

ACCESS TO FILES AND PROCEEDINGS IN THE COURT OF APPEAL OF YUKON

* *This guideline is to be interpreted in a manner consistent with the “[Record and Courtroom Access Policy](#)” of the Court of Appeal for British Columbia as updated from time to time.*

GOVERNING PRINCIPLE

The open courts principle means that, in general, court files and proceedings may be accessed by the public. This right of access may need to be balanced with significant privacy interests of parties to a case or with potential impairments to the proper administration of justice, and this can affect what a member of the public can view.

Publication bans:

In some cases, even where the right of public access is maintained, the Court may impose a publication ban that restricts what information from the file may be communicated to others. Registry staff will provide information about any publication bans in effect that have come to their attention. If you request access, you are responsible for complying with publication bans in the Court of Appeal and the courts below. Failure to comply with a publication ban can lead to sanctions.

ACCESSING COURT FILES AND RECORDS

Accessing a civil court file/record:

- *Notices of Appeal, Notices of Application for Leave to Appeal, Reasons for Judgment, Orders, and Clerks Notes:* These documents can generally be accessed by making an inquiry at the court registry at 2134 Second Avenue.
- *Factums, Appeal Records, Appeal Books, Transcripts:* These documents are available by making a written request to the Registrar identifying the requestor and the records requested. Note that copyright considerations may apply to factums and that the author should be contacted directly about possible restrictions on reproduction.

Accessing a criminal court file/record:

- *Notices of Appeal, Notices of Application for Leave to Appeal, Reasons for Judgment, Orders, and Clerks Notes:* With the exception of bail orders, these records can generally be accessed by making an inquiry at the court registry at 2134 Second Avenue.

- *Factums, Appeal Records, Appeal Books, Transcripts, Bail Orders, Sentence Statements*: These documents are available by making a written request to the Registrar identifying the requestor and the records requested.
- If there are publication or access restrictions in place and the requestor is not a party, the party's lawyer, or an authorized agent for the party or for the party's lawyer, the written request to the Registrar must also identify the purpose of the request, any privacy concerns, and how any privacy concerns would be mitigated.
- The request process is in place because the Court recognizes that criminal court records may contain information the disclosure of which is harmful to innocent parties. Once the request is received, the Registrar may refer the request to the Chief Justice for consideration, who may seek the input of the parties to the appeal to provide their positions on the request.
- Note that copyright considerations may apply to factums and that the author should be contacted directly about possible restrictions on reproduction.

Accessing a family court file/record:

- Due to the sensitive and personal information in family law files, access is restricted to parties, a party's lawyer, or an authorized agent for a party or for a party's lawyer. Everyone else must apply to a Justice in chambers for an order permitting access to a family law file.

Accessing audio recordings:

- Anyone entitled to be in the courtroom for a Court proceeding may access the digital audio recording of that proceeding, except that there is no access to a recording of oral reasons for judgment.
- There is no public access to the audio recording of oral reasons for judgment because once transcribed they are subject to editing by the Justice or Justices who decided the appeal or application.
- A request to access an audio record must be made in writing to the Registrar using the attached form. A listening station is available at courthouse locations. Copies of recordings are not provided.

Obtaining transcripts:

- Anyone entitled to be in the courtroom for a Court proceeding may obtain a transcript of that proceeding.

- A request for a transcript, other than a transcript of oral reasons for judgment, may be made to StenoTran using the form at this link: <https://yukon.ca/en/legal-and-social-supports/court-services/get-court-transcript>
- Oral reasons for judgment are decisions pronounced on the day of the hearing. They are transcribed by judicial staff rather than by a transcription company.
- Oral reasons for judgment by a division of the Court (3 or more Justices) are transcribed, given a neutral citation and published on the Court's website once approved and signed by the Justices.
- Oral reasons for judgment in chambers are given by a single Justice and are not published, except where it is determined that a decision may be of precedential value. A written request for a transcript of oral Reasons for Judgment in chambers may be made to the Registrar and should identify the requestor and the transcript requested.

Hearing lists:

- Hearing lists (dockets) are posted on the Court of Appeal website: [Court Calendar | Yukon courts](#)

Bulk Access to Court records:

- All bulk access requests (i.e. access to court records other than on a file-by-file basis) must be made to the Registrar in writing. The request must set out the reasons for the request and how the information will be used.

VIEWING COURT PROCEEDINGS

The Court of Appeal encourages media and members of the public to view Court proceedings. Yukon Court of Appeal matters are heard in Whitehorse and, subject to the exceptions below, are contemporaneously webcast using the Zoom platform. Links are available through the Hearing List on the Court of Appeal website.

Webcasts

- A Zoom link for viewing the public webcast will be published on the Yukon Courts website a week before the appeal is heard. Webcasts are live; the Court will only keep a video recording of a proceeding in exceptional circumstances.
- Zoom links provided by the Court must not be re-shared or embedded in posts on a social media platform.

- There are a number of circumstances in which Court of Appeal proceedings will not be webcast. These include:
 - o Proceedings before a single judge in chambers;
 - o Appeals of prosecutions under the *Youth Criminal Justice Act*;
 - o Appeals where publication bans, sealing orders or other court orders are in place that are incompatible with a public broadcast;
 - o Appeals where the Court determines there are privacy and confidentiality interests that are incompatible with a public broadcast.
 - o Any other appeals where the Court directs that no broadcast should take place.
- The Court may also direct that precautionary measures be adopted by parties to an appeal. These may include referring to an individual by their initials or suspending part of the broadcast.
- Parties may request that their appeal proceedings not be broadcast or that they be subject to precautionary measures. Such requests should be made in writing to the Registrar.

Recording or re-broadcasting Court proceedings:

- The use of audio recording devices is prohibited in court proceedings as is the recording of webcasts. Similarly, no one is permitted to take photographs or screenshots of court proceedings.

The Registrar (Joan Peddle) may be contacted at (867) 456 3821 or courtofappeal@yukon.ca