

PRACTICE NOTE
REMOTE OUT OF CUSTODY APPLICATION
INCLUDING GUILTY PLEAS
NORTHERN REGION

April 2020

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 otherwise have 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 and 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 Courts consideration that does not involve a (further) period of incarceration, or should Counsel not be presenting a joint submission, the Crown will not be seeking a (further) period of incarceration.

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

Procedure/Guidelines:

Pre-Court:

1. Counsel who have an out of custody matter that they wish to address will contact the assigned Crown Prosecutor 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;
 - c. Any supporting documents that will be referenced during the hearing. It will be the responsibility of Counsel relying on the document to ensure it is emailed to the Court in accordance with the practice set out below.
2. Counsel will be required to obtain their client's consent to proceeding under this protocol and to fully canvass the provisions of section 606(1.1) of the *Criminal Code* with their client(s) in advance of the court appearance.
3. The Crown Prosecutor assigned to the Court will be responsible for ensuring that matters to be resolved are brought forward to the date and time set by the Court and agreed upon with Counsel.
4. The Alberta Crown Prosecution Service (ACPS), the Public Prosecution Service of Canada (PPSC) and Counsel for the accused will make available to the Court through the relevant proxy e-mail 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 court sitting day.

Grande Prairie grpp@csadm.just.gov.ab.ca

High Prairie hipp@csadm.just.gov.ab.ca

Peace River peap@csadm.just.gov.ab.ca

High Level hilp@csadm.just.gov.ab.ca

5. All Counsel who are appearing remotely are required to email the Court at the relevant proxy email address, noted in paragraph 4, no later than 4:00 p.m. on the day preceding the scheduled appearance;
 - a. The subject line of the email **must include** the Courtroom number and the date of the scheduled appearance.
 - b. The body of the e-mail 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 that is not

clear in the email address, and the contact number where Counsel's client can be reached if the client is not with Counsel.

6. 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:

7. The designated courtroom clerk (clerk) will first contact the Crown Prosecutor(s) assigned to the courtroom. It is expected that the Crown Prosecutor will remain available on the telephone until all matters relevant to their prosecution service have been completed.
8. All Counsel must be ready to proceed with their matters as of court commencement at the relevant location.
9. The clerk will begin calling Counsel at court commencement using the telephone number provided. Counsel are asked to be prepared to speak to all of their matters when contacted by the clerk.
10. 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 directed to appear in person before the Court on a fixed date and time.

Pre-Sentence Reports, Gladue Reports, Victim Impact Statements

11. In the event it becomes necessary to order a Pre-Sentence Report, a Gladue Report, or other reports for the purpose of sentencing, or if a victim impact statement is received and the victim has requested that their statement be read in Court, then the matter shall be adjourned for that purpose.

Post Court:

12. In the event the sentence proposed by the presiding Judge requires that an Order be prepared, the clerk will prepare the

Order and email it to Counsel for the offender at the email provided by Counsel. Counsel will then provide the Order to the offender for signing and will then use their best efforts to return the Order forthwith to the Court. The offender will be required to contact the clerk within two business days or as directed and the clerk will explain to the offender the terms of the Order as may be required by the provisions of the *Criminal Code* and the clerk will place an endorsement on the file that the accused has been so advised.

Irregularities:

13. All parties must be prepared to waive procedural irregularities that may arise as a result of the use of this protocol.

*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.