



THE PROVINCIAL COURT  
OF BRITISH COLUMBIA

Effective date: 12 June 2020

**CRIM 13**

## **PRACTICE DIRECTION**

### **INITIAL APPEARANCE COURT DURING COVID-19**

#### **Purpose**

Further to [NP 19 Notice to the Profession and Public COVID-19: Commencing Recovery of Some Court Operations](#) (Notice) the Provincial Court will be resuming initial appearance court (IAR) for criminal matters. At the same time, the Court remains mindful of the need to protect the health and safety of all court users and help contain the spread of COVID-19, while maintaining meaningful access to the Court. The purpose of this Practice Direction is to set out some guidelines to govern the resumption of IAR while ensuring that people only come to IAR in-person when necessary.

#### **Application**

This practice direction applies as follows. The Notice was unclear about whether IAR matters scheduled from June 15 to July 3, 2020 were adjourned as set out in **Appendix "A"** to that Notice.

To clarify, for the Fraser, Interior, Northern, and Vancouver Regions, IAR will recommence at all reopened court locations effective June 15, 2020.

For the Vancouver Island Region, IAR will recommence at all reopened court locations effective July 6, 2020. If an individual has a matter scheduled in IAR from June 15 to July 3, 2020, they do not need to attend court and their matter will be adjourned as set out in **Appendix "A"** to that Notice.

#### **Directions**

##### ***Alternatives to in-person appearance***

1. To reduce the number of people attending court, counsel attendance at court should be limited to appearing on a matter scheduled in court where something substantive is happening. Counsel must endeavor to avoid unnecessary personal attendances of the accused or counsel at the courthouse wherever possible.

2. The [Consent Arraignment](#) form (**Form 4**) may be used as an alternative to an in-person appearance for adult criminal matters for entering not guilty pleas, elections, as well as for setting dates for preliminary inquiries, trials, hearings and/or pre-trial conference (if the matter will require more than half day of court time).
3. If the only purpose is to adjourn a matter to another date, neither counsel nor their client should attend court. The [Consent Requisition](#) form (**Form 1**) may be used to: change, cancel or call-ahead a non-trial appearance; indicate a guilty plea; set a date for sentencing; or schedule an application before a judge.

To email any of these forms to the Court see the contact information for the applicable local JCM Office [here](#) or see **Appendix "A"** of the Notice for email contact information.

4. See [CPD-1](#) and [CRIM 08](#) for further information about these forms.

### ***In Person Appearances***

1. For those cases where in-person appearances are necessary, the following processes will apply.
2. Legal Aid:
  - Legal Aid BC (Legal Aid) intake workers will not be present at courthouses.
  - Where Legal Aid duty counsel is present at courthouses they will assist the accused. Assistance may include:
    - i. describing the process;
    - ii. assisting the accused to connect with a lawyer;
    - iii. collecting contact information that will allow the lawyer and accused to connect; and,
    - iv. assisting to have the accused adjourned to another date.
  - The process by which the accused will be adjourned will depend on procedures determined at the applicable local court location.
  - It is not expected that files will be resolved on these appearances.
3. Duty counsel will not provide legal representation where counsel has already been retained, whether privately or through Legal Aid, unless specifically requested to do so by counsel and/or the accused.
4. At the accused's first court appearance, an abbreviated disclosure package may be available at locations where Crown counsel are appearing in person. Full disclosure will subsequently be available electronically upon request to Crown counsel by counsel for

the accused. Self-represented litigants will be requested to contact local Crown counsel offices by email or telephone to schedule the pickup of paper disclosure packages.

5. If the matter needs to be adjourned, it will generally be adjourned for at least six to eight weeks so that by the next court date, the accused is in a position to do something substantive such as fix a date for a trial or pre-trial conference or resolve the file.
6. Defence counsel, upon accepting a Legal Aid contract, must advise the Crown counsel office responsible for the prosecution that they are representing the accused. Defence counsel are encouraged to do so in writing.
7. Counsel must communicate with each other before any court appearance so that the appearance will result in something substantive happening. If not, counsel must adjourn the matter to another date without the parties having to attend court.
8. Court appearances are not required to obtain disclosure.

#### ***Pre-trial conferences***

1. There will be mandatory pre-trial conferences before a judge for all initial appearance court matters that are being arraigned *for more than a half day of court time* in order to determine how the matter will proceed.
2. For further direction see: [Criminal Practice Direction \(CRIM 12\): Criminal Pre-Trial Conferences During COVID-19](#).

#### **History of Practice Direction**

- Original Practice Direction effective June 12, 2020.

I make this practice direction pursuant to my authority under the *Provincial Court Act*, R.S.B.C. 1996, c. 379.

Melissa Gillespie  
Chief Judge  
Provincial Court of British Columbia