

Chapter 6: In Court

This chapter will focus on the formal court process and some of the rules of the court, including some information about guilty pleas and trials.

Part 1: General Information About Court

1. What court will I go to?

You will appear in Youth Justice Court. This is a special court to deal with young people charged under the *Youth Criminal Justice Act*. Sometimes the Youth Justice Court is in the same building as other adult courts.

s. 13

2. Is the Youth Justice Court always open to the public?

Yes. Generally all courts are open to the public, except if the judge feels that certain information should not be heard by the public. If you do not want others to be in the court, you (or your lawyer) may ask the judge to keep the public out of the courtroom.

s. 132

3. What if I forget to go to court?

Missing a court appearance is a criminal offence. You can be charged with “failing to appear”. This is a separate offence and may stop you from getting bail. If you forget to go to court, you should call your lawyer right away. If you do not have a lawyer yet, you can call the courthouse to ask when your next court date is because sometimes the judge or justice will schedule a new date for you if you do not show up in court.

4. Can my name be published in a newspaper or magazine?

The default rule is that no one is allowed to publish your name or any information that could be used to identify you. However, the media is allowed to publish general information about what is happening in court and facts about the case once that information would not identify you.

s. 110

R. v. D.B., 2008 SCC 25

One exception to this rule is that if the police believe that you are dangerous and that publishing your name would help them arrest you, a police officer can ask the court for permission to publish your name.

s. 110(4)

Another exception to this rule is if you are given an adult sentence (see Chapter 9 – Sentences), or if you are given a youth sentence for a violent offence and the judge thinks you will commit another violent offence.

s.110(2); s. 75(2)

5. What will happen the first time I go to court?

It is very important that you have a lawyer when you go to court. There are ways for you to get a free lawyer if you don't already have a lawyer. See Chapter 3 - *Getting a Lawyer*.

If the police kept you at the police station after arresting you and then took you straight to court without letting you go home, then the first time you go to court will be for your bail hearing. See Chapter 4 - *Detention*.

If you have already received bail, or if the police let you go home after they arrested you, then the first time you go to court (called a "first appearance") the judge will read the charge(s) to you. If you do not have a lawyer, the judge must be sure that you understand the charge(s).

The judge might ask if you want to plead guilty or not guilty, but this doesn't always happen on a first appearance. You should have discussed this with your lawyer before going to court. Your lawyer can advise you on whether you should plead guilty or not guilty. If you are going to plead not guilty, you will have to come back to court on another day. The judge or justice will tell you what date to come back. This will give you, your lawyer, and the prosecutor time to prepare for the case.

Sometimes the prosecutor may give you or your lawyer a disc or some documents called "disclosure". If you do not have a lawyer yet, it is important that you keep the disclosure in a safe place until you can give it to a lawyer.

Part 2: Understanding Not Guilty and Guilty Pleas

6. What is a "guilty plea"?

Always talk to a lawyer before pleading guilty or not guilty. A guilty plea means that you admit that you committed the offence that the judge has explained to you.

7. What is a "not guilty plea"?

Always talk to a lawyer before pleading guilty or not guilty. You can plead not guilty if you or your lawyer will argue that you are not guilty **according to the law**. Even if you *think* you are guilty, a lawyer can advise you whether you might be not guilty according to the law. For example, you might not be guilty if the law you broke does not follow the constitution, and you might not be guilty if the police did not follow the rules that apply to them. In those situations you could legally and honestly plead "not guilty". If you plead not guilty it will be the prosecutor's responsibility to prove that you are guilty, and sometimes the prosecutor does not have enough evidence, which will mean that you are not guilty.

8. What are the steps to pleading guilty?

- i. The clerk of the court or the judge will tell you what the charges are. The judge will explain the charges to you and ask you if you want to plead guilty or not guilty.
- ii. The judge will listen to your answer. If the judge does not think that you understand the charges, the judge will not let you plead guilty. If the judge thinks that you do understand the charges then the judge will tell the prosecutor to tell the story of what you did wrong. s.32(4)
- iii. When the prosecutor is finished telling the story, the judge will ask you if you agree with the story the prosecutor told.
- iv. If you agree with the prosecutor's story, then the judge will officially say that you are guilty.
s. 36

9. What if I disagree with the prosecutor's version of the story?

When the judge asks you if you agree with the story that the prosecutor told and you think that all or some of the story is wrong, you or your lawyer can tell the judge your version of the story. Sometimes the judge will want more evidence to decide which version of the story is true.

10. What will happen once the judge decides which version of the story is true?

If you plead guilty and you agree with the version of the story that the judge thinks is true then the judge will officially say that you are guilty. In rare cases, even if you plead guilty, the judge might say that the prosecutor's story is not enough to show that you committed a crime and the judge will say that you are not guilty.

s.36

11. Should I plead "guilty" to get out of court quickly?

No. If you feel you are not guilty, then plead not guilty. A finding of guilt may have serious effects on your future: you will receive a sentence from the judge, you will have a youth criminal record that may last for over five years after you finish your sentence, and in some cases your youth criminal record can last forever which makes it difficult to get a job, to travel, and do many other things.

12. What happens if I want to plead "not guilty"?

If you want to plead not guilty, nothing much will happen in court on your first appearance. Usually the judge or justice will give you an adjournment (to return to court for a second, third, etc appearance) to get a lawyer if you do not already have one. The judge or justice will tell you what date to come back to court. If you already have a lawyer, the court and your lawyer will decide together on the next court date. This allows time for your lawyer to get information from the prosecutor about the evidence they have against you. Your lawyer and the prosecutor will also have time to meet and discuss your options. Your lawyer will then be able to tell you about those options and give you advice on how to pick the best one.

Part 3: Understanding Trials

13. How many times will I come to Court before trial?

Sometimes it takes a while for the police to get all the witness statements together and for your lawyer to meet the prosecutor and to agree on a trial date. While this is happening, you may have to go to court several times before the trial.

14. Will there be a jury?

There is no jury in most youth trials. Usually there is only a judge. However, if the prosecutor wants to give you an adult sentence (see Chapter 10 - Sentences) or if you are charged with murder, you can choose to have a jury. In these situations, you also have the right to a “preliminary hearing” which happens before the trial. At the preliminary hearing, the prosecutor will have to prove to the judge that there is enough evidence against you to start a trial.

s. 67

15. What will happen on the trial date?

You will come back to the Youth Justice Court on the date of the trial. The judge will ask you to plead guilty or not guilty. If you plead not guilty, the prosecutor will call witnesses who tell their version of what happened. Witnesses will only be allowed to tell their version of the story after they have promised to tell the truth. After the prosecutor is finished with all of his or her witnesses, you and your lawyer will get a chance to call your own witnesses. After all the witnesses from both sides are finished, the lawyers will summarize everything and the judge will make a decision about whether you are guilty or not guilty. Sometimes the judge needs more time to make a decision and will tell you to come back on another day to get the decision.

16. What if I disagree with what the witnesses say?

Your lawyer will have a chance to ask each witness questions, including the witnesses that the prosecutor called. This is often called “cross-examination.” Your lawyer can ask the witness questions about things you disagree with.

17. Can I call my own witnesses?

Yes. After the prosecutor has called all of his or her witnesses, your lawyer can call witnesses to help tell your side of the story. Sometimes your lawyer might tell you that you don’t need your own witnesses, especially if the prosecutor does not have enough evidence against you.

18. Will I have to tell the court my version of the story?

Not always. This will depend on how your lawyer decides to handle the case. Tell your lawyer if you want to tell the court what happened (this is called “testifying”).

19. What will I be asked if I testify?

After you have promised to tell the truth, you will be asked to tell your version of what happened. The types of questions you will be asked will depend on the type of case.

If you do not understand a question that you are asked, you shouldn't try to guess what the question means. Say out loud that you don't understand the question. If you don't know the answer, it is ok to say that you don't know.

20. Who will ask me questions?

Your lawyer will question you first, then the prosecutor will get a chance to ask you questions. Remember, if you give different answers or if your answers keep changing then the judge may not think you are telling the truth. That is why it is really important to make sure you understand the questions and to answer truthfully.

21. How will the trial end?

After the judge has listened to all the witnesses from both sides, the lawyers will get to summarize the case. Then the judge will decide whether you are guilty or not guilty.

22. Does the judge make a decision right away?

Sometimes the judge will make a decision right away. Sometimes the judge needs more time to make a decision and will tell you to come back on another day to hear the decision.

23. What if I am found “not guilty”?

If you are found not guilty, then the case ends. You will receive no sentence or punishment.

24. What if I am found “guilty”?

If you are found guilty, then the judge must decide on a suitable sentence.

See Chapter 7 – Sentencing Process and Chapter 9 – Types of Sentences