

PRACTICE NOTE
REMOTE OUT OF CUSTODY APPLICATIONS
INCLUDING GUILTY PLEAS

SOUTH REGION
Effective April 27th, 2020

This Practice Note is published pursuant to the Remote Out of Custody Applications Including Guilty Pleas – Guidelines published on the Provincial Court website on April 23, 2020. This Practice Note applies during the period of reduced Court operations related to the COVID-19 pandemic.

Background:

1. 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’.

Application:

2. This protocol will apply to those matters where Defence Counsel/Duty Counsel/Agent¹ (hereinafter referred to collectively 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.
3. 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, where the Crown will not be seeking a (further) period of incarceration.

¹ 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 Council 334/203

Procedure/Guidelines:

Pre-Court Proceedings:

4. Prior to the Court application being made:
 - a. for guilty pleas, Counsel and the assigned Crown Prosecutor will agree upon the charges to be addressed, the facts to be presented, and any supporting documents to be referenced, and
 - b. for other appearances, Counsel will contact the assigned Crown Prosecutor to request that the matter be heard in Remote Appearance Court.
5. Counsel and the Crown Prosecutor are required to provide the information contained in the Remote Appearance Court Forms (Criminal) and provide the documents specified in the Forms, including the Agreed Statement of Facts if available by noon on the day preceding the scheduled appearance.

Court Proceedings:

6. The Courtroom will not be accessible for personal attendance, without an Order from the Court.
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 11:00 a.m.
9. The clerk will begin calling Counsel at 11:00 a.m. using the telephone number provided. Counsel are asked to be prepared to speak to all of their matters when contacted by the clerk.
10. Nothing in the Practice Note in any way fetters the discretion of the presiding Judge in determining a fit sentence or in directing the accused to appear in person. A Judge may decline to hear a matter if the Judge is of the opinion that it is inappropriate to proceed with the specific case in the absence of personal attendance of the accused, or for any other reason.

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 Proceedings:

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 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*. The clerk will place an endorsement on the file that the offender 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.

Derek G. Redman
Assistant Chief Judge, South Region
Provincial Court of Alberta

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