

**COURT OF QUEEN'S BENCH
CRIMINAL PRACTICE NOTES**

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COURT OF QUEEN'S BENCH OF ALBERTA

CRIMINAL PRACTICE NOTE "1"

SETTING DOWN FOR TRIAL

EFFECTIVE DATE: April 1998

(Cancels Practice Note No. 1, April 30, 1979)

Procedure to be followed in criminal cases for the setting down of trials in the Court of Queen's Bench of Alberta.

1. Judge & Jury Elections:

- (a) Where an accused, upon his committal for trial by a provincial judge, elects to be tried by judge and jury, he shall, as required by law, appear, whether or not he is represented by counsel, at the first arraignment date of the court following the date of committal unless such date falls within the next 14 days, in which event he shall appear at the next succeeding arraignment date.
- (b) Upon his appearance, he shall be arraigned, and if he pleads not guilty, his case shall be adjourned for pretrial conference, jury selection, and also to a trial date all of which are set by the presiding judge. It will be determined on that date whether the accused waives his right to be present at the pretrial conference. If the accused does not waive that right, the matter will be first adjourned to the date set for a pretrial conference, otherwise the matter will be adjourned to the date set for jury selection.
- (c) Counsel will be permitted to tentatively book a date for jury selection and trial with the trial coordinator prior to the case being spoken to at arraignment; however, such an arrangement must be confirmed by the presiding judge at the arraignment of the accused.
- (d) An accused who has not yet been assigned a trial date may make a voluntary appearance for the purpose of entering a guilty plea, and such an appearance may be arranged before any judge at any available time by the trial coordinator, with the consent of the Crown.
- (e) This procedure will be followed whether or not an accused elects, at arraignment, to be tried by a judge alone.

2. Judge Alone Elections:

Where, upon being committed for trial by the Provincial Court, an accused elects to be tried by a judge alone, the time and place of the trial of the accused shall be fixed by a judge in compliance with s. 560(1) C.C.C. who may deal with the matter in accordance with these directions:

- (a) Counsel may book a trial date with the Trial Coordinator provided all accused are represented, all counsel are agreeable and the trial will not take more than 5 days. A judge will on reference by the Trial Coordinator, make an order under s. 560 C.C.C.
- (b) Where, on arraignment day, there is a matter before the court in respect of which no time and place for trial has yet been fixed, the presiding judge may fix a time and place for trial. If the accused is not present he shall be expected to ascertain the time and place fixed for his trial, pursuant to s. 560(4) C.C.C.

3. **Re-elections:**

When an accused has elected or is deemed to have elected to be tried by a court composed of a judge and jury, and gives notice of intention to re-elect to be tried by a judge without a jury, pursuant to s. 562 C.C.C., the time and place for re-election shall be the next arraignment day of the court.

4. **Adjournments:**

Where an adjournment is required, counsel will be expected to make an application for adjournment to a judge in Chambers as soon as the need for adjournment is discovered. The accused will appear at the next arraignment day for fixation of a new trial date or otherwise as the judge orders.

W. K. MOORE
CHIEF JUSTICE

COURT OF QUEEN'S BENCH OF ALBERTA

CRIMINAL PRACTICE NOTE "2"

JUDICIAL INTERIM RELEASE (BAIL)

APRIL, 1982 (UPDATED APRIL, 2007)

Difficulties have been encountered in the past with respect to the form of Bail Order.

A wide variety has been used by members of the Bar and even though the documents have been approved as to form by Agents of the Attorney General, Justices of the Peace have had problems in processing some of the orders.

In cooperation with senior officials of the Alberta Department of Justice and members of the Edmonton and Calgary Bar Associations, a uniform standard form of "Order of Release" has been worked out. It would be appropriate if it could be used throughout the Province.

This standard form is attached. It is to be observed that it is not a precedent in the normal sense of the word. Rather, it is a guide or a "Master Document" on the basis of which actual documents should be prepared. Only the appropriate paragraphs from the master document should be incorporated in the actual order as required.

Effective immediately this document should be used in preparation of Orders of Release in all cases where such orders are issued out of the Court of Queen's Bench.

It is intended that this form be used generally, recognizing that situations may arise where special provisions are required.

W. K. MOORE
Chief Justice

IN THE COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL DISTRICT OF _____

BETWEEN:

HER MAJESTY THE QUEEN,

RESPONDENT

-AND-

(ACCUSED'S NAME IN FULL AS IT APPEARS ON INFORMATION OR INDICTMENT)

APPLICANT

BEFORE THE HONOURABLE) _____ DAY, THE _____ DAY
JUSTICE _____) OF _____, 20_____.
IN CHAMBERS, _____)
_____)

ORDER OF RELEASE

UPON THE APPLICATION of the Applicant. AND UPON HEARING COUNSEL for the Applicant and Counsel for the Respondent;

(for offences NOT under s.469)

AND IT APPEARING THAT the Applicant was detained in custody by the Order of THE HONOURABLE JUDGE _____, in the Provincial Court of Alberta, at _____, on the _____ day of _____, 20____, on the following charge(s). NAMELY:

(SET OUT, IN FULL, THE WORDING OF EACH CHARGE AS IT APPEARS IN THE INFORMATION OR INDICTMENT)

(for offences under s.469)

AND IT APPEARING THAT the Applicant was detained in custody on the following charge(s).

NAMELY:

(SET OUT, IN FULL, THE WORDING OF EACH CHARGE AS IT APPEARS IN THE INFORMATION OR INDICTMENT)

AND IT APPEARING THAT the Applicant is not required to be detained in custody in respect of any other matter;

IT IS ORDERED THAT the Application be allowed, the Order previously made by THE HONOURABLE JUDGE _____ be vacated and the Applicant be released upon his(her):

(use the most appropriate one of the following 12 paragraphs)

- 1. GIVING AN UNDERTAKING, IN FORM 12, WITHOUT CONDITIONS.
- 2. GIVING AN UNDERTAKING, IN FORM 12, WITH THE FOLLOWING CONDITIONS, NAMELY:

("CONDITIONS" - see s.515 (4) (a) to (f), and 515(4.1), 515(4.11) and/or 515(4.2) and notes following at the foot of this document)

- (a) _____
- (b) _____
- (c) _____

3. ENTERING INTO A RECOGNIZANCE, IN FORM 32, before a Justice, without sureties in the amount of \$_____, but without deposit of money or valuable security.

4. ENTERING INTO A RECOGNIZANCE, IN FORM 32, before a Justice, without sureties in the amount of \$_____, but without deposit of money or valuable security, with the following conditions, NAMELY:

("CONDITIONS" - see below)

- (a) _____
- (b) _____
- (c) _____

5. ENTERING INTO A RECOGNIZANCE, IN FORM 32, before a Justice, with surety (sureties) in the amount of \$_____ but without the deposit of money or other valuable security,

6. ENTERING INTO A RECOGNIZANCE, IN FORM 32, before a Justice with _____ surety (sureties) in the amount of \$_____ but without deposit of money or other valuable security, with the following conditions, NAMELY:

("CONDITIONS"
- see below)

(a) _____

(b) _____

(c) _____

7. The prosecutor having consented, ENTERING INTO A RECOGNIZANCE, IN FORM 32, before a Justice, without sureties, in the amount of \$ _____ upon him(her) depositing with the Justice the said sum of money or other valuable security therefor.

8. The prosecutor having consented, ENTERING INTO A RECOGNIZANCE, IN FORM 32, before a Justice, without sureties, in the amount of \$ _____ upon him(her) depositing with the Justice the said sum of money or other valuable security therefor, with the following conditions, NAMELY:

("CONDITIONS"
- see below)

(a) _____

(b) _____

(c) _____

9. Being not ordinarily resident in the Province of Alberta or not ordinarily residing within one hundred miles of the place in which he(he) is in custody, ENTERING INTO A RECOGNIZANCE, IN FORM 32, before a Justice, without sureties, in the amount of \$_____ upon him(her) depositing with the Justice the said sum of money or other valuable security therefor.

10. Being not ordinarily resident in the Province of Alberta or not ordinarily residing within one hundred miles of the place in which he(he) is in custody, ENTERING INTO A RECOGNIZANCE, IN FORM 32, before a Justice, with _____ surety(sureties), in the amount of \$_____ upon him(her) depositing with the Justice the said sum of money or valuable security therefor.

11. Being not ordinarily resident in the Province of Alberta or not ordinarily residing within one hundred miles of the place in which he/she is in custody, ENTERING INTO A RECOGNIZANCE, IN FORM 32, before a Justice, without sureties, in the amount of \$_____ upon him/her depositing with the Justice such sum of money or other valuable security therefor, with the following conditions, NAMELY:

("CONDITIONS"
- see below)

- (a) _____
- (b) _____
- (c) _____,

12. Being not ordinarily resident in the Province of Alberta or not ordinarily residing within one hundred miles of the place in which he/she is in custody, ENTERING INTO A RECOGNIZANCE, IN FORM 32, before a Justice, with _____ surety(sureties), in the amount of \$_____ upon him/her depositing with the Justice such sum of money or other valuable security therefor, with the following conditions, NAMELY:

("CONDITIONS"
- see below)

- (a) _____
- (b) _____
- (c) _____,

AND IT IS FURTHER ORDERED THAT:

1. Such (Undertaking may be given by the Applicant to) (or) (Recognizance may be entered into by the Applicant before) any Judge of the Provincial Court of Alberta or any Justice of the Peace in and for the Province of Alberta;
2. Any Judge of the Provincial Court of Alberta or any Justice of the Peace in and for the Province of Alberta may order that the Applicant be brought before him for the purpose of (giving such Undertaking) (or) (entering into such Recognizance) and being released from custody, and this order shall be sufficient authority to any person having the custody of the Applicant in the Province of Alberta to have the Applicant brought before such Judge or Justice of the Peace;

3. If the Applicant is brought before such Judge or Justice of the Peace and (gives such Undertaking) (or) (enters into such Recognizance) as aforesaid, the person having custody of the Applicant shall release him(her) forthwith.

JUSTICE OF THE COURT
OF QUEEN'S BENCH OF
ALBERTA

APPROVED AS TO
FORM AND CONTENT

AGENT OF THE
ATTORNEY GENERAL

ENTERED THIS
DAY OF _____,
20_____.

CLERK OF THE COURT
OF QUEEN'S BENCH
OF ALBERTA

NOTE ON “CONDITIONS”

Where the Court imposes conditions in the undertaking or recognizance, such conditions, pursuant to s.520(7)(e) or s.521(8)(e), should be those described in s.515(4)(a) to (f), 515(4.1), 515(4.11) and/or 515(4.2).

1. In respect to the condition described in s.515(4)(a), “report at times to be stated in the Order to a peace officer or other person designated in the Order;”, IN CALGARY, such condition should read as follows:

“(a) Report in person once each week (state time and date of first occasion on which Applicant is required to report) to _____ or designate, CALGARY CORRECTIONAL SERVICES, 7th Floor, 205 - 9th Ave., South East, Calgary, Alberta; and thereafter report in person weekly on such day and at such time as may be determined by the said (name or designate).”

IN EDMONTON, such condition should read as follows:

“(a) Report in person once each week (state time and date of first occasion on which Applicant is required to report) to _____ or designate, CORRECTION SERVICES DIVISION, 5th Floor 10015 - 103 Avenue, Edmonton, Alberta; and thereafter report in person weekly on such day and at such time as may be determined by the said (name or designate).”

IN AREAS OUTSIDE CALGARY AND EDMONTON where there are no Municipal Police - i.e. Outside Lethbridge, Medicine Hat, Camrose, Barrhead, etc., such condition should read as follows:

“(a) Report in person once each week (state time and date of first occasion on which the Applicant is required to report) to NCO/in Charge (Inspector, where applicable) RCMP Detachment at _____; and thereafter report in person weekly on such day and at such time as may be determined by the said (NCO/in Charge (or) Inspector, where applicable).”

IN AREAS outside Calgary and Edmonton where there are Municipal Police, such condition should read as follows:

“(a) Report in person once each week (state time and date of first occasion on which Applicant is required to report) to (NAME OF APPROPRIATE POLICE OFFICER) or Designate, (ADDRESS OF POLICE STATION); and thereafter report in person weekly on such day and at such time as may be determined by the said (Police Officer).”

2. In respect to the condition described in s.515(4)(b), such condition should read as follows:

“(b) Remain within (DESCRIBE TERRITORIAL JURISDICTION- e.g. City, Town, Province).”

3. In respect to the condition described in s.515(4)(c), such condition should read as follows:

“(c) Notify (PERSON DESIGNATED PURSUANT TO CONDITION DESCRIBED IN s.515(4)(a)) of any change in his (her) address or employment or occupation.”

4. In respect to the condition described in s.515(4)(d), such condition should read as follows:

“(d) Abstain from communicating with (NAME OF WITNESS, COMPLAINANT OR ANY OTHER PERSON OR PERSONS) except in accordance with the following conditions:

(a) _____

(b) _____

(c) _____.”

5. In respect to the condition described in s.515(4)(e), such condition should read as follows:

“(e) Deposit his(her) passport with A JUDGE OF THE PROVINCIAL COURT OF ALBERTA OR JUSTICE OF THE PEACE (to whom his(her) undertaking will be given) (or) (before whom such recognizance will be entered into).”

6. In respect to the conditions described in s.515(4)(f), such conditions will, of necessity, be drafted for the particular situation contemplated.

COURT OF QUEEN'S BENCH OF ALBERTA

CRIMINAL PRACTICE NOTE "3"

REPEALED

COURT OF QUEEN'S BENCH OF ALBERTA**CRIMINAL PRACTICE NOTE "4"****Q.B. CRIMINAL ORDERS RESTRICTING BANNING PUBLICATION,
PUBLIC ACCESS OR OTHER NON DISCLOSURE ORDERS IN
CRIMINAL MATTERS****March 2007**

1. This practice note applies to an application for:
 - a. a publication ban,
 - b. a partial sealing order,
 - c. an order preventing the identification of a witness, including the use of pseudonyms,
 - d. an in camera hearing, or
 - e. any other non disclosure or access limiting order.

under a judge's discretionary statutory or common law authority; it does not apply to orders which are mandated by statute . This practice note is not intended to restrict the Court's inherent jurisdiction to issue a publication ban of its own motion or determine appropriate interested parties.
2. "Interested parties" include the crown, the defence, a directly affected witness, the electronic and print media, and any other person named by the Court. Any other party claiming an interest in the proceedings must apply to the Court for standing to be heard at the application.
3. The procedure for the application is:
 - a. The applicant must file three copies of the Notice of Application, prescribed in Form A, with the Clerk of the Court in the appropriate Judicial District and serve all interested parties except the media at least two clear days before the beginning of the proceeding to which the application relates.
 - b. The applicant must also transmit an electronic copy of the Notice of Application to the electronic address of the Clerk of the Court of the appropriate Judicial District, at least two clear days before the proceeding to which the application relates.
 - (i) The Clerk of the Court shall re-transmit the Notice of Application electronically to the media noted on a list to be kept by the Clerk of the Court, or his/her designate.
 - (ii) The Clerk of the Court shall post the Notice of Application at the place reserved for giving notice at

the Courthouse where the application is to be heard.
(Note 1)

4. The application may be made to: a) the trial judge, if the trial judge has been assigned; b) a Criminal Appearance Court judge; c) the supervising judge or designate.
5. The Applicant may apply to the Court for further directions as to the persons to be served and the manner of service.
6. The information that is the subject of the initial application shall not be published without leave of the Court until the application is heard.

Sealing/Unsealing Court Files

7. An application to seal the entire court file, or an application to set aside a sealing order, must be made to the Chief Justice, the Associate Chief Justice, or a designate, who may make such directions as to the parties, manner and time for service of notice that they, in their discretion, deem appropriate.

Note 1 Until the electronic method is in place, the following procedure will govern:

3. a. The Applicant must file with the Clerk of the Court three copies of the Notice of Application, as prescribed in Form A, and, except with leave of the Court, serve the interested parties, except the media, two days before the beginning of the trial, application, proceeding, or matter to which the order is to apply.
- b. Unless otherwise ordered, and pending the implementation of an electronic form of notice, notice to the media is given by filing Form A with the Clerk of the Court, who will post the notice at the place reserved for such notice at the courthouse where the application is to be heard.

**CRIMINAL PRACTICE NOTE #4
FORM A**

File # _____

IN THE COURT OF QUEEN'S BENCH
JUDICIAL DISTRICT 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).

COURT OF QUEEN'S BENCH OF ALBERTA**CRIMINAL PRACTICE NOTE "5"****CHALLENGE FOR CAUSE****May 1, 2007**

Where the prosecutor or the accused wishes to challenge jurors pursuant to section 638(1)(b) of the *Criminal Code*, for example a challenge based on the personal characteristics of the accused or the accused's witnesses, prejudice about the nature of the crime, or prejudice arising from pre-trial publicity, the following procedure will be followed:

1. Notification of such a challenge will be given to the prosecutor or the accused and to the Trial Coordinator in the Judicial District where the trial is scheduled to take place at least 60 days prior to the scheduled jury selection or, such shorter interval that the trial judge may allow in the interests of justice;
2. Notification must be in writing setting out the basis for the proposed challenge (See s.639 and Form 41 of the *Criminal Code*);
3. Upon receipt of the written notification, the Trial Coordinator in the Judicial District where the trial is scheduled will schedule a pre-trial conference with the trial judge, the prosecutor and the accused to resolve issues raised by the application.

