



## TRAFFIC COURT - REMOTE OUT-OF-CUSTODY DISPOSITIONS AND OTHER APPLICATIONS FOR COUNSEL AND COMMERCIAL LEGAL AGENTS PRACTICE NOTE

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**Effective: July 6, 2020**

### **Purpose:**

The purpose of this Practice Note is to create a process for Traffic Courts commencing with Calgary and Edmonton that permits the Court to remotely hear applications through Webex, including out of custody dispositions that would not otherwise have been considered urgent.

This protocol will apply to the following matters:

- a. Where the Defendant's Defence Counsel or Commercial Legal Agent<sup>1</sup> has contacted the Crown; and the Crown has agreed that the matter should be addressed at this time; and doing so is expected to either lead to the conclusion of the matter; or deal with an issue where there is a present need to address it;
- b. This will include but is not limited to guilty pleas, adjournments, time to pay extensions and set-aside applications;
- c. Matters where there is an agreement between parties that does not involve a period of incarceration or further incarceration, will be presented to the Court for consideration
- d. This protocol applies only to Defendants who are represented by Defence Counsel or Commercial Legal Agents. It does not include self-represented individuals and is only in effect during the period of reduced COVID-19 Court operations as directed by the Provincial Court of Alberta.

Commercial Legal Agents shall be required to comply with additional requirements as set out herein in order to utilize this protocol.

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<sup>1</sup> A "Commercial Legal Agent" is a person who routinely represents others in Traffic Courts in Alberta for a fee, but is not a lawyer.

## **Procedure/Guidelines:**

1. Beginning July 6, 2020, courtroom 908 in Calgary and courtrooms 270 (a.m.) and 359 (p.m.) in Edmonton will be available for Defence Counsel and Commercial Legal Agents to schedule out of custody guilty pleas and or other applications requiring the oversight of a Justice of the Peace (JP).
2. Disposition Courts will have a morning session beginning at 9:00 a.m. and an afternoon session beginning at 2:00 p.m. and matters will be scheduled at the discretion of each court location.

## **Pre-Court:**

1. Defence Counsel/ Commercial Legal Agents who have an out-of-custody matter that they wish to resolve will contact the Crown in the appropriate jurisdiction to discuss and agree on the following:
  - a. In the case of multi-count Information and/or ticket(s), the charges that will be addressed;
  - b. Any reduced or other charges which will be addressed in the case of a guilty plea;
  - c. Any Agreed Statement of Facts that will be presented to the Court in support of the application/guilty plea(s), either orally or in writing;
  - d. Any Driving Abstract or Criminal Record which will be referred to;
  - e. Any supporting documents, other than a Driving Abstract or Criminal Record, that will be referenced during the hearing. It will be the responsibility of the Defence Counsel/Commercial Legal Agent relying on the document to ensure it is emailed to the Court and the other party in accordance with the practices set out in this protocol;
  - f. For all other applications, the type of application being scheduled, and any supporting materials the JP will require to hear the application.
2. Defence Counsel/Commercial Legal Agents will be required to obtain their client's consent to proceeding under this protocol and where the application involves a guilty plea, to fully canvass the provisions of s. 606(1.1) of the *Criminal Code* with their client(s) in advance of the court appearance and be prepared to acknowledge on the record that they have done so.
3. The **Crown** may be contacted at:
  - a. Calgary Provincial Crown: [JSG-ACPS.Calg-Traffic@gov.ab.ca](mailto:JSG-ACPS.Calg-Traffic@gov.ab.ca) or by telephone at: 403-297-8444
  - b. Calgary Municipal Crown: [prosecutors@calgary.ca](mailto:prosecutors@calgary.ca) or by telephone at: 403-874-4348
  - c. Edmonton Provincial Crown: [JSG-ACPS.Edm-Traf@gov.ab.ca](mailto:JSG-ACPS.Edm-Traf@gov.ab.ca) or by telephone at 780-422-1111.
  - d. Edmonton Municipal Crown: [municipalprosecutor@edmonton.ca](mailto:municipalprosecutor@edmonton.ca) or by telephone at 780-442-7099

- e. Calgary Regional Provincial Crown (*for tickets from Airdrie, Canmore, Cochrane, Didsbury, Okotoks, Turner Valley*): [regionaltraffic@gov.ab.ca](mailto:regionaltraffic@gov.ab.ca) or by telephone at 403-297-8444
4. Once matters are ready to proceed, hearings shall be scheduled by Crown and Defence Counsel/Commercial Legal Agents emailing, no later than 4:00 p.m., at least 2 business days before the proposed scheduled hearing date, the "[Remote Out of Custody Appearance Form](#)" to the opposite party and to the respective **Traffic Court** offices as follows:
  - a. Calgary Traffic Court: [TrafficWarrants.Calgary@csadm.just.gov.ab.ca](mailto:TrafficWarrants.Calgary@csadm.just.gov.ab.ca)
  - b. Calgary Regional Traffic Court (*for tickets from Airdrie, Canmore, Cochrane, Didsbury, Okotoks, Turner Valley*): [RegionalTraffic.Calgary@just.gov.ab.ca](mailto:RegionalTraffic.Calgary@just.gov.ab.ca)
5. The subject line of the email **must include** the Defendant's full name as it appears on the Information/ticket(s), the date of the Defendant's next scheduled court date, and the docket number/ticket number(s).
6. Nothing in this protocol prevents Defence Counsel/Commercial Legal Agents from applying to the Court to proceed in the absence of the Defendant or in any way fetters the discretion of the JP to determine a fit sentence or to direct the Defendant to appear in person at a later date.
7. A JP may decline to hear a matter if the JP is of the opinion that it is inappropriate to proceed in the absence of the personal attendance of the Defendant or for any other reason.
8. Matters requiring the personal attendance of the Defendant will be adjourned until after the period of reduced Court operations prohibiting personal attendance related to the COVID-19 pandemic has expired or been terminated.
9. Crown and Defence Counsel/Commercial Legal Agents shall use the attached "*Remote Out-Of-Custody Appearance Form*" or such other forms as may be required by the clerk, in order to provide the Court with the necessary information to bring a matter forward for the purposes of this protocol.
10. All parties must waive procedural irregularities that may arise as a result of the use of this protocol.
11. Applications pursuant to this protocol will be heard on the dates and at the times set by the Court and made available to Defence Counsel/Commercial Legal Agents. In the event a proposed scheduled date is not available at the time the "*Remote Out-of-Custody Appearance Form*" is received by the clerk, the clerk will notify both parties and suggest an alternate date or dates.

### **Court Proceedings:**

12. The designated courtroom clerk ("the clerk") will open the virtual courtroom at 9:00 a.m. and 2:00 p.m. (where there is an afternoon session).
13. Once the clerk has made the appropriate connections, Defence Counsel/Commercial Legal Agent will be linked into the virtual courtroom either by video and audio or audio only in accordance with the Virtual Courtroom Protocol.

14. It is expected that the Crown will remain available until all matters relevant to their prosecution agency have been completed.
15. All Defence Counsel/Commercial Legal Agents must be ready to proceed with their matters, at the start of the court commencement on that date for their assigned block of time for their scheduled matters.
16. The clerk will begin contacting Defence Counsel/Commercial Legal Agents at court commencement as assigned above using the telephone numbers provided by Counsel/Commercial Legal Agents. Defence Counsel/Commercial Legal Agents are required to be prepared to speak to all of their matters when contacted by the clerk to avoid repetitious calling by the clerk.
17. Should matters arise during the court day that require Defence Counsel/Commercial Legal Agent to communicate directly to the clerk in the courtroom, they can do so by way of private instant messaging on WEBEX.
18. The Courtroom will not be accessible for in-person attendance, without an Order of the Court. Each person appearing will do so remotely, and unless otherwise directed, all parties will appear by video or audio.

### **Post-Court Proceedings:**

19. Where a guilty plea is entered and a fine is imposed, the clerk will prepare a Time to Pay slip where requested by the Defendant's Counsel/Commercial Legal Agent and that slip will be emailed to the Defence Counsel/Commercial Legal Agent to the email address provided to the clerk at the time the Remote Out-Of-Custody Form was submitted.
20. It shall be the responsibility of the Defendant's Defence Counsel/Commercial Legal Agent to forward the Time to Pay Slip to the Defendant upon receipt.

### **Commercial Legal Agents:**

21. To utilize this protocol, Commercial Legal Agents will be required to comply with the following requirements:
  - a. An Acknowledgement must be completed by any Commercial Legal Agent by completing the "[\*Commercial Legal Agent Acknowledgment Form\*](#)", seeking to appear before the Court pursuant to this protocol and to be on file with the Clerks Office prior to the submission of any request to have a file brought forward for the purposes of this protocol; and
  - b. The Commercial Legal Agent must not have been previously disqualified from utilizing this protocol by the Court.

**Addendums:**

1. [Remote Out of Custody Appearance Form \(Defendant/Crown\)](#)
2. [Commercial Legal Agent Acknowledgment Form](#)
3. [Traffic Court Contact Information](#)