

## PRACTICE NOTE 2015 – 2

### CALGARY PROVINCIAL CRIMINAL

### TRIAL CONTINUATION PROTOCOL

EFFECTIVE: 02 Jan 2015

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#### **Purpose:**

Trial (or preliminary inquiry) continuations that go over weeks or even months are rarely in the interests of the participants. Witnesses forget or get frustrated by the long process; accused persons (who are entitled to be tried in a reasonable time) endure stress and delay for a decision that can impact their life in a major way; judges and counsel must “re-learn” the case from (often costly) transcripts, or recordings or notes.

In order to avoid continuations that are often months away, effective immediately the Court will endeavor to continue a trial or preliminary inquiry **preferably the next day, but in any event within 2 weeks whenever possible.**

#### **Guidelines for Trial/Preliminary Inquiry Continuations:**

1. Although counsel will generally not be expected to adjourn other scheduled trial or preliminary inquiry matters to accommodate a trial/preliminary inquiry continuation, they will be expected to reasonably re-arrange other office matters to do so.
2. If counsel anticipate a matter which has commenced cannot be completed in the scheduled time, they should not expect the matter to be further adjourned to CMO at some later date for purpose of setting a continuation date. Rather, before the end of the last day of scheduled trial time, counsel should advise the Court that the matter will not be completed in time.
3. Counsel can expect judges to take an active supervisory role in the timing of a trial or preliminary inquiry continuation, with the goal that the matter continue within two weeks. Counsel are expected to have their calendars and witness availability information accessible in the courtroom, to assist in the booking of an early continuation date. The continuation date will be discussed and agreed upon on the record in the courtroom, with the seized trial judge making the decision on when the matter will proceed for continuation. This may require the clerk to contact the trial scheduler while in the courtroom to ensure the availability of the seized trial judge on the proposed continuation date.
4. Counsel are then expected to attend at the CMO Counter, provide the agreed upon continuation date to CMO and return to the courtroom with a Scheduling Notice noting the trial/preliminary inquiry continuation date.

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5. If the trial/preliminary inquiry continuation date is scheduled after CMO closes for the day, the courtroom clerk in the respective courtroom will take a copy of the face of the information and agreed upon trial/preliminary continuation date and provide this to CMO, which will in turn produce a Scheduling Notice noting the trial continuation date.
6. In such circumstances, the Scheduling Notice confirming the trial continuation date will be available at the CMO Counter for pick up by counsel the following day.
7. Counsel are asked to keep this directive in mind both with respect to how much time they initially assess for the trial itself as well as the expectation the matter will whenever possible continue within 2 weeks if a continuation is required.

Per: Asst. Chief Judge James J Ogle  
Calgary Criminal & Regional Divisions  
Dated: January 2, 2015