



### ***Appearing in court***

If you are charged with a criminal offence, you will be given a date to attend Territorial Court. At your **First Appearance** in court, try to speak to Duty Counsel if you do not have a lawyer assisting you. Duty Counsel can assist you by speaking to the court on your behalf and explaining the charges to you. After speaking to Duty Counsel, go in the courtroom and wait for your matter to be called. When your matter is called, go and sit by your lawyer or Duty Counsel. *If you can't speak with Duty Counsel*, you can ask the court for an **adjournment**, usually for two weeks, to find counsel. If you were released on police conditions that you find difficult to follow, you can also ask the court to change them at this appearance.

**Disclosure** is all the evidence the Crown has from the police investigation of your charges, and you have a right to receive a copy of it. At your First Appearance, the Crown may have this package of documents ready. The Crown will only provide one copy of disclosure, so if you intend to hire a lawyer or apply for legal aid it may be best to let the Crown hold on to it until you get a lawyer. Some disclosure, such as video and pictures, may not be given to a self-represented person.

Once you receive and review your disclosure, you will have to decide whether you want to plead not guilty and have a trial, or plead guilty and get sentenced.

### ***Entering a Plea***

**Not guilty Plea** If you plead not guilty, the Crown is required to prove the charge against you “beyond a reasonable doubt”. They will have to present evidence at a trial, and you have a right to cross-examine all of their witnesses. You also have the right to call witnesses and to testify yourself if you want to.

Trials can be complex and some rules are technical. It is a good idea to get a lawyer if you want to go to trial. To reduce costs, you may be able to talk with a lawyer and have them only assist with some area(s) of the trial.

If your matters are progressing by way of **indictment**, you can choose whether your trial is before a Territorial Court judge, a Supreme Court judge or a Supreme Court **judge and jury**. If you elect to be tried in Supreme Court, either you or the Crown may request a **preliminary hearing**.

**Guilty Plea** If you accept responsibility for the offence(s) you are charged with, you may decide to plead guilty. A guilty plea before trial is considered “mitigating” by the court and a judge may be more lenient in determining a sentence. Prior to pleading guilty, you should do two things:

- 1) Speak to the Crown about what facts they are going to give the judge when they describe the offence, and make sure you agree with them.
- 2) Ask the Crown what sentence they are going to ask for. For example, you may expect a fine, but the Crown may be asking for a long term of probation or jail. In that case you may wish to retain a lawyer or talk with the Crown. The Crown may change their position on sentencing if you explain your situation to them. You can also ask the Judge for a sentence different from what the Crown is asking. Ultimately the judge decides the sentence.

## **What if the Complainant Wants to Withdraw the Charges?**

In Canada, it is up to the Crown to decide whether to go ahead with charges. They decide based on the likelihood of conviction, and if it is in the public interest. If a complainant contacts you about withdrawing charges, you should advise them to contact a lawyer who can speak to the Crown. However, if you are on a **no contact condition**, do not talk to the complainant. Call the police or your bail supervisor if the complainant continues to contact you.

## **What if I don't live in the Yukon? Waiving Charges...**

If you live in another province or territory, you can ask the **Crown** about a **waiver**, which is an agreement that your charges will be sent to your home city to be dealt with **by way of a guilty plea**. If you do not want to plead guilty, you should not ask to waive the charges. You will have to attend court in the Yukon.

## **Therapeutic Courts**

### **Domestic Violence Treatment Option Court (DVTO)**

If you are charged with domestic violence, in some communities your first appearance will be in DVTO court. DVTO court is a voluntary treatment court intended for those who take responsibility for their offence(s). This means that to take part in the DVTO program you will have to enter guilty pleas to at least some of your charges. While you are in DVTO a Judge will monitor your progress with your treatment plan. Once you have completed your treatment plan you will be sentenced and given credit for taking part in DVTO. It is important that you are willing to commit to your treatment plan or you can be returned to regular court and lose the benefit of DVTO.

### **Community Wellness Court (CWC)**

You may be a candidate for CWC if your offences are related to mental illness, drug or alcohol addiction. If you are approved for participation in this court, you have to plead guilty. If you do, you will be placed on conditions requiring you to participate in programming and report to the court, and you may be required to do drug testing. Participation in CWC takes between 12 and 18 months and you will get a lower sentence for your offence if you complete the programming you are assigned. CWC has specialized Duty Counsel that can answer any questions and help you through the process.

For more information:  
Domestic Violence Treatment  
Option  
<http://www.yukoncourts.ca/courts/territorial/dvtoc.html>

Community Wellness Court  
<http://www.yukoncourts.ca/courts/territorial/cwc.html>

## **Sentencing**

If you decide to plead guilty, you will be asked to confirm that you admit to committing the offences you are pleading guilty to, that your plea is voluntary, that you understand you are giving up your right to a trial, and that the judge is not bound by any agreement you have with the Crown about sentence. Once you have done that, the Crown will give the court the facts of the case and will likely give the judge a copy of your criminal record. If you disagree with the facts the Crown gives the court, you should let the court know. You will also have a chance to give the court information about your personal circumstances and the offence and to tell the judge your position on your sentence. The judge decides about sentence after hearing from both you and the Crown.

If you are a First Nations, Metis or Inuit person, it is important that you tell the court about your background, as the law requires that the judge take it into account in determining a sentence. You may hear a judge and lawyers refer to this background as “**Gladue** factors”, based on a 1999 Supreme Court of Canada case, *R. v. Gladue*.

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Community  
Development  
Fund

Fonds de  
développement  
communautaire