

What if these rights are infringed?

If, in the process of the conduct of a criminal investigation or trial, an accused's right has been infringed, there may be remedies available.

For instance, under section 24 (2) of The Charter, improperly obtained evidence can be excluded if evidence is brought forward to show that its admission would bring the administration of justice into disrepute.

Section 24(1) leaves open the possibility for wide-ranging remedies – “as the court considers just and appropriate in the circumstances.”

How to Contact Us!

This brochure contains general information only, and is not intended to provide legal advice. If you have a specific legal problem, you should speak with a lawyer. PLIAN offers a lawyer referral service.

**Public Legal Information
Association of NL
Suite 227, 31 Peet St., Tara Place
St. John's, NL
A1B 3W8
(709) 722-2643
1-888-660-7788
(709) 722-0054 (fax)
info@publiclegalinfo.com
www.publiclegalinfo.com**

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Original edition: Krista Simon
Revision: Kristen O'Keefe, Merissa Wiseman

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The Canadian Charter of Rights and Freedoms

Second Edition



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THE “CHARTER”

The Canadian Charter of Rights and Freedoms (“The Charter”) is a statement of rights that has been a part of the Constitution of Canada since 1982.

It is a very special document because it contains a wide-ranging expression of rights. Because it is a part of the Constitution of Canada, it cannot be changed easily.

It is not an exaggeration to say that it is one of the most comprehensive guarantees of rights in the world. Nations around the globe look to The Charter for guidance as to how to model their human rights documents.

Legal Rights

The Charter guarantees certain Legal Rights to all Canadians. Sections 7 – 14 of the Charter contain several of these key rights.

The legal rights sections are very important in criminal matters, where individuals are interacting with the police and the criminal justice system.

Several of the sections are set out in this pamphlet. For the full text of sections 7 – 14, refer to the Government of Canada Web Site at www.canada.gov.ca.

Know your rights!

s. 8. “Everyone has the right to be secure against unreasonable search and seizure.”

s. 9. “Everyone has the right not to be arbitrarily detained or imprisoned.”

s. 10. On arrest or detention, everyone has the right;

- to be informed of the reasons;
- to retain and instruct a lawyer without delay (and to be informed of this right); and
- to have the validity of the detention to be determined by a judge and to be released if it is determined that the detention is not lawful.

s. 11. Sets out a persons rights when charged with an offence, including, but not limited to:

- right to be informed of the charge;
- right to be tried within a reasonable amount of time;
- right to be presumed innocent until proven guilty;
- right to a fair and public hearing by an impartial decision-maker;
- right not to be denied bail without just cause;
- right not be tried for the same offence twice – if acquitted or already found guilty and punished for the offence.

s.12. Everyone has the right not to be subjected to cruel and unusual punishment or treatment.