

education, school, work, etc. It is like a small book on your life. You have the right to obtain a copy of that report, review it and comment on it before the Judge passes sentence. The Crown Attorney will often present the perspective of the complainant such as injuries, state of mind (sadness, anger, fear), the effect that the offence had on their lives, etc.

After you enter a guilty plea, a Judge will decide what sentence/punishment you will receive. Please note that the Judges and **ONLY the Judge** decide what type of sentence you will get; the Judge does not have to accept any suggestion or offer of sentence made by the Crown and/or defence. For example, if you decide to enter a guilty plea because the Crown is asking for a lenient sentence (a light punishment), there is no guarantee that the Judge will go along with that sentence; the Judge can give you that lenient sentence or give you're a harsher sentence, or give you an even better sentence than the one offered by the Crown. Nothing is ever certain in Criminal Court. The Judge decides the sentence.

PLEA STRUCK

Your guilty plea might get rejected or “struck” by the Judge if the Judge perceives, either by your words or your conduct at the time of the plea, that you are not potentially guilty of the offences(s) you are facing and/or you are not in agreement with the synopsis as read. This situation can happen at any time and if your plea is rejected, the only alternative might be set a trial date. **The Judge does not have to accept your guilty plea; you will have to go to trial if you are not guilty of the offence.**

****Note:** *This information sheet was prepared by Metro North Duty Counsel and is for general information purposes only. If you have any questions regarding the information provided in this handout, please consult the Duty Counsel office or another criminal lawyer. This information is made available by The Salvation Chaplain's office.*

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Guilty Plea / Resolution

Before You Enter A Guilty Plea....

If you want to enter a guilty plea or resolve the charges(s), you must **admit to the court that you committed the offence**. In order to admit the offence to the court you must agree that you not only actually **COMMITTED** the offence but that you also **INTENDED** to commit the offence. You need both the “**intent**” and the “**action**” in order to have a criminal offence. More importantly, **you should NOT plead guilty if you feel that you have a DEFENCE**. For example, if you are charged with shoplifting you must admit that you not only **took** the item from the store **but** that you **intended** to steal that item. If you **forgot** to pay for that item you do **not** have the **INTENT** therefore you have a defence and you should **NOT** enter a guilty plea. Some people want to enter a guilty plea “to get it over with” or because they do not have a lawyer or cannot afford a lawyer. Other people will want to enter “guilty plea with an explanation” and very often, the “explanation” is actually a defence to the charge (and that type of plea is usually rejected by the Judge).

Please understand that you have alternatives and a **guilty plea to a criminal offence should not be done lightly**. Very often the consequence of a guilty plea is that you get a **CRIMINAL RECORD** and a criminal record can have serious repercussions in various fields such as current and future employment, immigration status, travelling outside Canada, other court proceedings (e.g. Family, civil, etc.) and other areas as well. You should explore the consequences of having a criminal record **BEFORE** pleading guilty. In other cases you might not only face a record, you might be facing far more serious consequences such as jail. It is therefore important that you obtain some advice before proceeding with a guilty plea. You should also be aware of the Crown Attorney's position on your guilty plea, i.e. What will the Crown ask by way of sentence if you enter a guilty plea.

GUILTY PLEA:

A guilty plea has 5 parts, **First**, the process starts with the “**Plea Comprehension Inquiry**”, reviewed by the Judge. **Second**, the reading of the charge or accusation against you and you are asked if you plead guilty or not guilty. **Third**, the reading of the synopsis by the Crown Attorney. **Fourth**, the submissions (or speeches) to sentence, presented by the defence and the Crown Attorney; you also get to speak to the Judge. **Finally**, the last step is the sentence or punishment, imposed by the Judge.

If you intend to proceed with a guilty plea you must carefully review the documents given to you by the Crown Attorney and agree with the synopsis BEFORE you enter a guilty plea. The synopsis is part of the disclosure and is a document prepared by the police; the synopsis describes your offence from the perspective of the police and the complainant. The Crown Attorney will read that synopsis if you pled guilty, therefore read it and make sure that it is mainly accurate. Your guilty plea will take place before a judge. When it is time to enter your plea, you will be asked to come forward and stand before the Judge. First, some Judges will start the guilty plea by either verbally review a “Plea Comprehension Inquiry” with you and other judges will require that you fill one in writing. The purpose of the “**Plea Comprehension Inquiry**” is to make sure that you understand all of the following points:

1. You have the right to plead not guilty and that by pleading guilty you are giving up your right to a trial; in other words, you cannot plead guilty then have a trial
2. Your guilty plea is voluntary; no one is forcing or making any promises to you
3. You do not have a defence.
4. You are admitting your guilt in respect of the essential elements of the offence (e.g. you **took** some merchandise at a store and you **did not intend to pay for it**).
5. The Judge will decide what kind of punishment you will receive and the Judge does not have to follow the opinion of the Crown Attorney and/or the defence as to what kind of punishment you should receive. **The Judge, and only the Judge, will make that final decision.**

The Clerk will read the information to you (brief description of the offence, including the date and will ask you how you plead i.e. “guilty or not guilty?”. If you say, guilty, the Crown Attorney will then read the synopsis. After the synopsis is read the Judge will ask you if you the synopsis is correct. If you say “yes”, the Judge will then hear from the Crown Attorney and the Defence as to what kind of punishment you should receive. If you do not have a lawyer to assist you, the Judge will talk to you directly. If you tell the court that you are not guilty or that essential parts of the synopsis are not correct, your guilty plea will get rejected or cancelled and you may have to return to court and set a trial date. A Judge will NOT Accept a plea for someone who says they are NOT guilty of the offence.

SENTENCE / PUNISHMENT

This part is crucial as it will determine what type of sentence/punishment you will receive from the Judge. Before passing sentence, the Judge may want to hear about some of your personal background. Some Judges will ask you some questions directly while others will simply ask you to speak about yourself. The purpose of this is to assist the Judge in understanding your personal situation. Some Judges will also want to know what you have done, since the offence took place to either improve yourself (work, counseling, treatment, etc...) or to show some remorse such as volunteer hours, bring in a letter of apology, bringing funds to court to repair damages (eg. broken window), etc. As well some Judges will want to know why you committed the offence or what led you to the commission of this offence.

On some occasions, a report called a “pre-sentence report” **might** be ordered by the Judge, to obtain more background information on you. A pre-sentence report is prepared by a probation officer and usually included comments by you and also some of your family members, employers, etc. It often suggests a form of sentence. This report contains information about your family,