Note to Readers

1. **All practice notes would be repealed upon the passage of these rules.**

2. **Justices Beth Hughes, Earl Wilson, Mary Moreau, Jack Watson, Brian Burrows, Frans Slatter, Terry Clackson and Associate Chief Justice Rooke have all contributed to the various drafts that have become the attached.**

3. **Much of the foundation for these rules was drawn from Ontario.**

Part 16:
Court of Queen's Bench
Criminal Proceedings Rules

What this Part is about: This part applies to all criminal proceedings in the Court of Queen's Bench of Alberta, including: proceedings commenced by indictment, appeals from summary conviction proceedings, judicial interim release applications, warrant applications, pre-trial conferences, publication, disclosure and access restriction applications, applications in respect to *certiorari*, *habeas corpus*, *mandamus* and *prohibition*, application for review of parole eligibility and the case management of such matters.

Unless a different procedure is specified in this Part, the other Parts of the rules also apply to criminal proceedings.

These rules are made pursuant to the general jurisdiction of the Court and under the authority of Part XIV of the *Criminal Code (Canada)*.

Part 16:
Criminal Proceedings Rules

(This is where the Federal Government will insert the repeals and history.)

Part 16:
Criminal Case Rules

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Part 16:
Criminal Proceeding Rules

Division 1
Foundational Rules

Definitions and Interpretations
16. 1. In these rules:

(a) Where no definition is provided for a word or phrase used in these rules, any definition for that word or phrase provided for in the *Criminal Code of Canada* or in the *Interpretation Act* (Canada) shall apply as the circumstances require.

(b) These rules are to be interpreted in a liberal and practical manner having regard to the circumstances in which they are being applied. No rule shall be interpreted as limiting any jurisdiction or authority of the court or a judge unless the rule expressly so provides.

What this Part applies to
16. 2. Unless otherwise specified by an enactment or these rules, these rules apply to any criminal or summary conviction proceeding, which may come before the Court in any manner.

Exceptions, Exemptions and Substitutions
16. 3. Despite any other provision of these rules, the Court may:

(a) To implement and advance the purpose and intention of these rules described in rule 1.2 [Purpose and intention of these rules] and, subject to any specific provision of these rules, make any order with respect to practice or procedure, or both, in an action, application or proceeding before the Court, and

(b) Without limiting subrule (a), and in addition to any specific authority the Court has under these rules, the Court may, unless specifically limited by these rules, do one or more of the following:

(i) grant, refuse or dismiss an application or proceeding;

(ii) set aside any process exercised or purportedly exercised under these rules that is contrary to law, n abuse of process or done for an improper purpose;

(i) contrary to law,
(ii) an abuse of process, or
(iii) for an improper purpose;

(iii) give orders or directions or make a ruling with respect to an action, application or proceeding, or a related matter;

(iv) make a ruling with respect to how or if these rules apply in particular circumstances or to the operation, practice or procedure under these rules;

(v) impose terms, conditions and time limits;

(vi) give consent, permission or approval;

(vii) give advice, including making proposals, providing guidance, making suggestions and making recommendations;

(viii) adjourn all or any part of an action, application or proceeding, extend the time for doing anything in the proceeding;

(ix) include any information in a judgment or order that the Court considers necessary.

16. 4. In this Part, a reference to a form with the prefix "CC" is a reference to a form set out in Schedule A Division 2.

Division 2
Applications in Criminal Proceedings

Subdivision 1
Form of Application in Criminal Proceedings Generally

16. 5. Every application to the Court shall be made in Form CC1 unless otherwise indicated.

Place and time of application
16. 6. The application shall:

(a) be brought in the judicial centre in which the proceedings are ongoing;

(b) specify a time at which it is anticipated the application will be heard; and

(c) be filed with the Court at the applicable judicial centre.

Information Note

The scheduling of a time for such applications should be coordinated with the trial co-ordinator in the judicial centre where the application will be heard. If the application is time sensitive or emergent, it may be brought before the Court without notice for the sole purpose of then scheduling dates for service and hearing.

Supporting documents

16. 7. An application under this subdivision shall be accompanied by

(a) an affidavit or other evidence asserting the facts relied upon for the relief claimed;

(b) a brief synopsis of the arguments to be made; and,

(c) a copy of each of the cases and other authorities to be referred to on the application, appropriately highlighted.

Service of the application

16. 8. The following persons shall be served with the application and supporting documents:

(a) every person named as a party to the proceedings;

(b) every person directly affected by any order that may be made on the application; and,

(c) the Crown.

Dismissal

16. 9. If the applicant fails to appear at the hearing of the application, the application may be dismissed as abandoned.

Subdivision 2
Applications for an Extraordinary Remedy

16. 10. In an application under this Part for *certiorari*, *habeas corpus*, *mandamus* or *prohibition*, the applicant shall

(a) apply in accordance with Part 3, Division 2 of these Rules; and

(b) comply with Division 2, Subdivision 1 of this Part.

Subdivision 3
Judicial Interim Release Applications

16. 11. (a) An application for judicial interim release shall be in Form CC2.
(b) An application for detention review commenced by notice from an institution shall be in Form CC2.1.

16. 12. (a) The date and time for the application must be secured from the trial co-ordinator in the judicial centre where the proceedings are ongoing.
(b) On an application for detention review, the Trial co-ordinator will advise the institution of the date and time for hearing and will provide a no contest/waiver in Form CC2.2.

Time for service
16. 13. The application and supporting materials shall be served upon the Crown at least two days before the application is scheduled to be heard.

16. 14. An order releasing the accused shall be in Form CC3.

Subdivision 4
Applications for or in Relation to Warrants

Application
16. 15. All applications for or relating to authorizations, orders or warrants are to be made in accordance with the provision of the authorizing statute or if no procedure exists in the authorizing statute or there is no authorizing statute, in accordance with Division 2 Subdivision 1 of this Part.

Supporting documents
16. 16. If Division 2 Subdivision 1 of this Part applies to the application, in addition to the materials required thereby, the applicant shall provide:

(a) a brief of law and authorities supporting the use of the procedure selected, appropriately highlighted; and,

(b) a form of the order sought.

Subdivision 5
Applications to Review Parole Eligibility

Application
16. 17. The rules established in 1998 as Rules 1 to 13 relating to applications pursuant to s. 745.64(1) are incorporated by reference.

Information Note

For reference and convenience, those rules are appended in Schedule A Division 1.

Subdivision 6
Applications to Restrict Publication And/or Access

Application

16. 18. The provisions of Division 2 Subdivision 1 of this Part are applicable to any application for

(a) a publication ban;

(b) a partial sealing order;

(c) an order preventing the identification of witness, including the use of pseudonyms;

(d) an *in camera* hearing; and

(e) any other non-disclosure or access limiting order.

Exception

16. 19. This subdivision does not apply to such orders where mandated by statute.

Form, filing and service

16. 20. In addition to the requirements of Division 2, Subdivision 1 and any direction the Court may make respecting additional persons to be served, the applicant shall provide the Clerk of the Court in the judicial centre in which the application is to be made with three copies of completed Form CC 4.

Electronic filing

16. 21. The applicant shall also provide the Clerk of the Court in the judicial centre in which the application is to be made with an electronic copy of Form CC 4 in a format suitable for electronic distribution by the Clerk.

Distribution electronically

16. 22. If the Clerk of the Court is equipped with an electronic list of registered media organizations, the Clerk will forward the filed electronic Form CC 4 to those media registered.

Manual Notification

16. 23. In the event the Clerk of the Court is not equipped with an electronic list of registered media, the Clerk will post a copy of the filed Form CC 4 in a place in the courthouse reserved for giving public notice.

Division 3
Pre-trial Conferences

Subdivision 1
Pre-trial Conferences Generally

When required

16. 24. A pre-trial conference shall be held in every case to be tried by a jury and in every case scheduled or anticipated to take at least two days, unless the Judge presiding at criminal arraignments in the applicable judicial centre directs otherwise. An application to dispense with a pre-trial conference must be made in accordance with Division 1, Subdivision 2 of this Part.

Information Note

Many criminal trials are complicated by *Charter* arguments, evidence issues and procedural problems. However, there are cases which are truly straightforward. Those cases do not need to be pre-tried. Counsel are encouraged to consider whether their case is one which does not require a pre-trial and apply to dispense with that requirement before a pre-trial is scheduled.

Where conducted

16. 25. Pre-trial conferences shall be conducted in the judicial centre where the proceeding is being prosecuted, unless otherwise ordered.

When conducted

16. 26. The initial pre-trial conference shall be held within 60 days of the filing of the indictment or the order committing the accused to stand trial, whichever first occurs.

Where conducted

16. 27. Pre-trial conferences will be conducted in private chambers but may be conducted in a courtroom if the pre-trial conference judge so directs. All pre-trial conferences involving one or more unrepresented accused shall be conducted in a courtroom.

Presence of the accused

16. 28. An accused person is not compelled to attend a pre-trial conference where he has filed a written designation of his counsel in Form CC 5. In all other cases, the accused shall be present at all pre-trial conferences relating to his prosecution. When any accused person

is to be present at the conference, the conference shall be held in a courtroom.

Additional pre-trials

16. 29. The pre-trial conference judge or another judge of the court may direct that further pre-trial conferences be held as may be necessary to promote a fair and expeditious trial or disposition of the proceeding. If practicable, all further pre-trial conferences on the matter shall be handled by the initial conference judge.

Subdivision 2
Reports and Submissions

Submissions

16. 30. Each party to the proceeding shall file a submission addressing each of the matters raised in Schedule B and serve the submission on every other party to the proceeding.

Proper completion of submission

16. 31. All aspects of Schedule B must be addressed. It is not appropriate to express a position by words such as “will advise”, “not as yet”, or words of similar effect, unless such words address the substance of the point.

Pre-trial report by a judge

16. 32. The pre-trial conference judge shall prepare and file a report in Form CC 7 which shall be circulated among the parties, for their approval as to the content of the report, within such period and on such conditions as the pre-trial conference judge deems appropriate.

16. 33. Upon approval of Form CC 7, the pre-trial conference judge shall remove and retain the page of the report relating to sentencing positions and the remaining document shall be filed with the trial co-ordinator for distribution to the trial judge.

Changes of position

16. 34. If any party changes any position taken and recorded in a pre-trial conference report, the party must provide written notice of the change to the other parties and the trial co-ordinator and arrange for a further pre-trial conference, all as soon as practicable.

Changes of or to counsel

16. 35. Where new counsel has been retained, an accused who was unrepresented has retained counsel or an accused who was represented by counsel is no longer represented by counsel after the pre-trial conference and pre-trial conference reports have been completed, counsel or the unrepresented accused shall review the pre-trial conference report filed and provide written notice to all parties and the trial co-ordinator of any changes in position.

Custody and distribution of pre-trial conference reports and materials

16. 36. The pre-trial conference reports, submissions, sentencing positions and any other materials filed for use at the pre-trial conference shall be kept in the custody of the pre-trial conference judge and not disclosed except in accordance with these Rules. Once the trial has been held, and all appeals exhausted, the pre-trial conference judge may destroy all such materials.

Subdivision 3
The Pre-trial Conference

Creation and Access to Record

16. 37. A pre-trial conference conducted in a courtroom shall be recorded but the proceedings shall not be published, broadcast or transmitted in any way, except by order of the pre-trial conference judge.

16. 38. No transcript or recording of any pre-trial conference held in a courtroom shall be ordered by any one without notice to all parties and the written approval of the pre-trial conference judge.

16. 39. Where a transcript or recording has been ordered, no information contained in it shall be published in any document or broadcast or submitted in any way without the approval of the pre-trial conference judge, on notice to all parties and no information respecting sentencing discussions or positions shall be published or disclosed in any way.

Attendance at pre-trial conference

16. 40. Unless otherwise ordered by the pre-trial conference judge, all parties shall be in a position to make commitments on issues reasonably anticipated to arise from the contents of the pre-trial submissions made by them.

16. 41. The pre-trial conference judge shall inquire about, discuss, and make recommendations on any matter that may promote a fair and expeditious hearing of the proceeding.

16. 42. Without restricting the discretion of the pre-trial conference judge, he or she may inquire about, discuss and make recommendations on the following:

(a) the contents of the submissions made by counsel or unrepresented accused;

(b) any issues that arise from the contents of the submissions;

(c) the issues in dispute between the parties;

(d) the possibility of making admissions of fact or other agreements about uncontested issues or the evidence of witnesses;

(e) the simplification of any issues that remain in controversy in the proceeding;

(f) the resolution of any outstanding disclosure issues;

(g) the nature and particulars of any pre-trial application under these rules including:

(i) the necessity to make orders about the notices of applications to be filed;

(ii) the setting of schedules for serving and filing notices of applications, records and other materials in support of pre-trial applications;

(iii) whether written submissions should be required for pre-trial applications and the schedule set for their filing and service;

(iv) whether time limits should be imposed for oral arguments of pre-trial applications; and

(v) whether evidence on pre-trial applications may be provided by agreed statements of fact, excerpts of transcripts, affidavits, “will states” or otherwise than by the testimony of witnesses;

(h) the possibility that the Crown may reduce the number of counts in the indictment to facilitate jury comprehension or otherwise promote a fair, just and expeditious trial;

(i) the manner in which evidence may be presented at trial to facilitate jury comprehension;

(j) the necessity of the assistance of interpreters for any accused or witness in the proceedings;

(k) the necessity of any technological equipment to accommodate any witness, facilitate the introduction of evidence or jury comprehension of the evidence;

(l) the estimated length of pre-trial applications and trial proceedings; and the advisability of fixing a date for commencement of pre-trial applications and trial proceedings;

(m) the staging of the witnesses to be called; and

(n) the appointment of a case management judge pursuant to the *Fair and Efficient Criminal Trials Act* R.S.C., 1985, c. C-46.

Resolution Issues

16. 43. The pre-trial conference judge shall raise and discuss

(a) the Crown's position on sentence before trial and after trial in the event of conviction, including the counts upon which pleas of guilty would be sought, the credit to be given for pre-sentence custody or release on stringent terms, any corollary orders sought upon conviction, and whether further proceedings would be taken upon conviction; and

(b) the position of counsel for each accused on sentence, if a guilty plea is taken before trial and on sentence if a trial is held and the accused convicted.

16. 44. The pre-trial conference judge may express his or her opinion about the appropriateness of any proposed sentencing disposition based upon the circumstances disclosed at the pre-trial conference.

Division 4
Case Management

Assignment

16. 45. In accordance with the *Fair and Efficient Criminal Trials Act*, R.S.C., 1985, c. C-46, the Chief Justice or a judge designated by him or her, on the recommendation of the pre-trial conference judge or otherwise, may assign a case management judge to any case to be tried or otherwise determined and may direct a conference or hearing to decide if such an appointment is necessary.

16. 46. Once appointed, the case management judge shall conduct such conferences as she/he considers necessary or advisable so as to promote a fair and efficient trial.

16. 47. Any application under the *Fair and Efficient Criminal Trials Act*, R.S.C., 1985, c. C-46 shall be made in accordance with Division 2, subdivision 1 of this Part unless otherwise ordered by the case management justice or the joint hearing justice.

Division 5
Rules Governing Summary Conviction Appeals

(Note: this is pretty much what we have except for tweaking to simplify and to conform with the general format. I have also changed the forms somewhat.)

Definitions

16. 48. In this division:

(a) "adjudication" includes

(i) in appeals under paragraph 813(a) of the *Criminal Code (Canada)*, a conviction or order made against or a sentence imposed on a defendant;

(ii) in appeals under paragraph 813(b) of the *Criminal Code (Canada)*, an order which stays proceedings on or dismisses an information or a sentence imposed on a defendant;

(iii) in appeals under subsection 830(1) of the *Criminal Code (Canada)*, a conviction, judgment or verdict of acquittal or other final order or determination of a summary conviction court, in proceedings under Part XXVII of the *Criminal Code (Canada)*;

(iv) any final order authorized to be made by a Provincial Court Judge or a Justice pursuant to any provision of the *Criminal Code (Canada)* as to which Part XXVII of the *Criminal Code (Canada)* is applicable in whole or part;

(v) any appeal of a summary conviction proceeding pursuant to a statute which authorizes or directs the appeal be conducted in the Court of Queen's Bench.

(b) "appeal" means an appeal from or against an adjudication in proceedings before a summary conviction court pursuant to Part XX VII of the *Criminal Code (Canada)*;

(c) "appeal court" means the Court of Queen's Bench of Alberta;

(d) "clerk" means the clerk of the appeal court;

(e) "defendant" means any person other than the prosecutor, whether or not the appellant is the accused, the respondent to a hearing, an owner of property or any other person;

(f) "judge" means a judge of the appeal court;

(g) "prosecutor" includes the barrister and solicitor, student-at-law, or other person who appeared on behalf of the prosecution in relation to the case which is the subject matter of the appeal.

16. 49. Every notice of appeal shall be dated and shall be filed with the clerk of the appeal court at the judicial centre closest to where the summary conviction court was held.

16. 50. The appeal and all applications relative to the appeal shall be made and heard in the court location referred to in Rule 16.49, unless the appeal court otherwise orders or the parties otherwise consent.

16. 51. The notice of appeal shall be in writing in Form CC 8, or to the like effect, and shall describe:

(a) the summary conviction court that made the conviction or order appealed from or imposed the sentence appealed against;

(b) with reasonable certainty, the conviction or order of dismissal appealed from or the sentence appealed against, including its date and place;

(c) the grounds on which the appeal is taken,

(d) the nature of the order or other relief that the appellant seeks,

(e) where the appellant is the defendant, whether the appellant entered a plea of guilty or not guilty before the summary conviction court,

(f) whether or not at the time of the appeal the defendant is imprisoned as a result of the conviction, order or sentence appealed from, and the place of incarceration, and

(g) the address for service of the appellant.

16. 52. The clerk of the appeal court, on receipt of a notice of appeal, shall endorse on it a memorandum to the following effect:

This appeal is scheduled for hearing by the Court on the following date and time: _____.The Rules of this Court require an appellant to deliver to the Court a transcript of the proceedings before the summary conviction court, a list of authorities and a memorandum of argument at least 30 days prior to the above mentioned date of the hearing.

16. 53. An appellant shall deliver a notice of appeal to the clerk of the appeal court within 30 days after the conviction, judgment, acquittal or order was made or the sentence was imposed, whichever is the later date.

16. 54. Where the appellant is the prosecutor, the filed notice of appeal shall be served personally on the defendant or on such other person or in such manner as a judge may direct or authorize, within the period referred to in Rule 16.53.

16. 55. Where the appellant is a defendant, the clerk shall forward a filed copy of the notice of appeal to the prosecutor as soon as is practicable under the circumstances.

Scheduling the appeal and obtaining materials

16. 56. On receipt of a notice of appeal which appears to comply with these Rules, the clerk shall

schedule the appeal for hearing on a date not less than 60 days nor more than 120 days from the date of filing of the notice of appeal and inscribe on the notice of appeal the required endorsement.

16. 57. Upon setting a date for the hearing of an appeal under this Rule, the clerk shall immediately, in writing, notify all parties.

16. 58. The clerk shall obtain the relevant court file, including any exhibits, from the summary conviction court prior to the hearing by giving prompt notice of the appeal to the summary conviction court.

16. 59. The appellant shall, at the time of filing the notice of appeal, request in writing from the applicable court reporters or court recorders a transcript of the proceedings before the summary conviction court in sufficient copies for the appeal court and all other interested parties.

16. 60. Where the appellant is un-represented at the time the notice of appeal is filed, the appellant shall provide to the clerk of the appeal court a receipt evidencing the ordering of the transcript.

16. 61. The transcript shall, unless the court otherwise orders, or the parties agree, contain all of the evidence and proceedings before the summary conviction court, but no agreement of the parties is binding upon the court.

16. 62. Notwithstanding these rules, where the parties consent and the appeal concerns sentence only, the appellant may cause a transcript of the proceedings as to sentence only to be furnished to the appeal court and to the respondent.

Supporting materials

16. 63. Where a date has been scheduled for the hearing of an appeal, the appellant shall, not less than 30 days before that date, deliver to the clerk and serve on the respondent and all other interested parties, or their counsel a brief memorandum:

(a) setting out the argument cases and authorities on which the appellant intends to rely in support of the grounds set out in the notice of appeal, appropriately highlighted;

(b) setting out particular references to the evidence to be discussed in relation to the grounds; and

(c) attaching a transcript of the proceedings being appealed from.

16. 64. The respondent shall, not less than 15 days prior to the hearing date scheduled for the appeal, deliver to the clerk and serve on the appellant or their counsel a brief memorandum setting out:

(a) the authorities on which the respondent intends to rely in reply to the argument of the appellant, and

(b) particular references to any evidence to be discussed in relation to those arguments.

Judicial interim release pending appeal

16. 65. Judicial interim release pending appeal may be granted conditionally or unconditionally, or may be refused by the Court.

16. 66. Applications for judicial interim release pending appeal under this Rule, shall be made in accordance with Division 2 Subdivision 3.

Timing and compliance

16. 67. A judge may, before or after the periods fixed by this Division

(a) by order extend or abridge the time within which filing or service or the transmitting of any documents may be effected, or

(b) order that any filing or service or transmitting of any documents that has been effected be deemed to be valid and sufficient.

16. 68. The applicant for any order under this Division, including any order under Rule 16.67 shall give at least two days' notice in writing of the application to any other party to the appeal or proposed appeal, as the case may be, unless all other interested parties consent to the order sought or a judge otherwise orders.

16. 69. For the purposes of this Division any form of service that is required may be effected by delivery of the document to be served to the address for service of the counsel for the party to be served and the Rules of this Court as are applicable to civil matters also apply to service of documents under this part *mutatis mutandis*.

16. 70. Non-compliance with this Division does not render any proceedings void, but a judge may

(a) amend any document, give directions or make any order necessary to validate the proceedings or documents,

(b) reject the documents, quash the proceedings as irregular or invalid, or

(c) otherwise deal with them as appears to him to be just.

16. 71. Nothing in this Division shall be construed as limiting the powers of the appeal court under the *Criminal Code (Canada)* and, for greater certainty, but not so as to restrict the

generality of the foregoing, the appeal court may exercise all of the powers set out in section 822 of the *Criminal Code (Canada)*.

(Note: We should review the packages given to unrepresented appellants. They are attached as Appendix A. Do we need to build into the Rules?)

Schedule A

DIVISION 1

PAROLE ELIGIBILITY REVIEWS

COURT OF QUEEN'S BENCH OF ALBERTA

RULES PURSUANT TO SECTION 745.64(1) OF THE

CRIMINAL CODE OF CANADA

Relating to applications for reduction in the number of years of imprisonment without eligibility for parole.

Pursuant to the authority of the Criminal Code section 745.64(1), I hereby establish the attached Rules in respect of applications, hearings and judicial screening under sections 745.6 to 745.63 of the Criminal Code.

These rules replace the previous Rules made pursuant to section 672 of the Criminal Code.

Dated at Calgary, Alberta this 31 day of March 1998.

The Honourable W. Kenneth Moore,
Chief Justice of the Court of Queen's Bench of Alberta

NOTE: These rules do not form part of the Alberta Rules of Court, but may be placed at the back of the binder for convenience.

ALBERTA RULES

Rules of practice made pursuant to subsection 745.64 of the Criminal Code to reflect the changes made to the Criminal Code regarding applications for reduction in the number of years of imprisonment without eligibility for parole.

RULE I

An application under section 745.6 of the Criminal Code and any additional material as required by subsections 745.61(1)(b) and (c) of the Criminal Code shall be in writing and shall be filed in the office of the clerk of the Court of Queen's Bench for the judicial district in which the sentence to be reviewed was imposed.

RULE 2

The application shall include the following information:

(a) the given names and surname of the applicant, any other names he or she may have used, and the applicant's date of birth;

(b) the name and place of the institution where the applicant is detained;

(c) the offence for which the applicant was convicted, the date of conviction, and the sentence that was imposed;

(d) the length of time that the applicant has been incarcerated for that offence;

(e) all grounds relied upon in support of the application;

(f) a statement of the relief sought;

(g) the address for service of the applicant;

(h) an outline of any evidence that the applicant intends to tender in support of the application; and

(i) an Agreed Statement of Facts and Disputed Facts.

RULE 3

(a) After the application and additional material have been filed with the clerk, the applicant shall cause it to be served on the following persons:

(i) the Solicitor General of Canada for notice only and not as a party;

(ii) Minister of Justice for the Province of Alberta;

(iii) the officer in charge of the institution in which the applicant is being detained for notice only and not as a party;

(iv) any other person or institution as directed by the Chief Justice or a Justice of the Court of Queen's Bench designated by the Chief Justice, hereinafter referred to collectively as the "Justice".

RULE 4

(1) Upon receipt of all materials referred to in the preceding rules, the clerk shall deliver the materials and proof of service to the Chief Justice.

(2) If upon the application of the Minister of Justice or on the motion of the Justice it is determined that an applicant is not a person to whom section 745.6 applies, the Justice shall dismiss the application.

(3) Upon receiving the materials and proof of service, the Chief Justice shall determine, or shall designate a Justice to determine, pursuant to section 745.61 of the Criminal Code, hereinafter referred to as judicial screening, whether there is a reasonable prospect that the application will succeed.

(4) The determination under Sub-Rule (3) shall be made in accordance with the criteria set out in paragraphs 745.63(l)(a) to (e) of the Criminal Code.

(5) If the Justice determines that the applicant has not shown there is a reasonable prospect that application will succeed, the Justice may make an order pursuant to section 745.6 1(3).

(6) If the Justice determines that the applicant has shown there is a reasonable prospect that the application will succeed and there is no successful application or motion under Sub-Rule (2), the Chief Justice shall or shall designate a Justice to empanel a jury to hear the application pursuant to section 745.63 of the Criminal Code.

(7) Not later than 30 days prior to the start of the hearing, the applicant and counsel for the Minister of Justice shall ensure that full disclosure of all documents has been made to the other party.

(8) In addition to any other order which the Justice may make, the Justice may make the following orders:

(a) an order requiring an outline by the applicant and counsel for the Minister of Justice of the evidence they intend to tender at the hearing;

(b) an order permitting the proof of facts by affidavit but where such proof has been permitted, the Justice, on application, may require the attendance of a deponent at or prior to the hearing for the purpose of cross-examination on the affidavit;

(c) an order requiring that the applicant shall be brought before the court for the hearing or for any other purpose contemplated by these Rules, and for the purposes of such order the provisions of section 527 of the Criminal Code apply mutatis mutandis.

RULE 5

Subject to these Rules, the jury refened to in subsection 745.61(5) shall be empanelied in accordance with Part XX of the Criminal Code with such modifications as the circumstances require.

RULE 6

No person other than counsel for the Minister of Justice and the applicant may adduce evidence at the hearing of the application or at thejudicial screening.

RULE 7

The applicant shall present evidence first in support of the application and may, if the Justice so permits, present rebuttal evidence after counsel for the Minister of Justice has presented evidence.

RULE 8

A duly certified transcript of the proceedings at trial and sentence is admissible as evidence at the hearing and the judicial screening.

RULE 9

At the hearing of the application and the judicial screening, the Justice shall rule upon the admissibility of evidence.

RULE 10

Where, at any time before or after the commencement of the hearing the Justice determines, as a matter of law, that the applicant is not a person to whom section 745.6 of the Criminal Code applies, the Justice shall discharge the jury and reject the application.

RULE 11

After the evidence has been presented, the applicant or the applicant's counsel may address the jury and thereafter counsel for the Minister of Justice may address the jury.

RULE 12

After the applicant and counsel for the Minister of Justice have addressed the jury, the Justice shall address the jury.

RULE 13

All orders may be made and directions given by the Justice as may be necessary for the due hearing and disposition of an application, including without restriction, orders or directions with respect to:

(a) the enlargement or abridgement of time;

(b) the sufficiency of an application and any affidavit;

(c) service and proof of service;

(d) the date and place of hearing;

(e) the summoning of additional witnesses and production of documents not produced by either party;

(f) the adjournment of the hearing of an application;

(g) any other matter not provided for in these Rules.

DIVISION 2 - FORMS

INDEX TO FORMS

FORM CC 1	- General application form
FORM CC 2	- JIR application (present form)
FORM CC 3	- JIR release form (presently in use)
FORM CC 4	- Notice of application for a publication ban (Practice Note #4)
FORM CC 5	- Parties Pre-trial Submission
FORM CC 7	- Designation of Counsel form
FORM CC 8	- Summary conviction appeal form
FORM CC 9	- Appeal abandonment form

FORM CC 1

COURT FILE NUMBER (Replace with the Actual #)

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE:

HER MAJESTY THE QUEEN

DEFENDANT(S):

APPLICATION FOR:

ADDRESS FOR SERVICE:
CONTACT INFORMATION OF:
PARTY FILING THIS DOCUMENT:

NOTICE TO RESPONDENT(S)

You have the right to state your side of this matter before the Justice.

To do so, you must be in Court when the application is heard as shown below:

Date	_____
Time	_____
Where	_____
Before Whom	_____

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1.

Grounds for making this application:

2.

Material or evidence to be relied on:

3.

Applicable rules:

4.

Applicable Acts and regulations:

5.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must rely by giving reasonable notice of the material to the applicant.

FORM CC 2

JUDICIAL INTERIM RELEASE APPLICATION

HEARING DATE: _____

ACCUSED SURNAME: _____ **GIVEN NAME(S):**_____

D.O.B.: DD / MM / YYYY
___ / ____ / _____ **Court File #** _____

CHARGE(S) (Indicate section numbers and a brief description of each offence): _____
_____
_____

Next Court Appearance: _____ EI. & Plea? _____ P.I.? _____ Trial? _____

Has Disclosure been obtained on these charges? (Please circle) YES / NO

BAIL PREVIOUSLY DENIED OR GRANTED:

Date: _____ Court: _____ Grounds: _____

Previous Q.B. Bail Reviews Scheduled: Date: _____ Reason for Adjournment: _____

Date: _____ Result: _____

NATURE OF APPLICATION:

Review Denial Release: _____ Review No Contact Condition: _____

Review Other Condition(s) (specify) _____

Lower Cash Bail set at $ _____ to $ _____

Other (Specify): _____

GROUNDS FOR BRINGING APPLICATION:

Error in Court below (please state) _____

Change in circumstances (please state) _____

Fresh evidence to be relied upon, if any: _____

Documents to be tendered at hearing (must be submitted with application) (Please be advised that some Justices require a transcript of the previous proceedings before they will consider the application). _____

_____

ESTIMATED TOTAL TIME FOR APPLICATION (Crown (min. 5 mins.) And Defence): _____ minutes

I presently am in possession of all the information I require in order to make this application on the hearing date.

Counsel Making Application: _____ Firm: _____

Phone #: _____ Fax: _____

Name: _____ Date: _____

PLEASE ENSURE THAT YOUR APPLICATION IS COMPLETE. INCOMPLETE APPLICATIONS WILL NOT BE SCHEDULED FOR HEARING

FAX OR E-MAIL COPIES OF THIS APPLICATION TO, EACH OF
Clerk of the Court of Queen's Bench (Criminal Section), for *Criminal Code* matters,
AND
Crowns Prosecutors' Office
AND
Justice Canada, for narcotics and extradition matters , in the judicial centre at which the case is to be heard.

***** Applications must be faxed at least two days before application is scheduled. Where the application involves more than one set of charges, scheduled for different court dates, counsel should submit a separate form for each set of charges. *****

FORM CC 2.2

FILE NO.: _____

IN THE COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE OF EDMONTON

BETWEEN:

HER MAJESTY THE QUEEN

CROWN

- and -

_____

ACCUSED

CRIMINAL CODE, SECTION 525 - DETENTION REVIEW

NO-CONTEST AND/OR WAIVER OR ATTENDANCE FORM

I, _____ (the Accused) understand that I am entitled to have my continuing detention in custody revised by a Justice of the Court of Queen's Bench of Alberta. I also understand that I am entitled to be personally present when the Court conducts the review.

Regarding my rights:

1. I (do/do not _____)(*cross out and initial one*) seek to be released at this time.

2. I (wish/do not wish _____)(*cross out and initial one*) to be present at the hearing to review my continuing detention.

Witness: _____

(*Print Name):* _____

Signature of Accused: _____

(*Print Name):* _____

FORM CC 3

JUDICIAL INTERIM RELEASE ORDER

ACCUSED'S NAME: _____

DOCKET NO.: _____ JUDGE: _____

[MANDATORY CONDITIONS]

Appear You must appear in Court on _____ and, after that, continue to appear in Court until this charge/these charges *[strikeout the inapplicable phrases]* is/are concluded.

[OPTIONAL CONDITIONS]

General:

☐ Keep the peace and be of good behavior:

☐ Notify the Court or a Probation Officer/the HROP Probation Officer *[strikeout inapplicable phrase]* in advance of any changes of name or address, and promptly notify the Court or a Probation Officer/the HROP Probation Officer of any change of employment or occupation.

Reporting:

Report ☐ Within two business days of your release from custody, report to a Probation Officer and after that first meeting:

☐ continue to report in person/by telephone/as directed by your Probation Officer;
☐ _____ times a week, in person, to your Probation Officer.

☐ Within two business days of your release from custody, report to the Probation officer assigned to the CPS High Risk Offender Program (HROP) and after that first meeting:

☐ continue to report in person/by telephone/as directed by the HROP Probation Officer;
☐ _____ times a week, in person, to the HROP Probation Officer.

☐ Within two business days of your release from custody, report to _____ *[a named police officer, district office, or detachment]* and after that first meeting:

☐ continue to report in person/by telephone/or as directed by _____;
☐ _____ times a week, in person, to _____;

Living Arrangements:

Location

Reside: ☐ Live at _____ or where approved in writing, in advance, by your Probation Officer/_____;
Any changes in address must be approved in writing by your Probation Officer/the HROP Probation Officer/ _____;

☐ Remain in Alberta unless written permission to leave the province is obtained from the Court or your Probation Officer/the HROP Probation Officer _____ _____;

Restrictions

House Arrest ☐ Remain in your home or its grounds 24 hours a day 7 days a week

Curfew ☐ Keep a curfew and remain in your home or its grounds between the hours of _____ p.m. and _____ a.m.

Exceptions to House Arrest/Curfew Restrictions

☐ These exceptions apply to the house arrest/curfew restrictions:

- ☐ Medical or other emergencies for you or your family.
- ☐ Travel to, travel from and remaining at work, education or vocational training.
- ☐ Travel to, travel from and attending court, professional appointments, court-ordered counselling or treatment sessions and reporting appointments.
- ☐ Travel to, travel from and attending religious services.
- ☐ Travel to, travel from and shopping for necessities of life, as authorized in writing by your Probation Officer/the ORLOP Probation Officer/ _____ _____ and not to be less than 2 hours per week.
- ☐ Any other exception approved in writing by your Probation Officer/the HROP Probation Officer/ or _____.
- ☐ Other: _____ _____ _____.

Communication and Mobility:

Communication

No Cell Phone ☐ You are prohibited from owning or having in your possession a mobile communications device, cell phone or pager.

☐ You will surrender to your Probation Officer/the HROP Probation Officer/ _____ _____ your monthly cellular telephone billing statement, within one week of receiving it.

No Computer ☐ You are banned from having or using computer equipment, including Internet access, except while at your place of employment, for employment purposes.

No Contact ☐ You will have no contact or communication whatsoever, either directly or indirectly, with _____ _____ except as approved by your Probation Officer in advance in writing, as provided in later court orders, or through legal counsel.

Mobility

☐ Whenever outside your home, you will carry with you your release documents, including any written authorizations from your Probation Officer/the HROP Probation Officer/ ____ _____, and produce it on demand of a peace officer or a surveillance officer.

☐ By _____, surrender your passport or travel documents to your Probation Officer/the HROP Probation Officer/ or to _____ _____.

☐ You will submit to random searches by a peace officer of:
- ☐ your person;
- ☐ a vehicle you are driving;
- ☐ your home.

☐ You are banned from going within a _____ block radius of: _____ or within the area geographically described _____
_____
_____

☐ You are banned fro entering any liquor store, wine shop, bar, lounge, tavern or other place where the main business is the sale of alcohol.

☐ You are banned from entering any casino, bingo hall, or other place where gambling, including using video lottery terminals, is permitted.

☐ You are banned from being in any motor vehicle without the registered owner being present. The exceptions to this condition are: when you are taking public transit; when you are a paying customer in a taxi,

Addictions:

No Intoxicants ☐ You are prohibited from buying, having in your possession, using or consuming alcohol, intoxicating substances or any drug not prescribed for you by a doctor or dentist.

Testing ☐ You will submit to random alcohol/drug testing as requested by your Probation Officer/the HROP Probation Officer/or a Peace Officer.

Miscellaneous:

No Weapons ☐ You are prohibited from owning, having in your possession or carrying a weapon.

Employment ☐ You must work, take an educational course or upgrading, receive vocational training or some combination of these tasks, as approved by your Probation Officer/the HROP Probation Officer/_____.

Other Optional Conditions:

_____
_____
_____
_____
_____

[Words or phrases in italics, brackets, or headings are not part of this order.]

FORM CC 4

File # _____

IN THE COURT OF QUEEN'S BENCH
JUDICIAL CENTRE OF _____

BETWEEN:[1]

HER MAJESTY THE QUEEN

-and-

X

Notice of Application for an Order Restricting Publication or Public Access

Take notice that an application for a (**specify the order sought, for example:** *publication ban, access restriction, protect witness identity*) will be made before the Presiding Justice at _____, Alberta on the day _____ of , 20___ at _____ a.m./p.m. on behalf of (**name of applicant**)[1] who is (describe applicant: *Crown, accused witness etc.*)

And further take notice that the specific terms of the proposed order sought are (**describe the nature of the order:** *publication ban, access restriction etc.*), and the proposed duration of the order is _____ ____.

And further take notice that the specific grounds for the application are (**describe legal basis for application, for instance s. 486 of the *Criminal Code*).**

And further take notice that on the application reference will be had to Queen's Bench Practice Note # 4 and (**describe evidence to be relied on:** *affidavit, viva voce or other* **and any statutory provision or rule**).

Dated this _____ day of _____, 20 _____.

_____
Counsel for the Applicant

_____

_____
Address and phone number of
Applicant or Applicant's counsel.

Note: The information that is the subject of this application may not be published without leave of the court.

---

[1] **Parties** (if the ban or sealing order relates to the identity of a party, that party may be temporarily identified by initials pending the hearing of the application).

FORM CC 5

DESIGNATED COUNSEL (S. 650.01 C.C.)

I, _____, do hereby designate
(Name of Accused)

_____ to represent me on the following
(Name of Counsel)

charges: _____
(List charges & docket numbers)

_____

alleged to have occurred at or near _____, Alberta on or about the

_____ day of _____ in the year _____.

_____
(Signature of the Accused)

_____
(Signature of Counsel)

_____
(Street address of counsel)

_____ _____
(City) *(Province)*

_____ _____
(Postal Code) *(Telephone)*

_____
(Fax)

FORM CC 7

QUEEN'S BENCH OF ALBERTA
PRETRIAL CONFERENCE REPORT
(Criminal Code, s. 625.1)
REVISED May 10, 2011

Note to Users

For those of you using a computerized version of this form, please cut out those portions which do not pertain. For those who use a hard copy of the form, please black out those portions which do not pertain.

Accused:

Court File:

Judicial Centre:

Counsel at trial:
Crown:
Defence:

Date of Pretrial:

Charges and synopsis:

1. Chronology:

a) Date(s) of Offence(s):

b) Date of Arrest:

c) Date of Committal for Trial:

d) Date Indictment filed

2. Form of Judicial Interim Release

a) Is the accused detained in custody on this/these charges? Yes ☐ No ☐

b) Is the accused detained in custody on any other charges? Yes ☐ No ☐

3. Preliminary Inquiry: Waived: Yes ☐ No ☐ Direct Indictment ☐

Transcript Available Date Ordered

4. Disclosure: Complete: Yes ☐ No ☐

a) Outstanding Issues:

b) How will those issues be addressed

c) Lost/destroyed:

d) Withheld delayed:

5. Mode of Trial: Current Election: Judge and jury ☐ Judge alone ☐

a) Will there be a re-election to be tried by: Judge and jury ☐ Judge alone ☐

b) Will the Crown consent? Yes ☐ No ☐

c) Additional comments regarding re-elections:

d) Challenge for Cause: Yes ☐ No ☐

e) i) ethnicity Yes ☐ No ☐
ii) publicity Yes ☐ No ☐
iii) other, please specify

f) Does the accused have or seek an order under s. 530 that his/her trial be held in French or as a bilingual trial?
Yes ☐ No ☐

g) Does the Crown oppose or dispute the order or applications? Yes ☐ No ☐

6. Pre-Trial Motions on the Indictment

a) Quash committal for trial Yes ☐ No ☐

b) Quash indictment Yes ☐ No ☐

c) Quash a count(s) in indictment:
i) relying on s. 581(1) Yes ☐ No ☐
ii) relying on 5. 581(3) Yes ☐ No ☐

d) Sever count(s) in indictment Yes ☐ No ☐

e) Sever accused Yes ☐ No ☐

f) Particulars Yes ☐ No ☐

g) Change of venue Yes ☐ No ☐

h) Amendment(s) Yes ☐ No ☐

i) pretrial judge's directions and recommendations for timing filing and whether the applications should be heard prior to the trial date

<u>CROWN PRETRIAL MOTIONS</u>

7. Statements of the Accused

a) Is the Crown seeking to obtain rulings as to the admissibility of Statements to Persons in authority? Yes ☐ No ☐

b) Brief summary of circumstances surrounding taking statement:

c) Is the Crown seeking to introduce the statement Yes ☐ No ☐

d) Is the Crown seeking only a ruling as to admissibility? Yes ☐ No ☐

e) Does the defence dispute admissibility? Yes ☐ No ☐

f) Brief summary of defence position:

g) Form of statement: Oral ☐ Written ☐ Audiotaped ☐ Videotaped ☐

h) If the statement is audio or video taped, is there a transcript? Yes ☐ No ☐

i) If no transcript is available, will the Crown provide one in advance of trial?
Yes ☐ No ☐

j) Date to be made available:

k) Length of statement(s):

l) *Voir dire* required Yes ☐ No ☐

m) *Voir dire* issues: recipient as a person in authority Yes ☐ No ☐
Voluntariness Yes ☐ No ☐
s. 10(a) Yes ☐ No ☐
s. 10(b) Yes ☐ No ☐
s.7 Yes ☐ No ☐

n) Number of witnesses to be called on *voir dire*: Crown
Defence

o) Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

p) If there is more than one issue, do counsel agree that a blended *voir dire* is appropriate?

Crown Yes ☐ No ☐ Defence Yes ☐ No ☐

q) Will editing of the statement be necessary Yes ☐ No ☐
parties agree on edit Yes ☐ No ☐
voir dire on editing: Evidence_____ Argument_____

8. Other Disreputable Conduct Evidence, including Similar Fact

a) Is the Crown seeking to introduce prior disreputable conduct evidence, relying on incidents not covered by the indictment? Yes ☐ No ☐

a1) For what purpose(s) will the evidence be led?

b) Nature of Evidence:

c) Does the Crown seek to have admissibility determined in pre-trial motion?
Yes ☐ No ☐

d) If the Crown does not seek to obtain a ruling before trial starts, when does the Crown wish to have the *voir dire*?

e) Does the defence dispute admissibility? Yes ☐ No ☐

f) How does the Crown seek to introduce the evidence on the *voir dire*?
(i) Viva voce evidence Yes ☐ No ☐
(ii) Agreed Statement of facts Yes ☐ No ☐
(iii) Witness statements Yes ☐ No ☐
(iv) Transcripts Yes ☐ No ☐

g) Does the defence consent to the manner in which the Crown seeks to introduce the evidence on the *voir dire*? Yes ☐ No ☐

h) Comment:

i) Time estimate for *voir dire*:

	Evidence	Argument
	Crown	Crown
	Defence	Defence

j) Is the Crown seeking to rely on disreputable conduct evidence, relying only on the counts in the indictment? Yes ☐ No ☐

9. Principled Exception to the Hearsay Rule

a) Does the Crown seek to introduce any evidence relying upon the principled exception to the hearsay rule? Yes ☐ No ☐

b) If so, what is the nature of the evidence?

c) Does the defence contest admissibility? Yes ☐ No ☐

d) If yes, does the defence contest necessity Yes ☐ No ☐
reliability Yes ☐ No ☐
prejudicial effect probative value Yes ☐ No ☐

e) How does the Crown propose to introduce the evidence on the *voir dire*?
(i) Viva voce evidence Yes ☐ No ☐
(ii) Agreed Statement of facts Yes ☐ No ☐
(iii) Witness statements Yes ☐ No ☐
(iv) Transcripts Yes ☐ No ☐

f) Does the defence consent to the manner in which the Crown seeks to introduce the evidence on the *voir dire*? Yes ☐ No ☐

g) Comment

h) Time estimate for *voir dire*:

	Evidence	Argument
	Crown	Crown
	Defence	Defence

10. After the Fact Conduct Evidence

a) Will the Crown be seeking to tender any evidence of after the fact conduct by the accused?
Yes ☐ No ☐

b) If so, what is the nature of the evidence?

c) Does the defence contest admissibility? Yes ☐ No ☐

d) How does the Crown propose to introduce the evidence on the *voir dire*?
(i) Viva voce evidence Yes ☐ No ☐
(ii) Agreed Statement of facts Yes ☐ No ☐
(iii) Witness statements Yes ☐ No ☐
(iv) Transcripts Yes ☐ No ☐

e) Does the defence consent to the manner in which the Crown seeks to introduce the evidence on the voir dire? Yes ☐ No ☐

f) Comment:

g) Time estimate for voir dire:

	Evidence	Argument
	Crown	Crown
	Defence	Defence

11. Intercepted Private Communications

a) Does the Crown seek to introduce wiretap evidence? Yes ☐ No ☐

b) Brief overview of evidence:

c) Does the defence require a voir dire to determine admissibility? Yes ☐ No ☐

d) Brief overview of defence position:

e) Issue to be litigated:

f) Time estimate for *voir dire*:

	Evidence	Argument
	Crown	Crown
	Defence	Defence

12. Other legal issues requiring rulings Crown Counsel anticipates will arise:

a)

b) Time estimate for *voir dire*:

	Evidence	Argument
	Crown	Crown
	Defence	Defence

13. Competency of Witnesses

a) Does the Crown intend to call any witness who is under the age of 14?
Yes ☐ No ☐

c) Name of witness, and basis of challenge:

14. Manner in which evidence is to be introduced

a) Does the Crown or defence seek to have any witness's evidence introduced:

i) by video link, pursuant to s. 714.1?	Yes ☐	No ☐
ii) by reading in evidence previously taken pursuant to s. 715?	Yes ☐	No ☐
iii) by videotaped evidence, pursuant to s. 715.1?	Yes ☐	No ☐
iv) as vulnerable witness,	Yes ☐	No ☐
v) other means? Details:		

b) Does the opposing party consent to the admissibility of the evidence in the manner proposed?
Yes ☐ No ☐

c) If opposed, estimated time for:

	Evidence	Argument
	Crown	Crown
	Defence	Defence

15. Support Person

a) Will any Crown witness require a support person, pursuant to s. 486.1(1)?
Yes ☐ No ☐

Details:

b) Will any Crown witness require a support person, pursuant to s.486.1(2)?
Yes ☐ No ☐

Details:

c) Does the defence oppose the order? Yes ☐ No ☐

16. Publication Bans/Deferred Publication Orders

a) Does the Crown seek an order pursuant to s. 486(3) or (8), banning the publication of the complainant's identity? Yes ☐ No ☐

b) Does the defence oppose the order? Yes ☐ No ☐

c) If opposed, estimated time for:

	Evidence	Argument
	Crown	Crown
	Defence	Defence

d) Does either party seek other publication bans or deferred publication orders?

Crown	Yes ☐	No ☐
Defence	Yes ☐	No☐

e) If yes, provide details of order sought, media to be notified, timing of hearing, time estimate for hearing: (Division 2, Subdivision 6)

f) Does the other party oppose the application Yes ☐ No ☐

g) If opposed, provide time estimate for evidence and separate time estimate for argument:
Evidence Argument

17. Privilege Issues

a) Will the Crown be raising issues of privilege? Yes ☐ No ☐

b) If yes, please specify the nature of evidence and issue of privilege

c) Bases upon which the Crown seeks exclusion:

e) How does the party claiming privilege seek to introduce the evidence on the *voir dire?*
(i) *Viva voce* evidence Yes ☐ No ☐
(ii) Agreed Statements of Fact Yes ☐ No ☐
(iii) Witness statements Yes ☐ No ☐
(iv) Transcripts Yes ☐ No ☐

f) Does the other party consent to the manner in which the evidence will be introduced on the *voir dire*? Yes ☐ No ☐

g) Comment:

h) Time estimate for *voir dire*:

	Evidence	Argument
	Crown	Crown
	Defence	Defence

DEFENCE PRETRIAL APPLICATIONS

18. Challenge to Legislation: Yes ☐ No ☐

Specifics of challenge:

b) Does the Crown oppose the application? Yes ☐ No ☐

c) Time estimate for *voir dire*:

	Evidence	Argument
	Crown	Crown
	Defence	Defence

19. Applications to Stay Proceedings based upon:

a) Abuse of Process Yes ☐ No ☐
b) Contravention of Charter section: s. 7 Yes ☐ No ☐
c) s.11(b) Yes ☐ No ☐
d) Other Yes ☐ No ☐
e) Overview of Defence position:

f) Overview of Crown position:

g) Time estimate for *voir dire* (evidence and argument):

Evidence	Argument
Crown	Crown
Defence	Defence

20. Applications to Exclude Evidence based upon s. 24(2) alleging breaches of:

a) s.7 ☐
s. 8 ☐ warrantless search ☐ search warrant ☐
order ☐ authorization ☐ Issue: facial validity ☐
sub-facial validity ☐ execution ☐
other:
s.9 ☐
s. 10(a) ☐
s. 10(b) ☐
other:

b) Overview of defence position:

c) Overview of Crown position:

d) Evidence sought to be excluded:

e) Nature of breach:

f) Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

21. Third Party Records Applications Yes ☐ No ☐

a) Relying upon: *Mills*, s, 278.2 Yes ☐ No ☐ *O'Connor* Yes ☐ No ☐

b) Nature of Records:

c) Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

d) How long prior to trial does the applicant propose the motion be heard?

22. Evidence of the Complainant's Prior Sexual Activity - s. 276 Yes ☐ No ☐

a) Nature of Evidence:

b) Manner in which defence seeks to establish evidentiary basis on application:

c) Time estimate for voir dire:

Evidence	Argument
Crown	Crown
Defence	Defence

23. Character of Victim as Co-Accused Yes ☐ No ☐

a) Nature of Evidence:

b) Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

24. Other Legal Issues or evidential issues defence counsel anticipate will arise

a)

b) Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

25. Expert Witnesses

26.1 Crown Experts

a) Does the Crown intend to call expert witnesses? Yes ☐ No ☐

b) Field(s) of expertise:

c) Issues upon which the evidence will be introduced:

d) Does the defence contest the admissibility of the expert evidence? Yes ☐ No ☐

e) Basis upon which admissibility of evidence contested:

Witness is not an expert	☐
Area of expertise requires a voir dire	☐
Witness cannot give evidence sought	☐
Mohan	☐

f) Comments:

g) Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

26.2 Defence Witnesses

a) Does the defence intend to call expert witnesses? Yes ☐ No ☐

b) Field of expertise:

c) Issues upon which the evidence will be introduced?

d) Does the Crown contest the admissibility of the expert evidence? Yes ☐ No ☐

e) Basis upon which admissibility of the evidence is contested:

Witness is not an expert	☐
Area of expertise required a *voir dire*	☐
Witness cannot give evidence sought	☐
Mohan	☐

f) Comments:

g) Time estimate for *voir dire*:

	Evidence	Argument
	Crown	Crown
	Defence	Defence

OTHER TRIAL ISSUES:

26. Position of Accused in Court

a) Will there be an application to have the accused sit at counsel table?
Yes ☐ No ☐

b) Does the Crown consent? Yes ☐ No ☐

27. Absence of Accused from Court

a) Will there be an application for the accused to be absent from the trial, pursuant to s. 486.2?Yes ☐ No ☐

b) If yes, what is the basis for the application?

28. Positions of the Parties

28.1 Crown:

a) Upon what evidentiary basis does the Crown seek to establish liability of each accused?

b) Does the Crown submit any offences are included in the count(s) in the indictment?

c) Does the defence submit any offences are included in the count(s) in the indictment?

28.2 Defence:

a) What is the position of the defence?

29. Fitness to Stand Trial

a) Will the Crown raise the issue of the accused's fitness to stand trial? Yes ☐ No ☐

b) Will the defence raise the issue of the accused's fitness to stand trail? Yes ☐ No ☐

c) If raised, will the application be opposed? Yes ☐ No ☐

d) Time estimate for *voir dire*:

	Evidence	Argument
	Crown	Crown
	Defence	Defence

30. Interpreters

a) Does the accused require an interpreter? Yes ☐ No ☐

b) If yes, for which language(s)?

c) Do any Crown witnesses require an interpreter? Yes ☐ No ☐

d) If yes, for which language(s)?

e) Should two interpreters be required? Yes ☐ No ☐

31. Additional Courtroom Equipment required

a) Overhead projector Yes ☐ No ☐
b) Television and VCR Yes ☐ No ☐
c) Television and CD player Yes ☐ No ☐
d) Hearing devices Yes ☐ No ☐
e) Other

32. Courtroom Security Issues

a) Does any party believe that increased courtroom security issues are raised in this case? Yes ☐ No ☐

b) Details:

33. Witness Issues

a) Prior Inconsistent Statement Yes ☐ No ☐
b) Adversity Ruling Anticipated Yes ☐ No ☐

34. Documentary Evidence

34.1 Crown

a) What documentary evidence is anticipated

b) Does Defence Oppose Yes ☐ No ☐
c) If voir dire how will evidence be led
d) Does Defence oppose evidence led in that way Yes ☐ No ☐
e) Time for voir dire:

Evidence	Argument

Crown	Crown
Defence	Defence

34.2 Defence

a) What documentary evidence is anticipated

b) Does Crown Oppose Yes ☐ No ☐
c) If voir dire how will evidence be led
d) Does Crown oppose evidence led in that way Yes ☐ No ☐
e) Time for voir dire:

Evidence	Argument
Crown	Crown
Defence	Defence

35. Other Potential Issues

36. Judges disqualified or should not hear the case:

37. Is it reasonably anticipated that any of the following defences/triable issues will be raised?

☐	Accident	☐	Intoxication
☐	Alibi	☐	Drugs
☐	Automatism	☐	Alcohol
☐	Compulsion	☐	Knowledge
☐	Defence of property	☐	Necessity
☐	Diminished capacity	☐	Not criminally responsible
☐	Duress	☐	Possession
☐	Entrapment	☐	Provocation
☐	Honest, but mistaken belief in consent	☐	Self-defence
☐	Identity		

38.

Non-contentious Issues	Admitted	Not contested
Jurisdiction	☐	☐
Identity of the accused	☐	☐
Continuity of exhibits	☐	☐
Medical Evidence	☐	☐
Documentary Evidence	☐	☐
Ownership	☐	☐
Value of Property	☐	☐
Accused as Driver	☐	☐
Death/injuries caused by accused	☐	☐
Expert's report	☐	☐
Age of Complainant	☐	☐
Nature of drug	☐	☐
Amount of drug is "for the purpose of trafficking"	☐	☐
Value of drug	☐	☐
Service of notice	☐	☐
Photographs	☐	☐

39. Other factual, evidentiary or legal admissions sought by the Crown, or conceded by defence:

	Does the defence agree?
1.	Yes ☐ No ☐
2.	Yes ☐ No ☐
3.	Yes ☐ No ☐
4.	Yes ☐ No ☐
5.	Yes ☐ No ☐

40. Affidavit Evidence

a) Does the Crown intend to file affidavit evidence? Yes ☐ No ☐
b) If so, please specify

c) Will the defence seek leave to have the witness testify? Yes ☐ No ☐

41. Time Estimates

Crown
a) Anticipated Number of Crown Witnesses:

b) Crown estimate for *voir dires:* Evidence Argument

c) Crown time estimate for trial

Defence
d) Anticipated defence witnesses

e) Defence time estimate for *voir dires*: Evidence Argument

f) Defence time estimate for trial

total time estimate for trial(including sentencing)

42. Court Reporter Yes ☐ No ☐

43. Schedule of Crown Witnesses

a) Will a schedule be provided Yes ☐ No ☐
b) Have Subpoena been issued/served Yes ☐ No ☐

44. Jury Charge Issues(check applicable)

vetrovec type
inconsistent statements of non-accused
inconsistent statements of accused witness
statements of the accused
admissions

video transcript
child witnesses
parties
    in concert
    aiding
    abetting
    intention in common
use of one accused's statement against the other accused
use of one accused's evidence against the other accused
expert evidence
use of accused's record
use of non-accused witness' record
identification
similar fact evidence
self-defence (which section)

45. Victims

a) Have the victims been advised of their right to make an impact statement and read it in court if accused convicted? Yes ☐ No ☐

46. Is the Accused Aboriginal Yes ☐ No ☐
a) Is a Gladue hearing required: Yes ☐ No ☐
b) Time estimate for the hearing:

47. Will the Crown seek forfeiture of proceeds or property Yes ☐ No ☐
a) Will a hearing be required Yes ☐ No ☐
b) Time estimated for hearing:

Dated Signed _____

This page is to be removed before the form is provided to the trial judge in accordance with Rule 16.30

Accused:

Corbett Application:

What is the accused's criminal record:

Does the accused intend to bring a Corbett application? Yes ☐ No ☐

Sentence Position:

Crown position on sentence on plea(s) of guilty before trial based upon information currently known to the Crown:

Plea(s) on which counts:

Sentence:

Is the Crown's position based on a joint submission? Yes ☐ No ☐

Is the Crown's position in addition to, or subject to reduction, for pre-trial custody?

Corollary Orders Sought by Crown:

1. DNA Order ☐
2. s. 109 prohibition ☐, duration
3. s. 161 Order ☐, duration delayed parole
4. special conditions on probation

5. s. 259 Driving Prohibition ☐, duration
6. Sex Offender Registry Order ☐, duration

Crown's Position on sentence after trial based upon information currently known to the Crown

If the Accused pleads or is found guilty, will the Crown seek dangerous or long term offender designation? Yes ☐ No ☐

FORM CC 8
NOTICE OF APPEAL FROM SUMMARY PROCEEDING

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE OF _____

QB File No.:
P.C. File No.:

BETWEEN:

HER MAJESTY THE QUEEN, Appellant/Respondent

- and -

_____ Respondent/Appellant

NOTICE OF APPEAL

1. TAKE NOTICE that the Appellant does hereby appeal to the Court of Queen's Bench of Alberta, sitting at _____, in the Province of Alberta, as against the decision of the Provincial Court of Alberta hereinafter set out.

2. The full name of the Appellant, if not her Majesty the Queen, is (Print):
_____
Date of Birth: _____

3. The decision of the Provincial Court being appealed from is a CONVICTION ONLY: _____ _____, CONVICTION AND SENTENCE: _____, SENTENCE ONLY: _____ _____, DISMISSAL: _____, OTHER: _____ and the particulars of the decision are as follows:

A. Date of Decision: _____

B. Place of Decision: _____
C. Name of Judge or Commissioner: _____

D. Name of Prosecutor, if known: _____

E. Name of Defence Counsel if known: _____

F. Plea at Trial (if applicable): Guilty _____ Not Guilty _____

G. Nature of Offence(s) charged: _____
(Add further pages if more details) _____

H. Sentence or Order (if applicable): _____

I. If Driving Offence(s) charged, Driver's Licence Number of Appellant is: _____

J. If the Appellant (or Respondent if Applicable) is in Custody, Place of Custody:
_____

4. The Grounds of Appeal of the Appellant are as follows:

GROUNDS OF APPEAL:

_____

_____

(Add further pages if more details)

5. The Appellant seeks the following relief of remedy:

   RELIEF SOUGHT: _____

   _____

   _____

6. This Notice of Appeal is dated this _____ day of _____ 20____, by

_____
Appellant/Appellant's Counsel
(Print Name)

NAME AND ADDRESS OF THE APPELLANT OR APPELLANT'S COUNSEL:

_____

_____

_____

Telephone Number: _____ Facsimile Number (if available) _____

Schedule B

CROWN

- The names of the accused, date of committal or indictment referral and docket number.
- A reasonable synopsis of the circumstances.
- Witnesses to be called and a brief outline of their expected testimony.
- Identify how the essential elements of the offence(s) charged is (are) to be proved.
- Provide a summary of any statements of the accused which the Crown will seek to rely on as part of its case or in cross-examination.
- Whether wiretaps or seized evidence will be relied upon and an outline of how the authorization, if any, was obtained.
- Circumstances of any seizure from the accused(s).
- The Accused's record.
- Identify any similar fact, KGB, hearsay, admissions, character or other evidence which may require a *voir dire* for admissibility or use.
- Identify what expert evidence is to be led and by whom.
- A statement of prosecution's position on sentence if there were to be a guilty plea prior to trial, including any requirement for a joint submission and/or a plea on certain counts.
- A statement of the prosecution's position on sentence upon conviction after trial, including whether dangerous or long-term offender proceedings may be taken in the event of conviction.

ACCUSED

- An indication of your defence (i.e.) consent, mistake, didn't do it, self-defence, accident, alibi, lack of intent, identity.
- What pre-trial applications are expected and on what issues.
- What experts are to be called on what subjects.
- Timing for compliance with s. 657.3 if applicable.
- What is the position of any statements by the accused in relation to admissibility and voluntariness.
- What disclosure issues remain outstanding.
- What your position is on a plea or pleas and on sentence.
- Will there be a challenge for cause, and if so, on what grounds.

Appendix A

SUMMARY CONVICTION APPEAL - Governed by the Rules of Court 860.1

When you are filing an appeal of a summary conviction (for example, a traffic ticket conviction)

- **YOU ARE CALLED THE APPELLANT.**
- **YOU SHOULD COME PREPARED WITH A LIST OF DATES WHEN YOU WILL BE AVAILABLE TO STATE YOUR CASE TO THE COURT, AND HOW LONG IT WILL TAKE YOU TO STATE YOUR CASE.**
- **IF IT WILL TAKE YOU 20 MINUTES OR MORE TO STATE YOUR CASE TO THE COURT , PLEASE ADVISE THE COURT AT YOUR FIRST APPEARANCE DATE AND ARRANGEMENTS WILL BE MADE FOR A "SPECIAL SITTING".**

STEPS:

1) Order the Transcript of the Lower Court

- If you are not represented by a lawyer, you must order and pay for the transcript of the lower court's proceedings. The fee for the transcript will vary.
- If you were not in court, either in person or by lawyer, when you were convicted, or if you are now represented by a lawyer, you do not need to order the transcript.
- Transcripts can be ordered through the appropriate Court Reporters' office:
  - in Edmonton the transcript can be ordered at #1000 Sun Life Place, 10123 99 Street, Edmonton, AB T5J 3H1 phone (780) 427-6181.
  - for Appeals from outside Edmonton, the transcript can be ordered from the original Provincial Court where the appellant appeared.
- You must provide 3 copies of the transcript to support your Notice of Appeal. When requesting transcripts you should advise the Court Reporters office that the transcript is for the purpose of an appeal, so they can prepare 3 "official copies" of the transcript for filing.

2) Other Matters

- You will leave to go to the Queen's Bench Criminal Clerk's Office to file your appeal.
- Your appeal must be filed within 30 days of the day you were convicted or sentenced.
- If you were required to order a transcript in step 1, then when you file your appeal you must provide the receipt proving you have ordered the transcript required.

3) Appeal Dates

- The first date which you are scheduled for will be to set up your hearing date which will be 60 - 120 days from the day you file the Notice of Appeal. The first appearance date is not the appeal date, it is the scheduling date. At that time the Court will check to see if you are ready to have the appeal heard and to set a Hearing date when that will actually happen.

4) Memorandum of Law

- You must file a Memorandum of Law at least 30 days before the HEARING date.
- If you miss that deadline you cannot file your Memorandum unless you have both:

- obtain consent from the Crown's Office.
- obtain permission from a Queen's Bench Justice (a fiat).

- Your Memorandum of Law must include:
  - a brief statement of the facts.
  - the argument and case law that you intend to rely on in support of your Notice of Appeal.
  - specific reference to any of the evidence you will be referring to when you state your case.

- Make 3 copies of the Memorandum of Law and take them to the Queen's Bench Criminal Clerk's Office for filing, along with the 3 copies of the transcript (if you were required to order a transcript in step 1).

5) Serve the Crown's Office

- Once you have filed the Memorandum and transcript you must personally deliver a filed copy of the Memorandum and the transcript to the Crown's Office.

6) Abandonment

- If you wish to discontinue or give up on your appeal, a notice of abandonment must be filed with the Queen's Bench Criminal Clerk's Office prior to the hearing date.

- A sample of the notice of abandonment can be obtained from the Queen's Bench Criminal Clerks Office.

Notice to Appellant:

- **The Queen's Bench Criminal Office cannot provide legal advice or direction.**

- **If this appeal is in relation to a driving offence, a copy of the FILED Notice of Appeal should be delivered to the Registry Office Licence Enforcement Division.**

Rev. June 2010

Provincial Court Number:_____
Appeal Number:_____

THIS APPEAL IS SCHEDULED TO SET A DATE FOR A HEARING BY THE COURT ON THE FOLLOWING DATE AT 1:45 P.M. _____. THE APPEAL HEARING DATE WILL BE SET AT THIS TIME BEFORE THE APPEAL HEARING DATE :

The Rules of Court require an appellant to deliver to the Summary Conviction Appeal Court, a Transcript of the proceedings, a list of Authorities and a Memorandum of Argument at least 30 days prior to the above mentioned date.

**** Failure to comply with the above may result in the appeal being dismissed.**

IN THE COURT OF QUEEN'S BENCH
JUDICIAL DISTRICT OF EDMONTON

NOTICE OF APPEAL

Name of Appellant_____ Date Of Birth_____/_____/_____
D M Y

TAKE NOTICE THE ABOVE MENTIONED APPELLANT WISHES TO APPEAL THE FOLLOWING:

CHARGE: Section_____

DATE OF CONVICTION:_____

PLACE OF CONVICTION:_____

NAME OF THE JUDGE OR COMMISSIONER:_____

OR CONVICTED IN ABSENCE:_____ OR VOLUNTARY PAYMENT:_____

PLEA AT TRIAL: GUILTY_____ OR NOT GUILTY_____

SENTENCE GIVEN:_____

I WISH TO APPEAL THE FOLLOWING: CONVICTION_____ OR SENTENCE_____

OR CONVICTION AND SENTENCE:_____

MY ADDRESS FOR SERVICE IS: _____
_____

POSTAL CODE:
_____

PHONE NUMBER:
_____

I WISH TO APPEAL FOR THE FOLLOWING REASONS:

Dated this _____ Day of _____20____.

Signature of Appellant: _____

**The Appellant estimates the time required to present this argument is:_____

NOTICE TO APPELLANTS:

Filing of this Notice of Appeal has no effect on the status of any Fines Outstanding in the Provincial Court.

In the case of traffic violations, services provided by the Registry Office Licence Enforcement Division will be restricted until the fine has been satisfied.

This office cannot provide legal advice and cannot advise you whether the reasons set out in the Notice of Appeal are adequate. If further legal advice is required please consult a Lawyer.

Appellants Name: _____ Date Filed: _____

Appeal No: _____

MEMORANDUM OF LAW

****APPELLANT:** Once you have filed this document with the Clerk's Office, **you must serve** a copy of this document to the appropriate Crown Prosecutor's office.

Exhibit A

ALBERTA
JUSTICE AND ATTORNEY GENERAL

Office of the Minister

AR 41200

April 13, 2011

Honourable Neil C. Wittmann
Chief Justice
The Court of Queen's Bench of Alberta
Calgary Courts Centre
Suite 2401 - N
601-5th Street, S.W.
Calgary, AB T2P 5P7

Dear Chief Justice Wittmann:

Thank you for your March 18, 2011 letter regarding the Summary Conviction Appeal Rules for the Court of Queen's Bench. I understand that the Rules which have served to govern Summary Conviction Appeals in the Court of Queen's Bench for the past 15 years were not properly enacted because they were not published in the Canada Gazette as required by s. 482(4) of the *Criminal Code*. You intend to rectify this deficiency by pronouncing the Rules pursuant to s. 482(1) of the *Criminal Code* and having them published as a Statutory Instrument in the Canada Gazette. You are requesting Alberta Justice pay the cost of translating and publishing the Rules which is estimated at just over $13,700.

I note that as part of the Alberta Rules of Court Project, the Alberta Law Reform Institute (ALRI) produced a consultation memorandum in December 2010 containing proposals to simplify procedures for conducting criminal appeals before the Court of Queen's Bench and the Court of Appeal. It is anticipated that the work led by ALRI in this area will eventually result in new Summary Conviction Appeal Rules for the Court of Queen's Bench. While it may be tempting to wait until the new Summary Conviction Appeal Rules are finished and then direct the money towards publishing them in the Canada Gazette instead of the current Summary Conviction Appeal Rules, I am advised that it is impossible to predict how long it will be before the new rules are finalized and ready for publication. Due to this uncertainty, I agree with your decision to proceed now with publishing the current Rules in the Canada Gazette.

.../2

403 Legislature Building 10800 - 97 Avenue, Edmonton, Alberta Canada T5K 2B6 Telephone 780-427-2339 Fax 780-422-6621

Please direct the officials in Justice Canada to contact Ms. Lynn Varty, Executive Director, Planning and Business Services, Court Services, to make the necessary financial arrangements to have the current Summary Conviction Appeal Rules published in the Canada Gazette. Ms. Varty's contact information is as follows:

Mailing address:	5th Floor Bowker Building 9833 -109 Street Edmonton, AB T5K 2E8
Telephone:	(780) 644-8105
Fax:	(780) 422-6613
Email:	lynn.varty@gov.ab.ca

Thank you for bringing this matter to my attention.

Yours truly,

Verlyn Olson, Q.C.
Minister

copy Honourable J.D. Rooke
Associate Chief Justice
Court of Queen's Bench of Alberta

Ray Bodnarek, Q.C.
Deputy Minister of Justice and Deputy Attorney General

Greg Lepp, Q.C.
Assistant Deputy Minister, Alberta Justice, Criminal Division

Vicki A. Brandt
Assistant Deputy Minister, Alberta Justice, Court Services

Lynn Varty
Executive Director, Alberta Justice, Court Services Division