

The Criminal Justice Process

First Appearance:

- The accused is brought before the judge for the first time.
- The accused is advised of the charges against him/her.
- The accused is advised of his/her right to a lawyer.

Is the Accused Being Held?

An Accused may be:

- Release on a “promise to appear”
- Released on “own recognizance”
- Released on and “undertaking to a Peace Officer”
- Released on “Bail”

Election and Plea:

Election:

- An accused may “elect” or choose to stand trial:
- In a Provincial Court by judge alone
- In Court of Queen’s Bench by judge alone or by judge and jury

Plea:

- Where the accused enters a plea of “guilty” or “not guilty” upon being read the offences under the Criminal Code he/she is being accused of committing.

Election and Plea is the very preliminary stage of a case and many last for several months due to various factors: lawyer, schedules etc.

Summary Offences: Guilty or Not Guilty

- When a plea of **Guilty** is entered sentencing may occur immediately or a new date will be set for a sentence hearing
- If a plea of “**Not Guilty**” is entered, a trial date will be set.

Trial

Decision;

- The judge may make a decision immediately, or “reserve” decision to a later date so he/she may review in depth all facts presented at trial.
- If a jury trial, the jury will now go into “deliberations”. Court will be called to order when a decision is reached by the jury.
- If the decision is “not guilty” the accused will be released.

- If the decision is “guilty”, the judge may sentence the accused immediately or schedule a new date for a “sentence hearing”

Sentencing

- Sentencing occurs when an accused has either pled guilty or has been found guilty in a court of law by way of a trial.
- At the provincial court level, sentencing may occur right after the guilty plea is entered or the accused is convicted.
- Most often at Court of Queen’s Bench, a Sentence Hearing maybe scheduled at a later date to allow for pre-sentence reports on the accused to be completed.
- Pre-sentence reports, psych assessment, past criminal history and Victim Impact Statements are considered by the judge in determining an appropriate sentence.
- Also the crown may present similar case history where the accused received a high number of years sentence and the defense may present similar case history where the accused received a lesser number of years sentence. The judge makes the final decision on the sentence.

Parole:

- If the accused has received a sentence of more than 2 years, it will be recommended the victim or next of kin contact the National Parole Board’s Victim Notification Program to register to be advised if/when a parole hearing may occur.
- The victim or next of kin may attend the parole hearing and provide a Victim Impact Statement.

Appeals:

- In order for a conviction to be appealed, it must be proven an “error in justice” occurred during the course of the trial.
- In order for a sentence to be appealed there must be a gross difference in similar case history.

Note: Some defense lawyers state that plan to appeal immediately after a conviction, however a “motion” for an appeal must be approved by a panel before an appeal will take place.