

STEPS TO JUSTICE

Criminal Law Workshop: From Arrest to Initial Hearings

An OJEN facilitator's guide demonstrating a CLEO public legal information resource.



ONTARIO JUSTICE EDUCATION NETWORK
RÉSEAU ONTARIEN D'ÉDUCATION JURIDIQUE



CLEO

Community Legal Education Ontario
Éducation juridique communautaire Ontario



About this workshop guide

This workshop guide is a collaboration between the **Ontario Justice Education Network (OJEN)** and **Community Legal Education Ontario (CLEO)**. OJEN's Steps to Justice workshops introduce audiences to common legal problems and familiarize them with a specific area of law. Using hypothetical scenarios, workshop participants explore a legal topic by navigating the practical step-by-step information on CLEO's Steps to Justice website. They learn how to use the website to find legal information, including the forms, self-help guides and referral information for legal and social services which may be helpful in working through a future legal problem.

This workshop guide was written for use in Ontario high school classrooms, but can be used (or modified) for other audiences. For more information on how to use this workshop guide, please check out our short training video available on the OJEN website ojen.ca/steps-to-justice-workshops-training-video.

OJEN is a charitable, non-profit, public legal education organization. We develop innovative educational tools that introduce young people to the justice system, help them understand the law, and build their legal capability. We partner with schools and community organizations across Ontario to prepare young people to manage the legal problems that will arise in their lives. For more information on OJEN, please visit ojen.ca.

We gratefully acknowledge the support of law students who have contributed to this workshop guide through the Osgoode Public Interest Requirement (OPIR) at Osgoode Hall Law School and through placements with Pro Bono Students Canada (PBSC). We would also like to thank the high school students who provide us with their perspectives and feedback on this resource as OJEN summer interns through the Law in Action Within Schools (LAWS) Summer Job Program.

Any legal information in this resource is intended for general educational purposes and should not form the basis of legal advice of any kind. Individuals seeking specific information about their legal problem should always consult a lawyer.

For over 45 years, **CLEO** has developed clear, accurate, and practical legal rights education and information to help people understand and exercise their legal rights. We produce print and online resources, including the Steps to Justice website, the Family Law Guided Pathways, and CLEO Connect which has information and supports for community organizations. For more information on CLEO, please visit cleo.on.ca.

STEPS TO JUSTICE CRIMINAL LAW OVERVIEW

Activity (minutes)	Content
Warm-up (5)	- Clarify differences between criminal and civil law. - Group quiz on Criminal Law (Slides 2-6). - Review the major areas covered by criminal law? (Slide 7).
Hook (5)	- Advance to Slide 8 and read the demonstration scenario out loud. - Encourage participants to identify potential legal issues in the scenario. - Switch to Slide 9. Explain that the Steps to Justice website is a tool that can help people understand what they need to do when they have legal problems like this one. The group will next use it to answer questions related to the scenario.
Introduce Steps to Justice (10)	- Distribute the student handout, "Scenario 1: Demonstration". - Advance to Slide 10. Read the questions about the scenario out loud. - Pull up the Steps to Justice website on the display screen. - As a group, use the Steps to Justice to find answers to the questions about the demonstration scenario on the slide. - Use different searching options (sub-topics, front page keyword search, and header menu) and introduce the actual "steps" to follow. Use the presenter's notes on where to find the information included in this guide for support. - Ask if anyone has questions.
Group work (25)	- Advance to Slide 11. - Divide participants into groups and cue them to pull up Steps to Justice on phones/computer and to start on "Criminal Law" legal topic. - Give each group a scenario worksheet (scenarios 2-5). - Each group needs at least one device with internet to complete their worksheet. - Circulate and support the groups as needed.
Discussion (15)	- Each group has 3-5 minutes to explain their scenario and what they have learned through their investigation. Participants should refer to the completed worksheet for support. - Address questions and issues arising from their reporting.
Application (Optional)	- Advance to slide 12. - Since the group has practiced using the Steps to Justice website, the presenter may introduce a more complex scenario. - Participants should comment on it reflecting what they have just learned. - As a group, use the website to answer the scenario questions. - Facilitator's notes are included in this guide to support discussion.



Facilitator's Package: Criminal Law

TRUE OR FALSE

1. **Cops in my neighbourhood have been stopping random people on the street and asking for ID. But I know my rights! I can refuse to show them my ID or answer their questions.**

T – In most cases, when the police approach you for a street check, you do not have to show the police your ID or answer any questions. However, there are exceptions (e.g., if you are driving, the police want to detain or arrest you, the police are executing a warrant, or an investigation of a crime is underway).

2. **I got charged with an indictable offence and now the cops want my fingerprints. I haven't even been to court yet! There's no way they can make me give up my precious 'prints.**

F – You must give the police your fingerprints if you're charged with or convicted of an offence for which you could go to jail for 2 years or more.

3. **I got into a fight with a friend and now I've been charged with assault. But my buddy isn't mad anymore, so the charges will be dropped!**

F – Only the Crown gets to decide when to drop charges. Often they won't withdraw the charges, even if the victim asks them to.

4. **The cops want to ask me questions. They said our conversation was "off-the-record", but I know better... they can use what I say against me!**

T – Anything you say to the police may be used as evidence.

5. **I'm out on bail and one of my conditions is not to talk to the person I stole from. However, I want to contact them to tell them I'll return their teddy bear. That should be okay, right?**

F – If you do not follow your bail conditions, you can be arrested and charged with failing to comply with your bail.

Facilitator's Package Scenarios



Start on the Steps to Justice question, “Can the police stop me and ask for my ID?” under **Police stops and searches**. Follow the steps from the landing page to answer the questions. The relevant steps are listed in brackets following the question.



Scenario 1: Demonstration

There’s a lot of crime in my neighborhood and it seems like the cops are always around. They have a habit of stopping me and my friends on the street to ask us questions and to ID us. We usually refuse, but today the cops said that they were investigating a crime and that we fit the description of the suspects. Most of us are Black. I’m pretty sure this is racial profiling, but they won’t let us leave until we give up our personal information. What can we do about this?

Start on the Steps to Justice topic, “Police stops and searches” with the question, “Can the police stop me and ask for my ID?”

- Can the police demand that you identify yourself if you live in a high-crime area? (**Landing page**)
- Can the police stop you from leaving if you refuse to comply with a street check? (**Landing page**)
- What are the exceptions to the normal street check rules? (**Step 1**)
- If the police stop you while they are investigating a crime, do they have to tell you the reason for the street check? (**Step 2**)
- What can you do if you think you have experienced racial profiling? (**Step 3**)

Discussion

The police must have a good reason to ask for your ID. They are not allowed to ask for your ID because you are in a high-crime area. Under most circumstances, they cannot stop you from leaving and are obligated to tell you that you can refuse to answer their questions. However there are some exceptions to these rules: if you are driving at the time; if they are detaining or arresting you; if they are executing a warrant and if they are investigating a crime that has occurred. As well, they do not have to provide a reason for the stop if they are investigating a crime.

Racial profiling is a serious issue. If you have concerns with how or why your ID was collected and managed, you can contact the Office of the Independent Police Review Director. This is the organization that deals with public complaints about the police in Ontario. The Steps to Justice website provides links to the relevant forms to fill out and explains the complaint process and the different kinds of resolutions you might expect.



Scenario 2

I got into a fight with my ex-boyfriend and now he says he is scared for his life! I didn't even hurt him, but now I've been charged with assault. The Crown has offered to withdraw the charges if I sign a peace bond, but why should I? I'm INNOCENT. He was the one who cheated on me, and now I'M being punished? I seriously don't know what to do.

Start on the Steps to Justice topic, "Peace Bonds" with the question, "Should I sign a peace bond in my criminal case?"

- What does a peace bond require you to do? (**Landing page**)
- If the Crown offers you a peace bond, do you have to accept? (**Landing page**)
- What should this person consider when deciding whether to take the peace bond? (**Step 1**)
- If the peace bond states that the accused cannot contact the ex-boyfriend, and s/he calls him anyway, what are the consequences? (**Step 4**)
- If this person enters into a peace bond in Ontario but breaks it in another province, can they get in trouble? (**Landing page**)

Discussion

A peace bond is a type of court order that requires you to keep the peace, maintain good behaviour and follow other conditions in the order.

If you are offered a peace bond by the Crown, it is your choice whether to accept it and there are important things to consider in deciding whether to take it. For instance, it avoids the cost of a trial and the risk of a conviction and criminal record. However, the conditions could be onerous and the peace bond will still appear on other kinds of records, like vulnerable sector checks.

Not following the terms of a peace bond can result in you facing additional charges. No matter where a peace bond is issued, it is enforceable anywhere in Canada.



Scenario 3

I've been charged with assault and theft, but I'm currently out on bail. My court date is tomorrow, but I am feeling a little bit sick. I think I'm just going to stay home. I hope this is alright!

Start on the Steps to Justice topic, "Going to criminal court" with the question, "I have an emergency and can't make it for my court date. What do I do?"

- Is "feeling sick" a good enough reason to miss your court date? (**Landing page**)
- What can happen if you miss your court date? (**Landing page**)
- What should you do if you have a last minute emergency and can't attend a court date? (**Steps 1 and 2**)
- What would lead to the judge issuing a discretionary bench warrant, rather than an arrest warrant for your absence? (**Landing page; Step 2**)
- Can this person send a family member to appear on their behalf if they have been charged with theft over \$5000? (**Step 3**)

Discussion

Attending scheduled court dates is a serious matter and feeling sick is not a serious enough health issue to qualify as an emergency.

If you miss a court date and a lawyer does not attend for you, the judge or justice of the peace will likely order a bench warrant for your arrest. If this happens, you will be arrested and held for a bail hearing. You can also be charged with an additional criminal offence, "failure to appear".

If you have a last minute emergency and no lawyer is attending on your behalf, you can contact duty counsel and/or ask a friend or a family member to attend as your agent. Any of these people can explain your absence to the court, in which case the judge or justice of the peace can issue a discretionary bench warrant instead of an arrest warrant.

This is true of summary offences. If, however, the offence you are charged with is an indictable offence, such as theft over \$5000, you cannot send an agent to appear in court on your behalf.



Scenario 4

Tonight, I was arrested for public intoxication and I've been in police custody for 3 hours. I'm only 16 and my life is ruined! I have asked to talk to a lawyer and call my parents, but the cops are ignoring me. They said that since it is Friday, I may have to spend the whole weekend in jail before I can have a bail hearing. Are they violating my rights?

Start on the Steps to Justice topic, "Bail" with the question, "Do police have to release me after arresting me?"

- What must the police do if they arrest you and bring you into custody? (**Landing page**)
- Can the police hold this person overnight because they were drunk? (**Landing page**)
- Does the age of the accused change anything about the situation? (**Landing page**)
- Are the police allowed to deny you access to a lawyer? (**Step 2**)
- What happens at a bail hearing? (**Steps 3 and 4**)

Discussion

If you are arrested and brought into custody, the police must either release you or bring you to court for a bail hearing within 24 hours. If you are intoxicated at the time of the arrest, though, the police can hold you until you are sober.

In this situation, the police must contact the person's parent or guardian because they are under the age of 18. Additionally, anyone has the right to speak to a lawyer within a reasonable time of being arrested and police should stop questions once they have asked for a lawyer. If you do not have a lawyer, police must tell you about the Brydges duty counsel service.

At a bail hearing, a judge or a justice of the peace decides whether a person accused of a crime should be released or held in custody until their trial. If they are released, they may have to comply with certain conditions, like having to live at a specific address or staying at home during night-time hours.



Scenario 5

I was just walking around, minding my own business, when all of a sudden the cops showed up and placed me under arrest! I wasn't even doing anything. Sure, I like to wander around aimlessly, but it's a free country, right? They said that I'm a suspect in a crime, but haven't given me any details yet. They can't just arrest me without a warrant, can they?

Start on the Steps to Justice topic, "Police stops and searches" with the question, "I was arrested with no warrant. What should I do?"

- When can the police arrest you without a warrant? (**Landing page**)
- Can the police arrest you based on mere suspicion? (**Landing page**)
- Do the police have to tell you why you are being arrested? (**Step 1**)
- What should you do immediately if you have been arrested? (**Step 2**)
- Where does your right to remain silent come from? (**Step 3**)

Discussion

The police can arrest you without a warrant if they see you committing a crime or have reasonable grounds to believe you have committed, or are about to commit, an indictable offence. They can also arrest you if they have reasonable grounds to believe that there is an outstanding warrant for your arrest. Finally, they can arrest you if they think it is in the public interest to learn your identity, preserve evidence, or prevent the continuation of a crime.

Reasonable grounds is a high standard, though. It is more than a suspicion or a hunch based on the circumstances. To meet this standard, police must genuinely believe that you committed the offence and that a court would agree that any reasonable person in the officer's position would also have believed you did so.

Upon arrest, you have a right to be immediately informed as to the reason for the arrest and you should ask to speak to a lawyer. You do not have to answer any questions.

This right to remain silent comes from the *Canadian Charter of Rights and Freedoms*.



Display: *Large Group Practice* Scenario 6

It was supposed to be a fun, uneventful night at the bar.

I only ordered a few beers, but my friend kept buying me tequila shots. I was feeling great! But at the end of the night, in one of my worst decisions ever, I decided that I was sober enough to drive. As I peeled out of the plaza, the cops appeared behind me and pulled me over.

I rolled down my window and the cop peered in, crinkling his nose. I guess I smelled like alcohol. He told me I was under arrest for impaired driving. I told him that I have rights and that he couldn't just arrest me on mere suspicion! But he made me do a breath test and it proved I was drunk. I don't know if this counts as evidence, since they shouldn't have pulled me over in the first place.

After my failed breath test, the cops searched my car and found a quarter pound of marijuana. Great. I didn't even know it was there! It must have been my friend's. The police didn't believe me, and I was arrested.

Now I'm out on bail and I have to stay at home until my court hearing. This makes no sense! The cops totally violated my rights by arresting me and searching me! And now I can't leave the house? I think I might sneak out for a bit, since Joey is having a party. I'll be in and out; nobody will know I was gone. I know the cops were wrong – they had no reason to suspect me of a crime and they shouldn't have pulled me over in the first place.



Scenario 6: Focus Questions

Students can draw from their learning to identify potential legal issues and questions to investigate. The main issues here are 1) your rights when the police pull you over while driving; 2) the police's ability to search you upon arrest; 3) marijuana and 4) bail conditions. Through an analysis of these issues, students should be able to conclude that police have a right to pull you over if they suspect you of violating traffic laws, and they can subject you to a roadside breath test even if they do not suspect you've been drinking and driving.

The search of the vehicle is a bit more tricky – Generally, the cops aren't allowed to search your vehicle unless: 1) you give them permission, or 2) they have reasonable grounds to believe there is evidence of a crime in the vehicle, and that evidence could be removed or destroyed if they waited for a search warrant. On the facts, there was no evidence to suggest the existence of drugs in the vehicle, but it can also be implied that the accused "allowed" the police to search the vehicle because he did not protest. However, police are also allowed to search a vehicle after the driver has been arrested, and in this case the driver would have been arrested for the drunk driving violation in any case. Students should also indicate that the accused could have asked to speak to a lawyer before the police went ahead with the vehicular search.

Finally, students should recognize that the bail condition must be complied with and note the consequences of failure to comply – i.e. the accused will be held in custody and it will be more difficult to get bail a second time. However, the original search that unearthed the marijuana was arguably an improper search and contrary to the *Charter*. It would have been sufficient if the police simply pulled over the individual, subjected them to the breath test, and took them into the station for a breathalyzer test (resulting in a suspended license or other penalty).

Start from the topic "Police stops and searches – What are my rights if I get stopped while driving?"

Consider question lines like:

- On what grounds can the police pull you over and stop your car?
- Under what circumstances can a police search you and your car?

Start from the topic "Police stops and searches – The police say I've been drinking and driving. What are my rights?" Consider question lines like:

- Can the police make you do a roadside test if they suspect you've been drinking?

Start from the topic "Rights of an arrested person – What are my rights if I'm detained or arrested?" Consider question lines like:

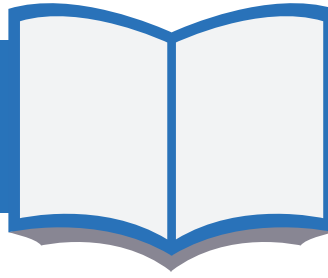
- What are the accused's rights upon being arrested?

Start from the topic "Alcohol and drug offences – What are the laws about cannabis and driving?"

Start from the topic "Bail – What are bail conditions?" Consider question lines like:

- What happens if you don't follow your bail conditions?

Participant Handouts Scenarios



Scenario 1 Worksheet: Demonstration

There's a lot of crime in my neighborhood and it seems like the cops are always around. They have a habit of stopping me and my friends on the street to ask us questions and to ID us. We usually refuse, but today the cops said that they were investigating a crime and that we fit the description of the suspects. Most of us are Black. I'm pretty sure this is racial profiling, but they won't let us leave until we give up our personal information. What can we do about this?

Start on the Steps to Justice topic, "Police stops and searches" with the question, "Can the police stop me and ask for my ID?"

- Can the police demand that you identify yourself if you live in a high-crime area?
- Can the police stop you from leaving if you refuse to comply with a street check?
- What are the exceptions to the normal street check rules?
- If the police stop you while they are investigating a crime, do they have to tell you the reason for the street check?
- What can you do if you think you have experienced racial profiling?



Scenario 2 Worksheet

I got into a fight with my ex-boyfriend and now he says he is scared for his life! I didn't even hurt him, but now I've been charged with assault. The Crown has offered to withdraw the charges if I sign a peace bond, but why should I? I'm INNOCENT. He was the one who cheated on me, and now I'M being punished? I seriously don't know what to do.

Start on the Steps to Justice topic, "Peace bonds" with the question, "Should I sign a peace bond with my criminal case?"

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- What should this person consider when deciding whether to take the peace bond?
- If the peace bond states that the accused cannot contact the ex-boyfriend, and s/he calls him anyway, what are the consequences?
- If this person takes the peace bond and then bumps into their ex-boyfriend while travelling in another province, can they get in trouble?



Scenario 3 Worksheet

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Scenario 4 Worksheet

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- Does the age of the accused change anything about the situation?
- Are the police allowed to deny you access to a lawyer?
- What happens at a bail hearing?



Scenario 5 Worksheet

I was just walking around, minding my own business, when all of a sudden the cops showed up and placed me under arrest! I wasn't even doing anything. Sure, I like to wander around aimlessly, but it's a free country, right? They said that I'm a suspect in a crime, but haven't given me any details yet. They can't just arrest me without a warrant, can they?

Start on the Steps to Justice topic, "Police stops and searches" with the question, "I was arrested with no warrant. What should I do?"

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- Where does your right to remain silent come from?