



March 3, 2022

NOTICE TO THE PROFESSION AND THE PUBLIC

This notice supersedes all previous notices. It is likely the Territorial Court will release an update to this notice on or around March 18, 2022, to reflect the upcoming changes to the Government of Yukon's public health measures.

I. PROTOCOL IN COURTROOMS

The following 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.

Masks

Mask-wearing remains mandatory within the Courts' side of the Law Courts Building and the Territorial Court of Yukon courtrooms. This includes the entrances, atrium, Court Registry, restrooms, witness and interview rooms, Territorial Court boardroom, main floor boardroom, law library, stairways, hallways and elevators.

Everyone is required to wear masks in the Territorial Court courtrooms at all times, subject to the discretion of the presiding judge or judicial officer based on the individual circumstances of each case, including the space in the courtroom, the nature of the case, and the parties and participants. There are certain other exceptions set out below.

Counsel in the courtrooms are not required to wear masks when they are speaking in front of the bar at counsel tables, or at podiums, but are required to wear them at all other times. Clients sitting at counsel tables are required to wear masks at all times.

Witnesses are required to wear a mask at all times before and after their testimony, including while walking to the witness stand. Once the witness is in the witness stand, they are not required to wear a mask while testifying.



People sitting in the gallery of the courtrooms are required to wear masks at all times.

Everyone is encouraged to bring their own mask, but if you do not have one, a supply will be available in the atrium, or a Sheriff will provide one to you.

Acceptable masks are the medical/surgical masks (available in the atrium), a medical/surgical mask with a cloth mask on top, an N-95 or KN95 mask, or equivalent. Cloth masks on their own are no longer acceptable.

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.

You shall not attend the courthouse if you are experiencing one or more symptoms or have tested positive for COVID-19:

- within the past 7 days if you are fully vaccinated, meaning 2 doses of the vaccine with the last dose received less than 6 months ago, or 3 doses of the vaccine, not immune compromised, and you have mild or moderate illness;
- within the past 10 days if you have had 2 doses of the vaccine and the last dose was more than 6 months ago or you are not vaccinated, not immune compromised and have mild or moderate illness; or
- within the past 20 days if you are moderately or significantly immune compromised, have severe illness or have been diagnosed with COVID-19 pneumonia.



Territorial Court of Yukon

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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 stay home.

You shall not attend at the courthouse if you have been in contact with someone who has COVID-19 in the past 7 days and you are not vaccinated.

If you are experiencing symptoms of COVID-19 or have tested positive for 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 Court Clerk Supervisor, by email at clerk-supervisor@yukon.ca, 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, as outlined above, 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, in accordance with the guidelines above, have tested positive for COVID-19, they shall notify the clerk.

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.

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 Court 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 Trial Co-ordinator by email at



tc.trialcoordinator@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 Court Clerk Supervisor by email at clerksupervisor@yukon.ca in advance to have their client physically present, and the Court approves that request. 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

For Community Wellness and Domestic Violence Treatment Option Courts, accused persons may appear in person or by phone for regular court check-ins and suitability assessment requests.

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.

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 Court 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 or masking requirements.

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



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Email Filing

Email filing is no longer permitted unless there are exceptional circumstances related to the COVID-19 pandemic. The Court currently does not have a designated electronic filing system.

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