



CENTRAL REGION

REMOTE OUT OF CUSTODY APPLICATIONS INCLUDING GUILTY PLEAS GUIDELINES

Effective: May 5, 2020

Background:

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.

Time and Place:

Pleas will be heard Tuesday, Wednesday and Thursday afternoon at 1:30 p.m. commencing May 5, 2020 in Courtroom 101, Red Deer.

Procedures/Guidelines:

Application:

1. This Practice Note applies to those matters where Defence counsel/Duty counsel /agents* and the Crown have agreed that the matter should be addressed at this time and is expected to either lead to the conclusion of the matter or deal with an issue where there is a present need to address. This will include but not necessarily be limited to guilty pleas, peace bonds and amendments to release conditions.
2. With respect to guilty pleas, this Practice Note only applies to matters where a joint submission will be presented to the Court for the Courts consideration that does not involve a (further) period of incarceration or, should Counsel not be presenting a joint submission, the Crown will not be seeking a (further) period of incarceration.
3. This Practice Note applies during the period of reduced Court operations related to the COVID-19 pandemic.

Pre-Court:

4. Defence counsel/Duty counsel/Agents who have an out of custody matter that they wish to resolve will contact the assigned Crown prosecutor to discuss and agree upon the following:

- a. in the case of a multi-count information or multiple informations, the charges to which guilty pleas will be expected;
 - b. an Agreed Statement of Facts or properly vetted Prosecutor's Information Sheet that will be presented to the Court supporting the guilty plea(s) either orally or in writing;
 - c. any supporting documents that will be referenced during the sentencing hearing; and
 - d. the Crown will forward all Crown and Defence documents to be presented to the Court via email prior to the matter being brought forward. If the parties have documents they cannot agree upon then those documents will be forwarded to the Crown and they will be included in the package sent to the Court with a memo outlining the objection. The Court will determine the admissibility or weight to be given to the contested document(s).
5. Defence counsel/Duty counsel will be required to fully canvass the provisions of section 606(1.1) of the *Criminal Code* with their client(s) in advance of the court appearance.
6. (a) The Crown prosecutor assigned to the Court will be responsible for ensuring that matters to be resolved are brought forward to the date and time set by the Court and agreed upon with Defence counsel/Duty counsel. Hearings will be scheduled through the Case Management Office (CMO). No matter will be brought forward unless both parties agree that the documents are complete. Requests to bring a matter forward shall be emailed with required documents to:
cmo.reddeer@just.gov.ab.ca
- (b) The Crown must give two days notice to bring a file forward.

Court Proceedings:

7. The designated courtroom clerk (clerk) will sign into the virtual courtroom using an email and confidential password prior to 1:15 p.m.
8. Once the clerk has made the appropriate connections to the virtual courtroom, Counsel shall link into the virtual courtroom according to the Webex protocol either by video/audio in accordance with the Virtual Courtroom Protocol.
9. All Counsel must be ready to proceed with their matters as of 1:30 p.m.
10. Defence counsel/Duty counsel must have their clients present with them at the time of the hearing.
11. At this time, Counsel must ensure that microphones/audio are muted to ensure optimal sound quality for all participants. Counsel will still be able to hear the proceedings. It will be up to Counsel to ensure they are listening for their matter to be called. Once a matter is called, Counsel can unmute their microphone/audio and join the proceedings. Counsel should use a headset if possible and are asked to say their name each time they speak.
12. Should matters arise during the proceeding that require Counsel to communicate directly to the clerk in the courtroom, Counsel can communicate with the clerk by way of private instant messaging on Webex.
13. Documents required for Court proceedings from the Crown can be scanned/ photographed and emailed directly to the clerk at:
pcvirtualcourtroom.reddeer@csadm.just.gov.ab.ca

Again, the subject line must include the Courtroom number and the date of the scheduled appearance as above (i.e. Courtroom 101, May 5, 2020).

14. Nothing in the Practice Note in any way fetters the discretion of the presiding Judge in determining a fit sentence. The Judge may adjourn the sentencing for preparation of a Pre-Sentence Report (PSR), Gladue Report or to hear further submissions from Counsel. Any Probation Order or Ancillary Order will be read by the Judge to the accused and the accused must acknowledge that he understands the terms.

Post Court Proceedings:

15. In the event that the sentence imposed by the presiding Judge involves a period of probation or other Ancillary Order that requires the signature of the accused, the document will then be prepared by the clerk and emailed to Counsel for the accused at the email address provided by Counsel. The clerk will then contact Counsel for the accused by telephone and read the documents to the accused. Counsel will ensure the accused signs the documents and will then return the documents to the Court. The accused will remain in the custody of the Court and should remain in Counsel's office until the Orders are signed.
16. Ancillary Orders made by the Court that do not require the signature of the accused will be prepared and emailed to Counsel for the accused at the email address provided by Counsel. Counsel undertakes to ensure that a copy of the Order is provided to the accused following the proceedings.
17. By taking part in the Remote Appearance Court process, Defence counsel/Duty counsel/agents are undertaking to communicate the terms of any Orders, how to request changes and the repercussions of failing to comply, as described in ss. 732.1, 734.2 or 742.3 of the *Criminal Code*, as applicable, to the offender. If there is any concern regarding comprehension, Defence counsel/Duty counsel/agents shall arrange for the offender to appear before the Court.

As per: Assistant Chief Judge Hunter
Central Division Criminal Courts

Date: May 5, 2020