

## COVID: Out of Custody Pleas

The Ontario Court of Justice may now proceed with out-of-custody non-urgent matters. Each region has adopted procedures to bring forward these resolved matters. The procedures are drafted in consideration of the Ontario Health Emergency Directives, and their effects on the various services provided to the Court.

### Organizing an Out-of-Custody Plea

1. All resolved matters can be scheduled. If the possible sentence is a period of incarceration, then the sentence decision will be adjourned to a date when the public health policies will permit it. This includes an intermittent sentence.
2. A conditional sentence is an exception to Direction 1.
3. The matter has had a CPT between the Crown and the defence and meaningful discussion have been held to narrow any issues. If possible, terms of probation should be agreed upon. The Crown and defence should agree that the matter is ready for a guilty plea and sentence.
4. The counsel pre-trial should result in the following information to be provided to the Court before the hearing.
  - The Crown will file, and not read in the facts. If certain are in dispute, then it should be outlined. The Defense version should also be filed.
  - The Defense lawyer shall indicate that the facts have been reviewed, and that (s)he has proceeded with s. 606 inquiry.
  - Only the submission of the disputed issues shall be heard.
  - All the accessory orders shall be indicated on the form (and, if they are in dispute).
  - If a victim impact statement is possible, then it should be indicated that one exists or that the Crown will seek one. If a statement has been filed, it will be provided, prior to the hearing, if possible.
  - If probation is sought, then the conditions need to be filed before the hearing. A pre-sentence report request is possible.
5. The accused must be able to appear by video—specifically JVN virtual courtroom.
6. The entire plea and sentencing should not take more than 20 minutes. If it will be longer than that, Trial Coordination will be notified. The plan is to set “slots” in the plea court of one hour. Slots will be scheduled through Trial Coordination. This will include 40

minutes for staff to complete the appropriate paperwork. Court will commence at 9:30 am, and 1:30 pm.

Additionally, the following matters should be in place:

- CSD requires a minimum **2 clear days notice** for a matter to be scheduled for a out-of-custody guilty plea
- The matter must be pre-approved by Trial Coordination so that a date and time can be booked
- If a section 810 peace bond is required, steps must be taken in advance to have the information laid
- If the resolution involves a plea to careless driving charges, a POA information for s. 130 HTA should be laid in advance of the plea
- Under current circumstances, relevant documents have been submitted in advance of the day of plea
- Victim Impact Statements must be obtained and submitted in advance of the day of the plea. The filling of documents should allow for the reception and distribution of the document.

## Electronic Procedures for Bring Forward Applications

During the period of the Covid-19 emergency, the Ontario Court of Justice in L'Original will abridge some practices to more easily facilitate having matters and accused persons brought before the courts.

### I. **Bring-Forward Applications**

Applications to have matters brought forward to an earlier court date will not require a Form 1 but may be sent by email.

#### 1. The email must be

- a) sent to Court Services Division at: [LOriginal.OCJ.Courts@ontario.ca](mailto:LOriginal.OCJ.Courts@ontario.ca); [LoriginalTrialCoordination@ontario.ca](mailto:LoriginalTrialCoordination@ontario.ca);
- b) cc'ed to the Provincial Crown at [VirtualCrownLOriginal@ontario.ca](mailto:VirtualCrownLOriginal@ontario.ca), to the PPSC at [pjcornier@julien-cormier.ca](mailto:pjcormier@julien-cormier.ca) if the Federal Crown is involved, or to Defence Counsel if the request is brought by the Crown; and
- c) If the matter is brought forward by the Crown then a copy must be sent to Defense Counsel.

The Subject line of the email must include

- a) "Bring Forward"
- b) The information number
- c) The last name of the accused

Example Subject Line: Bring forward – INFO 19-XXXX – ANDERSON

#### 2. The body of the email must contain:

- a) The numbers for all informations being dealt with, including to be withdrawn,
- b) the full name and date of birth of the accused,
- c) the description of the charges and section numbers of the *Criminal Code* or *CDSA*,
- d) the next scheduled court date and type of appearance,
- e) the date requested to have the matter brought forward;
- f) the reason it is being brought forward;
- g) the name of Defence Counsel, and
- h) the name of the assigned Crown.

#### 3. Out of custody matters must be brought forward at least 2 clear days in advance, by no later than 4 pm.

##### **Court Appearance Day**

Monday

Tuesday

Wednesday

Thursday

Friday

##### **Email to be Sent no later than 4 pm on**

prior Wednesday

prior Thursday

prior Friday

Monday

Tuesday