



THE PROVINCIAL COURT
OF BRITISH COLUMBIA

MEMORANDUM

TO: All Police Agencies in British Columbia

CC: Administrative Judicial Justice G. Hayes
Ms. L. Cavanaugh, Assistant Deputy Minister, CSB
Ms. E. Turner, A/Director - Policy, Legislation & Planning Unit, CSB

FROM: Chief Judge Gillespie

DATE: April 14, 2020 (**May 11, 2020 Update, in red**)

RE: Judicial Authorization Procedure at Justice Centre During COVID-19

This Memorandum came into effect on April 14, 2020 due to the COVID-19 pandemic in the Province, and it remains in effect until further direction from the Court. While the provincial health officer has indicated that British Columbians can resume some of their pre-pandemic social interactions, provided physical distancing and hygiene measures can be maintained, it is important to note that the virus has not been eliminated and a vaccine is not yet available. In light of these factors, I am directing that:

- a. the operation of the [Practice Direction regarding Daytime Search Warrant Applications](#) (CRIM 03), which sets out a process for daytime face to face applications in the Province, is suspended;
- b. the Justice Centre no longer accept in person applications for all applications that can be made by telewarrant pursuant to section 487.1 of the *Criminal Code*; and
- c. the procedure below be implemented for judicial authorizations at the Justice Centre.

Judicial Authorization Procedure at the Justice Centre During COVID-19

(a) *Judicial Authorizations Other than Judge-Only Warrants*

1. Peace officers with applications for section 487.1 telewarrant judicial authorizations should contact the Justice Centre (604-660-3263) to obtain directions on how these applications will be processed.
2. **All other applications** for judicial authorizations a justice is permitted by law to authorize will be processed by facsimile unless a justice determines otherwise. Applicants should contact the Justice Centre (604-660-3263) to obtain direction as to whether their

facsimile will be processed through the Justice Centre or referred to a justice working remotely. In the latter case the applicant will be contacted by the justice to provide a fax number for transmission of the application to the justice, and the individual sending the documents must ensure that the fax number provided is not displayed on the documents, including the header, footer or cover sheet.

3. Affidavits in support of the application for **all** judicial authorizations must be properly sworn before being transmitted to the justice. Peace officers must provide a photocopy of their identification with the application along with their contact information and the total number of pages to the application. It is within the presiding judicial officer's discretion to require a specific type of identification as a means of ensuring that they are dealing with a legitimate applicant. If police members have concerns about the type of identification sought, it would be open to the police members to raise their concerns with the judicial officer and suggest other methods of verifying their identification, such as by telephone or providing a police business card or a formal RCMP fax cover sheet with police file number and police detachment/department phone number, as well as an officer contact number. Applications with a total page count in excess of 100 may be processed in another manner as directed by a justice.
4. For all applications for judicial authorizations **other than section 487.1 telewarrants**, the justice will review the faxed documents and either authorize the orders or provide reasons why the application is denied. The signed warrant and orders, or reasons for denial, will be returned to the police officer by facsimile. The justice will retain the faxed copy of the documents they reviewed together with the originally signed orders. The justice will securely transfer those documents to the applicable Court Registry by either delivering the documents to that registry or another Court Registry for transmission via house mail to the applicable Court Registry or the Justice Centre. Any documents received at or transferred to the Justice Centre will be transferred by the Justice Centre to the applicable Court Registry by house mail. The peace officer will retain the originals of the faxed documents and the faxed copy of the authorized orders, and provide those documents to the applicable Court Registry, via the manner prescribed by the JP at that registry, to be combined with the documents the justice reviewed and signed. The applicable court registry will place the original faxed documents and the faxed copy of the documents along with the original signed orders and faxed copies of the orders in one packet to be kept in the court file.
5. Applications for unsealing judicial authorizations should be faxed to the Justice Centre for review by a justice and the same procedure set in paragraph 4 above applies.
6. These new procedures at the Justice Centre operate between 8am and 10pm each day. Applications after 10pm and before 8am may be processed in a similar manner by a justice through the after hours phone number 778-290-6000.

(b) Judge Only Warrants

The process for judge only warrants during the COVID-19 period set out in my March 26, 2020 memorandum is now replaced with following:

1. Peace officers are directed to contact the Justice Centre at 604-660-3263 for all judge only warrants. The Justice Centre staff will ensure that it is a judge only warrant and that all affidavits in support of the application for the warrant have been properly sworn. Peace officers must provide a photocopy of their identification with the application along with their contact information and the total number of pages to the application. The Justice Centre staff will then contact the Regional Administrative Judge ("RAJ") for the region from which the warrant application originates to provide them with the details of the application. The RAJ will direct how the application will be handled and may designate a specific judge from the region to deal with the application. That judge will contact the Justice Centre to determine how the application will be dealt with including how the documents will be received. Justice Centre staff will then relay directions to the officer.
2. It will be up to the individual judge how they want to receive and return documents. The use of couriers is not permitted but the documents can be exchanged in person using appropriate physical distancing and safety precautions. Alternatively, the judge can direct the peace officer to fax the documents to a court or personal fax number, or to the Justice Centre in which case the Justice Centre can then scan the faxed documents and email them to the judge's court issued email address.
3. The judge will review the application and either authorize the orders or provide reasons why the application is denied. The signed warrant and orders, or reasons for denial will be returned to the peace officer via the same manner the application was received. Except where the documents were exchanged in person, the judge will retain a copy of all the documents they reviewed together with the originally signed orders. The judge will deliver those documents to the applicable Court Registry or to another Court Registry for transmitting those documents via house mail to the applicable Court Registry. The peace officer will retain the originals of any documents transmitted to the judge and any faxed copies of authorized orders, and provide those to the applicable Court Registry, via the manner prescribed by the JP at that registry, to be combined with the documents the judge reviewed. The applicable Court Registry will place the original documents and any faxed copies of the documents along with the original signed orders and any faxed copies of the orders in one packet to be kept in the court file. Electronic signatures are not permitted on judge only warrants.
4. Applications for unsealing judge only warrants should be faxed to the Justice Centre for review by a judge and the same procedure set in paragraph 3 directly above applies. The Justice Centre may email the applications to the judge's court issued email to be reviewed.