

Practice Note:

**Provincial Court of Alberta
“Criminal Division” and “Family & Youth Division”**

**Notice to the Profession
Publication Bans (#2)**

1. **This Practice Note is in effect as of February 1, 2005** and applies to proceedings conducted in the Criminal Division and in the Family & Youth Division of The Provincial Court of Alberta. This Note supersedes any previous Practice Note in relation to this topic.
2. This Practice Note applies to members of the Law Society of Alberta who intend to apply for a court Order which restricts public access to, or the media’s ability to fully report on, court documents or proceedings (made pursuant to a judge’s common law or legislated discretionary authority) and includes without limitation restrictions on publication or rights of access, such as:
 - a. Publication bans under s.486 of the Criminal Code;
 - b. Orders which partially, or completely, seal evidence taken in such proceedings, excepting, those matters which pertain to the signing of general search warrants, special warrants, assistance Orders and matters related thereto;
 - c. Use of pseudonyms;
 - d. In Camera Orders;
 - e. Orders restricting access to and copying of exhibits; and
 - f. Orders permitting witnesses or participants in judicial proceedings to testify in a manner that would prevent their identification, under s.486 of the Criminal Code.
3. This Practice Note does not apply to any mandatory statutory publication bans or mandatory Orders, (including without limitation those authorized pursuant to the Criminal Code).
4. “Interested Parties” includes the parties to the proceedings. Any electronic or print media representative who wishes to receive notice pursuant to this Practice Note may register as an “interested party.” In order for an electronic or print media representative to register:
 - a. such media representative must name a member of the Law Society of Alberta to receive notice on behalf of the media representative; and
 - b. provide and maintain a current email address for such member of the Law Society, which email address shall be utilized in providing notice in accordance with paragraphs 8 & 9.
5. On application to the Court, any other person may be named an interested party.
6. Except with leave of the Court, counsel, on behalf of an accused, a witness or a justice system participant (as referred to in s.486 of the Criminal Code) **must** file a written copy of the Notice of the Application and provide the notice required pursuant to paragraphs 8 & 9 hereof at least **three clear days** before the beginning of the trial, application or proceeding or matter to which the ban

or Order is to apply. In appropriate circumstances, the Court may direct that notice of any Application be given to such additional parties as the Court deems necessary.

In completing the Notice of Application required pursuant to paragraphs 8 & 9 hereof, any party applying must provide a description sufficient to provide recipients of the notice with an understanding of the nature of the intended application.

7. The application must be made to the judge assigned to hear the case. If that judge is unknown or unavailable, the application must be made to the case management judge. If there is no case management judge, the application must be made before the Chief Judge, an Assistant Chief Judge, or their respective designate.
8. Unless otherwise ordered, the application must be on notice to Interested Parties, including any electronic or print media representative who has registered as an "interested party" in accordance with this Practice Note. The Applicant may apply to the Court for further directions as to the parties to be served and the manner of service.
9. Unless otherwise ordered by the Court, notice to the electronic or print media who are registered as an "interested party" must be given by completing and submitting the notice prescribed in Form "A" on:
 - a. the Alberta Courts web site (www.albertacourts.ab.ca) and linking to Provincial Court – Criminal - Publication Bans (or Provincial Court – Criminal - Electronic filing of Notice of Application for Publication Ban (Practice Note & online form)). If such web site is not accessible, notice must be given by email or fax to media who have provided a fax number or an email address to the Clerk of the Court for the purpose of receiving such notice, **and**
 - b. at a place reserved for posting notice at the court location where the application will be made.
10. Access to the above website will be "by password only," and such password(s) as may be required will be provided to members of the Law Society of Alberta in the manner directed by the Chief Judge, or his/her designate.
11. Any person or entity who is not a party to the proceedings, and who claims an interest in the proceedings must apply to the Court for standing to be heard at the application.

Sealing / Unsealing Court Files

12. An application to seal the entire court file, or an application to set aside a sealing order, must be made to the Chief Judge, an Assistant Chief Judge, or their respective designate, who may make such directions as to the parties to be served, the time for and the manner of service of notice which, in their discretion, they determine to be appropriate.

DATED this 12th day of January 2005.



The Honourable E.J.M. Walter
Chief Judge of the Provincial Court of Alberta