

SUPREME COURT OF YUKON

PRACTICE DIRECTION
GENERAL-10

*Access to Audio Recordings of
Court Proceedings*

The Supreme Court of Yukon creates and maintains audio recordings of court proceedings using a digital audio recording system (DARS).

Listening to the audio recording of a court proceeding

Courts are presumptively open, and, subject to a very few exceptions, the public and media may attend proceedings held in court. The public may listen to an audio recording of any court proceeding that they directly observed or could have directly observed at court, unless prohibited by statute, the *Rules of Court*, court order, or court practice directions. The form to request access to any recording from the Court via the Registry is attached.

Listening to an audio recording will occur in the Court Registry or other supervised listening facility.

The following guidelines apply to various court proceedings.

Civil proceedings

The public and media may listen to all parts of a proceeding that took place in court, except any portions where the courtroom was closed to the public (*in camera* proceedings).

A witness who was excluded from a proceeding by court order before testifying may **not** listen to the audio recording of any part of that proceeding until it has concluded. Anyone else who was specifically excluded from the proceeding by court order may **not** listen to the audio recording without a court order.

Case management conferences

Civil case management conferences are not generally recorded. Exceptions are in the presiding judge's discretion and are for example, when one of the parties is self-represented; or when the matter is highly contentious; or when there are legal arguments and a decision is rendered. Where a civil case management conference is recorded, the recording will be accessible after approval by the Court on request, including reasons, by the parties and their counsel. Requests made by anyone other than the parties must also include reasons and be approved by the Court. Counsel or the parties must be advised.

Recordings of settlement discussions in case management will not be disclosed, except to the parties on request to and approval of the presiding judge.

Judicial settlement conferences

Practice Direction CIVIL-1 states judicial settlement conferences are recorded by the judge. The recording is for the use of the judge only and will be stored in a sealed envelope in a separate file. Access to the recording by the parties may be granted by the presiding judge on request.

Family law proceedings

Access to the courtroom audio recording of family law proceedings is restricted to parties and their counsel. Parties and counsel must complete the request form. Anyone else must make a formal application under the *Rules of Court* and obtain a court order. See also s. 173, privacy of court proceedings, of the *Children's Law Act*, RSY 2002, c. 31, as amended by SY 2008 c. 1, which restricts access to a proceeding and recording under the *Act* at the discretion of the judge.

Family law case conferences

Practice Direction FAMILY-3 states family law case conferences are recorded by the judge. The recording will only be accessible by court order to the parties and their counsel.

Criminal proceedings

The public and media may listen to all parts of the proceeding that took place in court, except any portions where the courtroom was closed to the public (*in camera* proceedings).

A witness who was excluded from a proceeding by court order before testifying may **not** listen to the audio recording of any part of that proceeding until it has concluded. Anyone else who was specifically excluded from the proceeding by court order may **not** listen to the audio recording without a court order.

Case management conferences

Criminal case management conferences are not generally recorded. Exceptions are in the presiding judge's discretion and include for example, where the accused is self-represented. Where a criminal case management conference is recorded, the recording will be accessible after approval by the Court on request, including reasons, by the parties and their counsel. Requests made by anyone other than the parties must also include reasons and be approved by the Court. Counsel or the parties must be advised. Recordings of settlement discussions in case management will not be disclosed except by the parties on request to and approval of the presiding judge.

Appeal and judicial review proceedings

The public and media may listen to all parts of the proceeding that took place in court, except any portions where the courtroom was closed to the public (*in camera* proceedings).

Other proceedings

Access to recordings of other types of court proceedings not explicitly referred to in this practice direction require an application to the Court.

Publication Bans

The Court registry will make best efforts to inform members of the public and the media of any applicable publication bans; but anyone listening to the audio recording of a proceeding is responsible for complying with any publication ban.

Obtaining a copy of the audio recording of a court proceeding

Counsel in good standing with the Law Society of Yukon

Counsel who are members in good standing with the Law Society of Yukon may obtain a copy of any audio recording that could otherwise be listened to in a court-supervised listening facility.

Counsel must complete the request form and provide an undertaking (both forms attached). Once approved, a CD will be provided to counsel by registry staff. A cost may be associated with this service.

The undertaking sets out counsel's obligations about access to the recording by third parties and prohibits further copying and distribution of the audio file.

Parties, media, and the public

Parties, media, and the public must make an application and obtain a court order to obtain a copy of the audio recording of a court proceeding, even if that audio recording could be listened to in a court-supervised facility.

Any order granted will contain conditions limiting the recipient's ability to copy and distribute the audio recording, including conditions about third party access. A failure to comply with a court order could be punished through a contempt proceeding, and a finding of guilt could result in a fine or even jail.

Duncan C.J.
September 3, 2021

DEMANDE D'ÉCOUTE D'UN ENREGISTREMENT D'INSTANCE

Raison de la demande : _____

Nom de la cause : _____

Numéro(s) de dossier : _____

Interdiction(s) de publication

Date de l'audition: _____

Seulement une date par demande

Instance : civile criminelle

Cour : Cour suprême Cour territoriale Cour des petites créances
 Cour d'appel Justice pénale pour les adolescents

Nom du juge ou du juge de paix :

Juge en chef Juge Juge suppléant
 Juge de paix

Genre d'enregistrement : Enregistrement intégral Extrait : _____
(specifier: motifs, témoignage, soumissions, autre, etc)

Numéro de salle d'audience : Salle n° 1 Salle n° 2 Salle n° 3
 Salle n° 4 Salle n° 5
 circuit judiciaire : _____

Extrait: De : _____ À : _____

Partie : Oui Non Compteur de défilement Compteur de défilement

Auteur de la demande :

Adresse courrielle et numéro de téléphone

À l'usage du bureau

S'ASSURER QUE L'AUTEUR D'UNE DEMANDE DE PROCÉDURE EST EN CONFORMITÉ AVEC LES LIGNES DIRECTRICES DE LA COUR CONCERNANT L'ACCÈS.

Demande approuvée Demande rejetée

Signature du juge

Date

Date d'achèvement

Auteur de la demande avisé par le greffier

Date

Date: _____

REQUEST FOR COPY OF CD FROM COURT RECORDING

Reason for Request: _____

WHEN ORDERING PROCEEDINGS ENSURE THAT THE REQUESTOR IS IN COMPLIANCE WITH THE COURT ACCESS GUIDELINES

Style of Cause: _____

File Number(s): _____

Publication Ban(s): _____

Date of Proceedings (ONLY ONE DATE PER REQUEST): _____

Court Proceedings:

Civil Criminal

Court Type:

Supreme Territorial Small Claims
 Court of Appeal Youth Criminal Justice

Name of Justice, Judge or Justice of the Peace:

Chief Justice Chief Judge Deputy Judge

Justice Judge J/P

Recording Type:

Full Excerpt Specify: _____

(Reasons, Testimony, Submissions, other, etc...)

Party:

Yes No

Requested by: Name: _____

Email Address: _____

Phone Number: _____

Office Use Only

WHEN ORDERING PROCEEDINGS ENSURE THAT THE REQUESTOR IS IN COMPLIANCE WITH THE COURT ACCESS GUIDELINES

Courtroom Number:

Courtroom 1 Courtroom 2 Courtroom 3
 Courtroom 4 Courtroom 5 Court Circuit: _____

Recording Times:

From: _____ To: _____

Tape counter number

Tape counter number

Request Approved

Request Denied

Judge's Signature

Date

Clerk's Name

CD Delivered by:

Hand
 Counsel Box
 Other _____

Date Completed

Date: _____

DEMANDE D'UNE COPIE DE CD D'UN ENREGISTREMENT D'INSTANCE

Raison de la demande : _____

S'ASSURER QUE L'AUTEUR D'UNE DEMANDE DE PROCÉDURE EST EN CONFORMITÉ AVEC LES LIGNES DIRECTRICES DE LA COUR CONCERNANT L'ACCÈS

Nom de la cause : _____

Numéro(s) de dossier : _____

Interdiction(s) de publication

Date de l'audition : _____

Seulement une date par demande

Instance :

civile

criminelle

Cour :

Cour suprême

Cour territoriale

Cour des petites créances

Cour d'appel

Justice pénale pour les adolescents

Nom du juge ou du juge de paix :

Juge en chef

Juge

Juge suppléant

Juge de paix

Genre d'enregistrement :

Enregistrement
intégral

Extrait

(specifier: motifs, témoignage, soumissions,
autre, etc)

Numéro de salle d'audience :

Salle n° 1

Salle n° 2

Salle n° 3

Salle n° 4

Salle n° 5

circuit judiciaire : _____

Extrait:

De :

À :

Partie :

Oui

Non

Compteur de défilement

Compteur de défilement

Auteur de la demande :

Adresse courrielle et numéro de téléphone

À l'usage du bureau

Demande approuvée

Demande rejetée

Signature du juge

Date

Nom du greffier

Remise du CD :

au porteur

case de l'avocat

autre _____

Date d'achèvement