



October 25, 2021

NOTICE TO THE PROFESSION AND THE PUBLIC*

**Titles for the sections that have been updated since the Notice of January 11, 2021, have been italicized.*

The Territorial Court will be resuming near-normal operations in Whitehorse and all other communities, while continuing to follow the public health recommendations of the Yukon's Chief Medical Officer of Health.

This notice updates the January 11, 2021 announcement regarding measures being taken by the Territorial Court to assist in containing the spread of COVID-19. As this situation evolves, we will continue to monitor and assess information. There may be amended Notices, or changes without advance notice, in response to any changes in the COVID-19 situation in the Yukon and guidance from the Chief Medical Officer of Health. Please continue to monitor the Territorial Court Website, www.yukoncourts.ca, for updates or follow us on twitter at @YukonCourts.

I. PROTOCOL IN COURTROOMS

The following changes to the general precautions will apply to all in-person court hearings, appearances, and trials. Judicial officers (a judge or justice of the peace) have the discretion to direct more detailed or different precautions depending on the circumstances of a particular court hearing.

We recognize that particular circumstances may require counsel, a party or a witness to be present only by video or phone, such as when travel to the Yukon is not possible, or self-isolation is required. The Court will continue to assess the feasibility of hearing matters partially in person, and partially by phone or video on a case-by-case basis, subject to *Criminal Code* requirements for criminal cases.

Screening Process for Persons Entering the Courtrooms

The Government of Yukon continues to recommend self-assessment based on the following symptoms:

- fever;
- chills;
- cough;
- shortness of breath;



- runny nose;
- sore throat;
- headache;
- loss of sense of taste or smell;
- fatigue;
- loss of appetite;
- nausea and vomiting;
- diarrhea;
- muscle aches.

If you suffer from any pre-existing conditions, consider what are normal symptoms for you. If any of the preceding symptoms are usual symptoms of one of your pre-existing conditions, then you may not need to get tested or stay home.

If you are experiencing one or more symptoms, you should self-isolate until you complete the Yukon Government [self-assessment tool](#), or phone 811, and follow any direction provided. You may not return to the courthouse until you have completed a self-assessment online or been assessed by a healthcare practitioner, and have followed any direction given.

You shall not attend at the courthouse if you have been in contact with someone who has COVID-19 in the past 14 days unless you have had a negative test since contact with that person.

If you are experiencing symptoms of COVID-19, as outlined above, and you are a party, an accused, or a witness whose presence is required in court, please ensure that you inform your counsel or the Trial Coordinator of your health situation before the time of your scheduled court appearance.

Counsel and self-represented parties may be asked to confirm at any in-person court appearance that, to their knowledge, no one involved on their side, including witnesses and support persons, has any symptoms of illness that may be COVID-19, or has had contact with anyone who has symptoms that may be COVID-19.

The Sheriffs will screen people entering the courtrooms. If they observe anyone displaying symptoms that may be COVID-19, Sheriffs have the discretion to exclude observers from the courtroom, subject to the judicial officer's direction. Sheriffs and/or counsel will advise the Court of any court participants displaying such symptoms, at which time the Court will address the issue if necessary.

If during or after the proceedings, counsel, parties, or participants become aware that they or someone they have been in contact with within the previous 14 days have tested positive for COVID-19, they shall immediately notify public health officials and the Trial Coordinator and follow all directions provided.



Cleaning and Sanitation

Anyone entering the courthouse in Whitehorse or circuit courts in other communities should use hand sanitizer upon entry. Hand sanitizer will be available by the entrances and exits of the courthouse.

Anyone entering any courtroom should use hand sanitizer again upon entry. Hand sanitizer will be available at the entrance to the courtroom, court clerk's desk, witness box, bench, and counsel tables.

The gallery seats and surface areas, door handles, clerk's desk, witness box, witness chair, microphones, prisoner box, witness rooms, counsel table and chairs, bar and swinging doorway in the bar, and bench, shall be cleaned after each use. All courtrooms will be cleaned in their entirety at the end of each day.

If a witness swears an oath, the Bible or equivalent item will be disinfected after its use.

Courtroom Layout

Participants will adhere to any physical distancing requirements or direction in the courtrooms. Sheriffs will enforce these requirements and directions as required.

Number of People in the Courtroom

The need for physical distancing may mean, in some cases, that it will not be possible for everyone to be present in the courtroom, especially in the smaller courtrooms. Priority will be given to participants in the hearing, and support people including family, victim services workers, FASSY workers, mental wellness counsellors, and probation officers.

Members of the media and the public, as always, are permitted to attend court (except in family matters or in exceptional court-ordered circumstances). If there is insufficient space in the courtroom to accommodate everyone, a conference call number will be provided for the media and members of the general public to call in order to hear the proceedings.

The Sheriffs have discretion to allow people into the courtroom on the basis of these priorities, subject to the judicial officer's direction.



Masks

The Courts have updated the policy on mask-wearing as of August 4, 2021, to reflect the changes in mask-wearing requirements in the Yukon. In general terms, the policy states that mask-wearing is still mandatory within certain areas of the courthouse and in courtrooms, subject to the direction of the presiding judge. This updated policy may be found on yukoncourts.ca, and is attached here for your reference as Appendix A.

II. CRIMINAL MATTERS:

Docket Courts/Youth Courts

With a resumption of near-normal operations, counsel are now expected to appear in person for regular docket courts. However, a request may be made to the Clerk Supervisor to appear by phone as per Practice Direction CP-3.

Fix Date Court

Counsel are expected to appear in person for Fix Date court, unless there are exceptional circumstances that require remote appearance. Exceptional circumstances include requests from counsel residing outside of the Yukon.

Pre-trial Conferences

Pre-trial and case management conferences will be presumed to be held by teleconference unless otherwise directed by the judge, or if a request for the matter to be heard in person is submitted to the judge through the Senior Judicial Assistant by email at christina.macneil@yukoncourts.ca by 3:00 p.m. the day preceding the pre-trial conference.

Trials/Preliminary Inquiries

In-person preliminary inquiries and trials continue.

The Courts encourage counsel to contact witnesses or their client prior to the trial date to ensure that the matter will be proceeding. If the matter will not be proceeding, counsel shall notify the Trial Coordinator as soon as possible.

As is our practice, we encourage parties to work towards settlement wherever possible in as timely a fashion as possible. If parties believe that a case management



conference would assist in resolving a matter, we encourage the parties to contact the Trial Coordinator to schedule one.

In-custody Accused

Unless otherwise ordered by the Court, in-custody accused will appear in person for substantive matters (e.g. trials, preliminary inquiries, sentencings and applications) where evidence is being called. For bail hearings, the process is set out below.

Bail Court

Accused persons appearing in bail court will continue to appear by video from the Whitehorse Correctional Centre unless counsel makes a request to the Senior Court Clerk in advance to have their client physically present, and that request is approved by the Court. Requests must be received before 10:00 a.m.

Counsel shall attend court in person. Defence counsel should have proposed sureties appear in person or remotely as necessary in the circumstances of each case.

Community Wellness Court/Domestic Violence Treatment Option Court

The Court will return to normal procedure for Community Wellness and Domestic Violence Treatment Option Courts for suitability assessment requests. Accused persons may appear in person or by phone for regular court check-ins.

Pre-court meetings will continue to be held by teleconference, unless otherwise directed by the judge.

Circuit Courts

For pre-circuit conferences, participants will continue to attend by teleconference, unless otherwise directed by the presiding judge, or unless otherwise approved by the presiding judge upon a request being made to the Senior Judicial Assistant by e-mail at christina.macneil@yukoncourts.ca by 3:00 p.m. the day preceding the pre-circuit conference.

Circuit travel continues on a case-by-case basis. Attached as Appendix B is a copy of the updated Circuit Court Attendance Plan, approved by the Court.



III. CIVIL MATTERS

Child Protection Court

Applications and trials continue in person in Whitehorse and the communities, with remote appearances permitted if approved by the judge.

For docket matters in Whitehorse, duty counsel should be present in person in the courtroom. The parties may appear in person or by phone. It would be beneficial for the Director to advise those being served with an application that they should consider contacting Legal Aid at 867-667-5210 ext. 1 or 1-800-661-0408 ext. 5210, and that, in any event, they should attend court in person.

Small Claims Court

Applications and trials have resumed in person in Whitehorse and the communities. Parties may still appear remotely with the consent of the judge.

Pre-trial conferences will continue to proceed by videoconference, unless a request is made to the judicial officer, or unless otherwise directed by the judicial officer.

IV. COURT REGISTRY

In-person Attendances and Filing

The public door into the Whitehorse Registry continues to be locked and the Registry will continue to accommodate in-person attendances when appropriate. Registry staff may refuse access to the Registry to anyone who does not comply with physical distancing requirements.

The Registries in Watson Lake and Dawson City remain open and are accommodating in-person attendances.

COZENS, M.
CHIEF JUDGE OF THE
TERRITORIAL COURT OF YUKON

Notice to public and profession - COVID-19 Update

August 4, 2021

This notice is an update to our November 20, 2020 notice about mask-wearing in the courtrooms and courthouse.

Effective August 4, 2021, the Yukon government has lifted certain COVID-19 restrictions, including the requirement to wear masks in indoor public spaces. However, both the Chief Medical Officer of Health and Yukon government officials are continuing to recommend mask-wearing as an effective way to prevent the spread of COVID-19.

Courthouses and courtrooms are indoor public spaces and individuals often have no choice about attending court. It is also a workplace for many people.

As a result, mask-wearing will be required by anyone attending certain places in the courthouse. Those places are:

1. The space outside Courtroom 5.
2. The stairs and elevator leading to the second and fourth floors on the court side of the building.
3. The space on the second floor outside Courtrooms 1, 2, 3, and 4.
4. The Supreme Court boardroom, and the Territorial Court boardroom subject to the direction of the presiding judge.
5. All courtrooms, subject to the direction of the presiding judge.
6. The public side of the Court Registry.

Physical distancing will continue to be maintained wherever possible.

Hand sanitizers and wipes will continue to be available in the courtrooms and at each entrance to the atrium. Plexiglass barriers around the witness stands will remain in place and other barriers will be available for use at counsel tables if required.

We remind everyone to stay home if you have symptoms that could be COVID-19.

Thank you for your continued cooperation and compliance with these requirements that help us protect the health and safety of everyone.

Appendix B – Updated Circuit Court Attendance Plan

Circuit Court Attendance Plan

Community Attendance

The Court will consult community leadership and consider their response prior to planning travel to the community. The court party will travel to a community only if the community can assure the Court that requirements for health and safety can be met, including assistance with the provision of custodial services in accordance with the Court's directives and at the Court's expense.

Travel

All travel will be conducted in accordance with the requirements of the Court, Government of Yukon directives, and policies of the transporting agency.

Venue Preparation

The venue manager will set up the venue in advance of the court party's arrival pursuant to the relevant contract for services and consistent with the Court's direction regarding physical distancing and occupancy limits.

Venue Operation

The venue will be operated in accordance with the Court's direction regarding physical distancing and occupancy limits and the direction of the court.

Signage

The Sheriff will post, or cause to be posted, signage in both English and French advising the public of the rules regarding access to the court venue. Signs will be posted inside and outside the courtroom.

Courtroom Access

The Sheriff will screen court participants as they enter the courtroom and will deny entry to anyone showing or reporting any of the following symptoms: cough, fever/chills, sore throat, difficulty breathing, headache, runny nose or nasal congestion, vomiting, diarrhea, fatigue, muscle aches.

Physical Distancing and Occupancy Limits

The Sheriffs will control access to the court venue and enforce social distancing in the court environment to the best of their ability considering their other court-related duties. All court participants will conduct themselves in accordance with the guidance of the Court and will comply with the Sheriff's directions.

Custodial Services

The venue manager will assist with arranging a custodian to conduct supplementary cleaning of the courtroom pursuant to the general direction of the Court or the specific direction of the presiding justice. The Sheriff will instruct the custodian regarding the surfaces to be cleaned at any given time. The venue operator will provide the general cleaning supplies used by the custodian. Court Services Branch will bear reasonable expenses for supplementary custodial services.

Appendix B – Updated Circuit Court Attendance Plan

Personal Protective Equipment

The Sheriff will provide disposable masks and gloves that may be issued to court participants upon request or at the direction of the Court. Participants are required to wear masks if they cannot maintain the recommended physical distancing or separation with a barrier.

Personal Cleaning Products

The Sheriff will provide hand sanitizer, sanitizing spray and/or sanitizing wipes for court participants. All participants are required to use hand sanitizer upon entering the court environment.

Barriers

The Sheriff will provide portable clear barriers that can be used to separate court participants who cannot maintain the recommended physical distancing or wear a mask (e.g. while giving testimony).