



# An Introduction to Court

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## Introduction

This booklet has been developed to provide you, as a victim/witness, with information to help you prepare for and better understand the court process. Court may first appear to be very complicated and somewhat frightening. As you learn more about court you may become less anxious and more confident in your ability to actively participate as a victim/witness. When a crime has been committed, the police often rely on the person harmed to tell them about the offence. Depending on the nature of the crime, it can take a great deal of strength and courage to tell someone when you have been hurt because it may be difficult and/or embarrassing to talk about what happened. It is important to recognize your strengths in coming forward to talk to the police.



## Filing a Police Report

When you tell the police what happened to you they take a statement. A statement contains detailed information about what happened which becomes the basis for the police investigation. The statement may be written, videotaped and/or audiotaped.

Investigations may take some time depending on the number of people the police have to contact. You may call the police at any time to ask about the progress of the investigation.

Once an investigation is completed, the police have two options:

- To lay a charge if there is enough evidence.
- To not lay a charge if there is not enough evidence to go to court. (This does not mean the police do not believe a crime took place; it means they do not have enough evidence to prove a crime took place).



If charges are laid, either of the following can happen:

- a) The accused may be charged and released until a scheduled court appearance at a later date, or
- b) The accused may be charged and taken into custody and not released unless granted bail at a bail hearing (provincial court). If there is a bail hearing, you may be required to testify.

Once a person is charged with an offence (an accused), they may be placed on conditions by the court, to be followed until the court case is fully completed. One possible condition is not to have contact with the victim. An accused may apply to the court at any time to vary a condition(s) of a release order. If such an application is made, you may be contacted for input.

## **Court Process**

### **Offences**

There are three types of offences:

**Summary** an offence where charges must be laid within six months, usually less serious both in terms of the type of crime and the sentence imposed.

**Indictable** an offence that can carry higher maximum sentences and is generally of a very serious nature.

**Hybrid** an offence classified as either summary or indictable where the Crown decides, based on various factors, how to proceed.



## **Summary** (see **Summary Offences Diagram** on page 13):

- Always heard in provincial court by judge alone.
- If the accused pleads guilty, you will likely not be required to testify at a trial and the case will go to sentencing (See Sentencing Options Diagram on page 15).
- If the accused pleads not guilty, you will be required to testify at the trial.
- Normally you do not have to attend court for entering of pleas/sentencing but you may attend if you wish.
- If you are required to attend court, you will receive a subpoena.

## **Indictable Offences**

The accused may choose to have their matter heard in: 1. provincial court by judge alone, or 2. supreme court by a judge alone or by judge and jury.

If provincial court is chosen, the victim of the crime will most likely testify once at trial in front of a provincial court judge.

If supreme court is chosen, the victim may be required to testify at a preliminary inquiry in provincial court initially; and, again at trial at a later date. In most cases a preliminary inquiry is optional – the accused may choose to have one.

The presiding judge will hear specific evidence to decide if there is enough evidence to bring the matter to trial. If the accused chooses to have a preliminary inquiry, Defense counsel will outline for the court, in advance, the issues they wish to explore and witnesses they wish to hear from. Certain offences (such as murder) automatically result in a trial before a judge and jury with a preliminary inquiry, unless the accused opts to waive that right.

- If a preliminary inquiry is not held, the matter will be set for arraignment (entering of plea) in supreme court.
- If preliminary inquiry is held and the judge determines there is enough evidence to proceed, the accused is committed to stand trial and an arraignment date is set in supreme court.
- If the preliminary inquiry results in the judge's determination that there is not enough evidence to proceed, the case is dismissed.
- Arraignment – if there is a guilty plea entered, please refer to sentencing options (page 15).
- Arraignment – if the accused pleads not guilty, a trial date is set. The victim of the crime is usually required to testify at trial.
- People are generally only required to attend court when they have to testify. If required to testify, you will receive a subpoena indicating when you must attend.

## **Youth Court**

Person(s) between the ages of 12-17 years who are charged with an offence(s) are dealt with in the provincial court system, regardless of whether the offence is summary or indictable. Therefore, persons charged under the Youth Criminal Justice Act do not have the option of electing to have a trial in supreme court. However, in cases involving very serious offences, the youth may be tried in adult court.

## **Pre-sentence Reports**

Following the finding of guilt, the court may request a pre-sentence report before sentencing the accused. This is a report for the court, completed by an adult probation officer, which includes a description of the accused's family life and personal situation. In youth court, this report is called a predisposition report.

## **Sentencing**

Once an accused person is found guilty of an offence, the court is responsible for imposing sentence. This may be done right away or another date may be set depending on the factors to be considered. You may attend sentencing hearings but you are not required to unless subpoenaed.

## **Victim Impact Statements**

As a victim of crime, you have the right to complete a victim impact statement. This statement is submitted to the court for the judge to consider when sentencing the offender. You may wish to discuss this statement with Victim Services staff (See Instructions and Forms at [victimserviceshelp.ca](http://victimserviceshelp.ca)).

## **Restitution**

Every victim has the right to have a court consider making a restitution order when deciding the offender's sentence. A restitution order requires the offender to pay the victim for financial losses the victim suffered because of the offender's crime. If you wish to request restitution, you must complete a form and provide it to the police or Crown attorney as early as possible. (See Instructions and Forms at [victimserviceshelp.ca](http://victimserviceshelp.ca)).

## **Testifying in Court**

Giving evidence in court may be very difficult. Some helpful hints in preparing to give evidence include the following:

- Arrange for a person(s) you trust to attend court with you.
- Meet with the Crown attorney before court. You may write down questions/concerns you want to address with the Crown so you do not forget or miss anything important to you.



- Visit the courtroom before court to familiarize yourself with the courtroom, who will be present, and what their roles are. You may wish to attend a trial before your court case to see how court is conducted.
- Practice relaxing through deep breathing.
- Practice listening skills. It will be important to really listen to the questions asked in court.
- Become familiar with rules of the court.
- Try to get a good night's sleep before court.
- Ask questions if you do not understand something said.  
**All your questions are important.**
- It is important to dress appropriately and with respect for the serious nature of court proceedings.



## Commonly Asked Questions

### **Will the accused be in court while I testify?**

Yes, the accused will be present and in fact, in most cases, is required by the court to be present.

### **Is the courtroom open to the public?**

Yes, courts are open to the public. There are special circumstances outlined in the Criminal Code of Canada for which a court may close to the public. This would have to be requested by the Crown and the court would have to be satisfied the criteria outlined in the code were met. It is best to prepare to testify in open court as in all likelihood this will be required.

### **Will my name be published?**

Courts are generally understanding of victims' needs for privacy. The Crown attorney may request the court to order a publication ban, preventing your name and/or information which may identify you from being published in any document or broadcast in any manner. If you do not want your name published, you should speak to the Crown attorney about this. You may also apply on your own behalf for a publication ban.

## **What should I do if the accused tries to contact me?**

If the accused is on a court order not to have contact with you and they do try to contact you, you can let the police know. They will direct you from there. The police are there to help keep you safe.

## **What should I call the judge?**

In provincial court, the judge is referred to as “Your Honour.” In supreme court, judges are referred to as “Justice” or “Mr or Madam Justice.” If you cannot remember the proper title, it is appropriate to refer to the judge as “Sir” or “Madam.”

## **What if I cannot go to court on the date set in the subpoena?**

If you have a valid reason for not going to court, such as major surgery, call the Crown attorney in advance to make them aware. If you do not show up, a warrant might be issued for your arrest.

## **Is the Crown attorney (Crown counsel, Crown prosecutor) representing me?**

No. They represent the state or the King, as the crime that took place is seen to be a crime against society. The Crown presents evidence to the court in a fair and just manner. As a person with valuable information about an offence, you are a witness for the Crown.

## **Can I withdraw the charge(s)?**

No. Only the Crown attorney has the authority to withdraw charges, and this is rarely done.

## **Victim Services**

The Department of Justice and Public Safety delivers a victim services program which assists victims through the criminal justice process. Services available include:

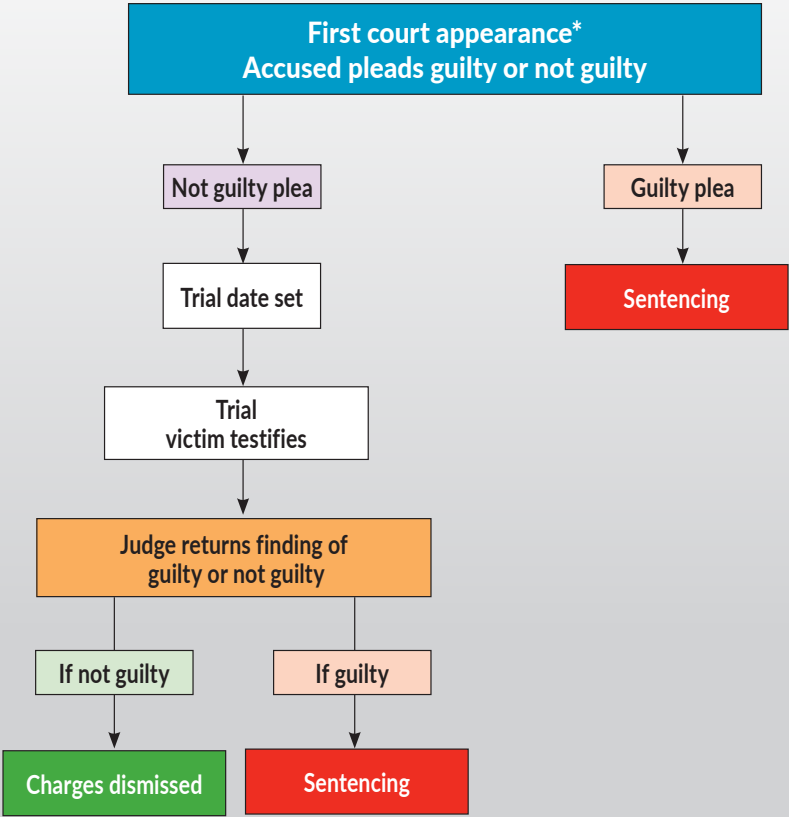
- General information on the criminal justice system
- Specific updates on your case
- Information regarding safety planning
- Help with victim impact statements
- Court orientation
- Counselling
- Referrals

## **Summary**

Making a decision to become involved in the criminal justice system is often not an easy one. Sometimes you do not have a choice. The purpose of this booklet is to provide you with information on what is involved, so that you can make a more informed decision or become better prepared for the process. Whatever your situation, be sure to take care of yourself and seek whatever assistance may be needed along the way.

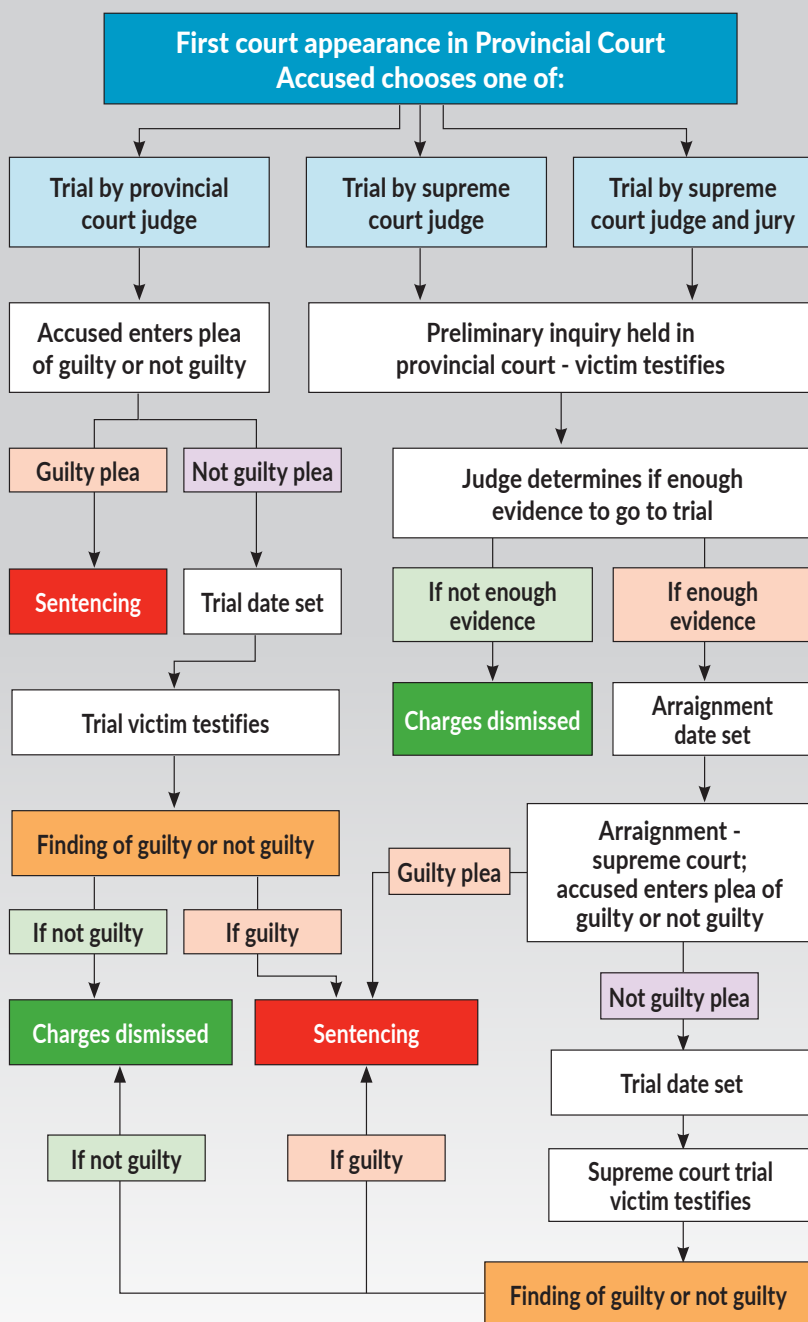
For more information, please Victim Services at [victimserviceshelp.ca](http://victimserviceshelp.ca)

# Appendix A: Summary Offences Diagram



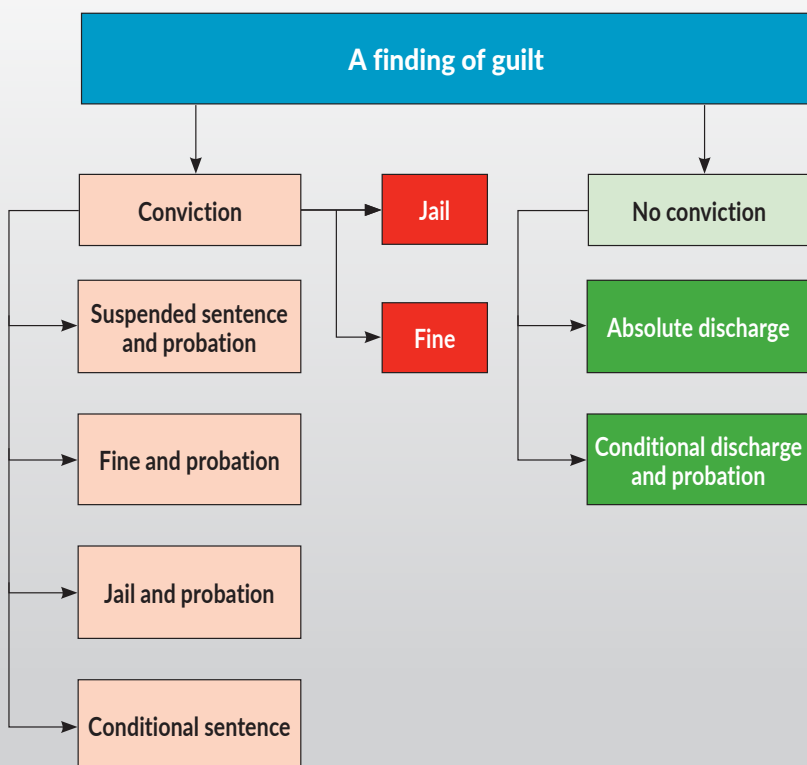
\*There may be several court appearances before an accused enters a plea.

## Appendix B: Indictable Offences Diagram





## Appendix C: Sentencing Options Diagram



## Appendix D: Legal Terms Commonly Used

<b>Absolute Discharge</b>	The person is found guilty of the offence and no conviction is registered.
<b>Accused</b>	The person charged with the offence.
<b>Acquittal</b>	The court finds the accused not guilty of the charges.
<b>Adjournment</b>	The court case is temporarily set over to another time or date.
<b>Allege</b>	To suggest that something happened or that a person committed a crime.
<b>Appeal</b>	To have a trial decision reviewed by a higher court. This is not a new trial and no witnesses are required to give evidence.
<b>Bail</b>	Money or property deposited with the court as a guarantee the accused will return to court for a preliminary inquiry or trial.
<b>Beyond a Reasonable Doubt</b>	The level of proof required by the court to find an accused guilty of having committed an offence.
<b>Charge</b>	A formal accusation that someone committed a crime.
<b>Complainant</b>	The person who states that a crime has been committed.

<b>Conditional Discharge</b>	The person found guilty of committing an offence can be ordered to obey certain conditions for a specific period of time.
<b>Conditional Sentence</b>	Sentence served in the community with conditions similar to that of a probation order. If conditions are not followed, the remainder of sentence <b>may</b> be served in prison.
<b>Conviction</b>	A judgement by the court that the accused is guilty of the offence
<b>Crown Attorney</b>	The lawyer representing the state who prosecutes the criminal charge against the accused. The Crown attorney presents the evidence against the accused.
<b>Defence Counsel</b>	The lawyer representing the accused.
<b>Defendant</b>	A person against whom legal action has been taken.
<b>Evidence</b>	Witness testimony or objects identified by witnesses that are presented to the court to help the court reach a decision.
<b>Guilty</b>	The decision by the judge or jury that the accused did commit the alleged crime. The accused may admit guilt by pleading guilty in court.
<b>Judge</b>	The person with the authority to hear a case in court and decide if the accused is guilty or not guilty.

<b>No Contact Order</b>	A court order preventing the accused from seeing or speaking to someone - often the victim harmed.
<b>Offence</b>	A crime.
<b>Plea</b>	The response given by the accused when charged with an offence ("guilty" or "not guilty").
<b>Plea Bargaining</b>	Negotiations between Crown and Defence counsel regarding the charges against the accused and the plea to be entered.
<b>Preliminary Inquiry</b>	A hearing to determine if there is enough evidence against an accused to justify holding a trial.
<b>Probation</b>	A sentencing option available to the court once an accused has been found guilty which enables the court to order the accused to obey certain conditions for a certain period.
<b>Restitution</b>	The court may order the offender to pay financial costs directly associated with the offence to a victim.
<b>Sentence</b>	The punishment given to an accused found guilty of an offence.
<b>Sentencing Hearing</b>	The presentation of evidence to the court to help the judge decide on the sentence to be given to an accused once found guilty.

<b>Statement</b>	A broad term referring to what a person says about something.
<b>Subpoena</b>	An order of the court telling a witness when and where they will be required to appear before the court.
<b>Suspect</b>	A person thought to have committed a crime.
<b>Suspended Sentence</b>	A sentence where the penalty is deferred and a period of probation is imposed. A suspended sentence can be revoked, and a penalty imposed. It forms part of the offender's criminal record.
<b>Testify</b>	To make statements in court under oath or affirmation
<b>Trial</b>	A hearing where Crown and Defence present evidence and the court makes a decision.
<b>Verdict</b>	The decision of the court of an accused person's guilt or innocence.
<b>Victim</b>	The person(s) against whom a crime(s) has been committed.
<b>Witness</b>	A person who testifies in court because they have some information about the case.

**For additional information please call  
709-729-0900 or an office nearest you.**

<b>St. John's</b>	<b>709.729.0900</b>
<b>Carbonear</b>	<b>709.945.3019/3046</b>
<b>Marystown</b>	<b>709.279.3216</b>
<b>Clareville</b>	<b>709.466.5808</b>
<b>Gander</b>	<b>709.256.1028/1070</b>
<b>Grand Falls-Windsor</b>	<b>709.292.4544/4548</b>
<b>Corner Brook</b>	<b>709.637.2603/2465</b>
<b>Stephenville</b>	<b>709.643.6588/6618</b>
<b>Port Saunders</b>	<b>709.861.2147</b>
<b>Happy Valley-Goose Bay</b>	<b>709.896.0446</b>
<b>Nain</b>	<b>709.922.2360</b>

### **Victim Services Program**

Department of Justice and Public Safety

4th Floor East Block

Confederation Building

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St. John's, NL A1B 4J6

709.729.7970

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[victimserviceshelp.ca](http://victimserviceshelp.ca)

Available in alternate format

