

IN THE TERRITORIAL COURT OF YUKON

PRACTICE DIRECTION #11
Youth Justice Court

*Deferred Custody
and Supervision Orders*

Pursuant to s. 42(5) of the *Youth Criminal Justice Act*, the Youth Justice Court may make a Deferred Custody and Supervision Order where the offence is not a “serious violent offence” and it is not excluded by s. 42(5)(b).

If the Youth Justice Court does not specify the level of custody (open and secure) it will be deemed to be open custody.

The presumption of “open custody” is consistent with the general rule that penal orders be interpreted in favour of the accused giving effect to the least intrusive alternative. It is a reasonable presumption because “serious violent offences” are not eligible for a DCSSO and because such orders must comply with the purpose and principles of sentencing set out in s. 38 of the *Act*. An accused who receives a DCSSO has been judged a suitable candidate for a community disposition.

This presumption may become important at a later date if the young person has not complied with the supervision expectations. In that case, the young person could be returned to open custody by the provincial director if appropriate.

Chief Judge Faulkner
March 21, 2006