

Alberta Court of Appeal
Request for Comments 2016-1
Part 16 - Criminal Appeal Rules

The Alberta Court of Appeal is considering the adoption of new Criminal Appeal Rules and Forms.

The Alberta Court of Appeal is now requesting comments from the public and the Bar on the draft Criminal Appeal Rules and Forms. Submissions are requested by April 30, 2016, and should be sent to the Edmonton Case Management Officer, Bobbi Jo McDevitt:

Bobbi.McDevitt@albertacourts.ca,
subject line: “Criminal Appeal Rules”.

or Bobbi Jo McDevitt, Alberta Court of Appeal,
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Background

The Criminal Appeal Rules are made under the authority of section 482 of the *Criminal Code*. The present rules were adopted in 1977, and have been supplemented by lengthy Practice Directions. The proposed Criminal Appeal Rules are a complete rewrite of the 1977 rules, and better reflect the existing practice.

The draft Criminal Appeal Rules continue to use the Civil Appeal Rules (Part 14 of the *Alberta Rules of Court*) as a base. Unless some variation is required to reflect criminal practice, the Civil Appeal Rules with respect to “standard appeals” apply: see draft R. 16.3.

New Criminal Appeal Forms have also been prepared. The Consolidated Practice Directions respecting Criminal Appeals have, to a large extent, been incorporated directly into the Criminal Appeal Rules. Comments on the draft Forms and the remaining Consolidated Practice Directions are also requested.

Highlights

The public and the Bar are encouraged to review the entire text of the draft rules, but the following provisions are highlighted.

Appeals by Self Represented Appellants in Custody. An attempt has been made to minimize the changes to the procedure for commencing this category of appeal, because the correctional institutions are accustomed to the existing practice, which appears to work well: R. 16.6.

Deadlines for Filing Appeal Records. A number of the deadlines applicable to criminal appeals have been varied or clarified, in part to provide consistency between civil and criminal appellate practice:

- The appeal record in a conviction appeal must be prepared and filed promptly, and no later than 4 months from the date on which the notice of appeal was filed: R. 16.12(1)(d). The existing rules have no specific deadline.
- The deadline for filing an appeal record in a sentence appeal, which is presently specified only in the Practice Direction, has been shortened:
 - from 4 months to 3 months after the notice of appeal is filed (in the case of sentence only appeals where the sentence is greater than 6 months): R. 16.12(1)(b).
 - from 3 months to 2 months after the conviction appeal is dismissed or abandoned (in the case of a conviction and sentence appeal): R. 16.12(1)(c).

All of the presumptive time deadlines in the rules have been set to accommodate the “average” case. The Case Management Officer can extend times whenever required.

Deadlines for Filing Factums. The draft rules clarify the timelines for filing the appellant’s factum. Under the existing R. 840(3) the timelines in civil R. 14.23 apply. The appellant’s factum in a conviction appeal must be filed within 2 months of the filing of the appeal record, and 6 months of the filing of the notice of appeal. Rule 840(6.1) provides a “drop dead” provision, whereby the appeal is “deemed to have been abandoned” if the appellant’s factum is not filed within four calendar months of the preparation of the Appeal Record. The four calendar month timeline is not, however, the presumptive time limit for filing the appellant’s factum.

Draft R. 16.15(3) provides that:

- (a) the appellant’s factum in a conviction appeal must be filed within 2 months of the filing of the appeal record, and 6 months of the filing of the notice of appeal,
- (b) the appellant’s factum in a sentence only appeal must be filed within 2 months of the filing of the appeal record, and 4 months of the filing of the notice of appeal, and
- (c) the appellant’s factum in the sentence portion of an appeal as to conviction and sentence must be filed within 3 months of the resolution of the conviction appeal.

The deadline for filing a respondent’s factum in a conviction appeal is 2 months from service of the appellant’s factum: R. 16.15(5). The existing rules have no specific deadline. The Case Management Officer can extend times whenever required.

Remedies for Late Filing. If the appellant’s filing deadlines are missed and:

- the appellant is self-represented and is in custody, the Registrar may refer the appeal to a single appeal judge for directions: R. 16.12(2), 16.15(4);

- the appellant is self-represented but is not in custody, the appeal will be struck: R. 16.12(2), 16.15(4). (At present appeals are not struck where the appellant is self-represented); and
- the appellant is represented by counsel, the appeal will be struck: R. 16.12(2), 16.15(4). This is new for conviction appeals only.

Service of Crown Appeals. A notice of appeal or application for permission to appeal filed by the Crown can be served on trial counsel who were designated under section 650.01 of the *Criminal Code*, but counsel does not thereby become counsel of record on the appeal: R. 16.9(1)(b), 16.9(4).

Permission to Appeal. The existing practice is maintained. A separate application for permission to appeal is required for the types of appeal listed in R. 16.4(1) (e.g., summary conviction appeals). In other matters, the application for permission to appeal will be heard with the appeal (the most common example being sentence appeals, where the application for permission to appeal has traditionally been heard with the appeal, except where judicial interim release is applied for in a sentence only appeal).

Appeals of both Conviction and Sentence. As is the present practice, it is proposed that the conviction portion of an appeal will be heard first, followed later by the sentence appeal: R. 16.11(2). (Note that in some other provinces, the two appeals are heard together: see *R. v M.W.*, 2015 ONCA 644 at paras. 6-7.) After the conviction appeal is resolved, the sentence component of the appeal will be scheduled for hearing, notwithstanding any potential appeal to the Supreme Court of Canada: R. 16.19(3).

The Court invites comments on these and any other aspects of the draft Criminal Appeal Rules.

January 21, 2016

Court of Appeal of Alberta
Criminal Appeal Rules
Draft #7R

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Part 16

Criminal Appeal Rules

These Rules are made by the Court of Appeal pursuant to section 482 of the Criminal Code, and are included with the civil rules for convenience.

Division 1

Interpretation and Application

What this part applies to

16.1 This Part applies to all criminal appeals to the Court of Appeal, including those arising from or under the appeal procedures set out in:

- (a) the *Criminal Code*;
- (b) the *Extradition Act*;
- (c) the *Youth Criminal Justice Act*;
- (d) the *Provincial Offences Procedure Act*.

References: *Criminal Code*: s. 482 - power to make rules of court. *Extradition Act*: s. 52 - rules of court. *Provincial Offences Procedure Act*: s. 19(2) - procedure on appeals.

Defined Terms: *Criminal Code*: s. 2 & s. 673 - Court of Appeal. *Rules of Court*: rule 14.1 - appeal, criminal appeal.

Definitions

16.2(1) Unless otherwise specified in this Part, and as the context requires:

- (a) terms used in this Part have the same meaning as in the *Criminal Code* or the *Provincial Offences Procedure Act*;
- (b) the definitions in the civil rules apply to this Part.

(2) In this Part:

- (a) “Attorney General” has the meaning set out in section 2 of the *Criminal Code*;
- (b) “civil rules” means the *Alberta Rules of Court* (AR 124/2010);
- (c) “criminal appeal” means an appeal to which this Part applies;
- (d) “conviction appeal” means an appeal from a conviction, acquittal or stay, or any decision that otherwise concludes criminal proceedings, other than a sentence appeal, including

- (i) any decision described in section 672.72, subsection 675(3), and sections 676, 784 and 839 of the *Criminal Code*,
 - (ii) an appeal from a costs order in a criminal matter,
 - (iii) an appeal or review of a decision under the *Extradition Act*,
 - (iv) an appeal from a decision of a court that a person is unfit to stand trial or is not criminally responsible on account of mental disorder under Part XX.1 of the *Criminal Code*, and
 - (v) any appeal with respect to a finding that an offender is a dangerous offender or long-term offender.
- (e) “Court” means the Court of Appeal of Alberta;
- (f) “permission to appeal” means
- (i) an application for leave to appeal,
 - (ii) an application for a certificate of sufficient importance justifying a further appeal, and
 - (iii) an application under section 680 of the *Criminal Code* for review of an interim release decision;
- (g) “self-represented appellant” means an appellant who is not represented by counsel;
- (h) “sentence appeal” means an appeal from a sentence, direction respecting parole, or other disposition following conviction, including the declarations, orders and dispositions listed in section 673, paragraph 675(1)(b) and paragraph 676(1)(d) of the *Criminal Code*, but not an appeal with respect to a finding that an offender is a dangerous offender or long-term offender.

References: *Criminal Code*: s. 2 and s. 673 - definitions; s. 680 - review of bail; s. 759 - dangerous and long-term offenders. *Provincial Offences Procedure Act*: s. 19(1) - certificate warranting further appeal.

Defined Terms: *Criminal Code*: s. 2 - Attorney General, counsel; s. 2 & s. 673 - Court of Appeal; s. 673 & s. 785 - sentence; s. 672.1 - disposition. *Rules of Court*: rule 14.1 - appeal, appellant, decision.

Application of civil rules

16.3(1) Subject to this Part, to any enactment, and to any direction by a case management officer or an appeal judge, if this Part does not deal with a matter, Part 14 (including rule 14.2) applies to criminal appeals with any modifications that the circumstances require.

(2) For greater certainty, the following provisions of the civil rules do not apply to criminal appeals:

- (a) Part 5 [*Disclosure of Information*];

- (b) Part 14, Division 1, Subdivision 2 [*Appeals as of Right*];
- (c) Part 14, Division 1, Subdivision 3 [*Appeals with Permission*];
- (d) Part 14, Division 1, Subdivision 4 and rule 14.11 [*Cross appeals*];
- (e) Part 14, Division 5, Subdivision 3 [*Settlement Using Court Processes*];
- (f) Part 14, Division 5, Subdivision 4 [*Judicial Dispute Resolution on Appeal*];
- (g) Part 14, Division 5, Subdivision 7 [*Security for Costs*];

References: *Criminal Code*: s. 482 - power to make rules; s. 683(3) - powers in civil appeals apply.
Extradition Act: s. 52 - rules of procedure.

Defined Terms: *Rules of Court*: rule 14.1 - appeal, case management officer, judge; rule 16.2 - civil rules, criminal appeal.

Division 2

Starting an Appeal

Permission to appeal

16.4(1) Where an appellant requires permission to appeal because,

- (a) leave to appeal to the Court is required under the *Criminal Code* in a summary conviction matter,
- (b) a direction is required under section 680 of the *Criminal Code* for review of an order respecting judicial interim release,
- (c) a certificate of sufficient importance is required to appeal under the *Provincial Offences Procedure Act*, or
- (d) the appeal is of an order respecting costs,

the appellant shall bring an application for permission to appeal pursuant to rule 14.40 [*applications to single appeal judges*], rule 16.20 [*format of applications*], rule 16.21 [*permission to appeal*], and Form CRA-C, and if permission is granted shall file a notice of appeal pursuant to rule 16.7 [*how to start an appeal*].

(2) The application for permission to appeal must be brought within

- (a) the time stated in any enactment for commencing the appeal, and
- (b) if paragraph (a) does not apply, one month after the date of the decision.

(3) In all cases not listed in subsection (1), where permission to appeal is required the appellant shall file a notice of appeal pursuant to rule 16.7 [*how to start an appeal*], and unless otherwise ordered the application for permission to appeal will be deemed to be included in the notice of appeal, and will be heard by the panel hearing the appeal.

References: *Criminal Code*: s. 675(1)(a)(ii and iii) - leave to appeal other than on question of law; s. 675(1)(a)(ii) - certificate of trial judge allowing appeal; s. 675(1)(b) & 676(1)(d) - leave to appeal against sentence; s. 675(1.1) & 676(1.1) - combined indictable and summary conviction appeal; s. 676.1 - appeal re costs; s. 678 - notice of appeal; s. 680 - review of bail; s. 839 - summary conviction appeals. *Extradition Act*: s. 49 - leave to appeal. *Provincial Offences Procedure Act*: s. 19(1) - certificate of sufficient importance.

Defined Terms: *Criminal Code*: s. 2 & s. 673 - Court of Appeal. *Rules of Court*: rule 14.1 - appellant, appeal, decision, file, panel; rule 16.2 - permission to appeal; rule 16.5 - date of decision.

How to start an appeal

16.5 In this Part, “date of decision” means the later of

- (a) the date that the decision being appealed is made,
- (b) for a conviction appeal, where the sentencing occurs later than the conviction decision, the date the sentencing decision is made.

Defined Terms: *Criminal Code*: s. 673 & s. 785 - sentence. *Rules of Court*: rule 14.1 - appeal, conviction appeal, decision.

Self-Represented Appellants

16.6(1) A self-represented appellant who is in custody may start an appeal by filing with a senior officer of the institution in which the appellant is in custody, within the time specified in rule 16.7 [*The Notice of Appeal*], 3 copies of a notice of appeal in Form CRA-A.

(2) The senior officer must endorse on the notice of appeal the date it was received, return one copy to the appellant, retain one copy, and forthwith forward one copy to the Registrar.

References: *Criminal Code*: s. 678 - notice of appeal. *Extradition Act* s. 50 - commencing an appeal.

Defined Terms: *Criminal Code*: s. 2 - senior officer; s. 673 - registrar. *Rules of Court*: rule 14.1 - appeal, appellant, file, registrar; rule 16.2 - self-represented appellant.

The Notice of Appeal

16.7(1) Subject to rule 16.6 [*self-represented appellants*], appeals must be started by filing with the Registrar 3 copies of a notice of appeal

- (a) using Form CRA-A for an appeal by a self-represented appellant;
- (b) using Form CRA-B for all other appeals.

(2) The notice of appeal must be filed within

- (a) the time for starting an appeal stated in an enactment,
- (b) if the appellant is granted permission to appeal, 10 days after permission to appeal is granted, or
- (c) if subparagraphs (a) and (b) do not apply, one month after the date of decision,

and subject to rule 16.8 [*service of the notice of appeal*] by serving one additional filed copy of the notice of appeal within those time limits on every other party.

Information note

The deadline for appealing a disposition under section 672.72 of the *Criminal Code* is 15 days after receipt of a copy of the placement or disposition decision. The deadline for appealing under section 50 of the *Extradition Act* is 30 days from the decision.

If convictions are entered, or sentences are imposed simultaneously by a trial judge in connection with both a summary conviction matter and an indictable matter, both matters may be appealed together to the Court of Appeal: *Criminal Code*, subsections 675(1.1) & 676(1.1).

References: *Criminal Code*: s. 672.72 - appeal of disposition; s. 678 - extending time to appeal. *Extradition Act* s. 50 - commencing an appeal; s. 50(2) - extending time to appeal.

Defined Terms: *Criminal Code*: s. 2 & s. 673 - Court of Appeal; s. 672.1 - dispositions; s. 673 - registrar; s. 673 & 785 - sentence. *Rules of Court*: rule 14.1 - appeal, appellant, decision, file, party, registrar; rule 16.2 - self-represented appellant, permission to appeal; rule 16.5 - date of decision.

Service of the notice of appeal

16.8(1) If the appellant is not represented by counsel, the Registrar must forthwith forward a copy of the application for permission to appeal or notice of appeal to the Attorney General or prosecutor.

(2) In all other cases the appellant must serve a filed copy of the application for permission to appeal or notice of appeal on the respondent and any other party in accordance with rule 16.9 [*method of service*], within the time specified in rule 16.7 [*the Notice of Appeal*].

References: *Criminal Code*: s. 4 - proof of service; s. 678 - notice of appeal; s. 678.1 - substitutional service

Defined Terms: *Criminal Code*: s. 2 - Attorney General, counsel, prosecutor; s. 673 - registrar; s. 785 - prosecutor. *Rules of Court*: rule 14.1 - appeal, appellant, registrar, respondent; rule 16.2 - Attorney General, permission to appeal.

Method of Service

16.9(1) Subject to rule 11.28 [*substitutional service*], an application for permission to appeal and a notice of appeal as of right filed by the Attorney General must be

- (a) personally served on the respondent, or
- (b) where the respondent was represented at the conclusion of the trial by counsel designated under section 650.01 of the *Criminal Code*, on that designated counsel.

(2) An application for permission to appeal and a notice of appeal as of right filed by a convicted person must be served on the Attorney General.

(3) Any documents other than an application for permission to appeal or a notice of appeal as of right subsequently required to be served in a criminal appeal may be served under rule 11.15 [*address for service*] or rule 11.17 [*service on lawyer of record*].

(4) A designated counsel served under rule 16.9(1)(b) does not by being designated or served become the lawyer of record on the appeal.

References: *Criminal Code*: s. 678 - service; s. 678.1 - substitutional service; s. 650.01 - designated counsel. *Rules*: rule 2.24 - lawyer of record; rule 11.28 - substitutional service.

Defined Terms: *Criminal Code*: s. 2 - Attorney General, counsel; s. 785 - trial. *Rules of Court*: rule 14.1 - appeal, file, respondent; rule 16.2 - permission to appeal, criminal appeal.

Variation of a sentence

16.10 When a sentence appeal is started by a convicted person, and the Attorney General proposes to argue on appeal that the sentence should be varied, the Attorney General must file and serve a Notice of Variation of Sentence using Form CRA-D on or before filing the respondent's sentence factum.

References: *Criminal Code*: s. 676(1)(d) - Attorney General appeal against sentence.

Defined Terms: *Criminal Code*: s. 2 - Attorney General; s. 673 & 785 - sentence. *Rules of Court*: rule 14.1 - appeal, file, respondent; rule 16.2 - Attorney General, sentence appeal.

Division 3

Appeal Documents

Types of appeal

16.11(1) Subject to this Part, the provisions of Part 14 [*Civil Appeals*] governing standard appeals apply to the preparation, format, and delivery of appeal materials in criminal appeals.

(2) Unless otherwise ordered, where an appeal is started from both conviction and sentence,

- (a) the two components of the appeal are to proceed as separate appeals, and
- (b) the appeal respecting conviction is to be adjudicated first.

References: *Criminal Code*: s. 482(3)(c) - power to regulate procedure in criminal matters.

Defined Terms: *Criminal Code*: s. 673 & 785 - sentence. *Rules of Court*: rule 14.1 - appeal, standard appeal; rule 16.2 - conviction appeal, sentence appeal.

Preparation of Appeal Record

16.12(1) The Appeal Record and Transcripts must be prepared promptly and filed and served forthwith after they are available, and

- (a) in an appeal from sentence only where the net sentence is 6 months or less, not later than 2 months from the date on which the notice of appeal was filed,

- (b) in an appeal from sentence only where the net sentence is greater than 6 months, not later than 3 months from the date on which the notice of appeal was filed,
- (c) for the sentencing part of any appeal as to both conviction and sentence, not later than 2 months from the date on which the conviction appeal was dismissed or abandoned, or
- (d) in all other appeals, not later than 4 months from the date on which the notice of appeal was filed.

(2) If the Transcripts are not ordered, or the Appeal Record is not filed and served within the applicable deadline, and an extension is not obtained

- (a) if the appellant is a self-represented appellant and is in custody, the Registrar may refer the appeal to a single appeal judge for directions, and
- (b) in all other cases, the appeal will be struck by the Registrar.

Defined Terms: *Criminal Code*: s. 673 - Registrar; s. 673 & 785 - sentence. *Rules of Court*: rule 14.1 - appeal, file, judge, registrar; rule 16.2 - conviction appeal, criminal appeal, self-represented appellant, sentence appeal.

Format of Appeal Record - conviction appeals

16.13 The Appeal Record for conviction appeals must meet the requirements of rule 14.21 [*Format of Appeal Record - standard appeals*] and must contain the following:

- (a) A Table of Contents as required by rule 14.18(1)(a);
- (b) Part 1 - Pleadings, consisting of
 - (i) the Information, Indictment or other originating document, and endorsements, and
 - (ii) for a further appeal in a summary conviction matter
 - (A) the written or transcribed reasons of the Provincial Court of Alberta, and
 - (B) the notice of appeal to the Court of Queen's Bench of Alberta.
- (c) Part 2 - Final Documents, which must include
 - (i) the written or transcribed reasons
 - (A) that led to the decision being appealed, and
 - (B) for any decision rendered during the trial that is relevant to the disposition of the appeal,
 - (ii) the charge to the jury, and the verdict of the jury,

- (iii) any formal record of the decision, including any certificate of conviction, order of acquittal, report of criminal trial, or report of criminal appeal,
 - (iv) any restricted court access order,
 - (v) the order and reasons granting permission to appeal,
 - (vi) the notice of appeal,
 - (vii) when an enactment requires service on the Attorney General for Alberta or the Attorney General for Canada, or both, proof of that service, and
 - (viii) if there is no oral record that can be transcribed for Part 3, a notation to that effect in the Table of Contents.
- (d) Part 3 - Transcripts as required by rule 14.18(1)(d), including counsels' addresses to the jury.

Information note

The ordering and filing of Appeal Records is dealt with in Part 14, Division 2, Subdivision 4. If any document required to be included in the Appeal Record is not available at the time of preparation, it can be appended to the factum, the Extracts of Key Evidence, or the Book of Authorities: rule 14.18(2).

References: *Criminal Code*: s. 678 - notice of appeal.

Defined Terms: *Criminal Code*: s. 2 - Attorney General, counsel, indictment; s. 673 - indictment; s. 785 - information, trial. *Rules of Court*: rule 6.28 - restricted court access order; rule 14.1 - appeal, decision; rule 16.2 - Attorney General, conviction appeal, criminal appeal, permission to appeal.

Format of Appeal Record - sentence appeals

16.14 The Appeal Record for sentence appeals must meet the requirements of rule 14.22 [*Format of Appeal Record – fast track appeals*] and must contain the following:

- (a) A Table of Contents as required by rule 14.18(1)(a);
- (b) Part 1 - Pleadings, consisting of the Information, Indictment or other originating document, and endorsements,
- (c) Part 2 - Final Documents, which must include
 - (i) any written or transcribed reasons for conviction, and the reasons for sentencing,
 - (ii) any formal record of the decision, including the certificate of conviction, report of criminal trial, or report of criminal appeal, and any resulting orders, prohibitions, authorizations or warrants arising from the sentencing,

- (iii) the notice of appeal,
- (iv) any Notice of Variation of Sentence in Form CRA-D,
- (v) any restricted court access order,
- (d) Part 3 - Transcripts, which must include:
 - (i) a Table of Contents as required by rule 14.18(1)(d)(i),
 - (ii) the plea and particulars, and any oral evidence given at the sentencing,
 - (iii) speaking to sentence,
 - (A) in the case of a guilty plea, from the time of the plea, and
 - (B) in other cases, from the time of conviction.

References: *Rules of Court*: rule 16.10 - Notice of Variation of Sentence.

Defined Terms: *Criminal Code*: s. 2 - indictment; s. 673 - indictment, sentence; s. 785 - information, sentence, trial. *Rules of Court*: rule 6.28 - restricted court access order; rule 14.1 - appeal; rule 16.2 - sentence appeal.

Factums in criminal appeals

16.15(1) Factums in criminal appeals must be prepared in compliance with rule 14.25 [*contents of factums*], rule 14.26 [*format of factums*] and rule 14.87 [*requirements for all documents*].

(2) A Sentence Appeal Questionnaire in Form CRA-E must be included immediately following the Table of Contents

- (a) in the appellant's sentence factum, or
- (b) where the appellant is a self-represented appellant and does not include the Sentence Appeal Questionnaire in that party's factum, in the respondent's sentence factum.

(3) The appellant's factum must be filed and served

- (a) for a conviction appeal, the earlier of
 - (i) 2 months after the filing of the Appeal Record, and
 - (ii) 6 months after the filing of the notice of appeal,
- (b) for an appeal of sentence only, the earlier of
 - (i) 2 months after the filing of the Appeal Record, and
 - (ii) 4 months after the filing of the notice of appeal,

- (c) for the sentencing part of any appeal as to both conviction and sentence, 3 months after the conviction appeal was dismissed or abandoned.
- (4) If the appellant's factum is not filed and served by the applicable deadline, and an extension is not obtained
- (a) if the appellant is a self-represented appellant and is in custody, the Registrar may refer the appeal to a single appeal judge for directions, and
 - (b) in all other cases, the appeal will be struck by the Registrar.
- (5) The respondent's factum or letter of intention not to file a factum must be filed and served
- (a) for any conviction appeal, within 2 months of service of the appellant's factum.
 - (b) for any sentence appeal, within the earlier of
 - (i) 1 month from service of the appellant's factum, and
 - (ii) 10 days before the opening day of the sitting at which the appeal is to be heard.
- (6) A respondent that does not file a factum is not permitted to present oral argument unless the panel orders otherwise.

Defined Terms: *Criminal Code*: s. 673 - registrar, sentence; s. 785 - sentence. *Rules of Court*: rule 14.1 - appeal, appellant, file, judge, registrar, respondent; rule 16.2 - conviction appeal, criminal appeal, self-represented appellant, sentence appeal.

Other appeal documents

16.16(1) The parties to a criminal appeal

- (a) where necessary to resolve the issues in the appeal, must file Extracts of Key Evidence that include all the evidence required to resolve those issues, as provided in rules 14.27 and 14.29 [*extracts of key evidence*], and
 - (b) where necessary, must file Books of Authorities, as provided in rules 14.30 and 14.31 [*books of authorities*], in compliance with rule 14.87 [*requirements for all documents*].
- (2) The clerk of a trial court must, on request of the Attorney General or counsel for the Attorney General, supply certified copies of any exhibits or records in the clerk's possession that are required for an appeal.
- (3) On request of the Court, the trial judge must provide a report on any matter related to the case.

References: *Criminal Code*: s. 482(3)(d)(v) - providing Attorney General with copies of exhibits; s. 682(1) - report of trial judge.

Defined Terms: *Criminal Code*: s. 2 - Attorney General, clerk of the court, counsel; s. 673 - trial court. *Rules of Court*: rule 14.1 - appeal, file, party; rule 16.2 - Attorney General, criminal appeal.

Division 4

Scheduling Oral Argument

Scheduling Appeals

16.17(1) Subject to any enactment and this Part, the provisions with respect to scheduling standard appeals in Part 14, Division 3, Subdivision 4 [*scheduling oral argument*] apply to criminal appeals with any modifications that the circumstances require.

(2) A case management officer may at any time place any criminal appeal on the Unscheduled Criminal Appeals List.

(3) All the parties to each appeal on the Unscheduled Criminal Appeals List must appear at the time scheduled for the calling of the List, and

- (a) unless adjourned, appeals on the Unscheduled Criminal Appeals List will be scheduled for oral hearing and placed on the Criminal Appeal Hearing List, or
- (b) directions may be given for advancing the appeal.

(4) If the appellant in an appeal referred to in subrule (3) does not appear at the time scheduled for the calling of the List, the appeal may be struck.

Information Note

Within 20 days after the deadline for the filing of the last factum in a conviction appeal, the parties must contact the Registry to schedule the oral argument: rule 14.33.

Section 672.72(3) of the *Criminal Code* provides that appeals from dispositions (after findings of not criminally responsible by reason of mental disorder) are to be expedited. Sections 51(1) and 57(5) of the *Extradition Act* require that appeals be heard at an early date.

The procedure for speaking to the Unscheduled Criminal Appeals List is set out in the Consolidated Practice Directions.

References: *Criminal Code*: s. 672.72(3) - appeal from disposition made by court or Review Board should be made expeditiously.

Defined Terms: *Criminal Code*: s. 672.1 - disposition. *Rules of Court*: rule 14.1 - appeal, case management officer, file, party, standard appeal; rule 16.2 - conviction appeal, criminal appeal.

Unscheduled Conviction Appeals

16.18 If oral argument of a conviction appeal is not scheduled within 9 months of the filing of the notice of appeal, and no extension or direction has been received from the case management officer

- (a) if the appellant is represented by counsel, the appeal will be struck by the Registrar, and
- (b) if the appellant is a self-represented appellant, the Registrar will schedule the appeal for oral argument.

Defined Terms: *Criminal Code*: s. 2 - counsel; s. 673 - registrar. *Rules of Court*: rule 14.1 - appeal, appellant, case management officer, file, registrar; rule 16.2 - conviction appeal, self-represented appellant.

Scheduling Sentence Appeals

16.19(1) Subject to the direction of a case management officer or a single appeal judge, 20 days before the opening day of each scheduled sitting for sentence appeals, the Registrar will set down at that sitting every sentence appeal where

- (a) the appeal record and appellant's factum have been filed,
- (b) the appeal record has been filed in a sentence appeal started by a self-represented appellant,
- (c) the appeal record has not been ordered in a sentence appeal started by a self-represented appellant who is in custody, and
- (d) the net sentence is 6 months or less, the appellant is in custody, and judicial interim release has not been granted.

(2) The Registrar must advise any party not represented by counsel of the scheduled date of the sentence appeal.

(3) Unless otherwise ordered, the sentence appeal must proceed in accordance with the deadlines in this Part, notwithstanding that an appeal of the conviction appeal decision or an application for leave to appeal the conviction appeal decision has been filed with the Supreme Court of Canada.

Information Note

Sentence appeals are heard every month in Edmonton and Calgary, except in July and August. Parties who wish to schedule matters (such as appeals of sentences of short duration) during the sittings in July should contact a case management officer for advice.

A case management officer can defer oral argument on sentence appeals where a self-represented party is awaiting confirmation of Legal Aid coverage, where a self-represented party intends to file a factum, or where other circumstances make the default scheduling rules inappropriate.

Defined Terms: *Criminal Code*: s. 2 - counsel; s. 673 - sentence; Registrar; s. 785 - sentence. *Rules of Court*: rule 14.1 - appeal, appellant, case management officer, decision, file, judge, party, registrar; rule 16.2 - conviction appeal, self-represented appellant, sentence appeal.

Division 5

Applications

Format of Applications

16.20 Subject to this Part and the direction of a case management officer or a single appeal judge, Part 14, Division 4 [*applications in civil appeals*] applies to the preparation, format, and delivery of materials for applications in criminal appeals, with any modifications that the circumstances require.

Defined Terms: *Rules of Court*: rule 14.1 - appeal, case management officer, judge; rule 16.2 - criminal appeal.

Permission to Appeal

16.21(1) An application for permission to appeal must

- (a) be in Form CRA-C and comply with rule 14.40 [*applications to single appeal judges*],
- (b) state the exact questions of law on which permission to appeal is requested, and
- (c) include with the applicant's memorandum of argument the written or transcribed reasons of the Provincial Court of Alberta and the Court of Queen's Bench of Alberta.

(2) Subject to any enactment, no appeal lies from an order of a single appeal judge granting or denying permission to appeal.

References: *Criminal Code*: s. 675(1)(a)(ii and iii) - leave to appeal other than on question of law; s. 675(1)(a)(ii) - certificate of trial judge allowing appeal; s. 675(1)(b) & 676(1)(d) - leave to appeal against sentence; s. 675(1.1) & 676(1.1) - combined indictable and summary conviction appeal; s. 675(4) - review of denial of leave to appeal; s. 676.1 - appeal re costs; s. 839 - summary conviction appeals. *Provincial Offences Procedure Act*: s. 19(1) - certificate of sufficient importance.

Defined Terms: *Rules of Court*: rule 14.1 - appeal, judge; rule 16.2 - permission to appeal.

Judicial Interim Release

16.22(1) An application for judicial interim release may not be started until:

- (a) a notice of appeal or an application for permission to appeal has been filed, and

- (b) the appeal record has been ordered, or counsel undertakes to order the appeal record forthwith.
- (2) An application for judicial interim release pending an appeal against sentence only will be deemed to include an application for permission to appeal sentence.
- (3) Unless otherwise ordered, an application for judicial interim release pending appeal must be based on an affidavit of the applicant deposing to any facts relevant and material to the application, which must include:
- (a) particulars of the applicant's criminal record and any pending criminal charges, including any pending criminal charges outside Canada, and
 - (b) an undertaking to surrender into custody in accordance with the terms of any order granted.
- (4) Unless otherwise ordered, an order granting judicial interim release must be in form CRA-F.
- (5) An appellant who is granted judicial interim release must diligently prosecute the appeal, must comply strictly with all appeal deadlines, and must keep the Registrar informed of any changes of address or contact information.
- (6) If an appellant is granted judicial interim release and the appeal is struck or abandoned a warrant for arrest may issue without further order.

Information Note

The affidavit in support of judicial interim release should generally disclose the prior and proposed place of residence and employment of the applicant, and any other information likely to be pertinent to the application.

References: *Criminal Code*, s. 675(1)(b) & 676(1)(d) - appeal against sentence; 679 - release pending appeal; Form 12 - Undertaking; Form 32 - Recognizance.

Defined Terms: *Criminal Code*: s. 2 - counsel; s. 673 & s. 785 - sentence. *Rules of Court*: rule 14.1 - appeal, appellant, file; rule 16.2 - permission to appeal, sentence appeal.

Summary Determination of Appeals

16.23(1) The Registrar may refer to the Court for summary determination any appeal that

- (a) does not show a substantial ground of appeal,
- (b) appears to be frivolous or vexatious, or
- (c) can be determined without a full hearing.

(2) The Registrar may refer to a single appeal judge for summary determination any appeal that does not show a substantial ground of appeal, or that should have been filed with another court.

References: *Criminal Code*, s. 685 - referrals by Registrar.

Defined Terms: *Criminal Code*: s. 673 - registrar; *Rules of Court*: rule 14.1 - appeal, file, judge, registrar; rule 16.2 - Court.

Division 6

General Rules

Presence at Appeals

16.24(1) An appellant who is in custody is not entitled to be present on the hearing of any application or appeal unless the right to be present is granted by an enactment, or a single appeal judge orders the appellant to be present.

(2) A single appeal judge may order that an appellant who is entitled to be present at an application or appeal appear instead by means of a telecommunication device, closed-circuit television, or other suitable method of communication.

Information Note

Subject to the direction of a single appeal judge, the entitlement of an appellant who is in custody to be present at the hearing of the appeal is specified in section 688 of the *Criminal Code*.

References: *Criminal Code*, s. 688 - right of appellant to attend the appeal, s. 774.1 - *habeas corpus*; s. 848 - remote appearance; s. 852 - sentence.

Defined Terms: *Rules of Court*: rule 14.1 - appeal, appellant, judge.

Duties of Counsel

16.25(1) Counsel who are retained to represent a party in a criminal appeal must forthwith advise the Registrar in writing of

- (a) counsel's retainer or its termination,
- (b) any intention to abandon the appeal, and
- (c) any change in whether a party in custody is or is not to be present in court for any application or appeal.

(2) A lawyer of record in a criminal appeal must apply to a single appeal judge, on notice to the client and the Attorney General, for permission to withdraw from the record unless a Notice of Change of Representation in civil rules Form 3 is filed by another lawyer or by the accused.

(3) A lawyer of record in a criminal appeal who is given leave to withdraw from the record shall within 10 days file with the Registrar a statement setting out the last known address and contact information of the client.

References: *Rules of Court*: rule 2.28 - change in representation; rule 16.2 - civil rules; criminal appeal.

Defined Terms: *Criminal Code*: s. 2 - Attorney General, counsel; s. 673 - registrar. *Rules of Court*: rule 14.1 - appeal, file, party, registrar; rule 16.2: Attorney General.

Abandonment of Appeals

16.26 An appellant may abandon the appeal by filing and serving a Notice of Abandonment in Form CRA-G.

Defined Terms: *Rules of Court*: rule 14.1 - appeal, appellant, file.

Restoring Criminal Appeals

16.27 An appeal or application for permission to appeal that has been struck or abandoned may be restored in accordance with rule 14.65 [*restoring appeals*]

- (a) for a conviction appeal, within 6 months of having been struck, dismissed or deemed abandoned, and
- (b) for a sentence appeal, within 3 months of having been struck, dismissed or deemed abandoned,

but no fee shall be payable for restoring a criminal appeal.

References: *Rules of Court*: rule 14.65 - restoring appeals.

Defined Terms: *Rules of Court*: rule 14.1 - appeal; rule 16.2 - criminal appeal.

New Trials

16.28 Unless otherwise ordered, where the Court orders a new trial

- (a) the presiding judge is deemed to have directed that the person charged is remanded to appear at the next sitting of the court appealed from that has jurisdiction in the case, and
- (b) if the person charged was on judicial interim release at the time of the judgment of the Court, the order for judicial interim release is deemed to be continued until the person charged reappears in the trial court.

References: *Criminal Code*: s. 679(7.1) - interim release pending new trial; s. 686(2)(b) - order of new trial. *Rules of Court*: rule 14.32(5) - presiding judge.

Defined Terms: *Criminal Code*: s. 673 - trial court; s. 785 - trial. *Rules of Court*: rule 14.1 - appeal, court appealed from, judge; rule 16.2 - Court, criminal appeal.

Scope of Sentence Appeals

16.29 In any sentence appeal the Court on its own motion may treat the whole matter of sentence as open to variation, but if the Court intends to vary a sentence pursuant to this rule, notice and an opportunity to be heard must be provided to the parties.

Defined Terms: *Criminal Code*: s. 673 & s. 785 - sentence. *Rules of Court*: rule 14.1 - appeal, party; rule 16.2 - Court, sentence appeal.

Judgments in Appeals

16.30(1) Unless otherwise directed, a formal judgment is not required in a criminal appeal unless an appeal to the Supreme Court of Canada is filed, applied for or contemplated.

(2) Where a judge of the Court dissents from the decision of the Court on a point of law, any judgment of the Court that is prepared must specify the grounds on which the dissent is based.

(3) Unless otherwise directed, where the Attorney General prepares a formal order or judgment resulting from an application or appeal, and the other party is self-represented, the approval of the other party under rule 9.4(2)(b) [*signing judgments and orders*] is not required.

References: *Criminal Code*: s. 677 - specifying basis of dissent.

Defined Terms: *Criminal Code*: s. 2 - Attorney General. *Rules of Court*: rule 14.1 - appeal, decision, file, judge, party; rule 16.2 - Attorney General, Court, criminal appeal.

Style of Cause

16.31 The style of cause in criminal appeals must be in Form CRA-H.

References: *Criminal Code*: s. 849 - forms. *Rules of Court*: rule 13.16 - forms.

Defined Terms: *Rules of Court*: rule 14.1 - appeal; rule 16.2 - criminal appeal.

Coming Into Force

Coming into force

16.32 These rules come into force and the *Rules of the Appellate Division of the Supreme Court of Alberta as to Criminal Appeals*, SI/77-174, (1977) C Gaz II, 4270 are repealed on [date].

Forms

CRA-A - Notice of Appeal - Self-Represented Appellant

CRA-B - Notice of Appeal

CRA-C - Application for Permission to Appeal

CRA-D - Notice of Variation of Sentence

CRA-E - Sentence Appeal Questionnaire

CRA-F - Order for Judicial Interim Release Pending Appeal

CRA-G - Notice of Abandonment

CRA-H - Criminal Appeal Style of Cause

Court of Appeal of Alberta
Criminal Appeal Rules
Draft Forms

CRA-A - Notice of Appeal - Self-Represented Appellant

CRA-B - Notice of Appeal

CRA-C - Application for Permission to Appeal

CRA-D - Notice of Variation of Sentence

CRA-E - Sentence Appeal Questionnaire

CRA-F - Order for Judicial Interim Release Pending Appeal

CRA-G - Notice of Abandonment

CRA-H - Criminal Appeal Style of Cause

COURT OF APPEAL OF ALBERTA

Form CRA-A
[Rule 16.6]

To be used when Appellant is not represented by counsel

Registrar's Stamp

Court of Appeal File Number:

Trial Court File Number:

Registry Office:

Respondent: Her Majesty the Queen

Appellant: _____

Document: **Notice of Appeal**

1. On _____ at _____, I was convicted on charges of:
(date) (place)
(Set out details of charges)

2. The proceedings took place in *(check one)*:
 Provincial Court Court of Queen's Bench

3. The name of the Judge was: _____

4. At trial, I pleaded *(check one)*:
 Guilty Not Guilty

5. On _____ I was sentenced to: _____
(date)
(Set out details of sentence)

6. My address or institution is: _____

7. I give notice that I desire to appeal, and if necessary for me to do so, to apply for permission to appeal against (*check one*):

Conviction only Sentence only Both conviction and sentence

8. My reasons for appealing are:
(*Set out details for appealing*)

9. At the hearing of the appeal (*check one*):

I wish to be present I do not wish to be present

10. If a new trial is ordered and I have the right to trial by judge and jury (*check one*):

I wish trial by judge and jury I do not wish trial by judge and jury

11. My date of birth is: _____

Dated on: _____

Appellant's Signature: _____

IF APPELLANT IS IN CUSTODY 3 copies of this Notice of Appeal are to be served on a senior officer of the institution in which the appellant is in custody within one month of the sentence being imposed on him.

IF APPELLANT IS NOT IN CUSTODY 3 copies of this Notice of Appeal are to be filed in the office of the Registrar within one month from the date of the sentence imposed on him.

NOTICE TO APPELLANT Take notice that on an appeal from conviction, the Appeal Record is essential. Such books are to be ordered by the Appellant from Transcript Management Services, at the expense of the Appellant. On the filing of this Notice of Appeal, the Registrar can advise about legal aid procedures available if the appellant does not have the funds to pay for the Appeal Record. The estimated cost of the Appeal Record may be obtained from Transcript Management Services.

COURT OF APPEAL OF ALBERTA

Form CRA-B

[Rule 16.7]

Court of Appeal File Number:

Trial Court File Number:

Registry Office:

Appellant/Respondent: Her Majesty the Queen

Respondent/Appellant:

Document: **Notice of Appeal**

Registrar's Stamp

Address For Service and Contact Information of Party Filing This Document:

and Contact Information of All Other Parties:

1. The Appeal is in respect of indictable offence, or by way of further Appeal from the Court of Queen's Bench in respect of a summary conviction offence Indictable Offence Summary Conviction

2. Place of Trial _____

3. Name of Judge _____

4. Name of Court _____

5. Name of Crown Prosecutor at Trial _____

6. Name of Defence Counsel at Trial _____

7. Offences of which Appellant convicted or acquitted (Summarize each charge the appellant is appealing as it appears in the information or indictment, the plea, and the sentences imposed.)

Table with 4 columns: Offence Name, Section, Plea, Sentence. Multiple empty rows for data entry.

8. Date of Sentence or Acquittal _____

9. If Appellant in custody, place of incarceration _____

TAKE NOTICE that the Appellant: (check all of the following that are applicable)

- appeals against conviction (or acquittal) on grounds involving a question of law alone
- applies for permission to appeal his conviction on grounds involving a question of fact alone or a question and fact, and if permission is granted, hereby appeals against conviction
- applies for permission to appeal against sentence, and if permission is granted, appeals against the sentence.

10. The grounds of Appeal are annexed hereto.

11. The relief sought is:

The Appellant *wishes* *does not wish* to be present at the hearing of the Appeal (s. 688).

If a new Trial is ordered and the Appellant has a right to trial by judge and jury, the Appellant

wishes *does not wish* the new trial to be by judge and jury (s. 686(5)).

Dated on _____

at _____, Alberta.

Counsel for the Appellant

Appendix: Grounds of Appeal

7. (a) Reasons of Provincial Court unreported reported at _____
(b) Reasons of Queen's Bench unreported reported at _____

TAKE NOTICE that the Appellant applies for: (check all of the following that are applicable)

- permission to appeal against conviction (or acquittal), on grounds involving a question of law alone
 a certificate of sufficient importance to justify a further appeal under the *Provincial Offences Procedure Act*
8. The issues of law on which permission to appeal is sought are:
(set out the exact issues of law, or attach as schedule)

9. The relief sought is:

Dated on _____
at _____, Alberta _____
Appellant, or Counsel for the Appellant

COURT OF APPEAL OF ALBERTA

Form CRA-D

[Rule 16.10]

Court of Appeal File Number:

Trial Court File Number:

Registry Office:

Respondent: Her Majesty the Queen

Appellant:

Document: **Notice of Variation of Sentence**

Registrar's Stamp

Address for Service and Contact Information of
Party Filing this Document:

And the Appellant:

Take notice that on the hearing of the appeal of the sentence imposed, Her Majesty the Queen intends to argue that the sentence should be increased or otherwise varied.

Dated this _____ day of _____, 20 _____.

COURT OF APPEAL OF ALBERTA
Form CRA-E
[R. 16.15(2)]

Sentence Appeal Questionnaire

This questionnaire should be placed as the first page of the sentencing appeal factum, immediately after the table of contents. (R. 16.15(2))

1 Offences of which convicted and sentenced.

Offence Name	Section	Offence Date	Sentence

2 Amount of time in custody before sentence: _____,
and credit given: _____.

3 Reduction for totality or other reasons: _____.

4 Total sentence then imposed: _____.

5 Any probation conditions? If so, found on p.____ of the _____.

6 Guilty plea or trial?

7 Date released on bail pending appeal: _____.

8 Serving time for other offences also? No Yes

9 Does appellant have previous criminal record?
If so, is it on p.____ of the _____.

10 Was the appellant on any form of release or supervision at the time of the offences? No Yes

11 Age at time of offence _____. Age now _____.

12 Employment history, including current job: found on p.____ of the _____.

13 Any pre-sentence, psychological or other report? If so, found on p.____
of the _____.

14 Any evidence of, or statement of effects of the offence on the victim? If so, found
on p.____ of the _____.

COURT OF APPEAL OF ALBERTA
Form CRA-F
[Rule 16.22(4)]

Court of Appeal File Number:

Trial Court File Number:

Registry Office:

Respondent:

Her Majesty The Queen

Applicant/Appellant:

Registrar's Stamp

(appellant's name in full as it appears on information or indictment)

Document:

Order For Judicial Interim Release

Address For Service And Contact
Information of Party Filing This
Document:

DATE ORDER PRONOUNCED:

LOCATION OF HEARING:

_____, **Alberta**

NAME OF JUDGE WHO GRANTED
THIS ORDER:

(Mr./Madam Justice First Initial(s), Surname)

UPON THE APPLICATION of the Appellant; AND UPON HAVING READ the Affidavit and Undertaking of the Appellant; AND UPON HEARING Counsel for the Appellant and Counsel for the Respondent;

AND IT APPEARING THAT the Appellant has filed a Notice of Appeal or Application for permission to appeal the applicant's conviction or sentence by *(name of Judge)*, in *(level of court)* of Alberta, at *(location)*, on *(date)*, on the following charges, NAMELY:

(Summarize each charge the appellant is appealing as it appears in the information or indictment, and the exact sentences imposed.)

Offence Name	Section	Sentence

1. IT IS ORDERED THAT the Application be allowed and the Appellant be released upon:

Use the most appropriate one of the following two paragraphs

- (a) Entering into an Undertaking, with the following conditions, namely:
 - (i) keep the peace and be of good behavior;
 - (ii) report to Court in person as and when required by the Court;
 - (iii) remain within _____;
 - (iv) pursue the appeal with due diligence, and in particular comply with any deadlines and directions in the Rules of Court, in this Order, or as made by the Court respecting the appeal;
 - (v) _____

(include any other conditions that the Court orders. Refer to the Schedule to this Form and Forms 22, 11.1, 12 & 32 of the Criminal Code.)

Select either "with" or "without" as appropriate

- (b) Entering into a Recognizance in the amount of \$ _____ with/without deposit of cash or other valuable security, and with/without sureties as deemed acceptable to the Court, with the following conditions, namely:
 - (i) keep the peace and be of good behavior;
 - (ii) report to Court in person as and when required by the Court;
 - (iii) remain within _____;
 - (iv) pursue the appeal with due diligence, and in particular comply with any

deadlines and directions in the Rules of Court, in this Order, or as made by the Court respecting the appeal;

(v) _____

(include any other conditions that the Court orders. Refer to the Schedule to this Form and Forms 11, 11.1, 12 & 32 of the Criminal Code)

2. Such Undertaking or Recognizance may be entered into by the Appellant before any Judge of the Provincial Court of Alberta or any Justice of the Peace.
3. Any Judge of the Provincial Court of Alberta or any Justice of the Peace may order that the Appellant be brought in for the purpose of entering into such Undertaking or Recognizance, and this Order shall be sufficient authority to any person having the custody of the Appellant in the Province of Alberta to have the Appellant brought before the Judge or Justice of the Peace.
4. If the Appellant is brought before a Judge or Justice of the Peace and enters into the Undertaking or Recognizance, the person having custody of the Appellant shall release the Appellant forthwith.
5. The Appellant is to attend personally and provide picture identification, at the opening of the next sittings of the Court of Appeal on *(day of week)* day, the *(date)*, between the hours of 8:15 a.m. and 10:00 a.m., at the Court of Appeal Registry Counter, *(on the main floor of the Law Courts Building/on the 26th floor of the TransCanada Pipeline Tower)*, in the City of *(Edmonton/Calgary)*, in the Province of Alberta, and at the opening of every sitting thereafter until such time as this appeal can be heard, subject to such further Order as a Judge of the Court may make.
6. On the hearing date, the Appellant shall attend the courtroom assigned for hearing of the appeal between the hours of 9:45 a.m. and 10:00 a.m., or any other such time as directed, and shall then and there surrender into the custody of any peace officer, pending the hearing of the appeal.
7. The appeal shall proceed in strict compliance with the Rules of Court, and the *(name of document)* must be filed by *(date of deadline)*, failing which the Crown may apply to revoke this order.

*If appropriate,
insert any other
deadlines imposed
by the Court*

8. Additionally, the following deadlines are hereby imposed:

(a) _____

(b) _____

(c) _____

Registrar, Court of Appeal

*[Or if the judge has indicated that he or she will be
signing the order (and not the Registrar), label this line
as "Justice of Appeal" as follows:*

Justice of Appeal]

**Approved As Being The Order Granted:
(Or Consented To By:)**

Schedule

Where the Court imposes further conditions on release, refer to sections 515(4), (4.1), and (4.2) of the *Criminal Code*, and Forms 11 (recognizance before peace officer), 11.1 (undertaking to peace officer), 12 (undertaking to justice or judge) and 32 (recognizance). The following wording may be used:

1. Reporting requirement, s. 515(4)(a):

Report in person commencing (*state time and date of first report*) to (*name of appropriate police service or police officer*) or designate, at (*address of police station*); and thereafter report as and when directed.

2. Territorial limitations, s. 515(4)(b):

Remain within (*describe territorial jurisdiction, e.g. City, Town, Province*).

3. Change of residence or employment, s. 515(4)(c):

Notify (*name of peace officer or other person designated*) of any change in address or employment or occupation.

4. Restrictions on communication, s. 515(4)(d):

Abstain from communicating, directly or indirectly, with (*name of witness, complainant or other person*), except in accordance with the following conditions:

5. Surrender passport, s. 515(4)(e):

Deposit his or her passport (*as the Judge or Justice of the Peace directs*).

COURT OF APPEAL OF ALBERTA

Form CRA-G

[Rule 16.26]

Court of Appeal File Number:

Trial Court File Number:

Registry Office:

Respondent: Her Majesty the Queen

Appellant:

Document: **Abandonment of Criminal Appeal**

Registrar's Stamp

Address for Service and Contact Information
of Party Filing this Document:

The Appellant abandons :

- this conviction and sentence appeal.
- this conviction appeal only.
- this sentence appeal only.

(signature of appellant or counsel)

(witness, unless signed by counsel)

(print name)

(print name)

Dated this _____ day of _____, 20 _____.

COURT OF APPEAL OF ALBERTA

Form CRA-H

[Rule 16.31]

Court of Appeal File Number:

Trial Court File Number:

Registry Office:

Appellant/Respondent:

Her Majesty The Queen

Appellant/Respondent:

Document:

Type of Document

Address For Service And Contact
Information of Party Filing This
Document:

and

Contact Information of All Other Parties:

Registrar's Stamp

Consolidated Practice Directions of the Court of Appeal of Alberta

**Adopted by the Court of Appeal _____,
effective _____**

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Consolidated Practice Directions

Criminal Parts

Amend Part A – General, as follows:

Revise Section A.3 to read as follows:

3. **Unscheduled Civil and Criminal Appeals Lists**

The Unscheduled Appeals Lists will be called by a Judge in Chambers, the Case Management Officer, the Registrar, or the Deputy Registrar at a date to be specified by the Chief Justice. The calling of the lists will commence in both cities at 10:00 a.m. for the Unscheduled Criminal Appeals List, and 1:30 p.m. for the Unscheduled Civil Appeals List.

The Unscheduled Appeals Lists will be posted on the Alberta Courts website at www.albertacourts.ab.ca, under “Court of Appeal”, 10 days before the lists are spoken to. Counsel and litigants are encouraged to check these lists on a regular basis as they can change frequently up until the day that the lists are spoken to.

Any party whose appeal is on the Lists, or counsel, shall appear at the time and place specified and are expected to be fully instructed in the progress of the appeal they are speaking to.

And add Section A.8 as follows:

8. **Variation of Conditional Sentence or Probation Order**

Where the Court of Appeal has granted (or varied) a conditional sentence or probation order, and the Crown or the accused later wishes to seek a variation (or further variation) of the sentence or order, that party should apply in the first instance to the trial court which imposed the original sentence.

Delete existing Parts F “Criminal Cases”, and G “Sentence Appeals”.