



July 2014

Third-Party Records in Sexual Offence Cases

Fact Sheet 2: Having a Lawyer for Third-Party Records Hearings

This fact sheet talks about having a lawyer represent you in a hearing to decide whether the accused will get a third-party record in a sexual offence case.

The law outlines many steps to applying for a third-party record. These steps help protect both the victim's right to privacy and the accused's right to defend themselves.

SOME TERMS TO KNOW

- A **sexual offence** is any kind of sexual assault or another criminal offence that is sexual in nature.
- A **third-party record** is a document with personal information for which there is a reasonable expectation of privacy.
- The person charged with the offence is called the **accused**.
- The person who is the alleged victim of the offence is called the **complainant**.
- The person who has a record about the **complainant** is called the **record-holder** or the **third party**.

CAN I BRING A LAWYER TO THIRD-PARTY RECORDS HEARINGS?

Yes. You can have a lawyer represent you at a hearing to decide whether the accused will get a third-party record about you.





HOW CAN A LAWYER HELP ME?

You are allowed to make submissions at the hearings. This means telling the judge why you don't think the accused should get the record. But you may want to have a lawyer speak for you because they have training and experience in making submissions.

Sometimes victims think that the Crown prosecutor is their lawyer but the Crown prosecutor's job is to represent the public, not you. In fact, the Crown prosecutor may not always agree with you about whether the accused should get the record. That's why it may be important to have your own lawyer.

WHAT SHOULD I DO IF I WANT A LAWYER?

You're allowed to have a lawyer at the hearings, but you probably won't get one for free. If you want a lawyer, you may have to pay for one yourself.

If you want a lawyer but can't afford one, then you can try to find one who will work for free or for a reduced fee. Some things you could try include

- calling a legal aid office
- calling a victim services program
- asking the Crown prosecutor how to find a lawyer.

In some places, you may be able to get a lawyer at no cost.

CAN I GO TO A THIRD-PARTY RECORDS HEARING WITHOUT A LAWYER?

Yes. You can go to the hearing and tell the judge why you do or don't think the accused should get the record. If you don't want the accused to get the record, then it's important that you go to the hearing and tell the judge that.

©Her Majesty the Queen in Right of Canada,
as represented by the Minister of Justice
and Attorney General of Canada, 2014

ISBN 978-1-100-24781-6
Cat. No. J2-400/2-2014E-PDF