

# Calgary Youth Criminal Courts – Courtroom 303 – Remote Out of Custody Applications (Including Guilty Pleas)

Effective: May 19, 2020

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## **Purpose:**

As the Provincial Court of Alberta moves towards Stage 5 of the Court Pandemic Plan and begins to contemplate a resumption of normal operations, the purpose of this practice note is to create a process that permits the Court to remotely hear applications, including out of custody guilty pleas, that would not have otherwise been considered “urgent”.

This protocol will apply to those matters where Defence Counsel/Duty Counsel/Agent\* (hereinafter referred to as Counsel) and the Crown have agreed that the matter should be addressed at this time and either leads to the conclusion of the matter or deals with an issue where there is a present need to have it addressed. This will include, but not necessarily be limited to, guilty pleas, peace bonds, either referrals to or returns from Diversion programs, as well as amendments to release conditions or other Court Orders.

With respect to guilty pleas, this protocol will only apply to matters where either a joint submission will be presented for the Court’s consideration that does not involve a (further) period of incarceration or, should Counsel not be presenting a joint submission, where the Crown will not be seeking a (further) period of incarceration. The entire proceeding should not take more than 30 minutes and should not involve the ordering of any reports.

This protocol applies to individuals who are represented by Counsel and does not include self-represented individuals at this time.

## **Procedures/Guidelines:**

### **Pre-Court:**

1. Counsel who have an out of custody matter that they wish to address will contact the assigned Crown to discuss and agree upon the following:
  - a. In the case of a multi-count information or multiple informations, the charges that will be addressed;
  - b. An Agreed Statement of Facts that will be presented to the Court supporting the application/guilty plea(s), either orally or in writing; and
  - c. Any supporting documents or potential exhibits (this can include previous reports) must be emailed to the Court two days in advance of the scheduled hearing to: [PCYouthApp.Calgary@csadm.just.gov.ab.ca](mailto:PCYouthApp.Calgary@csadm.just.gov.ab.ca)

2. Counsel will be required to obtain their client's consent to proceed under this protocol and to fully canvass the provisions of Section 606(1.1) of the *Criminal Code* with their client in advance of the court appearance.
3. The Crown shall forward to the Trial Coordinator, by email ([trialcoordinator.fycalgary@albertacourts.ca](mailto:trialcoordinator.fycalgary@albertacourts.ca)), the name of the young person, docket numbers, the previous court date and common appearance dates as agreed between the Crown and Counsel in advance. Based on the common dates provided, the Trial Coordinator will then advise the Crown and PC Youth of the designated appearance date, time and courtroom number.
4. The Alberta Crown Prosecution Services (ACPS), the Public Prosecution Service of Canada (PPSC) and Counsel for the accused will make available to the Court, through the relevant proxy email address, a list of names and telephone numbers of the respective Prosecutor(s) and Counsel for the accused two days in advance of the designated appearance date. This shall be emailed to [PCYouthApp.Calgary@csadm.just.gov.ab.ca](mailto:PCYouthApp.Calgary@csadm.just.gov.ab.ca).
5. Should Counsel want the accused to appear by a separate telephone number, Counsel shall make that number available two days in advance of the designated appearance date by emailing it to [PCYouthApp.Calgary@csadm.just.gov.ab.ca](mailto:PCYouthApp.Calgary@csadm.just.gov.ab.ca).
6. All Counsel who are appearing remotely are required to email the Court at the relevant proxy email address, noted in para 4, no later than 2:00 p.m. on the day preceding the scheduled appearance with the following details:
  - a. The subject line of the email **must include** the courtroom number and the date of the scheduled appearance;
  - b. The body of the email must include the name and address of the person for whom Counsel will be appearing, the docket number (if available) the contact number where Counsel can be reached, the name of Counsel (if this is not clear in the email address) and the contact number where the young person can be reached (if the client is not with Counsel); and
  - c. The body of the email must also include the young person's current mailing address for service and telephone number, even if it has been provided to facilitate the young person's attendance.
7. Nothing in this protocol prevents Counsel from applying to the Court to proceed in the absence of the accused or in any way fetters the discretion of the presiding Judge to direct the accused to appear in person.

### **Court Proceedings:**

8. The designated courtroom clerk (Clerk) will first contact the Crown(s) assigned to the courtroom. It is expected that the Crown will remain available on the telephone until all matters relevant to their prosecution service have been completed.
9. All Counsel must be ready to proceed with their matters at 9:30 a.m. the day the matter is to be heard.
10. The Clerk will begin calling Counsel matters in the courtroom at 9:30 a.m. using the telephone numbers provided. Counsel are asked to be prepared to speak to all of their matters when contacted by the Clerk. Counsel are expected to be available that morning for when their matters are called. The Clerk will telephone the accused using the contact information provided by Counsel for the accused.
11. In the event the presiding Judge hearing the matter rejects the joint submission and determines that a fit sentence may include a period of incarceration, the hearing will be adjourned and the accused will be directed to appear in person before the Court on a fixed date and time.
12. Cases involving the young person being referred to or a return from Extra Judicial Sanctions, Family Functional Therapy or Mental Health Diversion can be dealt with under this protocol.
13. Cases that involve the reading of a Victim Impact Statement, a restitution request or the preparation of a Section 34 Report are not eligible for this protocol.
14. The Agreed Statement of Facts shall be read into the record and acknowledged by the young person on the record.

### **Post-Court:**

15. Any probation or ancillary order, such as a Section 51 Firearms Prohibition or DNA Order, granted by the Court shall be read on the record by the Judge and the young person shall acknowledge that they understand the terms and conditions of the order. If the young person is sentenced to probation, the Probation Order and any ancillary order shall be reviewed by the Probation Officer with the young person. If it does not include probation, the presiding Judge can order the young person to attend at the courthouse to enter into the orders or direct that they be served by mailing them to the address provided to the Court in para 5 and have them read to the young person over the phone at a time and date set by the Court.

\*Agents are those persons permitted to appear before the Court pursuant to Section 802.1 of the *Criminal Code*, including an agent as described under Alberta Order in Counsel 334/203.

As per: A.C.J. Cornfield  
Calgary Family & Youth Court

Date: May 7, 2020