



### Regulatory Offences

A regulatory offense is a non-criminal violation of a law. Common examples are motor vehicles, hunting, fishing and environmental violations. There are different ways you could be charged under a territorial or federal law. Unlike in criminal law, it might not matter if you meant to break the law. The defenses for a regulatory offence are different from criminal law. Penalties might be a fine, taking away a license or permit or in some cases, jail. The kind of offense will make a difference to if and how you make a defense. There are three kinds:

**Absolute liability:** the prosecutor just has to prove beyond a reasonable doubt that you did what you are charged with. There is no mental element that needs to be proven, which means it does not matter if you didn't intend to do it. Speeding and parking tickets are examples.

**Strict liability:** these are the most common. A prosecutor has to prove beyond a reasonable doubt you did what you are charged with. Unlike absolute liability, a defense can be that you took all reasonable steps to avoid the act (due diligence) **or** that you reasonably believed in a mistaken set of facts that if true would mean you are innocent. A mistaken fact defense is very specific and you should get legal advice or information if you think this might apply. The Supreme Court of Canada case [R v Sault Ste Marie](#) case explains strict liability defenses.

**Mens rea:** means "guilty mind". Intention to commit the offence has to be proven beyond a reasonable doubt. This type of offence is not common.

#### Definitions

**Disclosure:** all the evidence the prosecutor will be using to try to prove the charges against you

**Peace officer:** law enforcement officer

**Plea:** an answer to a charge

**Prosecutor:** lawyer who represents the government and presents the case to the court

**Summons:** notifies a person of an action against them and that they must appear in court

**Ticket:** citation issued to a violator of a law.

There is a **presumption of innocence** in regulatory offenses. You have a right to not give information to investigators that might get you in trouble. You should seek legal advice as soon as possible if you think you have committed an offense!

### Who can lay charges for a regulatory offence?

There are different peace officers in the Yukon who have specific powers under the law. They can investigate incidents to decide if a law might have been broken. One example is a Conservation Officer. If an incident has happened, they may take some time to do a thorough investigation into the incident before there are charges. *You may not be aware that there is an ongoing investigation, and it can take months.* Once it is decided that it is likely that a law has been broken, the investigator will issue a **ticket** or a **summons**. A territorial or federal prosecutor will take over the file from the investigator.

### What should I do if I think I might have witnessed or made a mistake that is an offence?

**Self-reporting:** if you are quite sure that something happened that is against the law, you have the option to report the incident *immediately*. For example, if you may have committed or witnessed a *Wildlife Act* offense, you can use the [TIPP line](#). Self-reporting may mean a lesser penalty and in some cases, allows issues to be resolved without charges. Self-reporting usually means that less taxpayer resources are used on investigations or clean-up. It works best if you are prompt and forthcoming about what happened, but you should be careful to not give more than basic information about the incident. There might be a legal requirement to report an incident in some cases.

**Taking notes:** it can be a good idea if you are involved in an incident to take notes about what happened in case you are charged or asked to be a witness later.

**Get legal advice:** if you aren't sure what to do, you can discuss the incident with a lawyer who can give you advice about what steps you could take next. If you want legal advice to help decide if you should self-report, you should contact a lawyer quickly.

## ***Do I have to help with the investigation or give more information?***

You can ask what you are being charged with. Unless required in an act or regulation, you do not have to explain what happened or why. You should check to see if there is information you are required by law to give, for example kill reports or antlers. You can choose to make a statement by yourself or through a lawyer, if you want. While you do not have to give more information, it can be to your advantage if it results in more accurate or less serious charges.

Remember that you won't know what the investigator knows and that you don't have to give them incriminating information! Be aware that a peace officer may pass on information about other kinds of offenses they find in the course of their investigation to another agency. For example, passing on information about criminal offenses to the RCMP.

***What happens if I get a ticket?*** The ticket will give you options to pay a fine, or other penalty, or dispute the ticket in court. There will be a date you must do this by. Follow all the instructions on the ticket so you don't lose your chance to go to court. You may seek legal advice if you think you should go to court. If you are unable to get legal advice, you should read the law that you are charged under and decide whether you have a defense. If you go to court, you will have to provide evidence why you did not do the thing you are charged with.

***What happens if I get a summons?*** A summons means you have to go to court and prosecutor has to prove their case. You have a right to know the case against you. At, or before, your first appearance in court, you will get information about the case, called **disclosure**. In some cases it might be a lot, including photos and videos. You will need time to look at it to decide what to do next, or to get legal counsel. You can ask for an adjournment to review the disclosure. If you think information is missing, you should ask for it.

## ***Get legal advice or legal information***

**If you have a lawyer:** after reviewing disclosure, they will give you their opinion about what to do next. They will discuss the case with the prosecutor and give you an idea of what the penalty would be if you plead guilty early.

**If you do not have a lawyer:** look up the law that you have been charged under and understand what it means, what the prosecutor needs to prove to convict you, what defenses you might have and what the consequences are if you are convicted. You might also be able to find cases in the Yukon that are similar to yours and what decision the judge made. You can talk to the prosecutor to find out what penalty they might ask the judge for if you lose in court, or what they would accept if you plead guilty early. You can also talk about possible trial dates, how long the trial would be, what issues they would bring to a trial. You could also work with the prosecutor to make a list of admitted facts that are basic facts about what happened that you don't dispute.

***Making a plea, going to trial.*** You will have to make a **plea** in court: guilty or not guilty. If you plead not guilty, you will go to a trial. If you plead guilty you will go to a sentencing hearing.

***What should I consider when given a plea deal?*** You might think about: what is the cost of going to trial (time, stress, costs)? What are my legal costs? What are the things that make my story better, or worse, in the eyes of a judge? What kind of record would I have? What are the impacts to me if I am convicted? Provinces and territories have reciprocal agreements, or it may be illegal to do something in another jurisdiction that you have been banned from in another. This means that a conviction in the Yukon might mean you are unable to do something in another province or territory as well. You might be able to ask the prosecutor if you could pay money to an organization that does work connected to the offence or take some other action that is beneficial

***Sentencing*** If you plead guilty, there will be a **sentencing hearing**. If the prosecutor has agreed to a plea deal, they will present that to the judge. The judge makes the decision. Make sure that the prosecutor has the story about what happened right, because it could affect what the judge decides. You can give information at sentencing to a judge that you think puts the incident in a good light: you feel bad about what happened, made a simple mistake, tried to do the right thing, or you don't have a record. Profiting from the offence, trying to cover up what happened or some other harm to the public or environment are factors against you.

### **Links and additional resources**

#### **Yukon Legislation -**

<http://www.gov.yk.ca/legislation/>

#### **Yukon Public Law Library: -**

<http://www.justice.gov.yk.ca/prog/cs/library.html>

**R v. Sault St Marie** - <http://canlii.ca/t/1mkbt>

**Law Society** - [lawsocietyyukon.com](http://lawsocietyyukon.com)

**CanLii** - [canlii.com](http://canlii.com)

#### **Turn in Poachers and Polluters (TIPP)**

1-800-661-0525