcement or legal advocates in their community to access legal support and obtain current legal advice from a licenced lawyer. However, we recognize this may not be possible for everyone. Women living in rural communities may not have access to the same legal support as those in urban centres. Others may not be able to afford to pay for legal advice if there are no free legal services available in their community.

This information sheet aims to provide women with a general understanding of the British Columbia Provincial and Federal Courts system. This information can be helpful in determining which court is able to hear their case

### Provincial Courts (Family and Civil Law)

In British Columbia, when you want to bring a case to court, there are two courts that your case might appear in: the [Provincial Court of British Columbia](#) ("BC Provincial Court") or the [Supreme Court of British Columbia](#) ("BC Supreme Court").

For civil cases, like family law or civil lawsuits (i.e., suing someone for an injury), you will want to make sure you are filing your case with the proper court. There are many factors to consider when deciding on which court you want to use.

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<sup>1</sup> For a list of criminal statutes that can relate to experiences of technology-facilitated violence see <http://www.equalityproject.ca/school-community-resources/cyberviolence-criminal-case-law/>.



First, you need to determine which court is legally able to hear your case. If you submit your documents to a court that is not legally entitled to hear your case, your case will be rejected and you will have to file in the proper court.

Below is a table that outlines some differences in the types of issues that each court hears.

For a more comprehensive list of the different family law issues each court can deal with, click [here](#).

### Types of civil cases handled by the BC Provincial Court and BC Supreme Court

BC Provincial Court	BC Supreme Court
<ul style="list-style-type: none"> <li>• Civil lawsuits <ul style="list-style-type: none"> <li>○ Monetary claims between \$5,001-\$35,000 (monetary claims of less than \$5,000 are dealt with through the <a href="#">Civil Resolution Tribunal</a>)</li> </ul> </li> <li>• Some family law matters <ul style="list-style-type: none"> <li>○ Exceptions include divorce, adoption, and issues related to family property/debt</li> <li>○ Click <a href="#">here</a> for a more comprehensive list</li> </ul> </li> <li>• Traffic violations</li> <li>• Municipal bylaw offences</li> </ul>	<ul style="list-style-type: none"> <li>• Civil lawsuits <ul style="list-style-type: none"> <li>○ Monetary claims over \$35,000</li> </ul> </li> <li>• All family law matters <ul style="list-style-type: none"> <li>○ Including divorce and custody, adoption, and issues related to family property/debt</li> <li>○ Click <a href="#">here</a> for a more comprehensive list</li> </ul> </li> <li>• Appeals from civil and family law decisions the BC Provincial Court</li> </ul>

If your issue can only be dealt with in one court, then that is the court that you must use. For example, if you are getting a divorce you must use the BC Supreme Court because the BC Provincial Court does not deal with divorce matters.

Other issues, like child or spousal support can be dealt with in either court. If this is the case, there are factors that you should consider when deciding which court to use.

### The flexibility of court rules and procedures

When you bring an issue before a court, there are specific rules and procedures that you must follow to move your case forward. The BC Provincial Court rules are more flexible compared to the BC Supreme Court. If you are self-represented and are not familiar with the legal system you may find the BC Provincial Court easier to navigate because there are not as many strict rules. In the BC Provincial Court, there is more flexibility if you make any mistakes when submitting documents. However, you still have to follow the rules that are in place and do what the judge orders. Thus, the BC Provincial Court is usually easier for a self-represented litigant to navigate. However, because the BC Provincial Court is



flexible, there is a lot more uncertainty in how rules will be interpreted compared to the BC Supreme Court.

The BC Supreme Court has stricter rules that you must follow. If you don't know these rules, it can be hard to navigate and you may find that if you have missed a deadline and submitted evidence incorrectly, you will not be able to use the evidence in your case. If you have the time to learn the rules of the BC Supreme Court or have a lawyer representing you, you should consider filing your case at the BC Supreme Court. The process can be clearer and more straightforward compared to the BC Provincial Court.

### Whether or not you have multiple issues to deal with

If you have multiple issues for the courts to address, you may have options on which court(s) to use, depending on the issues.

In some circumstances, you could have some of your issues decided in the BC Supreme Court and other issues in the BC Provincial Court. In other circumstances, you could have all of your issues addressed in the same court.

Take, for example, a situation where you want a divorce order, a child support order, and a protection order. Divorces can only be dealt with in the BC Supreme Court, but child support and protection orders can be dealt with in either the BC Provincial Court or the BC Supreme Court.

Because of this, you would have two options:

- The first option is to deal with all three issues at the BC Supreme Court.
- The second option is to use the BC Supreme Court for your divorce and the BC Provincial Court for your child support and protection orders.

If you find the BC Supreme Court rules difficult to navigate and want the flexibility of the BC Provincial Court, the second option may be more appealing for you. However, if you think you can navigate the BC Supreme Court rules, then it will likely be much faster and more straightforward to go with the first option and address all three issues at the BC Supreme Court.

### Speed

Regardless of the court that you use, legal cases often take longer than expected. However, if the speed of a trial is something that is very important to you, you should take that into consideration when deciding which court to approach. Due to the flexibility of the BC Provincial Court, cases often move more slowly than they would at the BC Supreme Court. If a speedier trial is important to you, the BC Supreme Court may be a faster choice.



When you present your case to a court, it is important that you know your case very well. However, at the beginning of a lawsuit or legal proceeding, you will usually only have your documents and know your side of the story.

The opposing party (i.e., the person on the other side) will often have their own information and documents that may give you a more comprehensive view of your own case. The opposing party's information may help you determine the strengths and weaknesses of your case.

There is a procedure called the discovery process that allows the opposing party to ask for information from the other side. The opposing party can review and use this information for their case.

The discovery process happens differently in the BC Supreme Court and the BC Provincial Court.

The BC Provincial Court does not have as many rules as the BC Supreme Court on how to conduct the exchange of information and documents between the parties during discovery. Compared to the BC Supreme Court, the BC Provincial Court usually has a less time-consuming discovery process because the requirements regarding the exchange of information and documents are less strict.

This means that in the BC Provincial Court, there is a risk that the opposing party may not be required to give you certain information or documents that would ordinarily be given to you under the BC Supreme Court rules. Similarly, you will not have to give the opposing party as much information.

The BC Supreme Court has a stricter discovery process. The rules set out the types of information that must be exchanged by opposing parties.

In the BC Supreme Court, the opposing party cannot hold back information or documents that must be given to you for the case. This also means that you must give the opposing party information and documents in accordance with the rules of the BC Supreme Court. The discovery process in the BC Supreme Court can be very time consuming, as both parties may be required to produce and analyze large amounts of information and documents.

If you use the BC Supreme Court, you will likely receive more information and documents from the opposing party which can help you understand your case better. However, because the discovery process in the BC Supreme Court may involve large amounts of information and documents, it can be very time consuming. On the other hand, if you use the BC Provincial Court, you may not obtain as much information from the opposing party and you may find the amount of information and documents easier to review.



## Costs

“Costs” refer to the amount of money you might receive as compensation for expenses you incurred during a lawsuit.

Costs are only awarded for cases that are heard at the BC Supreme Court. If your case is at the BC Supreme Court, you will want to keep track of the money you spent on your case. Your expenses can include lawyer fees, court fees, photocopy expenses, etc.

Costs are awarded at the end of a lawsuit. If you are successful in court (i.e., you won your case), the court might order the other side to pay some of your costs from the case. The amount of costs awarded in British Columbia is typically around 25%-35% of the amount of money you spent on the lawsuit. If you are unsuccessful (i.e., you lose your case), the court might order you to pay some of the other side’s costs. This means you may have to pay the other party 25%-35% of their expenses.

There are no costs awarded in the BC Provincial Court. This means that you will not be compensated for your expenses even if you win your case.

If you go to the BC Supreme Court and win, the losing party may be required to pay some of your costs. However, if you lose at the BC Supreme Court, you may have to pay for some of the winning party’s expenses. At the BC Provincial Court, everyone pays their own legal costs, and the court doesn’t order either side to pay for the other party’s’ expenses. You should consider the financial consequences when choosing between either court.

## Location

It may not be convenient to go to the BC Supreme Court depending on where you live, as there are more BC Provincial Court locations across British Columbia. You will want to find out which courts are available, based on your geographic location.

[Here](#) is a list of all BC Provincial Court locations. [Here](#) is a list of all BC Supreme Court locations.

## Appeals

If you lose your case in either court, you may be able to appeal that decision. The term “appealing” means asking a higher level of court to reconsider the decision that was made at a lower level of the court.

Decisions made at the BC Provincial Court are appealed to the BC Supreme Court.

Decisions made at the BC Supreme Court are appealed to the British Columbia Court of Appeal.



Decisions made at the British Columbia Court of Appeal are appealed to the Supreme Court of Canada. This is the highest court in the country and decisions from the Supreme Court of Canada cannot be appealed.

See an illustration of the appeal system of courts in British Columbia [here](#).

This means that if you start at the BC Provincial Court, you could, in theory, appeal your case three times. If you start at the BC Supreme Court, you can only appeal your case twice. There are special rules which apply in appealing a case.

If you are dealing with a family law issue, [Legal Aid BC](#) has published helpful resources for navigating both the BC Provincial Court and the BC Supreme Court. If you decide to use the BC Supreme Court for a civil law issue, you can find several guides on navigating the court process [here](#) and [here](#). If you decide to use the BC Provincial Court for your civil law issue, you can find several guides on the court process [here](#).

## Provincial Courts (Criminal Law)

If the case is a criminal case, it may be heard at the [BC Provincial Court](#) or the [BC Supreme Court](#). As a victim of a crime, you will report the crime to the police but, unlike a civil trial, you are not considered a “party” to the case. All criminal cases are between the accused and the government, called the Crown. You will not be involved in making the decision about the trial, including which court the case will be heard in. However, you may be asked by the police and the Crown attorneys (the lawyers for the government) to provide them with evidence for the trial.

Cases involving more serious crimes, like murder cases, must be heard at the BC Supreme Court. Other serious crimes (called “indictable offences”) allow the person who was accused of the crime to choose which court the trial will be held. All criminal jury trials are heard in the BC Supreme Court. However, almost all criminal cases are heard at the BC Provincial Court, including less serious crimes (called “summary conviction offences”).

In some cities there are [specialized courts](#) that are a part of the BC Provincial Court. These specialized courts hear the trials of certain types of crimes, such as domestic violence or drug-related offences. Other specialized courts, like the First Nations/Indigenous Courts, may provide a specialized process which guides a judge’s decision on how to appropriately sentence someone who has been found guilty of their crime.

Bail hearings and preliminary inquiries happen in the BC Provincial Court. Preliminary inquiries happen before a trial starts. At a preliminary inquiry, the judge listens to the evidence to decide if there is enough evidence for a trial to move forward. In some cases, if there is not enough evidence the case does not go to trial.



All criminal cases involving youth (people between the age of 12 and 17) are heard at the Youth Justice Court, which is part of the BC Provincial Court.

### Appeals

As a victim in a criminal case you will not make a decision about whether a case is appealed. This is because the case is between the person who is accused of committing the crime and the government. Victims act as witnesses, but do not make decisions about the trial.

If the case is appealed from a decision made at the BC Provincial Court, that appeal will be heard at the BC Supreme Court.

If the case is appealed from a decision at the BC Supreme Court, that appeal will be heard at the BC Court of Appeal.

If the case is appealed from a decision at the BC Court of Appeal, it will be heard at the Supreme Court of Canada. This is the highest court in the country and decisions from it cannot be appealed.

See an illustration of the appeal system of courts in Canada [here](#).

### Sentencing

If the person accused of the crime pleads guilty or is found guilty at trial, there will be another hearing at the court for sentencing.

The BC Provincial Court website cautions that “a judge cannot consider information reported in the media or circulated on social media if it has not been introduced in the sentencing hearing. Because of this, people assessing a sentence after it is imposed may have information the judge did not have or was not permitted by the law to consider”.<sup>2</sup> If you want the judge to consider information on social media, it would need to be properly introduced in the sentencing hearing.

As a victim to this crime, you may be given the opportunity to provide a victim impact statement. This is a statement where you can explain how you were affected by the crime. The judge will either let you read your statement out loud in the court or they will read it themselves.

At the end of the hearing, the judge will read out the sentence. The sentence may include time in jail, a probation order, a no-contact order, etc. It is important to note that not everyone who is found guilty of a crime will be sentenced to time in jail. It will depend on the seriousness of the crime and the circumstances of the perpetrator.

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<sup>2</sup> Provincial Court of British Columbia, “Sentencing”. Online: <https://www.provincialcourt.bc.ca/types-of-cases/criminal-and-youth/sentencing>



## Federal Courts

In Canada, the [Federal Court](#) deals with issues that are governed by federal law including:

- Immigration and refugee law
  - Immigration/refugee issues are first dealt with through the [Immigration and Refugee Board](#) (“IRB”). The Federal Courts may only review your case after the IRB has made their decision.
- Intellectual property law
- Issues involving Crown corporations or the Government of Canada

The Federal Court has published several [guides](#) to help you navigate the court system. Decisions from the Federal Court may be appealed to the [Federal Court of Appeal](#). Decisions from the Federal Court of Appeal will be appealed at the Supreme Court of Canada.

## Supreme Court of Canada

The [Supreme Court of Canada](#) is the highest level of court in Canada. Decisions from the Supreme Court of Canada are final and cannot be appealed.

Despite the similarities in their names, The Supreme Court of Canada is not the same thing as the Supreme Court of British Columbia. In British Columbia, when someone says the “Supreme Court” they could be referring to either the Supreme Court of British Columbia or the Supreme Court of Canada. If you do not know which court is being referred to, you should ask for clarification.





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### Technology Safety Project

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*This document is a part of a series that details how to preserve evidence related to the misuse of technology in experiences of domestic violence, sexual assault, and stalking. The series is part of the [Preserving Digital Evidence of Technology-Facilitated Violence Toolkit](#). This document, or any portion thereof, may be reproduced or used in any manner whatsoever as long as acknowledgment to the BC Society of Transition Houses is included in the product.*

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