

Speaking to the Judge Before You Are Sentenced

if you are guilty of a crime...

...several types of sentence are possible

you can speak to the judge before your sentence is decided

know the facts of your case

bring helpful material

read the victim impact statement

read the pre-sentence report

the process

judge's goals:

- *rehabilitate you, and*
- *deter you and others*

If you are charged with a crime, and if you plead guilty or a judge finds you guilty at a trial, then the judge will decide your sentence. It could be any of the following:

- an absolute discharge (you will not get a criminal record)
- a conditional discharge (you will not get a criminal record if you meet conditions the judge sets)
- probation (including, for example, community service)
- losing your fishing, hunting, or driver's licence
- a restitution order (you must pay money to someone, usually the victim)
- a fine
- a conditional sentence (like a jail term, but you serve it in the community)
- a jail term
- something else

You get a chance to speak before the judge decides your sentence. This is called **speaking to sentence**.

Speaking to sentence is important because you can help yourself when you speak to the judge.

How to prepare to speak to the judge

- Make sure you get copies of the **police report** and the Crown's **initial sentencing position** from the prosecutor. If you disagree with the Crown's version of the facts of your case, you will have a chance to say so when you speak to sentence.
- Bring any reference letters, school records, or other documents that might help you out, or arrange to have someone come with you to court for support.
- Your victim may have said how he or she feels about your crime in a **victim impact statement**. It's a good idea to read that statement before you speak. Ask Crown counsel (the prosecutor) for the victim impact statement the day you speak to sentence.
- You can also ask the judge if a probation officer can do a **pre-sentence report** about you. If the judge agrees to a report, the court will adjourn until it gets this document. A probation officer will contact you and talk to other people about you.
- If you are not ready to speak to sentence (for instance, if you need more time to get your personal documents together), you can ask the judge for an **adjournment** (a delay in the court proceedings) after you enter your plea or if the judge finds you guilty.

Speaking to the judge

- When your case is before a judge, the prosecutor will sum up the police report and suggest a sentence for you. Then you will have a chance to speak.
- The judge wants to know why you committed the crime, whether you will do it again, and whether you need help for any problems you may have.

*your goal:
help yourself*

*you can use this checklist
when you speak to the judge*

*asking for more time to pay
a fine*

victim surcharge fine

- Tell the judge about yourself and your history. Give information about:
 - why you committed the crime,
 - why you will not do it again, and
 - any problems you have that are connected to the crime, and what help you need with them.
- Give this information in a way that lets the judge be sympathetic toward you and your situation.
- You should include the following things (if they apply to you):
 - your age
 - your income
 - your education
 - your job
 - your kids (how many and what ages)
 - your health
 - your spouse
 - other people you live with
 - other people you support
 - why you did the crime
 - why you will not do it again
 - how you feel about what you did to the victim (for example, if you are sorry and if you understand how you hurt the victim)
 - whether you are living in poverty
 - any addictions you have to alcohol or drugs
 - any treatment you are getting for these addictions
 - any other problems you have and help you need for them
 - whether you are an Aboriginal person
 - whether you are a new immigrant or refugee
 - whether English is your second language
 - anything else you think the judge should know to help your position

Fines

- If the judge fines you at your sentencing hearing, you can ask for more time to pay.
- The **victim surcharge fine** is 15% of your fine. If you are not fined, the surcharge is \$50 for a summary offence, \$100 for an indictable offence — or more if the judge orders a higher amount.
- You can ask the judge to excuse you from having to pay the victim surcharge fine. The judge can decide that you do not have to pay the surcharge only if he or she is satisfied that paying it would cause you or your dependants undue hardship.

Questions

- If you do not understand something, ask the judge to explain it. You may not get another chance.
- If you realize later on that you cannot pay your court fine on time, get the brochure called *If You Can't Pay Your Court Fine on Time* from your nearest legal aid office.



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