



# The Provincial Court of Alberta

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**Effective Date:** December 1<sup>st</sup>, 2018

**Court:** All Criminal Courts

**Practice Direction:** 2018-ACC-03

**Name:** Adjournment of Trials and Preliminary Inquiries

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## **Purpose:**

Sometimes it becomes necessary to adjourn a scheduled trial or preliminary inquiry. This happens for a variety of reasons including witness unavailability, disclosure issues, counsel conflict, illness and unforeseen circumstances. Post-*Jordan*, the Supreme Court requires trial courts, when considering whether to grant an adjournment, to curtail unreasonable delay, ensure cases are fairly adjudicated in a timely way, and at all times maintain respect for the administration of justice.

The purpose of this practice direction is to outline the basic principles the Court will consider when asked to grant an adjournment of, or approve the rescheduling of, previously adjourned matters, and to set out the Court's expectation as to the time within which adjourned matters must be scheduled.

## **Application & Effective Date:**

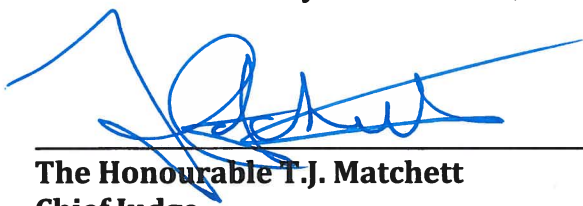
As of December 1<sup>st</sup>, 2018, all criminal courts in the Province of Alberta will be governed by this practice direction.

## **Practice Direction:**

1. An application to adjourn a scheduled trial or preliminary inquiry shall be brought immediately after the need for such an application arises and notices shall be given to all other parties or their counsel.
2. The presiding Judge has the authority to control the trial process. That authority includes a wide discretion to grant or refuse adjournments. When deciding whether to grant an adjournment and, if granted, its length, the Court's consideration will include:
  - a) the timelines prescribed by the Supreme Court in *R v Jordan*, 2016 SCC 27;
  - b) any pre-existing Court orders;

- c) the length of time the matter was before the Court and the history of any procedural delays;
  - d) availability of court time;
  - e) recognition of the rights of the accused including the right to be tried within a reasonable time;
  - f) the need to deal with the prosecution and defence fairly;
  - g) recognition of the interests of witnesses called to testify and the inconvenience caused to them because of an adjournment;
  - h) the severity of the consequences for the accused, the prosecution and, any other persons affected if the adjournment is, or is not, granted;
  - i) the complexity of the issues raised by the matter;
  - j) other relevant considerations raised as a result of the adjournment request.
3. Where the Court grants an adjournment, absent exceptional circumstances, the matter is to be rescheduled as soon as is reasonably practicable but in any event within two months of the date of the adjournment. With respect to the party making the adjournment application, that party should expect that the Court may order the matter proceed peremptorily.
  4. Where an adjournment application is to be made, all counsel and unrepresented litigants are expected to have their calendars and witness availability information accessible to them in the courtroom to assist in the rescheduling of the matter.
  5. Counsel can expect judges to take an active supervisory role in the rescheduling of the case. The rescheduled date will be discussed and agreed upon in open court and on the record, with the judge making the final decision as to when the matter will next proceed.
  6. Once a date has been agreed upon or directed, the matter can then be scheduled in accordance with the normal practice in place in the jurisdiction (i.e. at the CMO counter or in the courtroom).
  7. If the adjournment is because of the need to continue a trial or preliminary inquiry, then the provisions of the Continuous Trials Practice Direction 2018 ACC 02 applies.

**Issued this 23<sup>rd</sup> day of November, 2018 by direction of**



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**The Honourable T.J. Matchett  
Chief Judge  
The Provincial Court of Alberta**