



Pleas and Elections

The two main pleas in Canada are **Guilty** and **Not Guilty**. They have very different consequences and legal advice should be obtained before entering a plea. You should speak to a lawyer before you enter a plea.

Pleading Not Guilty

A **Not Guilty** plea means that the accused denies the criminal charges that are brought against them by the Crown Prosecutor. It results in a dispute: the Crown Prosecutor believes that the accused should be **convicted**, while the accused believes that he or she should be **acquitted**. In order to resolve this dispute, the Judge (or a jury) will hear **evidence** and decide the issue. The process of calling evidence and having a Judge or Jury decide the case is called a **Trial**.

When you plead **Not Guilty**, the Judge will schedule your Trial. A Trial date will be chosen based on when the Court has time to hear the Trial, when the Crown and Defence lawyers are available, when the accused is available, and when the witnesses are available. As a result, it can sometimes take months before a Trial date is available. Every accused is entitled to Trial within a reasonable time. If you are concerned about delays, please speak to your lawyer about the issue. You **must attend** at your Trial or a warrant may go out for your arrest.

If you have pled **Not Guilty** and scheduled a **Trial**, it is important to keep in touch with your lawyer – even if the Trial is not scheduled soon. Update your lawyer with your current phone number, email address, and mailing address. This will allow your lawyer to schedule meetings with you to **Prepare for Trial**. It is essential to prepare for Trial and it is your responsibility to assist your lawyer in doing so. If you have witnesses that may assist the defence, you should provide their contact information to your lawyer as soon as possible. This allows your lawyer to Subpoena them and obtain statements from them, if necessary. They will only be called to testify if they can be useful to the defence. You should meet with your lawyer in person before Trial to discuss strategy and your potential testimony. If your lawyer has not heard from you prior to Trial, they may seek to withdraw from the case in court.

Pleading Guilty

Pleading **Guilty** means that you are giving up your right to a Trial. You are **admitting** the criminal allegations set out in the charge(s) against you. Any guilty plea must be voluntary (you should not be forced or pressured into doing so) and you must understand the consequences of a Guilty plea.

When a person pleads **Guilty** the next step in the criminal process is called **Sentencing**. There are a wide variety of sentences available under the *Criminal Code* and other statutes. The Judge will decide on what sentence is appropriate after hearing from the Crown Prosecutor, the Defence Lawyer, the offender, and in some cases the victim. The Judge can also consider letters of support and Pre-Sentence Reports which help personalize the process. If the Guilty plea is entered as part of a negotiated resolution (a “plea bargain”) then the accused must be aware that the Judge is

not bound to accept the sentence that may have been worked out as part of the deal. The Judge has the final say on sentencing.

Elections

When an individual is charged with a criminal offence, their First Appearance is almost always in Provincial Court. During that First Appearance, the Crown prosecutor will indicate to the Court whether the charges are being brought as **Summary Conviction** proceedings or by way of **Indictment**.

Summary Conviction proceedings are less serious (similar to misdemeanors in the United States). Summary Conviction proceedings carry lower potential sentences and Trial and/or Sentencing takes place in Provincial Court in front of a Provincial Court Judge. There are no juries in Provincial Court.

Indictable proceedings are more serious (similar to felonies in the United States). They can result in significantly higher sentences if the accused is convicted. Because of the potential for more severe outcomes, an accused generally has a choice (an Election) of where they want to have their Trial. An accused person who has a right of **Election** can **choose** between three methods of Trial:

1. Provincial Court – Judge Alone
2. Supreme Court – Judge Alone
3. Supreme Court – Judge and Jury

If an accused person chooses to have a Trial in Supreme Court, with or without a Jury, they may also choose to have a **Preliminary Inquiry**. There are many important considerations to be assessed before making an election and choosing whether or

not to have a Preliminary Inquiry. You should discuss the issue in detail with your lawyer before you make your choice.

Disclaimer: This site contains general legal information for residents of Nova Scotia, Canada. It is not intended to be used as legal advice for a specific legal problem.